

JOURNAL
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HOUSE OF DELEGATES
EIGHTY-FIFTH
LEGISLATURE
OF
WEST VIRGINIA



VOLUME II
REGULAR SESSION, 2021

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



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REGULAR SESSION, 2021

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FIRST EXTRAORDINARY SESSION

1st Day	Monday	June 7	4391
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SECOND EXTRAORDINARY SESSION

1st Day	Thursday	June 24	4421
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1st Day	Monday	October 11	4508
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Monday, March 29, 2021

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, March 26, 2021, 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. C. R. 20, on Unfinished Business, Special Calendar, had been transferred to the House Calendar; H. B. 3306, on Third reading, Special Calendar, had been transferred to the House Calendar and Com. Sub. for H. B. 2177 on Second reading, Special Calendar, had been transferred to the House Calendar; and, Com. Sub. for S. C. R. 14, had been moved to the top of Unfinished Business.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

H. B. 3307, Social Media Integrity and Anti-Corruption in Elections Act,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. B. 3307 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-12a; and, to amend said Code by adding thereto a new section designated as §55-7-32; all relating to limiting abuses by social media corporations; creating the Social Media Integrity and Anti-Corruption in Elections Act; defining terms; providing requirements for social media companies to prevent corruption and provide transparency of election-related content made available on social media websites; providing equal opportunities for all candidates and political parties to speak without policy or partisan-based censorship; propounding legislative findings; setting forth definitions; providing for the protection of the integrity of election; setting forth limitations on what social media platform can publish concerning elections without approval; ensuring election-related content hosted, posted, and made available on social media websites is not monetized or otherwise used or manipulated for nefarious purposes; requiring social media platform disseminate election content uniformly, report and retain certain information; requiring social media platform timely approve service requests by political entities; requiring social media platform equitably charge for election advertising; prohibiting certain actions by social media platform; including prohibiting the modifying visibility of election information based on type of content; listing due process requirements for restriction of access to social media platforms; setting forth certain instances in which service can be terminated by social media platform; providing limitations on information collected by social media platform; providing certain enumerated rights to candidates in their dealings with a social media platform; providing civil penalties for violations of these provisions, including asset seizure; establishing rulemaking authority; creating the Stop Social Media Censorship Act; defining terms; setting forth criminal and civil penalties for a social media provider who, without good cause, deletes or censor a user’s religious or political speech; or uses an algorithm to disfavor or censure the user’s religious or political speech; providing for right of enforcement by the Attorney General; and providing exceptions and limitations,”

With the recommendation that the committee substitute do pass.

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for H. B. 3307) was taken up for immediate consideration, read a first time and ordered to second reading.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on March 27, 2021, he approved **Com. Sub. for S. B. 295, S. B. 404, Com. Sub. for H. B. 2006, Com. Sub. for H. B. 2008 and Com. Sub. for H. B. 2013.**

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. 419 - “A Bill to amend and reenact §61-7-2 of the Code of West Virginia, 1931, as amended, relating to definitions of dangerous weapons; defining ‘antique firearm’; and redefining ‘firearm’ so as not to be more restrictive than the federal definition”; 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. 458 - “A Bill to amend and reenact §15-5-9a of the Code of West Virginia, 1931, as amended, relating to modifying and limiting the power of government entities regarding the possession of firearms and related products by individuals during a declared state of emergency; and allowing prevailing plaintiff to recover actual damages, court costs and fees, and attorney’s fees”; 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. 521 - “A Bill to amend and reenact §30-18-9 and §30-18-10 of the Code of West Virginia, 1931, as amended, all relating to extending the licensure renewal term of a private investigator, security guard, and private investigator or security guard firms from one to two years”; 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. 534 - “A Bill to amend and reenact §12-6C-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31-15-6 and §31-15-20 of said code, all relating generally to economic development loans and loan insurance issued by the state; clarifying provision stating that the Board of Treasury Investments has no fiduciary duty with regard to economic development loans administered by the Economic Development Authority; providing that the Board of Treasury Investments may inspect and copy, upon written notice, all records related to loans made available by the board to the Economic Development Authority; increasing the revolving loan capacity from the Board of Treasury Investments to the Economic Development Authority to an amount not to exceed \$250 million; authorizing the Economic Development Authority to make working capital loans from a revolving loan fund capitalized with federal grant funds including those federal grant funds received from the United States Economic Development Administration; and clarifying that the authority is not authorized to enter into contracts or agreements with financial institutions for banking goods or services without the approval of the State Treasurer”; 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. 585 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-7g, relating to allowing the State Board of Education to develop a program of instruction in family and consumer sciences, or specific subjects within family and consumer sciences, that may be integrated into the curriculum for students in secondary schools”; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 601 - “A Bill to amend and reenact §6C-2-2, §6C-2-3, and §6C-2-6 of the Code of West Virginia, 1931, as amended, all relating to West Virginia public employee grievance procedure; establishing exceptions to the definition of ‘grievance’; requiring a signed and notarized grievance form; outlining the grievance motion to dismiss procedure; and providing for the payment of attorney’s fees upon a determination that a grievance or defense was brought in bad faith”; 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. 604 - “A Bill to amend and reenact §24-6-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §24A-2-2b of said code, 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 amending the sunset and legislative review provisions”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 680 - “A Bill to amend and reenact §18A-4-2 of the Code of West Virginia, 1931, as amended, relating to allowing the State Superintendent of Schools to define classroom teachers certified in special 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

S. B. 710 - “A Bill to amend and reenact §18-5-13a of the Code of West Virginia, 1931, as amended, relating to requiring an impact statement in certain instances of a school closing or consolidation; requiring State Board of Education rule detailing information that a county board is required to include as part of its impact statement; and setting forth minimum requirements for the rule”; which was referred to the Committee on Education.

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 joint resolution, which was read by its title and referred to the Committee on the Judiciary as follows:

Com. Sub. for S. J. R. 11 - “Proposing an amendment to the Constitution of the State of West Virginia, amending section four, article VII thereof, relating to preventing any individual from serving in the office of Secretary of State, Auditor, Treasurer, Commissioner of Agriculture, or Attorney General for more than

three consecutive terms; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.”

Resolutions Introduced

Delegates Young, Barach, Boggs, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams and Zukoff offered the following resolution, which was read by its title and referred to the Committee on Health and Human Resources then Rules:

H. R. 20 - “Condemning all forms of anti-Asian sentiment as related to COVID-19.”

Whereas, The use of anti-Asian terminology and rhetoric related to COVID–19, such as the “Chinese Virus”, “Wuhan Virus”, and “Kung-flu” have perpetuated anti-Asian stigma leading to harassment, assault, and scapegoating; and

Whereas, There has been a dramatic increase in reports of hate crimes and incidents against those of Asian descent since the start of the COVID–19 outbreak that has continued throughout the pandemic; and

Whereas, According to a recent report by Stop AAPI Hate, there are nearly 3,795 reported cases of anti-Asian discrimination related to COVID–19 between March 19, 2020, to February 28, 2021, with reported cases in every state; and

Whereas, The persistent discrimination, violence, vandalism, and hate crimes against Asians in the United States are placing Asian individuals and their families, communities, and businesses at risk; therefore, be it

Resolved by the House of Delegates:

That the West Virginia House of Delegates condemns and denounces all forms of anti-Asian sentiment and all acts of racism, xenophobia, intolerance, discrimination, hate crimes, and hate

speech against Asian Americans and Asian individuals in West Virginia and the United States; and, be it

Further Resolved, That this body asserts West Virginia's commitment to diversity, inclusiveness, equality, and compassion, not only the United States but also for the people of other nations, global alliances, and unions to ensure that all members of the Asian community, regardless of their background, spoken language, or religious beliefs, are treated with dignity and equity; and, be it

Further Resolved, That we encourage Asian Americans and all West Virginians who experience hate crimes to report such incidents to local law enforcement, the West Virginia Human Rights Commission, and the Attorney General's Civil Rights Division; and, be it

Further Resolved, That copies of this resolution be transmitted to the Governor, the West Virginia Attorney General, and the Executive Director of the West Virginia Human Rights Commission.

Delegates Phillips, Jennings and J. Jeffries offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 79 - "Requesting the Division of Highways name bridge number 47-219/00-008.84 (47A080), (39.09576, -79.66916) locally known as Blackfork Bridge, carrying US 219 over Blackfork Cheat River in Tucker county, the 'William Mahan Harman and Louise Frances Harman Memorial Bridge'."

Whereas, William "Lawyer Will" Mahan Harman was born on September 13, 1900, at Harman, WV, and was the son of John William and Myrtle Lillian Miley Harman. His father, John William, practiced law in Petersburg until the death of his first wife, Minnie Harman, on March 29, 1896. John William then relocated his practice to Harman in 1897 and remained there until April 1901 when he moved to Parsons; and

Whereas, William Mahan Harman, known as "Lawyer Will", attended school in Parsons and graduated from Parsons High

School in June of 1918. He attended Ohio University, Cincinnati Law School, and was graduated from the University of Southern California School of Law in 1922. After graduation, he returned to Parsons, and joined his father in the law practice. He seemed to be successful from the start and was among the leading lawyers of Tucker County. Lawyer Will continued to practice law for nearly 50 years in the county; and

Whereas, Lawyer Will married Louise Frances Poffenbarger on July 9, 1924. Louise was born May 7, 1905, the daughter of William H. and Valeria Poffenbarger. Her mother owned and operated the Commercial Hotel on Main Street in Parsons. Louise graduated from Parsons High School in 1924; she was a homemaker and a member of the First United Methodist Church of Parsons and the River City Garden Club; and

Whereas, William Mahan Harman served as general counsel, vice-president and president of the First National Bank of Parsons. He was also a member of Alumnae Association of the University of Southern California, a member the American Bar Association, and the First United Methodist Church of Parsons; and

Whereas, Lawyer Will gained a fine reputation of winning many difficult cases and was recognized as one of the best criminal lawyers in the State; so much so that when someone got into serious trouble it is reported they would say "Get Will Harman"; and

Whereas, In 1992, Louise Harman established the Louise Harman Fund with the Tucker Community Foundation. Its purpose is to provide funding for the upkeep of the Parsons City Cemetery, the River City and Mill Race Parks of Parsons, and the Five Rivers Public Library of Parsons; and

Whereas, In 2003, the William Mahan Harman Memorial Fund was opened within the Tucker Community Foundation, funded by the Estate of William Mahan Harman. The purpose of the Fund is to provide perpetual funding for the Parsons City Cemetery, Mill Race and River City Parks, Five Rivers Public Library, and the Citizens of Parsons, and is also managed by the Tucker Community Foundation. The Fund has since funded numerous projects,

facilities, infrastructure, structures, renovation of structures, and improvements for these entities and the citizens of Parsons and Tucker County; and

Whereas, William Mahan Harman passed away August 29, 1971, and Louise Frances Harman passed away December 1, 2002. They were both interred in the Parsons City Cemetery beside each other; and

Whereas, It is fitting that an enduring memorial be established to commemorate William Mahan Harman and Louise Frances Harman and their contributions to Parsons, Tucker County, 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 47-219/00-008.84 (47A080), (39.09576,-79.66916) locally known as Blackfork Bridge, carrying US 219 over Blackfork Cheat River in Tucker county, the “William Mahan Harman and Louise Frances Harman 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 “William Mahan Harman and Louise Frances Harman Memorial Bridge”; and, be it

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

Delegates Reynolds, Toney, J. Jeffries, Booth, Jennings, Barnhart, Clark, L. Pack, Riley, Hanna, Conley, Ferrell, Householder, Howell, J. Kelly, J. Pack, Rohrbach, Smith and Storch offered the following resolution, which was read by its title and referred to the Committee on Technology and Infrastructure then Rules:

H. C. R. 80 - “Requesting the Division of Highways name a portion of US Route 250, beginning at mile marker 31.35, and ending at its intersection with WV 2, mile marker 31.63, in

Marshall County, the 'U. S. Marine Corps LCpl Leonard Joe Zelaski, Jr. Memorial Road'."

Whereas, Leonard Joe Zelaski, Jr. was born on July 18, 1948, in Marshall County, and was the son of Leonard Joe Zelaski, Sr. and Betty Leola Liston Zelaski; and

Whereas, Leonard Joe Zelaski, Jr. entered the U.S. Marine Corps on December 1, 1966; he began his tour of duty in Vietnam on May 13, 1967, where he served as a Mortarman in K Company, 3rd Battalion, 1st Marines Regiment of the 1st Marine Division; and

Whereas, LCpl Leonard Joe Zelaski, Jr. was killed in a hostile action by hostile small arms fire northeast of Dong Ha, Quang Tri Province, South Vietnam on March 2, 1968, during Operation Napoleon/Saline, in which 31 other U. S. Troops also lost their lives; and

Whereas, U. S. Marine Corps LCpl Leonard Joe Zelaski, Jr. arrived home to West Virginia on March 13, 1968, and was interred in Riverview Cemetery, Moundsville, West Virginia; and

Whereas, U. S. Marine Corps LCpl Leonard Joe Zelaski, Jr. received the following commendations and awards in honor of his service in the U.S. Marine Corps: the Purple Heart, Combat Defense Ribbon, National Defense Service Medal, Vietnam Campaign Medal, Vietnam Service Medal, Marine Corps Presidential Unit Citation, Vietnam Gallantry Cross, Marine Corps Good Conduct Medal, and the Marine Corps Expeditionary Medal; and

Whereas, U.S. Marine Corps LCpl Leonard Joe Zelaski, Jr.'s name is inscribed on the Vietnam War Memorial in Washington, D. C. on Panel 42E, Line 045, in recognition of his service and his ultimate sacrifice for our country; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Marine Corps LCpl Leonard Joe Zelaski, Jr., honoring his life 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 a portion of US Route 250, beginning at mile marker 31.35, and ending at its intersection with WV 2, mile marker 31.63, in Marshall County, the “U. S. Marine Corps LCpl Leonard Joe Zelaski, Jr. Memorial Road”; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the portion of road as the “U. S. Marine Corps LCpl Leonard Joe Zelaski, Jr. Memorial Road”; and, be it

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

Special Calendar

Unfinished Business

Com. Sub. for S. C. R. 14, Creating WV Women’s Suffrage Memorial; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

The following resolutions, coming up in regular order as unfinished business, were reported by the Clerk, and in the absence of objection, considered en masse, and adopted:

S. C. R. 6, US Navy Seaman 2nd Class Wilbur ‘Webb’ Hahn and John W. Hahn Memorial Bridge,

S. C. R. 8, Fire Chief Kenneth Junior Russell Memorial Bridge,

H. C. R. 20, Bill Withers Memorial Road,

Com. Sub. for H. C. R. 43, U. S. Army CSM Hugh H. ‘Smokey’ Stover Memorial Road,

H. C. R. 54, Robin W. Ames Memorial Road,

H. C. R. 62, Major Samuel Wilson Rogers Jr. Memorial Bridge,

H. C. R. 63, “Mayor George Karos Bridge”,

H. C. R. 64, Deputy Sheriff Scott D. Myers Memorial Bridge,
And,

H. C. R. 72, David Allen Drake, Sr. Memorial Bridge.

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

Third Reading

Com. Sub. for H. B. 2747, Transferring the Parole Board to the Office of Administrative Hearings; on third reading, coming up in 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 73, nays 25, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barach, Bates, Boggs, Brown, Bruce, Diserio, Doyle, Fleischauer, Fluharty, Griffith, Hanna, Hansen, J. Jeffries, Lovejoy, McGeehan, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Wamsley, Williams, Young and Zukoff.

Absent and Not Voting: Hornbuckle and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2747) 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. 2773, Permitting DNR to issue up to 100 permits for boats greater than 10 horsepower on Upper Mud River Lake; on third reading, coming up in 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 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2773) 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. 2793, Permit out of state residents to obtain West Virginia concealed carry permits; on third reading, coming up in 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 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle and Kessinger.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2793) 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. 2890, To clarify the regulatory authority of the Public Service Commission of West Virginia over luxury

limousine 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. 311**), and there were—yeas 75, nays 24, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Bates, Brown, Capito, Conley, Criss, Diserio, Doyle, Fleischauer, Garcia, Hansen, D. Kelly, J. Kelly, Lovejoy, Pushkin, Queen, Rowe, Skaff, Summers, Thompson, Toney, Walker, Young, Zatezalo and Zukoff.

Absent and Not Voting: Hornbuckle.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2890) 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. 2962, Relating generally to dental practice; on third reading, coming up in 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 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2962) passed.

On motion of Delegate J. Pack, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 2962 - “A Bill to amend and reenact §30-4-8, §30-4-10, §30-4-13, §30-4-15, §30-4-16, §30-4-17, §30-4-19, §30-4-20, §30-4-22, §30-4-23, and §30-4-24 of the Code of West

Virginia, 1931, as amended, all relating to the practice of dentistry; updating the requirements for a license to practice dentistry; updating the requirements for a license to practice as a dental hygienist; requiring a board authorization be present in the place of practice; making technical corrections to special volunteer dentists; requiring payment for certain examinations; permitting the formation of a professional limited liability companies; updating the complaint process; updating the criteria used when considering disciplinary action; updating the types of disciplinary sanctions; requiring providing criminal penalties; clarifying that a student enrolled in an accredited dental program may, under the supervision of a licensed dentist or dental hygienist perform certain tasks under certain conditions without necessitating a license; and making technical changes.”

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. 3002, Update road abandonment process; on third reading, coming up in 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 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3002) 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. 3300, Relating to reducing personal income tax rates generally; on third reading, coming up in regular order, with amendments pending, was reported by the Clerk.

On motion of Delegate Householder, the bill was amended on page three, section four-g, following line seventy-six, by inserting a new subdivision to read as follows:

“(6) For tax years beginning January 1, 2022, and each year thereafter, the marriage penalty is abolished. The Tax Commissioner shall by emergency rule and proposed legislative rule provide for the elimination of the marriage penalty under this article effective January 1, 2022, to the end that persons married to each other shall pay no more taxes each year under this article than the least amount of taxes that may be imposed upon their incomes regardless of whether they file jointly or separately.”

On page four, section thirty-three, line ten, following the words “on and after”, by striking out the words “January 1, 2022” and the comma, and inserting in lieu thereof the words “July 1, 2022”, followed by a comma.

On page four, section thirty-three, line seventeen, following the words “on and after”, by striking out the words “January 1, 2021” and the comma, and inserting in lieu thereof the words “July 1, 2022”, followed by a comma.

On page five, section thirty-three, line twenty-nine, following the words “on and after”, by striking out the words “January 1, 2021” and the comma, and inserting in lieu thereof the words “July 1, 2022”, followed by a comma.

On page five, section thirty-three, beginning on line thirty-six, following the words “on and after”, by striking out the words “July 1, 2021” and the period, and inserting in lieu thereof the words “July 1, 2022”, followed by a period.

On page five, section thirty-three, line forty-one, following the words “on and after”, by striking out the words “January 1, 2021” and the period, and inserting in lieu thereof the words “July 1, 2022”, followed by a period.

On page five, section thirty-three, line forty-five, following the words “on and after”, by striking out the words “January 1, 2021” and the period, and inserting in lieu thereof the words “July 1, 2022”, followed by a period.

On page five, section thirty-three, line forty-eight, following the word “thereof” and the comma, by inserting the words “on and after July 1, 2022”, followed by a comma.

On page six, section thirty-three, beginning on line fifty-nine, following the words “to the contrary” and the comma, by striking out the words “beginning in January of 2022” and the comma, and inserting in lieu thereof the words “in the fiscal year beginning July 1, 2022, and each fiscal year thereafter”, followed by a comma.

On page six, section thirty-three, beginning on line sixty-eight, following the words “to the contrary” and the comma, by striking out the words “beginning in January of 2022” and the comma, and inserting in lieu thereof the words “in the fiscal year beginning July 1, 2022, and each fiscal year thereafter”, followed by a comma.

On page six, section thirty-three, beginning on line seventy-seven, following the words “to the contrary” and the comma, by striking out the words “beginning in January of 2022” and the comma, and inserting in lieu thereof the words “in the fiscal year beginning July 1, 2022, and each fiscal year thereafter”, followed by a comma.

On page seven, section thirty-three, beginning on line eighty-six, following the words “to the contrary” and the comma, by striking out the words “beginning in January of 2022” and the comma, and inserting in lieu thereof the words “in the fiscal year beginning July 1, 2022, and each fiscal year thereafter”, followed by a comma.

On page seven, section thirty-three, beginning on line ninety-five, following the words “to the contrary” and the comma, by striking out the words “beginning in January of 2022” and the comma, and inserting in lieu thereof the words “in the fiscal year beginning July 1, 2022, and each fiscal year thereafter”, followed by a comma.

On page seven, section thirty-three, beginning on line one hundred four, following the words “to the contrary” and the comma, by striking out the words “beginning in January of 2022” and the comma, and inserting in lieu thereof the words “in the fiscal year beginning July 1, 2022, and each fiscal year thereafter”, followed by a comma.

On page eight, section thirty-three, beginning on line one hundred thirteen, following the words “to the contrary” and the comma, by striking out the words “beginning in January of 2022” and the comma, and inserting in lieu thereof the words “in the fiscal year beginning July 1, 2022, and each fiscal year thereafter”, followed by a comma.

And,

On page eight, section thirty-three, beginning on line one hundred twenty-five, following the words “to the contrary” and the comma, by striking out the words “beginning in January of 2022” and the comma, and inserting in lieu thereof the words “in the fiscal year beginning July 1, 2022, and each fiscal year thereafter”, followed by a comma.

Delegate Bates moved to amend the bill on page 5, section 33, line 53, by striking out the word “and” and inserting in lieu thereof the following:

“(8) The net amount of the state’s share of gross revenues received in the future for any tax collected from sales of non-medical cannabis to adults, upon enactment by the Legislature of state law providing for the legalization and taxation of sales of non-medical cannabis to adults; and”

And,

Renumbering existing subsection (8) 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. 314**), and there were—yeas 29, nays 71, absent and not voting none, with the yeas being as follows:

Yeas: Barach, Bates, Bridges, Brown, Bruce, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Higginbotham, Hornbuckle, Lovejoy, Martin, McGeehan, Nestor,

Pushkin, Rowe, Skaff, Thompson, Walker, Wamsley, Williams, Young and Zukoff.

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

There being two strike and insert amendments, the Speaker explained to the members that the sponsors would be allowed to explain their amendments but the adoption of one would preclude the consideration of the other.

Delegates Doyle, Boggs, Williams and Hornbuckle offered an amendment for which Delegate Doyle was recognized to explain, as follows:

On page 1, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof, the following:

“§11-21-4g. A tax cut that helps working families.

(a) Tax reduction on individuals (except married individuals filing separate returns) filing joint returns, heads of households, estates, and trusts – For the calendar year of 2022, individuals filing joint returns, heads of households, and estates and trusts income tax shall be reduced by \$300 for the taxable year from the tax rate as provided for pursuant to §11-21-4e of this code, and any taxpayers that owe less than \$300 in tax, the tax will be zero for that tax year and any remaining tax credit carried over to the following tax year.

(b) Tax reduction for married individuals filing separate returns.- For the Calendar year of 2022, for a husband and wife filing separate returns under this article, state income tax shall be reduced by \$150 for the taxable year from the tax rate as provided for pursuant to §11-21-4e of this code, and for any taxpayer that owes less than \$150 in tax, the tax will be zero for that tax year and any remaining tax credit carried over to the following tax year.”

Delegate Bates offered an amendment for which the Delegate was recognized to explain, as follows:

On page 1, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof, the following:

“§11-21-4e. Rate of tax — Taxable years beginning on or after January 1, 1987; taxable years after December 31, 2022.

(a) *Rate of tax on individuals (except married individuals filing separate returns), individuals filing joint returns, heads of households, estates and trusts.* — The tax imposed by ~~section three of this article~~ §11-21-3 of this code on the West Virginia taxable income of every individual (except married individuals filing separate returns); every individual who is a head of a household in the determination of his or her federal income tax for the taxable year; every husband and wife who file a joint return under this article; every individual who is entitled to file his or her federal income tax return for the taxable year as a surviving spouse; and every estate and trust shall be determined in accordance with the following table:

If the West Virginia taxable income is:	The tax is:
Not over \$10,000	3% of the taxable income
Over \$10,000 but not over \$25,000	\$300.00 plus 4% of excess over \$10,000
Over \$25,000 but not over \$40,000	\$900.00 plus 4.5% of excess over \$25,000
Over \$40,000 but not over \$60,000	\$1,575.00 plus 6% of excess over \$40,000
Over \$60,000	\$2,775.00 plus 6.5% of excess over \$60,000

(b) *Rate of tax on married individuals filing separate returns.* — In the case of husband and wife filing separate returns under this article for the taxable year, the tax imposed by ~~section three of this article~~ §11-21-3 of this code on the West Virginia taxable income of each spouse shall be determined in accordance with the following table:

If the West Virginia taxable income is:	The tax is:
Not over \$5,000	3% of the taxable income
Over \$5,000 but not over \$12,500	\$150.00 plus 4% of excess over \$5,000
Over \$12,500 but not over \$20,000	\$450.00 plus 4.5% of excess over \$12,500
Over \$20,000 but not over \$30,000	\$787.50 plus 6% of excess over \$20,000
Over \$30,000	\$1,387.50 plus 6.5% of excess over \$30,000

(c) *Applicability of this section.* — The provisions of this section, as amended by this act, shall be applicable in determining the rate of tax imposed by this article for all taxable years beginning after December 31, 1986, and shall be in lieu of the rates of tax specified in ~~section four d of this article~~ §11-21-4d of this code. The provisions of this section, as amended by this act in 2021, and of §11B-2-33 of this code shall be applicable in determining the rate of tax imposed by this article for all taxable years beginning after December 31, 2022, and shall be in lieu of the rates of tax specified in this section upon the occurrence of the events specified in §11B-2-33 of this code.

CHAPTER 11B. DEPARTMENT OF REVENUE.**ARTICLE 2. STATE BUDGET OFFICE.****§11B-2-33. Personal income tax reduction fund.**

(a) The personal income tax reduction fund is hereby established. The personal income tax reduction fund shall be funded continuously and on a revolving basis in accordance with this section, with all interest or other earnings on the moneys therein credited to the fund. The personal income tax reduction fund shall be funded as provided by this section, by other provisions of this code, and by any appropriation made to the fund by the Legislature. Moneys in the personal income tax reduction fund may be expended solely for the purposes set forth in this section.

(b) Notwithstanding any other provision of this code to the contrary, moneys to be deposited in the personal income tax reduction fund include:

(1) Not more than \$3 million annually of the net amount of all West Virginia state sales and use tax collections on all sales made on and after January 1, 2022, in which the internet was used to order, ship, or buy a product, on-line, but only where the sale was made by an out of state vendor that registered with the State Tax Division for the first time on or after January 1, 2022, to collect and remit state sales and use taxes to the state. The State Tax Commissioner shall deposit the amounts as required by this section into the fund;

(2) The net amount of the state's share of the gross sales received by the State Lottery Commission that are derived from lottery games authorized under §29-22-1 *et seq.* of this code on and after January 1, 2021, that utilize an electronic computer and a video screen to operate a lottery game and communicate the results thereof, such as the games of "Travel" or "Keno", and which do not utilize an interactive electronic terminal device allowing input by an individual player, that are made available by the State Lottery Commission in locations other than: (A) Private clubs licensed in

accordance with the provisions of §60-7-1 et seq. of this code; (B) retail licensees licensed in accordance with the provisions of §60-3A-1 et seq. of this code; or (C) in the facilities of class A licensees which are licensed in accordance with the provisions of §11-16-9 of this code, in which facility at least 75 percent of the nonintoxicating beer sold by the class A licensee in the preceding year was sold for consumption on the premises. The State Lottery Commission shall deposit the amounts as required by this section into the fund;

(3) The net amount of the state's share of gross terminal income received by the State Lottery Commission that are derived from lottery games that are derived from limited video lottery operations authorized under §29-22B-1 et seq. of this code on and after January 1, 2021, that are operated at a retail location by a licensed operator authorized by the State Lottery Commission to operate limited video lottery terminals as a limited video lottery retailer. The State Lottery Commission shall deposit the amounts as required by this section into the fund;

(4) The net amount of the state's share of gross revenues received by the State Lottery Commission that are derived from racetrack video lottery terminals at a secondary location of a licensed racetrack authorized under §29-22A-1 et seq. of this code on and after January 1, 2021. The State Lottery Commission shall deposit the amounts as required by this section into the fund;

(5) The net amount of the state's share of gross revenues received by the State Lottery Commission that are derived from racetrack table games at a secondary location of a licensed racetrack authorized under §29-22C-1 et seq. of this code on and after January 1, 2021. The State Lottery Commission shall deposit the amounts as required by this section into the fund;

(6) The net amount of the state's share of gross revenues received by the State Lottery Commission that are derived from sports wagering at a secondary location of a licensed racetrack authorized under §29-22D-1 et seq. of this code on and after January 1, 2021. The State Lottery Commission shall deposit the amounts as required by this section into the fund;

(7) The net amount of the state's share of gross revenues received by the State Lottery Commission that are derived from interactive gaming at a primary or secondary location of a licensed racetrack authorized under §29-22E-1 et seq. of this code on and after January 1, 2021. The State Lottery Commission shall deposit the amounts as required by this section into the fund;

(8) After depositing the amounts into the Revenue Shortfall Reserve Fund as required under §11B-2-20 of this code, 25 percent of all surplus revenues described in that section; and

(9) All other amounts directed to be deposited into the fund by any provision of this code or appropriation.

(c)(1) If at the end of any fiscal year the personal income tax reduction fund is funded at an amount equal to or exceeding 2.5 times the total net reduction in personal income tax revenue collections that would have been received in that fiscal year if the income tax rates for that fiscal year had been reduced by 0.25 percent, the Secretary of Revenue shall certify the same to the State Tax Commissioner on or before the next ensuing July 31.

(2) Upon the certification, for all taxable years beginning on or after the next ensuing January 1, the tax imposed by §11-21-3 of this code shall, in lieu of the provisions of §11-21-4e of this code, be imposed in accordance with the following as if fully set forth therein: The Tax Commissioner shall publish by administrative notice the provisions set forth in §11-21-4e of this code after reducing each percentage by 0.25 percent, which published provisions shall for all taxable years beginning on or after the next ensuing January 1, be the tax imposed by §11-21-3 of this code in lieu of the provisions of §11-21-4e of this code.

(3) Upon the certification, on the next ensuing July 1, the Secretary of Revenue shall transfer the sum of the multiplication described in subdivision (1) of this subsection from the personal income tax reduction fund to the General Revenue Fund of the state.

(d)(1) After the occurrence of the events described in subdivision (1), subsection (c) of this section, if at the end of any fiscal year the personal income tax reduction fund is funded at an amount equal to or exceeding two and one half times the total net reduction in personal income tax revenue collections that would have been received in that fiscal year if the income tax rates for that fiscal year had been reduced by 0.25 percent, less the amount required to be transferred by subdivision (3), subsection (c) of this section, if required, the Secretary of Revenue shall certify the same to the State Tax Commissioner on or before the next ensuing July 31.

(2) Upon the certification, for all taxable years beginning on or after the next ensuing January 1, the tax imposed by §11-21-3 of this code shall, in lieu of the provisions of §11-21-4e of this code, be imposed in accordance with the following as if fully set forth therein: The Tax Commissioner shall publish by administrative notice the provisions set forth in §11-21-4e of this code after reducing each percentage by an additional 0.25 percent to the same effect of reducing those percentages as provided by subdivision (2), subsection (c) of this section, which published provisions shall for all taxable years beginning on or after the next ensuing January 1, be the tax imposed by §11-21-3 of this code in lieu of the provisions of §11-21-4e of this code.

(3) Upon the certification, on the next ensuing July 1, the Secretary of Revenue shall transfer the sum of the multiplication described in subdivision (1) of this subsection from the personal income tax reduction fund to the General Revenue Fund of the state.

(e) The moneys in the personal income tax reduction fund shall be made available to the West Virginia Board of Treasury Investments for management and investment of the moneys in accordance with the provisions of §12-6C-1 *et seq.* of this code and to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of §12-6-1 *et seq.* of this code in such amounts as may be directed in the discretion of the Secretary of Revenue. Any balance of the personal income tax reduction fund, including

accrued interest and other return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the personal income tax reduction fund for the purposes set forth in this section.”

During debate on the amendments, Delegate Bates asked and obtained unanimous consent that his strike and insert amendment be withdrawn.

On the adoption of the amendment offered by Delegates Doyle, Boggs, Williams and Hornbuckle, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 315**), and there were—yeas 23, nays 77, absent and not voting none, with the yeas being as follows:

Yeas: Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

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

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 316**), and there were—yeas 77, nays 23, absent and not voting none, with the nays being as follows:

Nays: Barach, Boggs, Brown, Conley, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Miller, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3300) 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. 3303, Relating to clarifying the process of filling vacancies on ballots; on third reading, coming up in 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 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Linville and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3303) passed.

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

Second Reading

Com. Sub. for S. B. 275, Relating generally to WV Appellate Reorganization Act of 2021; 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 five, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-16. Election of state officers.

(a) At the general election to be held in 1968, and every fourth year thereafter, there shall be elected a Governor, Secretary of State, Treasurer, Auditor, Attorney General and Commissioner of Agriculture. At the general election in 1968, and every second year thereafter, there shall be elected a member of the State Senate for each senatorial district, and a member or members of the House of Delegates of the state from each county or each delegate district.

(b) At the time of the primary election to be held in the year 2016, and every twelfth year thereafter, there shall be elected one justice of the Supreme Court of Appeals, and at the time of the primary election to be held in 2020, and every twelfth year thereafter, two justices of the Supreme Court of Appeals and at the time of the primary election to be held in 2024, and every twelfth year thereafter, two justices of the Supreme Court of Appeals. Effective with the primary election held in the year 2016, the election of justices of the Supreme Court of Appeals shall be on a nonpartisan basis and by division as set forth more fully in article five of this chapter.

(c) At the time of the primary election to be held in the year 2024, and every tenth year thereafter, there shall be elected one judge to a seat of the Intermediate Court of Appeals; at the time of the primary election to be held in 2026, and every tenth year thereafter, one judge to a seat of the Intermediate Court of Appeals; and at the time of the primary election to be held in 2028, and every tenth year thereafter, one judge to a seat of the Intermediate Court of Appeals. Effective with the primary election held in the year 2024, the election of Judges of the Intermediate Court of Appeals shall be on a nonpartisan basis and by division as set forth more fully in §3-5-1 et seq. of this code.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-11a. Ballots tabulated electronically; arrangement, quantity to be printed, ballot stub numbers.

(a) The board of ballot commissioners in counties using ballots upon which votes may be recorded by means of marking with electronically sensible ink or pencil and which marks are tabulated electronically shall cause the ballots to be printed or displayed upon the screens of the electronic voting system for use in elections.

(b) (1) For the primary election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and arrangement of candidates within each office are to conform as nearly as possible to §3-5-13 and §3-5-13a of this code.

(2) For the general election, the heading of the ballot, the type faces, the names and arrangement of offices and the printing of names and the arrangement of candidates within each office are to conform as nearly as possible to §3-6-2 of this code.

(3) Effective with the primary election held in 2016 and thereafter, the following nonpartisan elections are to be separated from the partisan ballot and separately headed in display type with a title clearly identifying the purpose of the election and constituting a separate ballot wherever a separate ballot is required under this chapter:

(A) Nonpartisan elections for judicial offices, by division, of:

(i) Justice of the Supreme Court of Appeals;

(ii) Judge of the Intermediate Court of Appeals;

~~(iii)~~ (iii) Judge of the circuit court;

~~(iii)~~ (iv) Family court judge; and

~~(iv)~~ (v) Magistrate;

(B) Nonpartisan elections for Board of Education; and

(C) Any question to be voted upon.

(4) Beginning in the primary election to be held in the year 2020 and in each election thereafter, the nonpartisan judicial elections described in subparagraphs (i) through (iv), paragraph (A), subdivision (3), of this subsection shall appear immediately after the state ticket and shall immediately precede the county ticket, in the same manner prescribed in §3-5-13a of this code.

(5) Both the face and the reverse side of the ballot may contain the names of candidates only if means to ensure the secrecy of the ballot are provided and lines for the signatures of the poll clerks on the ballot are printed on a portion of the ballot which is deposited in the ballot box and upon which marks do not interfere with the proper tabulation of the votes.

(6) The arrangement of candidates within each office is to be determined in the same manner as for other electronic voting systems, as prescribed in this chapter. On the general election ballot for all offices, and on the primary election ballot only for those offices to be filled by election, except delegate to national convention, lines for entering write-in votes are to be provided below the names of candidates for each office, and the number of lines provided for any office shall equal the number of persons to be elected, or three, whichever is fewer. The words 'WRITE-IN, IF ANY' are to be printed, where applicable, directly under each line for write-ins. The lines are to be opposite a position to mark the vote.

(c) Except for electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary election ballots are to be printed in the color of ink specified by the Secretary of State for the various political parties, and the general election ballot is to be printed in black ink. For electronic voting systems that utilize screens upon which votes may be recorded by means of a stylus or by means of touch, the primary ballots and the general election ballot are to be printed in black ink. All ballots are to be printed, where applicable, on white paper suitable for automatic tabulation and are to contain a perforated stub at the top or bottom of the ballot, which is to be numbered sequentially in the same manner as provided in §3-5-13 of this code, or are to be displayed on the screens of the electronic voting system upon which votes are recorded by means of a stylus or touch. The number of ballots printed and the packaging of ballots for the precincts are to conform to the requirements for paper ballots provided in this chapter.

(d) In addition to the official ballots, the ballot commissioners shall provide all other materials and equipment necessary to the proper conduct of the election.

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-6e. Election of Judges of the Intermediate Court of Appeals.

(a) An election for the purpose of electing a Judge or Judges of the Intermediate Court of Appeals shall be held on the same date

as the primary election, as provided by law, upon a nonpartisan ballot by division printed for this purpose.

(b) In case of a tie vote under this section, §3-6-12 of this code controls in breaking the tie vote.

§3-5-7. Filing certificates of announcements of candidacies; requirements; withdrawal of candidates when section applicable.

(a) Any person who is eligible and seeks to hold an office or political party position to be filled by election in any primary or general election held under the provisions of this chapter shall file a certificate of announcement declaring his or her candidacy for the nomination or election to the office.

(b) The certificate of announcement shall be filed as follows:

(1) Candidates for the House of Delegates, the State Senate, circuit judge, family court judge, and any other office or political position to be filled by the voters of more than one county shall file a certificate of announcement with the Secretary of State.

(2) Candidates for an office or political position to be filled by the voters of a single county or a subdivision of a county, except for candidates for the House of Delegates, State Senate, circuit judge or family court judge, shall file a certificate of announcement with the clerk of the county commission.

(3) Candidates for an office to be filled by the voters of a municipality shall file a certificate of announcement with the recorder or city clerk.

(c) The certificate of announcement shall be filed with the proper officer not earlier than the second Monday in January before the primary election day and not later than the last Saturday in January before the primary election day and must be received before midnight, eastern standard time, of that day or, if mailed, shall be postmarked by the United States Postal Service before that hour. This includes the offices of Justice of the Supreme Court of Appeals, Judge of the Intermediate Court of Appeals, circuit court

judge, family court judge and magistrate, which are to be filled on a nonpartisan and division basis at the primary election: *Provided*, That on the final day of a political filing period, the office of the Secretary of State shall be open from 9:00 a.m. until 11:59 p.m. The offices of the County Clerk in all counties of the state shall be open on that final day of a political filing period from 9:00 a.m. until 12:00 p.m.

(d) The certificate of announcement shall be on a form prescribed by the Secretary of State on which the candidate shall make a sworn statement before a notary public or other officer authorized to administer oaths, containing the following information:

(1) The date of the election in which the candidate seeks to appear on the ballot;

(2) The name of the office sought; the district, if any; and the division, if any;

(3) The legal name of the candidate and the exact name the candidate desires to appear on the ballot, subject to limitations prescribed in §3-5-13 of this code;

(4) The county of residence and a statement that the candidate is a legally qualified voter of that county; and the magisterial district of residence for candidates elected from magisterial districts or under magisterial district limitations;

(5) The specific address designating the location at which the candidate resides at the time of filing, including number and street or rural route and box number and city, state, and zip code;

(6) For partisan elections, the name of the candidate's political party and a statement that the candidate: (A) Is a member of and affiliated with that political party as evidenced by the candidate's current registration as a voter affiliated with that party; and (B) has not been registered as a voter affiliated with any other political party for a period of sixty days before the date of filing the announcement;

(7) For candidates for delegate to national convention, the name of the presidential candidate to be listed on the ballot as the preference of the candidate on the first convention ballot; or a statement that the candidate prefers to remain “uncommitted”;

(8) A statement that the person filing the certificate of announcement is a candidate for the office in good faith;

(9) The words ‘subscribed and sworn to before me this _____ day of _____, 20____’ and a space for the signature of the officer giving the oath.

(e) The Secretary of State or the board of ballot commissioners, as the case may be, may refuse to certify the candidacy or may remove the certification of the candidacy upon receipt of a certified copy of the voter’s registration record of the candidate showing that the candidate was registered as a voter in a party other than the one named in the certificate of announcement during the sixty days immediately preceding the filing of the certificate: *Provided*, That unless a signed formal complaint of violation of this section and the certified copy of the voter’s registration record of the candidate are filed with the officer receiving that candidate’s certificate of announcement no later than ten days following the close of the filing period, the candidate may not be refused certification for this reason.

(f) The certificate of announcement shall be subscribed and sworn to by the candidate before some officer qualified to administer oaths, who shall certify the same. Any person who knowingly provides false information on the certificate is guilty of false swearing and shall be punished in accordance with §3-9-3 of this code.

(g) Any candidate for delegate to a national convention may change his or her statement of presidential preference by notifying the Secretary of State by letter received by the Secretary of State no later than the third Tuesday following the close of candidate filing. When the rules of the political party allow each presidential candidate to approve or reject candidates for delegate to convention who may appear on the ballot as committed to that presidential

candidate, the presidential candidate or the candidate's committee on his or her behalf may file a list of approved or rejected candidates for delegate and the Secretary of State shall list as "uncommitted" any candidate for delegate who is disapproved by the presidential candidate.

(h) A person may not be a candidate for more than one office or office division at any election: *Provided*, That a candidate for an office may also be a candidate for President of the United States, for membership on political party executive committees or for delegate to a political party national convention: *Provided, however*, That an unsuccessful candidate for a nonpartisan office in an election held concurrently with the primary election may be appointed under the provisions of section nineteen of this article to fill a vacancy on the general ballot.

(i) A candidate who files a certificate of announcement for more than one office or division and does not withdraw, as provided by §3-5-11 of this code, from all but one office prior to the close of the filing period may not be certified by the Secretary of State or placed on the ballot for any office by the board of ballot commissioners.

§3-5-13. Form and contents of ballots.

The following provisions apply to the form and contents of election ballots:

(1) The face of every primary election ballot shall conform as nearly as practicable to that used at the general election.

(2) The heading of every ballot is to be printed in display type. The heading is to contain a ballot title, the name of the county, the state, the words 'Primary Election' and the month, day and year of the election. The ballot title of the political party ballots is to contain the words "Official Ballot of the (Name) Party' and the official symbol of the political party may be included in the heading.

(A) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all judicial officers shall

commence with the words “Nonpartisan Ballot of Election of Judicial Officers’ and each such office shall be listed in the following order:

(i) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all justices of the Supreme Court of Appeals shall contain the words ‘Nonpartisan Ballot of Election of Justice(s) of the Supreme Court of Appeals of West Virginia’. The names of the candidates for the Supreme Court of Appeals shall be printed by division without references to political party affiliation or registration.

(ii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all judges of the Intermediate Court of Appeals shall contain the words ‘Nonpartisan Ballot of Election of Judge(s) of the Intermediate Court of Appeals’. The names of the candidates for the Intermediate Court of Appeals shall be printed by division without references to political party affiliation or registration.

(iii) (iii) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all circuit court judges in the respective circuits shall contain the words ‘Nonpartisan Ballot of Election of Circuit Court Judge(s)’. The names of the candidates for the respective circuit court judge office shall be printed by division without references to political party affiliation or registration.

~~(iii)~~ (iv) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all family court judges in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Family Court Judge(s)’. The names of the candidates for the respective family court judge office shall be printed by division without references to political party affiliation or registration.

~~(iv)~~ (v) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all magistrates in the respective circuits shall contain the words “Nonpartisan Ballot of Election of Magistrate(s)’. The names of the candidates for the

respective magistrate office shall be printed by division without references to political party affiliation or registration.

(B) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for the Board of Education is to contain the words “Nonpartisan Ballot of Election of Members of the _____ County Board of Education”. The districts for which fewer than two candidates may be elected and the number of available seats are to be specified and the names of the candidates are to be printed without reference to political party affiliation and without designation as to a particular term of office.

(C) Any other ballot or portion of a ballot on a question is to have a heading which clearly states the purpose of the election according to the statutory requirements for that question.

(3) (A) For paper ballots, the heading of the ballot is to be separated from the rest of the ballot by heavy lines and the offices shall be arranged in columns with the following headings, from left to right across the ballot: “National Ticket”, “State Ticket”, “Nonpartisan Judicial Ballot”, “County Ticket”, “Nonpartisan Ballot” in a nonpresidential election year, “District Ticket” or, in a presidential election year, “National Convention”. The columns are to be separated by heavy lines. Within the columns, the offices are to be arranged in the order prescribed in §3-5-13a of this code.

(B) For voting machines, electronic voting devices and any ballot tabulated by electronic means, the offices are to appear in the same sequence as prescribed in §3-5-13a of this code and under the same headings as prescribed in paragraph (A) of this subdivision. The number of pages, columns or rows, where applicable, may be modified to meet the limitations of ballot size and composition requirements subject to approval by the Secretary of State.

(C) The title of each office is to be separated from preceding offices or candidates by a line and is to be printed in bold type no smaller than eight point. Below the office is to be printed the number of the district, if any, the number of the division, if any, and the words ‘Vote for _____’ with the number to be nominated or elected or ‘Vote For Not More Than _____’ in

multicandidate elections. For offices in which there are limitations relating to the number of candidates which may be nominated, elected or appointed to or hold office at one time from a political subdivision within the district or county in which they are elected, there is to be a clear explanation of the limitation, as prescribed by the Secretary of State, printed in bold type immediately preceding the names of the candidates for those offices on the ballot in every voting system. For counties in which the number of county commissioners exceeds three and the total number of members of the county commission is equal to the number of magisterial districts within the county, the office of county commission is to be listed separately for each district to be filled with the name of the magisterial district and the words 'Vote for One' printed below the name of the office: *Provided*, That the office title and applicable instructions may span the width of the ballot so as it is centered among the respective columns.

(D) The location for indicating the voter's choices on the ballot is to be clearly shown. For paper ballots, other than those tabulated electronically, the official primary ballot is to contain a square formed in dark lines at the left of each name on the ballot, arranged in a perpendicular column of squares before each column of names.

(4) (A) The name of every candidate certified by the Secretary of State or the board of ballot commissioners is to be printed in capital letters in no smaller than eight point type on the ballot for the appropriate precincts. Subject to the rules promulgated by the Secretary of State, the name of each candidate is to appear in the form set out by the candidate on the certificate of announcement, but in no case may the name misrepresent the identity of the candidate nor may the name include any title, position, rank, degree or nickname implying or inferring any status as a member of a class or group or affiliation with any system of belief.

(B) The city of residence of every candidate, the state of residence of every candidate residing outside the state, the county of residence of every candidate for an office on the ballot in more than one county and the magisterial district of residence of every candidate for an office subject to magisterial district limitations are

to be printed in lower case letters beneath the names of the candidates.

(C) The arrangement of names within each office must be determined as prescribed in §3-5-13a of this code.

(D) If the number of candidates for an office exceeds the space available on a column or ballot page and requires that candidates for a single office be separated, to the extent possible, the number of candidates for the office on separate columns or pages are to be nearly equal and clear instructions given the voter that the candidates for the office are continued on the following column or page.

(5) When an insufficient number of candidates has filed for a party to make the number of nominations allowed for the office or for the voters to elect sufficient members to the Board of Education or to executive committees, the vacant positions on the ballot shall be filled with the words 'No Candidate Filed': *Provided*, That in paper ballot systems which allow for write-ins to be made directly on the ballot, a blank line shall be placed in any vacant position in the office of Board of Education or for election to any party executive committee. A line shall separate each candidate from every other candidate for the same office. Notwithstanding any other provision of this code, if there are multiple vacant positions on a ballot for one office, the multiple vacant positions which would otherwise be filled with the words 'No Candidate Filed' may be replaced with a brief detailed description, approved by the Secretary of State, indicating that there are no candidates listed for the vacant positions.

(6) In presidential election years, the words 'For election in accordance with the plan adopted by the party and filed with the Secretary of State' is to be printed following the names of all candidates for delegate to national convention.

(7) All paper ballots are to be printed in black ink on paper sufficiently thick so that the printing or marking cannot be discernible from the back: *Provided*, That no paper ballot voted pursuant to the provisions of 42 U. S. C. §1973, *et seq.*, the

Uniformed and Overseas Citizens Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type, envelope type, or notarization requirement. Ballot cards and paper for printing ballots using electronically sensible ink are to meet minimum requirements of the tabulating systems and are to conform in size and weight to ensure ease in tabulation.

(8) Ballots are to contain perforated tabs at the top of the ballots and are to be printed with unique sequential numbers from one to the highest number representing the total number of ballots printed. On paper ballots, the ballot is to be bordered by a solid line at least one sixteenth of an inch wide and the ballot is to be trimmed to within one-half inch of that border.

(9) On the back of every official ballot or ballot card the words 'Official Ballot' with the name of the county and the date of the election are to be printed. Beneath the date of the election there are to be two blank lines followed by the words 'Poll Clerks'.

(10) The face of sample paper ballots and sample ballot labels are to be like other official ballots or ballot labels except that the word 'sample' is to be prominently printed across the front of the ballot in a manner that ensures the names of candidates are not obscured and the word 'sample' may be printed in red ink. No printing may be placed on the back of the sample.

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 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 5. TERMS OF OFFICE; MATTERS AFFECTING THE RIGHT TO HOLD OFFICE.

§6-5-1. When terms of office to begin.

The terms of officers, except when elected or appointed to fill vacancies, shall begin respectively as follows: That of Governor, Secretary of State, State Superintendent of Free Schools, Treasurer, Auditor, Attorney General and Commissioner of Agriculture, on the first Monday after the second Wednesday of January next after their election; that of a member of the Legislature, on December 1, next after his or her election; and that of the justices of the Supreme Court of Appeals, the judges of the Intermediate Court of Appeals, the judges of the several circuit courts, the judges of the family and other inferior courts, the county commissioners, prosecuting attorneys, surveyors of land, assessors, sheriffs, clerks of the circuit, or other inferior courts, clerks of the county commissions, magistrates, on January 1, next after their election.

Whenever a person is elected or appointed to fill a vacancy, his or her term shall be as prescribed by chapter three of this code.

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, effective July 1, 2022:

(1) The Office of Judges may not review a decision of the authority, issued after June 30, 2022, in a certificate of need review. On or before September 30, 2022, 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 June 30, 2022, shall be made to the West Virginia Intermediate Court of Appeals, pursuant to the provisions governing the judicial review of contested administrative cases 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 September 30, 2022, the appeal shall be transferred to the Intermediate Court of Appeals, as provided in §29A-5-4 of this code. 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 pursuant to the provisions governing the judicial review of contested administrative cases 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 July 1, 2022.**

(a) Notwithstanding any other provision of this code, with regard to an objection, protest, or any other decision issued after

June 30, 2022, all powers and duties of the Workers' Compensation Office of 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 June 30, 2022, and prior to its termination; and

(2) Decisions of the Workers' Compensation Board of Review, issued after June 30, 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 July 1, 2022, 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; effective until June 30, 2022.

(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) of this code, 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 shall promptly review and investigate all claims. The parties to a claim are the claimant and, if applicable, the claimant's 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 to the finding. The action of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, is final unless the decision is protested 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 shall be filed with the Office of Judges with a copy served upon the parties to the claim, and other parties in accordance with the procedures set forth in §23-8-1 *et seq.* and §23-9-1 *et seq.* of this code. An employer may protest decisions 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 a decision to deny benefits is protested 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 that another identifiable person may be liable. The Office of Judges 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 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 has made a determination as to the party properly liable for payment of the claim, he or she 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 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 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, 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, 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 any protest filed prior to entry of the amended decision is a protest from the amended decision unless and until the administrative law judge before whom the matter is pending enters an order dismissing the protest 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 or other judicial officer or body: *Provided*, That corrective actions in the case of fraud may be taken at any time.

(f) This section is of no force and effect after June 30, 2022.

§23-5-1a. Notice by commission or self-insured employer of decision; procedures on claims; objections and hearing; effective July 1, 2022.

(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 dependents, 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 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 properly filed within 60 days after the receipt of such decision. This time limitation is a condition of the right to litigate the finding or action and hence jurisdictional. Any objection shall be filed with the Workers' Compensation Board of Review, as provided in §23-5-8a and §23-5-8b of this code, with a copy served upon the parties to the claim, and other parties in accordance with the procedures set forth in §23-5-8a and §23-5-9a of this code. An

employer may file an objection to a 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 in which an objection to a decision to deny benefits is 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 Workers' Compensation Board of Review that another identifiable person may be liable. The 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 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 Workers' Compensation Board of Review has made a determination as to the party properly liable for payment of the claim, 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 member of the Workers' Compensation Board of Review assigned to an objection, as provided in §23-5-9a(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 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 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 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: *Provided*, That any objection filed prior to entry of the amended decision is an objection to the amended decision unless and until the Workers' Compensation Board of Review enters an order dismissing the 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 the Workers' Compensation Board of Review or a judicial officer or body: *Provided, however*, That corrective actions in the case of fraud may be taken at any time.

(f) This section becomes effective on July 1, 2022.

§23-5-3. Refusal to reopen claim; notice; objection; effective until June 30, 2022.

(a) If it appears to the Insurance Commissioner, private insurance carriers, and self-insured employers, whichever is applicable, that an application filed under §23-2-1 *et seq.* 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 shall afford the claimant an evidentiary hearing as provided in §23-9-1 *et seq.* of this code.

(b) This section is of no force and effect after June 30, 2022.

§23-5-3a. Refusal to reopen claim; notice; objection; effective July 1, 2022.

(a) If it appears to the Insurance Commissioner, private insurance carriers, and self-insured employers, whichever is applicable, that an application filed under §23-5-2a 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 Workers' Compensation Board of Review shall afford the claimant an evidentiary hearing as provided in §23-5-9a of this code.

(b) This section becomes effective on July 1, 2022.

§23-5-4. Application by employer for modification of award; objection to modification; hearing.

In any case in which an employer makes application in writing for a modification of any award previously made to an employee of the employer, the commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, shall make a decision upon the application. If the application discloses cause for a further adjustment, the commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, shall, after due notice to the employee, make the modifications or changes with respect to former findings or orders that are justified. Any party dissatisfied with any modification or change made or by the denial of an application for modification is, upon proper and timely objection, entitled to a hearing as provided in either section nine or nine-a of this article.

§23-5-5. Refusal of modification; notice; objection; effective until June 30, 2022.

If in any case it appears to the commission, the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable, that the application filed pursuant to §23-4-1 *et seq.* 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, 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, 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 shall afford the employer an evidentiary hearing as provided in §23-9-1 *et seq.* of this code.

(b) This section is of no force and effect after June 30, 2022.

§23-5-5a. Refusal of modification; notice; objection; effective July 1, 2022.

(a) If in any case it appears to the 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 in former findings, and which would entitle the employer to any modification of the previous award, the 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 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 Workers' Compensation Board of Review shall

afford the employer an evidentiary hearing as provided in §23-5-9 of this code.

(b) This section becomes effective on July 1, 2022.

§23-5-6. Time periods for objections and appeals; extensions; effective until June 30, 2022.

(a) Notwithstanding the fact that the time periods set forth for objections, protests and appeals to or from the workers' compensation Office of Judges 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, 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) This section is of no force and effect after June 30, 2022.

§23-5-6a. Time periods for objections and appeals; extensions; effective July 1, 2022.

(a) Notwithstanding the fact that the time periods set forth for objections, protests, and appeals to or from the 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 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) This section becomes effective on July 1, 2022.

§23-5-8. Designation of Office of Administrative Law Judges; powers of chief administrative law judge; effective until June 30, 2022.

(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.

(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 §29-6-6 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.

(c) The chief administrative law judge shall employ administrative law judges 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. 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 of this code. All additional administrative law judges shall be persons who have been admitted to the practice of law in this state and shall also have had at least two years of experience as an attorney. The chief administrative law judge shall supervise the other administrative law judges and other personnel which collectively shall be referred to in this chapter as the Office of Judges.

(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 Workers' Compensation Commission. 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 §29A-3-9 through §29A-3-16 of this code. The Office of Judges shall follow the remaining provisions of said chapter for giving notice to the public of its actions and the holding of hearings or receiving of comments on the rules.

(f) The chief administrative law judge has the power to hear and determine all disputed claims in accordance with the provisions of this article, establish a procedure for the hearing of disputed claims, take oaths, examine witnesses, issue subpoenas, establish the amount of witness fees, keep records, and make reports that are necessary for disputed claims 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. The chief administrative law judge shall make reports that are requested of him or her by the workers' compensation board of managers.

(g) Effective upon termination of the commission, 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.

(h) This section is of no force and effect after June 30, 2022.

§23-5-8a. Transfer of powers and duties of the Office of Administrative Law Judges to the Workers' Compensation Board of Review; powers of the Workers' Compensation Board of Review in relation to review of objections; effective July 1, 2022.

(a) The Workers' Compensation Office of Administrative Law Judges, referred to as the Office of Judges, shall terminate on or before October 1, 2022, as provided in §23-5-8b 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 July 1, 2022: *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 §23-5-8b of this code.

(b) Pursuant to §23-5-11a(n) of this code, the Workers' Compensation Board of Review shall employ hearing examiners and other personnel that are necessary for the proper conduct of a system of administrative review of objections to decisions of the Insurance Commissioner, private carriers, and self-insured employers, whichever is applicable, made pursuant to the provisions of §23-5-1a of this code and issued after June 30, 2022. 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 four years of experience as an attorney. The chair of the Workers' Compensation Board of Review shall supervise hearing examiners and other personnel of the board, which collectively shall be referred to in this chapter as the Workers' Compensation Board of Review.

(c) The Workers' Compensation Board of Review has the power to hear and determine all objections in accordance with the provisions of this article, establish a procedure for the hearing of objections, take oaths, examine witnesses, issue subpoenas, establish the amount of witness fees, keep records, and make reports that are necessary for reviewing objections, and exercise any additional powers, including the delegation of powers to hearing examiners that are necessary for the proper conduct of a system of administrative review of objections. The chair of the Workers' Compensation Board of Review shall make reports that are requested of him or her by the Insurance Commissioner.

(d) Effective upon termination of the Office of Judges, 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) This section becomes effective on July 1, 2022.

§23-5-8b. 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; effective July 1, 2022.

(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 June 30, 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 June 30, 2022.

(b) On or before September 30, 2022, 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. 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 September 30, 2022, 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 §23-5-11a(m) of this code.

(c) Upon the Office of Judges' disposition of every matter pending before the office, or on October 1, 2022, 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 June 30, 2022, and prior to its termination; and

(2) All final orders or decisions issued by the Workers' Compensation Board of Review after June 30, 2022.

(e) Notwithstanding the requirements of this section, the Workers' Compensation Board of Review shall review and decide all remaining appeals filed with the Board of Review, of Office of Judges' decisions issued prior to June 30, 2022, according to the procedure and requirements for such appeals heretofore provided in this article.

(f) This section becomes effective on July 1, 2022.

§23-5-9. Hearings on objections to Insurance Commissioner; private carrier or self-insured employer decisions; mediation; remand; effective until June 30, 2022.

(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 et seq. of this code shall be filed with the Office of Judges. Upon receipt of an objection, the

Office of Judges 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 shall establish by rule promulgated in accordance with the provisions of §23-5-8(e) 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, private carrier, or self-insured employer, whichever are 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 Office of Judges shall establish a program for mediation to be conducted in accordance with the requirements of rule twenty-five 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 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 shall assign a mediator from a list of qualified mediators maintained by the West Virginia State Bar.

(c) The Office of Judges shall keep full and complete records of all proceedings concerning a disputed claim. Subject to the rules of practice and procedure promulgated pursuant to §23-5-8 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 and evidence taken at hearings conducted by the Office of Judges. 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 is not bound by the usual common law or statutory rules of evidence.

(d) All hearings shall be conducted as determined by the chief administrative law judge pursuant to the rules of practice and procedure promulgated pursuant to §23-5-8 of this code. Upon consideration of the designated record, the chief administrative law judge or other authorized adjudicator within the office of judges shall, based on the determination of the facts of the case and

applicable law, render a decision affirming, reversing, or modifying the action protested. The decision shall contain findings of fact and conclusions of law and shall be mailed to all parties.

(e) The Office of Judges 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, may be necessary for a full and complete disposition of the case. The administrative law judge 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.

(f) The decision of the Office of Judges 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 or by the administrative law judge who granted the benefits. No stay with respect to any medical treatment or rehabilitation authorized by the Office of Judges may 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 reversal, any such overpayment may be recovered pursuant to the provisions of §23-4-1C(h) and §23-4-1D(d) of this code, as applicable.

(h) This section is of no force and effect after June 30, 2022.

§23-5-9a. Hearings on objections to Insurance Commissioner; private carrier, or self-insured employer decisions; mediation; remand; effective July 1, 2022.

(a) Objections to a decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, made pursuant to the provisions of §23-5-1a of this code, shall be filed with the Workers' Compensation Board of Review. Upon

receipt of an objection, the 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 Workers' Compensation Board of Review shall establish by rule, promulgated in accordance with the provisions of §23-5-11a(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 is applicable, shall be notified of any hearing at least 10 days in advance.

(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 §23-5-8a and §23-5-11a(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.

(c) The 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 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 Workers' Compensation Board of Review shall assign a mediator from a list of qualified mediators maintained by the West Virginia State Bar.

(d) The Workers' Compensation Board of Review shall keep full and complete records of all proceedings concerning an objection. Subject to the rules of practice and procedure promulgated pursuant to §23-5-11a(m) of this code, the record upon which the matter shall be decided shall include any evidence submitted by a party to the Workers' Compensation Board of Review and evidence taken at hearings conducted by the 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 Workers' Compensation Board of Review is not bound by the usual common law or statutory rules of evidence.

(e) All hearings shall be conducted as determined by the Workers' Compensation Board of Review according to the rules of practice and procedure promulgated pursuant to §23-5-11a(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 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 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.

(f) The 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 member of the board of review assigned to the objection, may be necessary for a full and complete disposition of the case. The 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 board of review.

(g) The decision of the 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 a court with appellate jurisdiction over the decision or by the member of the Office of Judges who granted the benefits. A stay with respect to any medical treatment or rehabilitation authorized by the 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 the reversal, the overpayment may be recovered pursuant to the provisions of §23-4-1c(h) or §23-4-1d(d) of this code, as applicable.

(h) This section becomes effective on July 1, 2022.

§23-5-10. Appeal from administrative law judge decision to appeal board; effective until June 30, 2022.

(a) The employer, claimant, Workers' Compensation Commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, may appeal to the appeal board created in §23-11-1 *et seq.* of this code for a review of a decision by an administrative law judge. No appeal or review shall lie unless application therefor be made within thirty days of receipt of notice of the administrative law judge's final action or in any event within sixty 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) This section is of no force and effect after June 30, 2022.

§23-5-10a. Appeal from a Workers' Compensation Board of Review decision to the Intermediate Court of Appeals; effective July 1, 2022.

(a) The employer, claimant, Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, may appeal to the West Virginia Intermediate Court of Appeals, created by §51-11-1 *et seq.* of this code, for a review of a decision by the Workers' Compensation Board of Review. No appeal or review shall lie unless application is made within 30 days of receipt of notice of the 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) This section becomes effective on July 1, 2022.

§23-5-11. Workers' Compensation Board of Review generally; administrative powers and duties of the board; effective until June 30, 2022.

(a) On January 31, 2004, the Workers' Compensation Appeal Board heretofore established in this section is hereby abolished.

(b) There is created the 'Workers' Compensation Board of Review', which may also be referred to as 'the Board of Review' or 'the board'. Effective February 1, 2004, the board of Review shall exercise exclusive jurisdiction over all appeals from the Workers' Compensation Office of Judges including any and all appeals pending with the board of Appeals on January 31, 2004.

(c) The board consists of three members.

(d) 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. 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) 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) 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) 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) 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) 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) 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) 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) The board shall designate one of its members in rotation to be chairman of the board for as long as the board may determine by order made and entered of record. In the absence of the chairman, any other member designated by the members present shall act as chairman.

(m) The Board of Review shall meet as often as necessary to hold review hearings, at such times and places as the chairman may determine. Two members shall be present in order to conduct review hearings or other business. All decisions of the board shall be determined by a majority of the members of the board.

(n) 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.

(o) The Board of Review may hire a clerk 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. All personnel of the Board of Review are under the supervision of the chairman of the Board of Review.

(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.

(w) This section is of no force and effect after June 30, 2022.

§23-5-11a. Workers' Compensation Board of Review generally; administrative powers and duties of the board; effective July 1, 2022.

(a) The 'Workers' Compensation Board of Review', which may also be referred to as 'the Board of Review' or 'the board' is hereby continued and granted exclusive jurisdiction over all objections to decisions of the Insurance Commissioner, private carriers, and self-insured employers, whichever is applicable, including any and all matters pending before the Office of Judges after September 30, 2022.

(b) The board consists of five members.

(c) The Governor shall appoint, with the advice and consent of the Senate, five attorneys qualified in accordance with subsection (f) of this section to serve as members of the Board of Review. 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 three of the members of the board may be of the same political party. 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 \$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.

(d) Of the initial appointments of the two additional seats created during the 2021 Regular Session, one member shall be appointed for a term ending December 31, 2025; one member shall be appointed for a term ending December 31, 2027. Thereafter, The appointments shall be for six-year terms.

(e) 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.

(f) 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.

(g) 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.

(h) 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.

(i) The Board of Review shall meet as often as necessary to 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 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.

(j) The Board of Review shall, from time to time, 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 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.

(k) 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 classified under 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.

(l) 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.

(m) The amendments to this section made during the 2021 Regular Session of the Legislature shall become effective on July 1, 2022: *Provided*, That the board is authorized to promulgate rules and hire staff, pursuant to subsection (k) and (l) of this section respectively, prior to July 1, 2022, to the extent necessary to comply with the requirements of this article that shall become effective on that date.

§23-5-12. Appeal to board; procedure; remand and supplemental hearing; effective until June 30, 2022.

(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 §23-5-9 of this code shall have the right to appeal to the board created in §23-11-1 of this code for a review of such action. The Workers' Compensation Commission, the successor to the commission, other private insurance carriers and self-insured employers, whichever is applicable, shall likewise have the right to appeal to the board any final action taken by the administrative law judge. The aggrieved party shall file a written notice of appeal with the board of review, with a copy to the office of judges, within thirty days after receipt of notice of the action complained of or, in any event, regardless of notice, within sixty days after the date of the action complained of, and unless the notice of appeal is filed within the time specified, no appeal shall be allowed, 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 for review and whether oral argument is requested. The Office of Judges, after receiving a copy of the notice of appeal, shall forthwith make up a transcript of the proceedings before the Office of Judges and certify and transmit it to the board. The certificate shall incorporate a brief recital of the proceedings in the case and recite each order entered and the date thereof.

(b) The board 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 shall be based upon the record submitted to it and such oral argument as may be requested and

received. The board may affirm, reverse, modify, or supplement the decision of the administrative law judge 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. The board may affirm the order or decision of the administrative law judge or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the administrative law judge if the substantial rights of the petitioner or petitioners have been prejudiced because the administrative law judge's findings are:

(1) In violation of statutory provisions; or

(2) In excess of the statutory authority or jurisdiction of the administrative law judge; 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 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 shall be in writing and state with specificity the laws and facts relied upon to sustain, reverse, or modify the administrative law judge's decision.

(2) Decisions of the Board of Review shall be made by a majority vote of the board of review.

(3) A decision of the Board of Review 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, other private insurance carriers, and self-insured employers, whichever is applicable, shall have the right to seek judicial review of a board of review decision 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, the board 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, remand the case to the chief administrative law judge for the taking of such new, additional, or further evidence as in the opinion of the board may be necessary for a full and complete development of the facts of the case. In the event the board shall remand the case to the chief administrative law judge for the taking of further evidence, the administrative law judge shall proceed to take new, additional, or further evidence in accordance with any instruction given by the board within 30 days after receipt of the order remanding the case. The chief administrative law judge 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 for good cause. After the completion of a supplemental hearing, the administrative law judge shall, within 60 days, render his or her decision affirming, reversing, or modifying the former action of the administrative law judge. The decision shall be appealable to and proceeded with by the Board of Review in the same manner as other appeals. In addition, upon a finding of good cause, the board may remand the case to the Workers' Compensation Commission, the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable, for further development. Any decision made by the commission, the successor to the commission, other private insurance carriers, and self-insured employers, whichever is applicable, following a remand shall be subject to objection to the Office of Judges and not to the board. The board 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) In all proceedings before the board, any party may be represented by counsel.

(g) This section is of no force and effect after June 30, 2022.

§23-5-12a. Appeal of board decisions to the Intermediate Court of Appeals; procedure; remand and supplemental hearing; effective July 1, 2022.

(a) Any employer, employee, claimant, or dependent who shall feel aggrieved by a decision of the Workers' Compensation Board of Review shall have the right to appeal to the West Virginia Intermediate Court of Appeals, created by §51-11-1 et seq. of this code, for a review of such action. The Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, shall likewise have the right to appeal to the Intermediate Court of Appeals any final action taken by the Workers' Compensation Board of Review. The aggrieved party shall file a written notice of appeal with the Intermediate Court of Appeals, with a copy to the 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: *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 grounds for review and whether oral argument is requested. The Workers' Compensation Board of Review, after receiving a copy of the notice of appeal, shall forthwith make up a transcript of any proceedings before the board of review and certify and transmit it to the Intermediate Court of Appeals. The certificate shall incorporate a brief recital of the proceedings in the matter and recite each order entered or decision issued and the date thereof.*

(b) The 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 court shall be based upon the record submitted to it and such oral argument as may be requested and received. The Intermediate Court of Appeals may affirm, reverse, modify, or supplement the decision of the 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 court. The Intermediate Court of Appeals may affirm the order or decision of the Workers' Compensation Board of Review or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the Workers' Compensation Board of Review, if the substantial rights of the petitioner or petitioners have been prejudiced because the Board of Review's findings are:

(1) In violation of statutory provisions;

(2) In excess of the statutory authority or jurisdiction of the Board of Review;

(3) Made upon unlawful procedures;

(4) Affected by other error of law;

(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 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 Intermediate Court of Appeals shall be in writing and state with specificity the laws and facts relied upon to sustain, reverse, or modify the Board of Review's decision.

(2) A decision of the Intermediate Court of Appeals is binding upon the Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, with respect to the parties involved in the particular appeal. The Insurance Commissioner, other private insurance carriers, and self-insured employers, whichever is applicable, shall have the right to seek judicial review of a final decision of the Intermediate Court of Appeals, pursuant to §51-11-13 of this code, irrespective of whether the party appeared or participated in the appeal to the Intermediate Court of Appeals.

(d) Instead of affirming, reversing, or modifying the decision of the Workers' Compensation Board of Review, the 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 court, remand the case to the Board of Review for the taking of such new, additional, or further evidence as in the opinion of the court considers necessary for a full and complete development of the facts of the case. In the event the Intermediate Court of Appeals shall remand the case to the Board of Review for the taking of further evidence, the Board of Review shall proceed to take new, additional, or further evidence in accordance with any instruction given by the court within 30 days after receipt of the order remanding the case. The 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 Board of Review for good cause. After the completion of a supplemental hearing, the Workers' Compensation Board of Review shall, within 60 days, render its decision affirming, reversing, or modifying the former action of the Workers' Compensation Board of Review. The decision shall be appealable to, and proceeded with, by the Intermediate Court of Appeals in the same manner as other appeals. In addition, upon a finding of good cause, the court may remand the case to the Insurance Commissioner, other private insurance carriers, or self-insured employers, whichever is applicable, for further development. Any decision made by the Insurance Commissioner, other private insurance carriers, or self-insured employers, whichever is applicable, following a remand, shall be

subject to objection to the Workers' Compensation Board of Review and not to the Intermediate Court of Appeals. The 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) In all proceedings before the Intermediate Court of Appeals, any party may be represented by counsel.

(f) This section becomes effective on July 1, 2022.

§23-5-13. Continuances and supplemental hearings; claims not to be denied on technicalities; effective until June 30, 2022.

(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 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) This section is of no force and effect after June 30, 2022.

§23-5-13a. Continuances and supplemental hearings; claims not to be denied on technicalities; effective July 1, 2022.

(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 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) This section becomes effective on July 1, 2022.

§23-5-15. Appeals from final decisions of board to Supreme Court of Appeals prior to July 1, 2022; procedure; costs.

a) As provided in §23-5-8b of this code, the provisions of this section do not apply to any decision issued by the Workers' Compensation Board of Review after June 30, 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; effective until June 30, 2022.

(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, 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, Board of Review, or court, there shall additionally be charged against the private carriers or self-insured employers, whichever is applicable, the reasonable costs and reasonable hourly attorney 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, the Board of Review, or court, whichever enters a final decision on the issue. An attorney representing a claimant

must submit a claim for attorney 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, the Office of Judges, the Board of Review, or court shall enter an order within 30 days awarding reasonable attorney 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 fees to be awarded, the Insurance Commission, arbitrator, mediator, Office of Judges, 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) This section is of no force and effect after June 30, 2022.

§23-5-16a. 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 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 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 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, mediators, the 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, 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) This section becomes effective on July 1, 2022.

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 June 30, 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 June 30, 2022, must be instituted by filing an 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 affect 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 ~~enire~~ 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 ~~enire~~ 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 June 30, 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 court.

a) Notwithstanding any provision of this code to the contrary, an appeal of a final order or decision entered by a family court after June 30, 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 June 30, 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 2021.

§51-11-2. 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 Supreme Court of Appeals of West Virginia.

'Intermediate Court of Appeals' means the Intermediate Court of Appeals of West Virginia created by this article.

'Judge' means a person appointed or elected to serve as a Judge for the Intermediate Court of Appeals, pursuant to this article.

'Supreme Court of Appeals' means the Supreme Court of Appeals of West Virginia.

§51-11-3. West Virginia Intermediate Court of Appeals; constitutional authority; Court created; judges; qualifications of judges; location; clerk.

(a) 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.

(b) In accordance with Section One, Article VIII of the West Virginia Constitution, the West Virginia Intermediate Court of Appeals is created. The Intermediate Court is a court of record and shall issue, as appropriate in each appeal, written opinions, orders, and decisions. The court shall be established and operable on or before July 1, 2022.

(c) The Intermediate Court of Appeals shall convene, conduct proceedings, and issue decisions, rulings, and opinions of the court.

(d) The Intermediate Court of Appeals shall consist of three judges, initially appointed by the Governor in accordance with §51-11-6 of this code.

(1) An Intermediate Court of Appeals Judge must be a member in good standing of the West Virginia State Bar and admitted to practice law in this state for at least ten years prior to appointment or election to the Intermediate Court of Appeals.

(2) An Intermediate Court of Appeals Judge must have been a resident of the State of West Virginia for five years prior to election to the Intermediate Court of Appeals.

(3) An Intermediate Court of Appeals Judge may not engage in any other business, occupation or employment inconsistent with the expeditious, proper and impartial performance of his or her duties as a judicial officer. An Intermediate Court of Appeals Judge is not permitted to engage in the outside practice of law and shall devote full time to his or her duties as a judicial officer.

(4) A person sitting as an Intermediate Court of Appeals Judge 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.

(e) The Intermediate Court of Appeals may be located in any seat of county government within the state, or in any other place which is convenient to litigants designated by the Intermediate Court of Appeals for the purpose of hearing oral argument, or may be located in a fixed location, in a facility provided by the Clerk pursuant to §51-11-8 of this code.

(f) The Clerk of the Supreme Court shall act as clerk of the Intermediate Court of Appeals. The Clerk shall keep a complete record of the cases and proceedings of the Intermediate Court of Appeals. The Clerk, subject to the approval of the Supreme Court, may employ additional staff for the performance of duties relating to the court of appeals and designate a deputy clerk to oversee the administration of the Intermediate Court of Appeal

§51-11-4. Jurisdiction; limitations.

(a) The Intermediate Court of Appeals has no original jurisdiction.

(b) Unless specifically provided otherwise in this article, appeals of the following matters shall be made to the Intermediate Court of Appeals, which has appellate jurisdiction over such matters:

(1) Final judgments or orders of a circuit court in civil cases, entered after June 30, 2022; *Provided*, that the Supreme Court of Appeals may, on its own accord, obtain jurisdiction over any civil case filed in the Intermediate Court;

(2) Final judgments or orders of a family court, entered after June 30, 2022;

(3) Final judgments or orders of a circuit court concerning guardianship or conservatorship matters, entered after June 30, 2022, pursuant to §44A-1-1 *et seq.* of this code;

(4) Final judgments, orders, or decisions of an agency or an administrative law judge entered after June 30, 2022, heretofore appealable to the Circuit Court of Kanawha County pursuant to §29A-5-4 or any other provision of this code;

(5) Final orders or decisions of the Health Care Authority issued prior to June 30, 2022, in a certificate of need review, but transferred to the jurisdiction of the Intermediate Court of Appeals upon termination of the Office of Judges pursuant to §16-2D-16a of this code;

(6) Final orders or decisions issued by the Office of Judges after June 30, 2022, and prior to its termination, as provided in §16-2D-16 and §23-5-8a of this code; and

(7) Final orders or decisions of the Workers' Compensation Board of Review pursuant to §23-5-1 *et seq.* of this code, entered after June 30, 2022.

(c) In appeals properly filed pursuant to subsection (b) of this section, the parties shall be afforded a full and meaningful review on the record of the lower tribunal and an opportunity to be heard.

(d) The Intermediate Court of Appeals does not have appellate jurisdiction over the following matters:

(1) Judgments or final orders issued in any criminal proceeding in this state: *Provided*, that if the West Virginia Supreme Court of Appeals should adopt a policy of discretionary review of criminal appeals then the Intermediate Court of Appeals shall have appellate jurisdiction of such judgments or final orders;

(2) Judgments or final orders issued in any juvenile proceeding pursuant to §49-4-701 *et seq.* of this code;

(3) Judgments or final orders issued in child abuse and neglect proceedings pursuant to §49-4-601 *et seq.* of this code;

(4) Orders of commitment, issued pursuant to §27-5-1 *et seq.* of this code;

(5) Any proceedings of the Lawyer Disciplinary Board;

(6) Any proceedings of the Judicial Investigation Commission;

(7) Final decisions of the Public Service Commission, issued pursuant to §24-5-1 of this code;

(8) Interlocutory appeals;

(9) Certified questions of law; and

(10) 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.

§51-11-5. Motion for direct review by Supreme Court of Appeals.

(a) Within 20 days after a petition for appeal is filed in the Intermediate Court of Appeals, a party may file a motion in the 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.

(b) The Supreme Court of Appeals may grant a motion filed pursuant to this section if both of the following extraordinary circumstances exist:

(1) The appeal involves a question of fundamental public importance; and

(2) The appeal involves exigencies, in which time is of the essence, necessitating direct review of the appeal by the Supreme Court of Appeals.

(c) 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:

§51-11-6. Election of judges; initial appointment and election; vacancies; length and conditions of judicial terms.

(a) The three Judges of the Intermediate Court of Appeals shall be elected on a nonpartisan basis to serve 10-year terms, subject to the exceptions for initial appointments and elections contained in subsection (b) and subsection (c) of this section.

(b) *Nomination and election to fill initial vacancies.* —The Judges shall be nominated and appointed according to the following procedure:

(1) (A) On or before January 1, 2022, the Judicial Vacancy Advisory Commission, established pursuant to §3-10-3a of this code, shall publish notice of the judicial vacancies for the Intermediate Court of Appeals and begin accepting applications from qualified individuals for the position of Judge of the Intermediate Court of Appeals. The Commission is responsible for reviewing and evaluating candidates for possible appointment to the Intermediate Court of Appeals by the Governor. In reviewing candidates, the Commission may accept applications from any attorney who believes he or she to be qualified for the judgeships. The Commission may accept comments from and request information from any person or source.

(B) The Commission shall recommend three qualified nominees for each position for Intermediate Court of Appeals Judge: *Provided*, That each person on the list must meet the requirements of §51-11-3(d) of this code at the time such person will begin his or her term on the court.

(2) The Governor shall review the list certified by the Judicial Vacancy Advisory Commission and nominate three qualified candidates to serve as judge. The Governor shall make his or her nominations without regard to political partisanship or affiliation. If the Governor does not select a nominee for the position of judge from the names provided by the Commission, he or she shall notify the committee of that circumstance and the Commission shall provide additional names for consideration by the Governor.

(3) The initial appointment term for each of the judges, at the discretion of the Governor, shall be as follows: one judge shall be selected to serve a two and one-half year term set to expire on December 31, 2024, one judge shall be selected to serve a four and one-half year term set to expire on December 31, 2026, and one judge shall be elected to serve a six and one-half year term set to expire on December 31, 2028.

(4) Upon confirmation by the West Virginia Senate, an individual appointed to serve as a Judge of the Intermediate Court of Appeals pursuant to this subsection shall take an oath of office and commence his or her duties on July 1, 2022.

(c) After the initial appointment, the Judges of the Intermediate Court of Appeals shall be elected on a nonpartisan basis by division during the primary election in every year during which a sitting judge's term will expire for a ten-year term of office, and the judge's term shall commence on January 1 of the year following, as set forth in §3-5-1 *et seq.* of this code.

(d) If a vacancy occurs in the office of Intermediate Court Judge, the Governor shall fill the vacancy by appointment as provided in §3-10-3 and §3-10-3a of this code.

(e) No person sitting as a judge of the Intermediate Court of Appeals may retain his or her position as judge upon becoming a candidate for any elected public office, judicial or nonjudicial.

(f) 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.

§51-11-7. Rules of practice and procedure; fees; deadlines.

(a) Section three, article VIII of the Constitution of West Virginia grants the Supreme Court of Appeals of West Virginia 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. In accordance with those provisions, the Intermediate Court of Appeals is therefore subject to the administrative control, supervision, and oversight of the Supreme Court of Appeals and 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. Appeals to the Intermediate Court of Appeals shall be filed with the Clerk of the Supreme Court of Appeals. All appeals and other related documents shall be filed by electronic means, when available.

(c) *Fees.* —

(1) The Clerk of the 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 Ryan Brown Addiction Prevention and Recovery Fund, created by §16-53-2 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.

(e) *Oral argument.* — The Intermediate Court of Appeals has discretion to determine whether appellate review of a case before the court requires oral argument.

§51-11-8. 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 Supreme Court of Appeals. Under that same provisions, the Chief Justice of the Supreme Court of Appeals is the ‘administrative head’ of all West Virginia courts, empowering the chief justice to exercise supervisory control over an intermediate court of appeals.

(b) The Administrative Director of the Supreme Court shall provide for the requisite physical facilities, furniture, fixtures and equipment necessary for the efficient operation of the Intermediate Court of Appeals.

(c) (1) In order to minimize any costs associated with the necessary facilities for the Intermediate Court of Appeals, the Administrative Director of the Supreme Court shall make existing courtrooms throughout the state, including the courtroom of the Supreme Court of Appeals, available for use by the Intermediate Court of Appeals at times convenient both to the Intermediate Court of Appeals and the local court.

(2) The Administrative Director of the Supreme Court may also contract with the Department of Administration, county commissions and private parties to provide for space that is suitable for the Intermediate Court of Appeals. 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) Chief Judge. — One Judge of the Intermediate Court of Appeals shall be chosen Chief Judge. The manner of choosing the Chief Judge and providing for periodic rotation of the position of Chief Judge shall be determined by rules to be established by the Supreme Court.

(e) Staff. — The Administrative Director of the 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.

(f) The budget for the payment of the salaries and benefits for the Intermediate Court of Appeals Judges and staff, facilities, furniture, fixtures and equipment shall be included in the

appropriation for the Supreme Court. To the extent possible, the Supreme Court shall designate existing facilities and existing staff members for use by the Intermediate Court of Appeals to minimize the costs for establishing and operating the Intermediate Court of Appeals.

§51-11-9. Written opinions; precedential effect.

(a) The Intermediate Court of Appeals 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 unless the opinion, order, or decision is overruled or modified by the Supreme Court of Appeals.

§51-11-10. 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.

§51-11-11. Judicial compensation and benefits; expenses.

(a) The annual salary of a Judge of the Intermediate Court of Appeals is \$142,500. 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) Judges of the Intermediate Court of Appeals 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.

§51-11-12. 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.

§51-11-13. Severability.

The provisions of this article are severable. If any portion of this article is declared unconstitutional or the application of any part of this article is held invalid, the remaining portions of this article and their applicability shall remain valid and enforceable.

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 June 30, 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.”

Delegates Skaff, Evans, Fleischauer, Barach, Walker, Pushkin, Zukoff, Brown and Lovejoy moved to amend the amendment on page 73, line 13, following the period, by inserting a new section to read as follows:

“§58-5-1a. Tolled effective date for implementation of the Intermediate Court of Appeals.

(a) *Legislative findings*- As the most pressing issue in our criminal justice, public health and judicial systems is the management and rehabilitation of adults whose drug addiction has impacted our state’s children, and rehabilitation of parents that have been abusing or neglecting their children due to addiction should be the state’s judicial system’s top priority through the establishment of family drug treatment courts, and diverting resources away from that effort to establish an Intermediate Court of Appeals would be a misuse of limited government funds and focus away from what must be seen as the most critical crisis facing our state. Therefore, the implementation of the establishment of the intermediate court shall be tolled until the judiciary implements family drug treatment courts throughout the State of West Virginia.

(b) Notwithstanding any other the provisions of Enrolled Committee Substitute for Senate Bill 275 enacted during the 2021 Regular Session of the West Virginia Legislature to the contrary, this Act shall become effective only when the West Virginia Supreme Court enters into its record a finding that family drug treatment courts as authorized pursuant to §62-15B-1 *et seq.* of this code are established and operational in all judicial circuits in the

state. If family drug treatment courts have not been established in all judicial circuits by July 1, 2021, the July 1, 2022 effective date for the establishment of the Intermediate Court of Appeals shall be tolled and become effective one year following the certification of the West Virginia Supreme Court by order of the court finding the requirements of this section have been fulfilled. The Court upon entering such order shall provide notice to the Speaker of the West Virginia House of Delegates, the President of State Senate, and the Governor, and publish a notice in the West Virginia State Register providing public notice that family drug treatment courts have been established and are operational in each judicial circuit and the date the Intermediate Court of Appeals will be operational, and as a result, the provisions of this Act become effective as provided herein.”

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. 318**), and there were—yeas 28, nays 72, absent and not voting none, with the yeas being as follows:

Yeas: Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Martin, McGeehan, Miller, Nestor, Paynter, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

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

Delegates Bates, Young and Fleischauer moved to amend the amendment on page 49, section 11a, line 59, following the period, by inserting the following:

“Any person, not a temporary or probationary employee, employed by the Office of Judges who is terminated or laid off as a result of the expiration of the Office of Judges shall be afforded the opportunity to apply to the Board of Review or to transfer or apply for other state employment if he or she is an employee in

good standing at the time of termination or layoff. The Division of Personnel shall establish and maintain, for a period of two years, a list of all employees who were laid off or terminated by the Office of Judges pursuant to this section, and who wish to remain eligible for employment with the state. The Workers Compensation Board of Review shall give employees of the Office of Judges on the list priority for employment in an available position at the Workers Compensation Board of Review equivalent to the position that person held in the Office of Judges unless the Board of Review determines that the person is less qualified than other applicants for the position. Notwithstanding any other provision of this code to the contrary, the Division of Personnel shall give employees of the Office of Judges on the list priority to transfer to or be employed for any other state position in classified or exempt service for which the employee is qualified and applies.”

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. 319**), and there were—yeas 29, nays 71, absent and not voting none, with the yeas being as follows:

Yeas: Anderson, Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hanna, Hansen, Higginbotham, Hornbuckle, Lovejoy, McGeehan, Miller, Paynter, Pethel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

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

The question being on the adoption of the amendment recommended by the Committee on Finance, the same was put, and prevailed.

The bill was then ordered to third reading.

Com. Sub. for H. B. 2266, Relating to expanding certain insurance coverages for pregnant women; 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. 2581, Providing for the valuation of natural resources property and an alternate method of appeal of proposed valuation of natural resources property; 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. 2592, Require Counties and Municipalities to hold all local elections during statewide elections; on second reading, coming up in regular order, was, at the request of Delegate Summers, and by unanimous consent, postponed one day.

Com. Sub. for H. B. 2667, To create a cost saving program for state buildings regarding energy efficiency; 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. 2720, Creating a Merit-Based Personnel System within DOT; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2768, Supplementing, amending and increasing an existing item of appropriation from the State Road Fund, to the Department of Transportation, Division of Highways; 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. 2769, Supplementing, amending and increasing items of existing appropriation from the State Road Fund to the Department of Transportation, Division of Motor Vehicles; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2790, Supplementing, amending, decreasing, and increasing items of existing appropriation to Division of Highways; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2915, Relating to public records management and preservation; 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. 2927, Adding Caregiving expenses to campaign finance expense; on second reading, coming up in regular order, was, at the request of Delegate Summers, and by unanimous consent, postponed one day.

H. B. 3082, Stabilizing funding sources for the DEP Division of Air Quality; 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. 3106, To change the hearing requirement for misdemeanors to 10 days; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3298, Making a supplemental appropriation to Dept. of Commerce, Dept. of Education, Senior Services and Civil Contingent Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3304, Authorizing the Division of Corrections and Rehabilitation to establish a Reentry and Transitional Housing Program; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

Com. Sub. for H. J. R. 3, Property Tax Modernization Amendment,

Com. Sub. for H. B. 2017, Rewriting the Criminal Code,

Com. Sub. for H. B. 2095, Providing increased protections for the welfare of domestic animals,

Com. Sub. for H. B. 2224, Relating to complaints against public agencies to obtain records through the Freedom of Information Act,

Com. Sub. for H. B. 2370, Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool,

Com. Sub. for H. B. 2488, Relating to an occupational limited license,

H. B. 2730, Relating to persons filing federal bankruptcy petition to exempt certain property of the estate,

Com. Sub. for H. B. 2751, Modernize the process for dissolution of municipal corporations in this State,

Com. Sub. for H. B. 2876, Modify the five-year waiting period and 100-person minimum for an association health plan, and to allow new flexibility granted under federal rules,

Com. Sub. for H. B. 2884, To make changes to the FOIA law to protect public utility customer databases from disclosure, with exceptions,

H. B. 2908, Relating to disclosure of information by online marketplaces to inform consumers,

H. B. 2918, Relating to Family Drug Treatment Court,

H. B. 2997, Adding a defense to the civil penalty imposed for a result of delivery of fuel to a state other than the destination state printed on the shipping document for fuel,

H. B. 3030, Relating to gross weight limitations and road restrictions in Greenbrier and Pocahontas Counties,

Com. Sub. for H. B. 3036, Sunsetting the Board of Sanitarians,

Com. Sub. for H. B. 3072, Sunset the Board of Forestry,

Com. Sub. for H. B. 3074, Relating to information on organ and tissue donations,

H. B. 3089, Make utility workers essential employees during a state of emergency,

H. B. 3286, Making a supplementary appropriation to the Division of Human Services – Child Care and Development,

H. B. 3287, Making a supplementary appropriation to the Department of Homeland Security,

H. B. 3288, Supplementing and amending appropriations by decreasing and increasing existing items of appropriation in the DHHR,

H. B. 3289, Supplementary appropriation to the Department of Commerce, Geological and Economic Survey,

H. B. 3291, Making a supplementary appropriation to the Department of Homeland Security, Division of Administrative Services,

H. B. 3292, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health,

Com. Sub. for H. B. 3295, Making a supplemental appropriation to Division of Human Services and Division of Health Central Office,

Com. Sub. for H. B. 3297, Making a supplemental appropriation to the Department of Veterans' Assistance - Veterans Home,

H. B. 3308, Relating to increasing number of limited video lottery terminals,

H. B. 3309, Creating and funding a Video Lottery Terminals Modernization Fund,

H. B. 3310, Relating to the jurisdiction of the Public Service Commission,

H. B. 3311, Relating to the cost of medical records,

And,

H. B. 3312, Establishing a memorial to child labor and child workers who died in the course of employment in this state.

Conference Committee Report

Delegate J. Pack, from the Committee of Conference on matters of disagreement between the two houses, as to

Eng. Committee Substitute for House Bill No. 2263, Update the regulation of pharmacy benefit managers 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 and the House of Delegates to Eng. Committee Substitute for House Bill No. 2263 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the House and Senate recede from their positions, and agree to the same as follows:

(l) A covered individual's defined cost sharing for each prescription drug shall be calculated at the point of sale based on a price that is reduced by an amount equal to at least 100% of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug. Any rebate over and above the defined cost sharing would then be passed on to the health plan to reduce premiums. Nothing precludes an insurer from decreasing a covered individual's defined cost sharing by an amount greater than what is previously stated. The Commissioner may propose a legislative rule or by policy effectuate the provisions of this subsection. Notwithstanding any other effective date to the contrary, the amendments to this article

enacted during the 2021 regular legislative session shall apply to all policies, contracts, plans, or agreements subject to this section that are delivered, executed, amended, adjusted, or renewed on or after January 1, 2022.

And by amending the title by inserting a new title to read as follows:

Eng. Committee Substitute for House Bill 2263 – “A Bill to amend and reenact §5-16-9 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-51-2, §33-51-3, §33-51-8, and §33-51-9 of said code; and to amend said code by adding thereto two new sections, designated §33-51-11 and §33-51-12, all relating to the regulation of pharmacy benefit managers; updating the reporting requirements related Public Employees Insurance Agency; expanding scope; defining terms; regulating the reimbursements of pharmacy benefit managers; requiring a adequate network; providing rulemaking authority; providing an effective date; requiring filing of certain methodologies utilized by pharmacy benefit managers; prohibiting certain practices by pharmacy benefits managers; providing consumer choice for pharmacies; setting guidelines for pharmacy benefit plans; requiring rebates to be passed down; requiring reporting; and requiring the commissioner to consider information in reviewing rates.”

Respectfully submitted,

Jeff Pack, *Chair*

Mike Maroney, *Chair*

D. Jeffries,

Ryan Weld,

Ric Griffith,

Ron Stollings,

*Conferees on the part
of the House of Delegates.*

*Conferees on the part
on the part of the Senate.*

The question of adoption of the report of the Committee of Conference was put and prevailed.

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. 320**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2263) passed.

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

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:

H. B. 2095: Delegate Kimble.

At 1:37 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, March 30, 2021.

Tuesday, March 30, 2021

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, March 29, 2021, 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 H. B. 3309, on second reading, Special Calendar, had been transferred to the House Calendar; and H. B. 2493 and Com. Sub. for H. B. 2675, on Third reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 21, SP4 Dennis Harvey Roberts Bridge, McDowell County,

Com. Sub. for H. C. R. 55, Studying the viability of creating a veterinary school in West Virginia,

And,

H. C. R. 78, Requesting an examination of juvenile proceedings,

And reports the same back with the recommendation that they each be adopted.

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. 610, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV,

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. 610) 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. 375, Relating to county boards of education policies for open enrollment,

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

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

Your Committee on Technology and Infrastructure has had under consideration:

Com. Sub. for S. B. 346, Authorizing DMV use electronic means when providing notice for licensees and vehicle owners,

And reports the same back with the recommendation that it do pass, 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. 346) to the Committee on Government Organization was abrogated.

Delegate Steele, 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. 374, Increasing threshold for bid requirement to \$10,000 to be consistent with other state agencies,

Com. Sub. for S. B. 389, Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency,

Com. Sub. for S. B. 421, Authorizing Workforce West Virginia to hire at-will employees,

Com. Sub. for S. B. 429, Exempting Division of Emergency Management from Purchasing Division requirements for certain contracts,

S. B. 463, Consolidating position of Inspector General of former Workers' Compensation Fraud and Abuse Unit and position of Director of Insurance Fraud Unit,

Com. Sub. for S. B. 472, Updating criteria for regulating certain occupations and professions,

And,

Com. Sub. for S. B. 587, Making contract consummation with state more efficient,

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:

H. B. 2022, 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. 2022 - "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 Capito, Chair of the Committee on the Judiciary, submitted the following report, which was received:

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 80, Allowing for administration of certain small estates by affidavit and without appointment of personal representative,

And,

Com. Sub. for S. B. 81, Relating generally to WV Uniform Trust Code,

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

Delegate D. Jeffries, 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 29th day of March, 2021, 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. 9, Continuing Licensed Racetrack Modernization Fund,

S. B. 10, Modifying racetrack licensing due date,

And,

S. B. 305, Providing exemption from consumers sales and service tax for certain aircraft maintenance.

Delegate D. Jeffries, 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 29th day of March, 2021, 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 S. B. 517, Relating to sunset provisions of legislative rules.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on March 29, 2021, he approved **Com. Sub. for S. B. 5**, **Com. Sub. for S. B. 42** and **Com. Sub. for S. B. 523**.

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. 2290, Initiating a State Employment First Policy to facilitate integrated employment of disabled persons.

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 10Q. EMPLOYMENT FIRST POLICY.

§18-10Q-1. Legislative findings.

The Legislature finds a need to create a state initiative to promote competitive, integrated, and customized employment opportunities for disabled citizens using publicly funded services regardless of the individual’s level of disability. The state Employment First Policy initiative is intended to promote the expectation that individuals with intellectual, developmental, and other disabilities are valued members of the workforce, and can often meet the same employment standards, responsibilities, and expectations as other working-age adults when provided the proper education, reasonable accommodations, and supports.

§18-10Q-2. Definitions.

‘Competitive Employment’ means work that is performed on a full-time or part-time basis (including self-employment) for which an individual is compensated at a rate that is not less than the rates specified in §21-5C-2 of this code, and for which the employee is eligible for the level of benefits provided to other employees and which presents opportunities for advancement that are similar to those for other employees who are not individuals with disabilities who have similar positions.

‘Customized Employment’ means those employment supports and services for an individual that are designed in a way to personalize the employment relationship between the person with a disability and employer in a way that meets the needs of both.

‘Integrated employment’ means employment at a location where the percentage of employees with disabilities relative to the employees without disabilities is consistent with the norms of the general workforce, and where the employees with disabilities

interact with other persons, to the same extent as employees in comparable positions without disabilities.

§18-10Q-3. Creation of Employment First Taskforce; membership; meeting requirements.

(a) The Commissioner of the West Virginia Bureau for Behavioral Health shall establish a taskforce for the purpose of developing and implementing a state Employment First Policy.

(b) The commissioner shall appoint the membership of the taskforce, which shall include, at a minimum, the following members:

(1) The Commissioner of the West Virginia Bureau for Behavioral Health, or his or her representative, who shall chair the taskforce;

(2) An individual with a developmental disability;

(3) An individual with an intellectual disability;

(4) A family member of a person with a disability;

(5) A representative of the Department of Education;

(6) A representative of Workforce West Virginia;

(7) A representative of the Division of Rehabilitation Services;

(8) A representative of the Bureau for Medical Services (State Medicaid Agency);

(9) A representative of the West Virginia Developmental Disabilities Council;

(10) A representative of a provider of integrated and competitive employment services who does not also provide sheltered or otherwise segregated services for individuals with disabilities;

(11) A representative of West Virginia Center of Excellence in Disabilities;

(12) A representative of Disability Rights of West Virginia (the Governor-designated state protection and advocacy agency);

(13) A representative of the West Virginia Statewide Independent Living Council;

(14) A representative of the West Virginia Community and Technical College Systems;

(15) A representative of the West Virginia Behavioral Healthcare Providers Association;

(16) A representative of the West Virginia Association of Rehabilitation Facilities; and

(17) The State of West Virginia Americans with Disabilities Act Coordinator.

(c) The taskforce shall hold meetings at the call of the chairperson or upon written request of a majority of the members. The taskforce shall meet at least four times a year.

(d) The chairman of the taskforce shall appointment a member to act as secretary for the purposes of the taking of minutes. The minutes shall be approved by the taskforce at each meeting. The minutes and all other documentation shall be maintained by the chair.

§18-10Q-4. Powers and duties of the taskforce; state Employment First Policy; required plan; reporting requirements.

(a) The state Employment First Taskforce shall develop and implement a plan that includes the following:

(1) Describes time frames and proposals for aligning state policies, including eligibility and funding priorities, allocations for responsibility, and authority for ensuring implementation;

(2) Details cost projections for additional state funding needed over a five-year period to:

(A) Provide rate increases and incentives to providers that implement Employment First services; and

(B) Train or retrain the workforce;

(3) Describes strategies, timelines, and plans to increase investment in integrated employment services and may carefully consider plans to reduce sheltered work settings;

(4) Incorporates Employment First practices and methods in policy improvement plans providing customized, person-centered, and individually tailored employment supports to people with intellectual, developmental, and other disabilities, including people with complex support needs;

(5) Complies with federal policy and practice mandates regarding employment services design, settings, and coordination among stakeholders, including:

(A) The Centers for Medicare and Medicaid Services Home and Community-Based Services;

(B) Workforce Innovation and Opportunity Act; and

(C) The United States Department of Justice rulings that found that segregated work settings violate the ‘most integrated setting’ rule of the Americans with Disabilities Act relative to the findings of the Supreme Court of the United States in the Olmstead court case;

(6) Describes minimal workforce competency-based training standards applicable for job coaches, case managers, and other relevant personnel;

(7) Establishes interagency agreements, as appropriate, to improve coordination of services, and collect and share data to inform long-term systems planning;

(8) Proposes initiatives to address the culture of low expectations, to which parents of young children with intellectual, developmental, and other disabilities are exposed;

(9) Provides the Governor and Legislature the State Employment First Policy within 12 months of the enactment of this bill;

(10) Ensures:

(A) That individuals, particularly secondary and post-secondary students with disabilities, understand the importance of, and are given the opportunity to explore, options for further training as a pathway to integrated employment;

(B) The availability and accessibility of individualized training and support in an individual's preferred employment options;

(C) The availability and accessibility of resources necessary to enable an individual to understand possible effects of earned income and accumulation of assets on the individual's eligibility for public benefits and opportunities to properly manage and save income and assets without jeopardizing such benefits;

(D) That competitive integrated employment, while being the first and preferred outcome, is not required of an individual with a disability to secure and maintain necessary public benefits, health care, training, and support for individuals with disabilities and this statute may not be construed to limit or disallow any disability benefits to which a person with a disability who is unable to be employed as contemplated by this statute would otherwise be entitled; and

(E) That the staff of public schools, vocational service programs, and community providers are trained and supported to assist in achieving the goal of competitive integrated employment for all individuals with disabilities; and

(11) Promotes partnerships with employers to overcome barriers to meet workforce needs, including the creative use of technology and innovation

(b) The taskforce shall provide a written report annually to the Governor and the Joint Committee on Government and Finance on the findings and results of the efforts of the taskforce to accomplish the goals of the plan. These reports shall present data which reflects the number of people with disabilities who attained employment as a result of the implementation of the plan, as well as any barriers to implementation and strategies developed to address them.

(c) The plan as required by this section shall be updated biennially or more frequently as needed.

(d) The Bureau for Behavioral Health, Division of Rehabilitation Services, the Department of Education, Workforce West Virginia, and the Bureau for Medical Services shall, as recommended by the Employment First Taskforce as established in §18-10Q-3 of this code, adopt and implement a joint State Employment First Policy, which recognizes that earning a wage through competitive employment in the general workforce is the first and preferred outcome of all publicly funded services provided to working-age individuals with disabilities.

§18-10Q-5. Sunset date.

The taskforce established in §18-10Q-3 of this code shall terminate and cease to exist on December 31, 2025, unless continued by act of the Legislature.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2290 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-10Q-1, §18-10Q-2, §18-10Q-3, §18-10Q-4, and §18-10Q-5; all relating to initiating a State Employment First Policy to facilitate integrated employment of disabled persons; providing legislative findings; establishing a taskforce to develop a State Employment First Policy; providing for implementation of the State Employment First Policy; providing definitions for

‘competitive employment’, ‘customized employment’, and ‘integrated employment’; and incorporating a sunset provision.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 321**), and there were—yeas 99, nay 1, absent and not voting none, with the nay being as follows:

Nay: Kimes.

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. 2290) 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. 2897, Expiring funds to the balance of the Department of Commerce.

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. 2899, Making a supplementary appropriation to the Department of Commerce.

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. 2920, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health—Laboratory Services Fund.

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. 401 - “A Bill to amend and reenact §46A-5-104 of the Code of West Virginia, 1931, as amended; and to amend and reenact §46A-5-108 of said code, all relating to the Consumer Credit and Protection Act; excluding time, savings, and demand accounts offered by a bank from general consumer protection claims; and providing for 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

S. B. 488 - “A Bill to amend and reenact §7-18-13a and §7-18-14 of the Code of West Virginia, 1931, as amended, all relating to the distribution of hotel occupancy tax proceeds to convention and visitor’s bureaus; providing that a convention and visitor’s bureau shall satisfy certain requirements to receive funding from hotel occupancy taxes; requiring certain reporting from convention and visitor’s bureaus; requiring triennial financial reviews of convention and visitor’s bureaus; clarifying that the State Auditor and Legislative Auditor may review the operations and finances of a convention and visitor’s bureau; prohibiting the authorization of a new convention and visitor’s bureau that does not satisfy certain requirements; and clarifying that it is a misdemeanor offense for a member of a governing body to facilitate the distribution of hotel occupancy tax proceeds to a convention and visitor’s bureau that does not satisfy certain requirements”; 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. 588 - “A Bill to amend and reenact §18-9B-17, §18-9B-18, and §18-9B-19 of the Code of West Virginia, 1931, as amended, all relating to requiring county boards of education and county superintendents to comply with the instructions of the State Board of Education; expanding remedies that may be used to enforce certain orders of the State Board of School Finance when a county board of education fails or refuses to comply; expanding circumstances under which the State Board of School Finance can withhold payment of state aid from a county board; allowing, under certain circumstances of noncompliance with state law or State Board of Education policy, the State Board of School Finance to require certain actions during the periods of noncompliance; and requiring the State Board of School Finance to report certain actions of enforcement against a county board to the State Board of Education at its next meeting”; 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. 634 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-29-5a, relating to criminal justice training for law-enforcement officers and correction officers regarding individuals with autism spectrum disorders; development of course instruction; defining terms; providing for training in appropriate interactions with individuals with autism spectrum disorder; and authorizing the Law-Enforcement Professional Standards Subcommittee to develop guidelines for law-enforcement and correction officer response to individuals on the autism spectrum who are victims or witnesses to a crime, or suspected or convicted of a crime”; 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. 660 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-10-7, relating generally to providing for cooperation between civilian law-enforcement agencies and military authorities to facilitate objective independent investigations of possible offenses”; which was referred to the Committee on the Judiciary.

A message from the Senate, by

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

S. B. 713 - “A Bill to amend and reenact §15A-4-17 of the Code of West Virginia, 1931, as amended, relating generally to inmate good time; updating references to personnel; clarifying that inmates in the custody of the Commissioner of the Division of Corrections and Rehabilitation receive basic good time unless expressly excluded; creating certain exclusions; clarifying that inmates who received good time on or before October 21, 2020, are entitled to the good time, unless it is lost due to a disciplinary violation; establishing basis for earning extra good time in the discretion of the commissioner; and granting civil immunity to the Division of Corrections and Rehabilitation, its commissioner, employees, agents, and assigns for any and all claims relating to calculation of good time for certain offenders occurring before October 21, 2020”; which was referred to the Committee on the Judiciary.

Resolutions Introduced

Delegates Fleischauer, Pethtel, Hansen, Williams, Walker, Statler, Summers, Garcia, G. Ward, Mallow, Sypolt, Jennings, Barach, Barnhart, Bates, Boggs, Brown, Conley, Cooper, Diserio, Doyle, Evans, Fluharty, Griffith, Hamrick, Hanna, Hornbuckle, Lovejoy, Pushkin, Skaff, Smith, Young, Zatezalo and Zukoff offered the following resolution, which was read by its title and referred to the Committee on Health and Human Resources then Rules:

H. R. 21 - “Urging the Governor of West Virginia to form a task force with our congressional representatives, labor organizations, and other industry leaders to call upon the President of the United States to invoke the Defense Production Act of 1950, to order the Morgantown plant at the Chestnut Ridge facility of the former Mylan Pharmaceuticals to be retrofitted and placed into production for manufacturing, packaging, and shipping of critical, life-saving medical supplies including vaccines, medications, and personal protective equipment, and empower the Governor of West Virginia to save the lives of our friends, neighbors, and fellow citizens.”

Whereas, The Defense Production Act of 1950 grants the President of the United States a broad set of authorities to influence domestic industry in the interest of national defense and can be used across the federal government to shape the domestic industrial base and provide essential materials and goods needed for the national defense; and

Whereas, The State of West Virginia and the entire United States currently face a severe shortage of medical supplies, including life-saving vaccines, medications, and personal protective equipment, which are vital in responding to the ongoing Coronavirus Disease (COVID-19) pandemic; and

Whereas, The failure to massively and expeditiously increase production of vaccines, medications, and personal protective equipment endangers the lives of our fellow citizens; and

Whereas, It is critical that the State of West Virginia utilize its citizens, resources, and facilities to their maximum potential to defeat this COVID-19 virus and protect the health, safety, and welfare of our friends and neighbors; and

Whereas, The Morgantown plant at the Chestnut Ridge facility of the former Mylan Pharmaceuticals, a vital facility, is scheduled to shut down on July 31, 2021; and

Whereas, This vital facility could be quickly repurposed to produce life-saving medical supplies including COVID-19

vaccines, medications, and personal protective equipment, while also preserving over 1,500 West Virginian jobs; and

Whereas, West Virginians always answer the call for assistance from our nation, whether that means service in our armed forces, producing the energy needed to power our homes, or stepping up to do our part in responding to the needs of the COVID-19 pandemic; and

Whereas, The employees of the Morgantown plant at the Chestnut Ridge facility of the former Mylan Pharmaceuticals will rise to this new challenge, continue their decades of proven labor, empower the Governor of West Virginia to continue his mission of saving the lives of West Virginians, and be able to, once again, demonstrate to the State of West Virginia, colleagues and fellow workers, and industry leaders their value by their hard work, expertise, and resolve; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby urges the Governor of West Virginia to form a task force with our congressional representatives, labor organizations, and other industry leaders to call upon the President of the United States to invoke the Defense Production Act of 1950, to order the Morgantown plant at the Chestnut Ridge facility of the former Mylan Pharmaceuticals to be retrofitted and placed into production for manufacturing, packaging, and shipping of critical, life-saving medical supplies including vaccines, medications, and personal protective equipment,, and empower the Governor of West Virginia to save the lives of our friends, neighbors, and fellow citizens; and, be it

Further Resolved, That the Clerk forward a copy of this resolution to the Governor of West Virginia, the Honorable James C. Justice II.

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

H. C. R. 81 - "Requesting the Joint committee on Government and Finance study the legal process for the collection and enforcement of delinquent taxes and lands."

Whereas, The existing process for collecting and enforcing delinquent taxes set forth in chapter 11A of the Code of West Virginia, 1931, as amended, is complicated and results in a lengthy system of placing delinquent lands on the books for counties and the state; and

Whereas, Many properties sit idle, creating public health and safety hazards, which burden then falls to the counties and cities to remedy pursuant to the State Building Code and/or unsafe building commissions for the local governments; and

Whereas, The usability and development of these properties are further encumbered by the mounting fees, penalties, and interest incurred by the existing taxation collection process which makes them financially undesirable; and

Whereas, There is a desire of the Legislature to expedite and streamline the process of collection to benefit the revenues of the local governments, while simultaneously addressing the public health hazards of dilapidated properties and increasing the marketability of these delinquent lands; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the legal process for the collection and enforcement of delinquent taxes and lands; and, be it

Further Resolved, That the Joint Committee on Government and Finance study the existing statutory process concerning: (1) The efficacy of collection and enforcement of delinquent taxes and lands; (2) the interplay of the collection and enforcement systems on the land use and potential economic development capabilities; (3) the burdens placed on local governments by the existing processes for addressing unsafe and dilapidated properties; and (4) the feasibility of streamlining these processes to address the

concerns of the Legislature and the local governments of this state; and, be it

Further Resolved, That the Joint Committee and Government and Finance shall seek the input and advice to conduct the study from the: (1) State Auditor; (2) Secretary of Commerce; (3) Secretary of Economic Development; (4) State Fire Marshal; (5) West Virginia Association of Counties; (6) West Virginia Municipal League; and (7) West Virginia University College of Law - Land Use and Sustainable Development Law Clinic; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, 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 any necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Hott, Holstein, Ferrell, Wamsley, Riley and Howell offered the following resolution, which was read by its title and referred to the Committee on Government Organization then Rules:

H. C. R. 82 - “Requesting the Joint committee on Government and Finance study the impact of the creation of an Economic Opportunity Task Force, along with the creation of certain regions and goals of the task force.”

Whereas, The creation of an Economic Opportunity Task Force would allow for further insight into the potential opportunities for economic development across the State of West Virginia; and

Whereas, By compiling the following, an infrastructure model will be established to set parameters and gather information for the task force: Division of Highways data pertaining to traffic counts; county assessors maps and flood plain tools; West Virginia

Economic Development Authority requests and opportunities; Office of Broadband pertaining to telecom availability; and commerce generally pertaining to electric, water, wastewater and gas availability; and

Whereas, Available banking options and appetites shall be divided into nine regions: North Central, Ohio River Valley, Metro Valley, Central West Virginia, Southwest Region, Southeast Region, Highlands, Eastern Panhandle, and Scenic Highway; and

Whereas, There shall be established both short term and a 10-year plan answering how we fully utilize opportunities for economic development; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the process for the establishment of an Economic Opportunity Task Force; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with information gathered by the task force; and, be it

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

Special Calendar

Third Reading

Com. Sub. for S. B. 275, Relating generally to WV Appellate Reorganization Act of 2021; on third reading, coming up in regular order, was read a third time.

Speaker Pro Tempore Howell in the Chair

Delegate Hanshaw, Mr. Speaker, arose from his seat and addressed the House.

Delegate Hanshaw, Mr. Speaker, in the Chair

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 322**), and there were—yeas 56, nays 44, absent and not voting none, with the nays being as follows:

Nays: Anderson, Barach, Bates, Boggs, Booth, Brown, Bruce, Conley, Criss, Dean, Diserio, Doyle, Evans, Fast, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kimes, Lovejoy, Martin, McGeehan, Miller, Nestor, Paynter, Pethtel, Phillips, Pinson, Pushkin, Reynolds, Rohrbach, Rowe, Skaff, Thompson, Toney, Walker, B. Ward, G. Ward, Williams, Worrell, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 275) 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. 275 - “A Bill to amend and reenact §3-1-16 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-4A-11a of said Code; to amend said code by adding thereto a new section, designated §3-5-6e; to amend and reenact §3-5-7, and §3-5-13 of said Code; to amend and reenact §3-10-3 and §3-10-3a of said Code; to amend and reenact §6-5-1 of said Code; to amend said code by adding thereto a new section, designated §16-2D-16a; to amend said code by adding thereto a new section, designated §23-1-1h; to amend and reenact §23-5-1, §23-5-3, §23-5-4; §23-5-5, §23-5-6, §23-5-8, §23-5-9, §23-5-10, §23-5-11, §23-5-12, §23-5-13, §23-5-15, and §23-5-16 of said code; to amend said code by adding thereto twelve new sections, designated §23-5-1a, §23-5-3a, §23-5-5a, §23-5-6a, §23-5-8a, §23-5-8b, §23-5-9a, §23-5-10a, §23-5-11a, §23-5-12a, §23-5-13a, and §23-5-16a; to amend and reenact §29A-5-4 of said code; to amend and reenact §29A-6-1 of said code; to amend said code by adding thereto a new section, designated §51-2A-24; to amend and reenact §51-9-1a of said code; to amend said code by adding thereto a new

article, designated §51-11-1, §51-11-2, §51-11-3, §51-11-4, §51-11-5, §51-11-6, §51-11-7, §51-11-8, §51-11-9, §51-11-10, §51-11-11, §51-11-12 and §51-11-13; and to amend and reenact §58-5-1 of said code, all relating generally to creating an Intermediate Court of Appeals; requiring the election of judges of the Intermediate Court of Appeals be on a nonpartisan basis; requiring that elections to certain offices be on a division basis when more than one judge of the Intermediate Court of Appeals is to be elected; providing for the timing, day and frequency of election; providing for the commencement of terms of office; establishing ballot design and printing; providing that election for Judge of the Intermediate Court of Appeals is to be held on the same date as the primary election; requiring nonpartisan ballots be used; establishing filing announcement of candidacies, including the timing, location and information necessary thereto; providing for the order of appearance of offices on the ballot; establishing ballot content; providing for the filling of vacancies on the Intermediate Court of Appeals; defining terms; providing that the Judicial Vacancy Advisory Commission assist initial and subsequent vacancies on the Intermediate Court of Appeals; clarifying meaning of quorum for Judicial Vacancy Advisory Commission; transferring jurisdiction over appeals of decisions of the Health Care Authority in certificate-of-need reviews from the Workers' Compensation Office of Administrative Law Judges and Circuit Court of Kanawha County to the Intermediate Court of Appeals; establishing procedures and time frames for transfer or disposition of unresolved appeals pending with the Office of Judges; transferring jurisdiction over all workers' compensation claims and transferring all powers and duties related thereto from the Office of Judges to the Workers' Compensation Board of Review by a date certain; providing for additional two members to Workers' Compensation Board of Review; providing for modified procedure to appoint members to Workers' Compensation Board of Review; conferring appellate jurisdiction over Office of Judges decisions and Board of Review decisions to the Intermediate Court of Appeals after a date certain; sunseting certain provisions relating to duties and procedures of the Office of Judges with respect to workers' compensation claims; modifying duties and procedures of Board of Review with respect to workers' compensation claims;

terminating the Office of Judges by a date certain; authorizing the Board of Review to employ hearing examiners and other necessary personnel; establishing qualifications for hearing examiners hired by the Board of Review; setting forth powers of the Board of Review relating to workers' compensation claims; providing for reports requested by the Insurance Commissioner to be made by the chair of the Board of Review; providing for oversight and administrative authority of the Insurance Commissioner over the Board of Review; authorizing the Board of Review to promulgate procedural rules; granting due consideration and an interview to employees of the Office of Judges who apply for positions with the Board of Review on or before a date certain and directing the Board of Review that such consideration and interview prior to considering any other applicant; authorizing the Board of Review to hire attorneys as hearing examiners; requiring that all orders and decisions of the Board of Review pertaining to an objection be issued and signed by a single member of the Board of Review, with certain exceptions; permitting the board of review member assigned to an objection to delegate certain duties to a hearing examiner; establishing the administrative powers and duties of the Board of Review; increasing the limit on the annual salary of a Board of Review member; authorizing the Board Of Review to promulgate rules of practice and procedure, and establishing a process therefor; establishing duties of the chair of the Board of Review; providing that the administrative expenses of the Board of Review shall be included in annual budget of the Insurance Commissioner; providing that petitions for review of final decisions of the Workers' Compensation Board of Review must be made to the Intermediate Court of Appeals; establishing certain procedures and other requirements for appeals of Board of Review decisions made to the Intermediate Court of Appeals; providing that the Supreme Court of Appeals has discretion to review final decisions of the Intermediate Court of Appeals in workers' compensation claims; requiring that appeal of contested cases under the State Administrative Procedures Act be made to the Intermediate Court of Appeals; transferring jurisdiction to review family court final orders from circuit courts to the Intermediate Court of Appeals; creating an Intermediate Court of Appeals in West Virginia to be established and operable by a date certain;

providing a short title; providing legislative findings; defining terms; establishing and defining an Intermediate Court of Appeals of three judges; providing eligibility criteria for judges of the Intermediate Court of Appeals; providing that judges of the Intermediate Court of Appeals may not be candidates for any elected public office during the judicial term; providing for the location of proceedings of the Intermediate Court of Appeals; providing for a Clerk of the Intermediate Court of Appeals; authorizing jurisdiction of the Intermediate Court of Appeals over certain matters; excluding certain matters from jurisdiction of the Intermediate Court of Appeals; providing that parties to an appeal in the Intermediate Court of Appeals shall have an opportunity for a full and meaningful review on the record of the lower tribunal and an opportunity to be heard; forbidding jurisdiction of the Intermediate Court of Appeals over certain matters; establishing a procedure by which parties to an appeal in the Intermediate Court of Appeals may file a motion for direct review of an appeal by the Supreme Court of Appeals in certain extraordinary circumstances; providing a process for initial appointment of judges to the Intermediate Court of Appeals to fill vacancies in the Intermediate Court of Appeals upon its creation; providing for the regular election of a judge of the Intermediate Court of Appeals upon the expiration of a sitting judge's term; establishing a procedures for the filling of vacancies in unexpired judicial terms by appointment and, in certain circumstances, subsequent election; providing that the Governor's judicial appointments must be made from a list of candidates submitted by the Judicial Vacancy Advisory Commission and are subject to advice and consent of the Senate; providing that procedures and operations of the Intermediate Court of Appeals shall comply with rules promulgated by the Supreme Court of Appeals; requiring that appeals to the Intermediate Court of Appeals and related filings be filed with the Clerk of the Supreme Court of Appeals; establishing certain requirements for the filing of appeals to the Intermediate Court of Appeals; clarifying that an appeal bond may be required before appeal to the Intermediate Court of Appeals may take effect; authorizing filing fees; providing for deposit of filing fees in a special revenue account to fund the Ryan Brown Addiction Prevention and Recovery Fund; granting the Intermediate Court of Appeals

discretion to require oral argument; recognizing the constitutional authority of the Supreme Court of Appeals to exercise administrative authority over the Intermediate Court of Appeals; providing that Intermediate Court of Appeals proceedings shall take place in publicly available facilities as arranged by the Administrative Director of the Supreme Court of Appeals; authorizing the Administrative Director of the Supreme Court of Appeals to employ staff for Intermediate Court of Appeals operations; providing for a Chief Judge of the Intermediate Court of Appeals; providing that the budget for Intermediate Court of Appeals operations shall be included in the appropriation for the Supreme Court of Appeals; authorizing the Intermediate Court of Appeals to issue opinions as binding precedent for lower courts; providing that the Intermediate Court of Appeals shall issue written decisions as a matter of right; providing for discretionary review of Intermediate Court of Appeals decisions by Supreme Court of Appeals; authorizing an annual salary, retirement benefits, and reimbursement of expenses for judges of the Intermediate Court of Appeals; providing for reimbursement of expenses of Intermediate Court of Appeals staff; authorizing the Attorney General to appear as Counsel for the State before the Intermediate Court of Appeals; providing for severability of any unconstitutional provisions; clarifying when appeal lies before the Intermediate Court of Appeals and the Supreme Court of Appeals; providing internal effective dates; removing obsolete language from the code; and making technical corrections to the code.”

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. 2266, Relating to expanding certain insurance coverages for pregnant women; on third reading, coming up in 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 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: J. Jeffries and McGeehan.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2266) 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. 2493, Providing valuation limitations for coal property taxation and clarifying the penalties for non-filers; on third reading, coming up in regular order, was read a third time.

Delegate Tully 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 and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 324**), and there were—yeas 64, nays 34, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barach, Barnhart, Bates, Boggs, Booth, Bridges, Brown, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Garcia, Griffith, Hanna, Hansen, Holstein, Hornbuckle, D. Kelly, Lovejoy, Paynter, Pethtel, Phillips, Pushkin, Reynolds, Rowe, Skaff, Statler, Walker, G. Ward, Williams, Young and Zukoff.

Absent and Not Voting: Bruce and Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2493) 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. 2581, Providing for the valuation of natural resources property and an alternate method of appraisal of

proposed valuation of natural resources property; on third reading, coming up in regular order, was read a third time.

Delegate Tully 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 and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 325**), and there were—yeas 66, nays 34, absent and not voting none, with the nays being as follows:

Nays: Barach, Barnhart, Bates, Boggs, Booth, Brown, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, D. Kelly, Lovejoy, Miller, Nestor, Paynter, Pethtel, Phillips, Pushkin, Reynolds, Rowe, Skaff, Storch, Thompson, Walker, G. Ward, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2581) 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. 2667, To create a cost saving program for state buildings regarding energy efficiency; on third reading, coming up in 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 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Cooper, Kimes and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2667) 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. 2675, Relating to the interest rate for condemnation cases and creating conformity with statutory rates; on third reading, coming up in regular order, was, at the request of Delegate Capito, and by unanimous consent, placed at the foot of bills on third reading.

Com. Sub. for H. B. 2720, Creating a Merit-Based Personnel System within 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. 327**), and there were—yeas 86, nays 14, absent and not voting none, with the nays being as follows:

Nays: Brown, Diserio, Fleischauer, Garcia, Hansen, Hornbuckle, Kimes, Lovejoy, Pushkin, Thompson, Walker, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2720) 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. 2768, Supplementing, amending and increasing an existing item of appropriation from the State Road Fund, to the Department of Transportation, Division of Highways; on third reading, coming up in regular order, was read a third time.

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

Nays: Kimes.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2768) passed.

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

On this question, the yeas and nays were taken (**Roll No. 329**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Kimes.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2768) 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. 2769, Supplementing, amending and increasing items of existing appropriation from the State Road Fund to the Department of Transportation, Division of Motor Vehicles; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 330**), and there were—yeas 90, nays 10, absent and not voting none, with the nays being as follows:

Nays: Diserio, Fleischauer, Fluharty, Kimes, McGeehan, Pushkin, Sypolt, Walker, Williams and Zukoff.

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. 2769) passed.

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

On this question, the yeas and nays were taken (**Roll No. 331**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Fluharty, Kimes, McGeehan and Walker.

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. 2769) takes effect from its passage.

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

H. B. 2790, Supplementing, amending, decreasing, and increasing items of existing appropriation to Division of Highways; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 332**), and there were—yeas 99, nay 1, absent and not voting none, with the nay being as follows:

Nay: Kimes.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2790) passed.

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

On this question, the yeas and nays were taken (**Roll No. 333**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Kimes.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2790) takes effect from its passage.

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

H. B. 2915, Relating to public records management and preservation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 334**), and there were—yeas 80, nays 20, absent and not voting none, with the nays being as follows:

Nays: Bridges, Brown, Dean, Fast, Foster, Gearheart, Hamrick, Haynes, Hornbuckle, J. Jeffries, Keaton, Kimes, Lovejoy, Maynard, McGeehan, Paynter, Steele, Wamsley, Williams and Young.

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

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

H. B. 2915 - “A Bill to amend and reenact §5A-8-15 of the Code of West Virginia, 1931, as amended, relating to public records management and preservation; to increase available funds in the Public Records and Preservation Revenue Account to administer a system of records management and preservation for county governments and for grants to counties for records management, access, and preservation purposes.”

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 335**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Bruce, Fast and McGeehan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2915) takes effect July 1, 2021.

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

H. B. 3082, Stabilizing funding sources for the DEP Division of Air Quality; on third reading, coming up in regular order, was read a third time.

Delegate Espinosa 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 and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 336**), and there were—yeas 74, nays 26, absent and not voting none, with the nays being as follows:

Nays: Bridges, Burkhammer, Dean, Fast, Foster, Graves, Hamrick, Haynes, Holstein, J. Jeffries, Jennings, Kessinger, Kimble, Kimes, Longanacre, Martin, Maynard, McGeehan, J. Pack, Paynter, Phillips, Pritt, Smith, Steele, Wamsley and G. Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3082) passed.

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

H. B. 3082 - "A Bill to amend and reenact §22-5-2 and §22-5-4 of the Code of West Virginia, 1931, as amended, relating to air pollution control; providing the West Virginia Department of Environmental Protection, Division of Air Quality, the authority to invest and reinvest funds held in the Air Pollution Control Fund and the Air Pollution Education and Environment Fund and to receive interest thereon from lawful investments of public funds to offset decreasing permit fee collections; providing that at the end of each fiscal year, unexpended balances, including accrued interest, shall not be transferred to the General Revenue Fund, but remain in the two funds for expenditure by the West Virginia

Department of Environmental Protection, Division of Air Quality, in furtherance of its mission; 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.

Com. Sub. for H. B. 3106, To change the hearing requirement for misdemeanors to 10 days; on third reading, coming up in 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 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Martin and Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3106) 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. 3298, Making a supplemental appropriation to Dept. of Commerce, Dept. of Education, Senior Services and Civil Contingent Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 338**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Bridges, J. Jeffries, McGeehan and Young.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3298) passed.

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

On this question, the yeas and nays were taken (**Roll No. 339**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Gearheart, J. Jeffries and McGeehan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3298) takes effect from its passage.

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

H. B. 3304, Authorizing the Division of Corrections and Rehabilitation to establish a Reentry and Transitional Housing 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. 340**), and there were—yeas 98, nay 1, absent and not voting 1, with the nay and the absent and not voting being as follows:

Nay: Kimes.

Absent and Not Voting: Doyle.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3304) 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 postponed in earlier proceedings, the House returned to consideration of, **Com. Sub. for H. B. 2675**, Relating to the interest rate for condemnation cases and creating conformity with statutory rates, and the bill 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 9, nays 90, absent

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

Yeas: Capito, Criss, Espinosa, Kimble, Martin, Queen, Westfall, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: L. Pack.

So, a majority of the members present not having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2675) rejected.

Second Reading

Com. Sub. for H. J. R. 3, Property Tax Modernization Amendment; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Capito, the bill was amended on page 2, line 13, by adding the phrase “section 1” after the word “that.”

And,

By striking out the phrase “by adding thereto a new section, designated section one-d.”

Delegates Fluharty and Skaff moved to amend the bill on page 1, line 4, following the word “activity”, by inserting the words “and personal property tax on motor vehicles”.

Note: The portion of the amendment above is to the title and would be in order following adoption of the Joint Resolution.

On page 2, line 13, following the words “in business activity”, by inserting the words “personal property tax on motor vehicles”.

And,

On page 3, line 4, following the words “in business activity”, by inserting the words “and personal property tax on motor vehicles”.

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. 342**), 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: Burkhammer and L. Pack.

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

The resolution was then ordered to engrossment and third reading.

Com. Sub. for H. B. 2017, Rewriting the Criminal Code; on second reading, coming up in regular order, was read a second time.

An amendment offered by Delegate Capito was reported by the Clerk, on page nineteen, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“CHAPTER 15. PUBLIC SAFETY.

ARTICLE 12. SEX OFFENDER REGISTRATION ACT.

§15-12-8. Failure to register or provide notice of registration changes; penalty; penalty for aiding and abetting.

(a) Each time a person has a material change in any of the registration information as required by §15-12-3 of this code this article and knowingly fails to register the change or changes, each failure to register each separate item of information changed shall constitute a separate offense under this section.

(b) Except as provided in this section, any person required to register for ten years pursuant to subdivision (1), subsection (a), section four of this article who knowingly provides materially false information or who refuses to provide accurate information when so required by the terms of this article, or who knowingly fails to

register or knowingly fails to provide a material change in any required information as required by this article, is guilty of a Class 1 misdemeanor. ~~and, upon conviction thereof, shall be fined not less than \$250 nor more than \$10,000 or confined in jail not more than one year, or both~~ Any person convicted of a second offense under this subsection is guilty of a Class 6 felony. ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than five years. Any person convicted of a third or subsequent offense under this subsection 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 twenty five years.~~

(c) Any person required to register for life pursuant to this article who knowingly provides materially false information or who refuses to provide accurate information when so required by the terms of this article, or who knowingly fails to register or knowingly fails to provide a material change in any required information as required by this article, is guilty of a Class 6 felony. ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than five years~~ Any person convicted of a second or subsequent offense under this subsection is guilty of a Class 3 felony. ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than ten nor more than twenty five years.~~

(d) In addition to any other penalty specified for failure to register under this article, any person under the supervision of a probation officer, parole officer or any other sanction short of confinement in jail or prison who knowingly refuses to register or who knowingly fails to provide a material change in information as required by this article shall be subject to immediate revocation of probation or parole and returned to confinement for the remainder of any suspended or unserved portion of his or her original sentence.

(e) Notwithstanding the provisions of subsection (c) of this section, any person required to register as a sexually violent predator pursuant to this article who knowingly provides materially

false information or who refuses to provide accurate information when so required by terms of this article or who knowingly fails to register or knowingly fails to provide a change in any required information as required by this article is guilty of a Class 5 felony, ~~and, upon conviction thereof, shall, for a first offense, be confined in a state correctional facility not less than two nor more than ten years and for a second or subsequent offense, is guilty of a Class 2 felony. and, shall be confined in a state correctional facility not less than fifteen nor more than thirty five years.~~

(f) Any person who knows or who has reason to know that a sex offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sex offender in eluding a law-enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, his or her noncompliance with the requirements of this section:

(1) Withholds information from, the law-enforcement agency about the sex offender's noncompliance with the requirements of this section and, if known, the whereabouts of the sex offender; or

(2) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sex offender; or

(3) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sex offender; or

(4) Provides information to the law-enforcement agency regarding the sex offender which the person knows to be false information is guilty of a Class 1 misdemeanor: ~~and, upon conviction thereof, shall be fined not less than \$250 nor more than \$10,000 or confined in jail not more than one year, or both.~~ *Provided*, That where the person assists or seeks to assist a sex offender whose violation of this section would constitute a felony, the person shall be guilty of a Class 6 felony. ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than five years.~~

CHAPTER 19. AGRICULTURE.

ARTICLE 1A. DIVISION OF FORESTRY.

§19-1A-3b. Timber theft; investigations; criminal and civil penalties.

(a) Timber theft is the misappropriation or taking of timber belonging to another, or proceeds derived from the sale of timber, either taken without the consent of the owner, or by means of fraudulent conduct, practices, or representations, with the intent to deprive the owner permanently of the timber or proceeds derived therefrom.

(b) The Division of Forestry has the primary responsibility for the collection, preparation, and central registry of information relating to timber theft. The division has the authority to investigate and enforce the provisions of this section when violations of the provisions of ~~§61-3-52~~ §61-3B-9 of this code occur.

CHAPTER 23. WORKER'S COMPENSATION.

ARTICLE 5B. CRIMES AGAINST THE WORKER'S COMPENSATION SYSTEM.

§23-5B-1. Intentional omission to subscribe for workers' compensation insurance; failure to file a premium tax report or pay premium taxes; false testimony or statements; failure to file reports; penalties; asset forfeiture; venue.

(1) Failure to subscribe:

(A) Responsible person. Any person who individually or as owner, partner, president, other officer, or manager of a sole proprietorship, firm, partnership, company, corporation or association, who, as a person who is responsible for and who is required by specific assignment, duty or legal duty, which is either expressed or inherent in laws which require the employer's principals to be informed and to know the facts and laws affecting the business organization and to make internal policy and decisions

which ensure that the individual and organization comply with the general laws and provisions of chapter twenty-three of this code, knowingly and willfully fails to subscribe for and maintain workers' compensation insurance shall be guilty of a Class 6 felony.

(B) Any corporation, association or partnership who, as an employer as defined in chapter twenty-three of this code, knowingly and willfully fails to subscribe for and maintain workers' compensation insurance shall be guilty of a Class 1 misdemeanor.

(2) Failure to pay:

(A) Any person who individually or as owner, partner, president, other officer or manager of a sole proprietorship, firm, partnership, company, corporation or association, who, as a responsible person as defined in this section, knowingly and willfully fails to make premium tax payments to the Workers' Compensation Fund or premiums to a private carrier as required by chapter twenty-three of this code, shall be guilty of the larceny of the premium owed.

(B) Any corporation, association, company, or partnership which, as an employer as defined in chapter twenty-three of this code, knowingly and willfully fails to make premium tax payments to the Workers' Compensation Fund or premiums to a private carrier as required by chapter twenty-three of this code shall be guilty of the larceny of the premium owed.

(C) Any person who individually or as owner, partner, president, other officer, or manager of a sole proprietorship, firm, partnership, company, corporation, or association, who, as a responsible person, as defined in this section, knowingly and willfully and with fraudulent intent sells, transfers or otherwise disposes of substantially all of the employer's assets for the purpose of evading the payment of workers' compensation premium taxes to the Workers' Compensation Fund, or premiums to a private carrier as required by chapter twenty-three of this code, shall be guilty of the larceny of the premium owed.

(D) Any corporation, association, company, or partnership which, as an employer as defined in chapter twenty-three of this code, knowingly and willfully and with fraudulent intent sells, transfers or otherwise disposes of substantially all of the employer's assets for the purpose of evading the payment of workers' compensation premium taxes to the Workers' Compensation Fund, or premiums to a private carrier as required by chapter twenty-three of this code shall be guilty of the larceny of the premium owed.

(3) Failure to file premium tax reports:

(A) Any person who individually or as owner, partner, president, other officer, or manager of a sole proprietorship, firm, partnership, company, corporation or association, who, as a responsible person as defined in this section, knowingly and willfully fails to file a premium tax report with the Workers' Compensation Fund or a premium report to a private carrier as required by chapter twenty-three of this code, shall be guilty of a Class 6 felony.

(B) Any corporation, association, company, or partnership which, as an employer as defined in chapter twenty-three of this code, knowingly and willfully fails to file a premium tax report with the Workers' Compensation Fund or a premium report to a private carrier as required by chapter twenty-three of this code, shall be guilty of a Class 1 misdemeanor.

(4) Failure to file other reports:

(A) Any person, individually or as owner, partner, president or other officer, or manager of a sole proprietorship, firm, partnership, company, corporation, or association who, as a responsible person as defined in this section, knowingly and willfully fails to file any report, other than a premium tax report, required by such chapter shall be guilty of a Class 6 felony.

(B) Any corporation, association, company, or partnership which, as an employer as defined in chapter twenty-three of this code, knowingly and willfully fails to file any report, other than a

premium tax report, with the Workers' Compensation Fund or Insurance Commissioner as required by chapter twenty-three of this code, shall be guilty of a Class 1 misdemeanor.

(5) False testimony or statements:

Any person, individually or as owner, partner, president, other officer, or manager of a sole proprietorship, firm, partnership, company, corporation, or association who, as a responsible person as defined in this section, knowingly and willfully makes a false report or statement under oath, affidavit, certification or by any other means respecting any information required to be provided under chapter twenty-three of this code shall be guilty of a Class 6 felony. In addition to any other penalty imposed, the court shall order any defendant convicted under this section to make full restitution of all moneys paid by or due to the Workers' Compensation Fund, Insurance Commissioner or private carrier as the result of a violation of this section. The restitution ordered shall constitute a judgment against the defendant and in favor of the State of West Virginia Workers' Compensation Commission, Insurance Commissioner or private carrier.

(6) Asset forfeiture:

(A) The court, in imposing sentence on a person or entity convicted of an offense under this section, shall order the person or entity to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission, Insurance Commissioner or private carrier of the offense. Any person or entity convicted under this section shall pay the costs of asset forfeiture.

(B) For purposes of subdivision (A) of this subsection, the term 'payment of the costs of asset forfeiture' means:

(i) The payment of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell or dispose of property under seizure, detention, forfeiture or of any other necessary expenses incident to the seizure, detention, forfeiture, or disposal of such property, including payment for:

(I) Contract services;

(II) The employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

(III) Reimbursement of any state or local agency for any expenditures made to perform the functions described in this subparagraph;

(ii) The compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Workers' Compensation Fund to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in state real estate law as necessary;

(iii) Payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(iv) The payment of state and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

(7) Venue:

Venue for prosecution of any violation of this section shall be either the county in which the defendant's principal business operations are located or in Kanawha County where the Workers' Compensation Fund is located.

§23-5B-2. Wrongfully seeking workers' compensation; false testimony or statements; penalties; venue.

(1) Any person who shall knowingly and with fraudulent intent secure or attempt to secure compensation from the Workers' Compensation Fund, a private carrier or from a self-insured employer;

(A) That is larger in amount than that to which he or she is entitled; or

(B) That is longer in term than that to which he or she is entitled; or

(C) To which he or she is not entitled, shall be guilty of larceny of such amount.

(2) Any person who shall knowingly and willfully make a false report or statement under oath, affidavit, certification or by any other means respecting any information required to be provided under chapter twenty-three of this code shall be guilty of a Class 6 felony.

(3) In addition to any other penalty imposed, the court shall order any person convicted under this section to make full restitution of all moneys paid by the Workers' Compensation Fund, private carrier or self-insured employer as the result of a violation of this section. The restitution ordered shall constitute a judgment against the defendant and in favor of the State of West Virginia Workers' Compensation Commission, private carrier or self-insured employer.

(4) If the person so convicted is receiving compensation from such fund, private carrier or employer, he or she shall, from and after such conviction, cease to receive such compensation as a result of any alleged injury or disease.

(5) Venue for prosecution of any violation of this section shall either be the county in which the claimant resides, the county in which the claimant is employed or working, or in Kanawha County where the Workers' Compensation Fund is located.

§23-5B-3. Workers' compensation health care offenses; fraud; theft or embezzlement; false statements; penalties; notice; prohibition against providing future services; penalties; asset forfeiture; venue.

(1) Any person who knowingly and willfully executes, or attempts to execute, a scheme or artifice:

(A) To defraud the Workers' Compensation Fund, a private carrier, or a self-insured employer in connection with the delivery of or payment for workers' compensation health care benefits, items or services;

(B) To obtain, by means of false or fraudulent pretenses, representations, or promises any of the money or property owned by or under the custody or control of the Workers' Compensation Fund, a private carrier, or a self-insured employer in connection with the delivery of or payment for workers' compensation health care benefits, items or services; or

(C) To make any charge or charges against any injured employee or any other person, firm or corporation which would result in a total charge for the treatment or service rendered in excess of the maximum amount set forth in the Workers' Compensation Commission's schedule of maximum reasonable amounts to be paid for the treatment or services issued pursuant to subsection (a), section three article four, chapter twenty-three of this code is guilty of a Class 6 felony.

(2) Any person who, in any matter involving a health care program related to workers' compensation insurance, knowingly and willfully:

(A) Falsifies, conceals, or covers up by any trick, scheme or device a material fact; or

(B) Makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, is guilty of a Class 6 felony.

(3) Any person who willfully embezzles, steals or otherwise unlawfully converts to the use of any person other than the rightful owner, or intentionally misapplies any of the moneys, funds, securities, premiums, credits, property or other assets of a health care program related to the provision of workers' compensation insurance, is guilty of a Class 6 felony.

(4) Any health care provider who fails, in violation of subsection (5) of this section to post a notice, in the form required by the Workers' Compensation Commission, in the provider's public waiting area that the provider cannot accept any patient whose treatment or other services or supplies would ordinarily be paid for from the Workers' Compensation Fund, private carrier or by a self-insured employer unless the patient consents, in writing, prior to the provision of the treatment or other services or supplies, to make payment for that treatment or other services or supplies himself or herself, is guilty of a Class 3 misdemeanor.

(5) Any person convicted under the provisions of this section shall, after such conviction, be barred from providing future services or supplies to injured employees for the purposes of Workers' Compensation and shall cease to receive payment for services or supplies. In addition to any other penalty imposed, the court shall order any defendant convicted under this section to make full restitution of all moneys paid by or due to the Workers' Compensation Fund, private carrier or self-insured employer as the result of a violation of this section. The restitution ordered shall constitute a judgment against the defendant and in favor of the State of West Virginia Workers' Compensation Commission, Insurance Commissioner, a private carrier, or self-insured employer.

(6)(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order the person to forfeit property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense. Any person convicted under this section shall pay the costs of asset forfeiture.

(B) For purposes of subdivision (A) of this subsection, the term 'payment of the costs of asset forfeiture' means:

(i) The payment of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell or dispose of property under seizure, detention or forfeiture, or of any other necessary expenses incident to the seizure, detention, forfeiture or disposal of the property, including payment for:

(I) Contract services;

(II) The employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of the properties in an effort to maximize the return from the properties; and

(III) Reimbursement of any state or local agency for any expenditures made to perform the functions described in this subparagraph;

(ii) The compromise and payment of valid liens and mortgages against property that has been forfeited, subject to the discretion of the Workers' Compensation Fund to determine the validity of the lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in state real estate law as necessary;

(iii) Payment authorized in connection with remission or mitigation procedures relating to property forfeited; and

(iv) The payment of state and local property taxes on forfeited real property that accrued between the date of the violation giving rise to the forfeiture and the date of the forfeiture order.

(7) Venue for prosecution of any violation of this section shall be either the county in which the defendant's principal business operations are located or in Kanawha County where the Workers' Compensation Fund is located.

§23-5B-4. Providing false documentation to workers' compensation, to the Insurance Commissioner or a private carrier of workers' compensation insurance; altering documents or certificates from workers' compensation; penalties; venue.

(1) Any person, firm, partnership, company, corporation association or medical provider who submits false documentation to workers' compensation, the Insurance Commissioner, or a private carrier of workers' compensation insurance with the intent to defraud the Workers' Compensation Commission, the Insurance

Commissioner or a private carrier of workers' compensation insurance shall be guilty of a Class 1 misdemeanor.

(2) Any person, firm, partnership, company, corporation, association or medical provider who knowingly alters, falsifies, defaces, changes or modifies any certificate or other document which would indicate good standing with the Workers' Compensation Commission, Insurance Commissioner or a private carrier concerning workers' compensation insurance coverage or endorsement by workers' compensation for medical services shall be guilty of a Class 1 misdemeanor.

(3) Venue for prosecution of any violation of this section shall be either the county in which the claimant resides, a defendant's principal business operations are located, or in Kanawha County where the Workers' Compensation Fund is located.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-27. Required reporting of gunshot and other wounds.

(a) Any health care practitioner, defined as a person licensed under §30-1-1 et seq. who provides health care services, who provides medical treatment or health care services to a person suffering from a wound caused by a gunshot or a knife or other sharp or pointed instrument, under circumstances which would lead a reasonable person to believe resulted from a violation of the criminal laws of this state, shall report the same to a law-enforcement agency located within the county within which such wound is treated. The report shall be made initially by telephone and shall be followed by a written report delivered to such agency within forty-eight hours following the initial report: *Provided*, That where two or more persons participate in the medical treatment of such wound, the obligation to report imposed by this section shall apply only to the attending physician or, if none, to the person primarily responsible for providing the medical treatment.

(b) Any health care practitioner, who in good faith reports a wound described in subsection (a) of this section, shall be immune from any civil liability which may otherwise result solely from reporting the same.

§30-1-28. Required reporting of burns.

(a) Any health care practitioner, defined as a person licensed under §30-1-1 et seq. who provides health care services, who provides medical treatment or health care services or who examines a person suffering from an injury caused by a burn resulting from fire or a chemical, where the circumstances under which the examination is made or treatment is rendered, or where the condition of the injury gives the health care practitioner reasonable cause to suspect that the injury occurred during the commission, or attempted commission, of an arson as defined in article three of this chapter, shall report the same to the office of the state Fire Marshal. A written report shall be made by the practitioner, or by an employee or agent of the practitioner at the direction of the provider, to the office of the state Fire Marshal within forty-eight hours after the initial report: *Provided*, That where two or more health care practitioners participate in the examination or treatment of such injury, the obligation to report imposed by this section applies only to the attending physician or, if none, to the person primarily responsible for providing medical treatment for the injury.

(b) Any health care practitioner who in good faith makes or causes to be made a report pursuant to subsection (a) of this section is immune from any civil liability which may otherwise arise as the result of making such report.

(c) Within available funding and as may be determined necessary by the state Fire Marshal, the state Fire Marshal shall conduct educational programs for persons required to report injuries under this section.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.**§30-29-9a. Railroad employees conservators of the peace; special railroad policemen; powers and duties.**

The conductor of every passenger car and flag person and brake person employed on such car, as well as the conductor of every train of railroad or traction cars, shall have all the powers of a conservator of the peace while in charge of such car or train.

Any railroad company owning, or leasing and operating, or using any railroad or traction line or system lying wholly or partially within this state, whether such railroad be operated by steam or electric power, may apply to the Governor to appoint such citizen or citizens of this state as such railroad company may designate, to act as special police officers for such railroad or traction company, with the consent of such citizen or citizens; and the Governor may, upon such application, appoint and commission such person or persons, or so many of them as he or she may deem proper, as such special police officers. Every police officer so appointed shall appear before some person authorized to administer oaths and take and subscribe the oath prescribed in the fifth section of the fourth article of the Constitution, and shall file such oath with the clerk of the county commission, or other tribunal in lieu thereof, of the county in which he or she shall reside. He or she shall also file certified copies of such oath in the office of the Secretary of State, and in the office of the clerk of the county commission, or other tribunal established in lieu thereof, of each county through which such railroad or any portion thereof may extend. Every police officer appointed under the provisions of this section shall be a conservator of the peace within each county in which any part of such railroad may be situated, and in which such oath or a certified copy thereof shall have been filed with the clerk of the county commission or other tribunal established in lieu thereof; and, in addition thereto, he or she shall possess and may exercise all the powers and authority, and shall be entitled to all the rights, privileges and immunities within such counties, as are now or hereafter may be vested in or conferred upon a deputy sheriff of

such county. Any appointment made by the Governor under the provisions of this section may be revoked by him or her for good cause shown, and such police officers may be removed from office for official misconduct, incompetence, habitual drunkenness, neglect of duty or gross immorality, in the same manner in which regularly elected or appointed county officers may be removed from office. Whenever any such railroad company shall desire to dispense with the services of any police officer, it may file a notice to that effect, under its corporate seal, attested by its secretary, in each of the several offices in which such oath or certified copy thereof shall have been filed; and, thereupon, the powers of the police officer shall cease and determine. Police officers may wear such uniform and badge of authority, or either, as the railroad company, upon whose application they were appointed, may designate, and such railroad company shall pay them for all services rendered pursuant to his or her appointment.

CHAPTER 55. ACTIONS, SUITS AND ARBITRATION; JUDICIAL SALE.

ARTICLE 2. LIMITATION OF ACTIONS AND SUITS.

§55-2-23. Shooting range; limitations on nuisance actions; noise ordinances.

(a) As used in this section:

(1) ‘Person’ means an individual, proprietorship, partnership, corporation, club or other legal entity; and

(2) ‘Shooting range’ means an area, whether indoor or outdoor, designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar shooting.

(b) Except as provided in this section, a person may not maintain a nuisance action for noise against a shooting range located in the vicinity of that person’s property if the shooting range was established as of the date of the person acquiring the property. If there is a substantial change in use of the shooting range or there is a period of shooting inactivity at a shooting range for a period exceeding one year after the person acquires the

property, then the person may maintain a nuisance action if the action is brought within two years from the beginning of the substantial change in use of the shooting range, or the resumption of shooting activity: *Provided*, That if a municipal or county ordinance regulating noise exists, subsection (e) of this section controls.

(c) A person who owned property in the vicinity of a shooting range that was established after the person acquired the property may maintain a nuisance action for noise against that shooting range only if the action is brought within two years after the establishment of the shooting range or two years after a substantial change in use of the shooting range or from the time shooting activity is resumed: *Provided*, That if a municipal or county ordinance regulating noise exists, subsection (e) of this section controls.

(d) Actions authorized by the provisions of this section are not applicable to any indoor shooting range, the owner or operator of which holds all necessary and required licenses and the shooting range being in compliance with all applicable state, county and municipal laws, rules or ordinances regulating the design and operation of such facilities.

(e) (1) No municipal or county ordinance regulating noise may subject a shooting range to noise control standards more stringent than those standards in effect at the time construction or operation of the shooting range began, whichever occurred earlier in time. The operation or use of a shooting range shall not be enjoined based on noise, nor shall any person be subject to an action for nuisance or criminal prosecution in any matter relating to noise resulting from the operation of a shooting range, if the shooting range is operating in compliance with all ordinances relating to noise in effect at the time the construction or operation of the shooting range began, whichever occurred earlier in time.

(2) No shooting range operating or approved for operation within this state which has been condemned through an eminent domain proceeding, and which relocates to another site within the same political subdivision within two years of the final

condemnation order, may be subject to any noise control standard more stringent than that in effect at the time construction or operation of the shooting range which was condemned began, whichever occurred earlier in time.

(f) It is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that the section be applied retroactively.

ARTICLE 9. GAMING CONTRACTS.

§55-9-1. Gaming contracts void.

[Repealed.]

§55-9-2. Recovery of money or property lost in gaming.

[Repealed.]

§55-9-3. Recovery of gaming losses by bill in equity; repayment discharges winner from punishment.

[Repealed.]

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-418. Wanton endangerment involving the use of fire; penalty.

Any person who, during the manufacture or production of an illegal controlled substance uses fire, the use of which creates substantial risk of death or serious bodily injury to another due to the use of fire, is guilty of a Class 6 felony.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT

ARTICLE 1. CRIMES AGAINST THE GOVERNMENT.

§61-1-1. Treason defined; degree of proof; penalty.

Treason against the state shall consist only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall may be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. Treason against the state constitutes a Class 1 felony, or, at the discretion of the jury, or the discretion of the court when there is a plea of guilty, a Class 5 felony.

~~§61-1-2. Punishment. Failure to give information of treason; penalty.~~

~~Whoever is guilty of treason against the state shall be punished by confinement in the penitentiary for life, or, at the discretion of the jury, or the discretion of the court when there is a plea of guilty, by confinement in the penitentiary for not less than three nor more than ten years.~~

If any person has any knowledge of treason against the state, and shall not, as soon as may be, give information thereof to the Governor or some conservator of the peace, he or she shall be guilty of a Class 6 felony.

~~§61-1-3. Failure to give information of treason; penalty. Desecration of flag; penalty.~~

~~If any person have any knowledge of treason against the state, and shall not, as soon as may be, give information thereof to the Governor or some conservator of the peace, he or she shall be guilty of a felony, and, upon conviction, shall be fined not exceeding \$1,000, or by confinement in the penitentiary not less than one nor more than five years.~~

Any person who for exhibition or display shall place, or cause to be placed, any words, figures, marks, pictures, designs, drawings, or any advertisement of any nature, upon any flag, standard, color or ensign of the United States, or upon the state flag of this state, or shall expose or cause to be exposed to public view any such flag, standard, color or ensign, upon which shall have been printed, painted or otherwise placed, or to which shall be attached, appended, affixed or annexed, any words, figures, marks, pictures, designs, drawings, or any advertisement of any nature or

kind, or who shall expose to public view, manufacture, sell, expose for sale, give away, or have in possession for sale or to give away, or for use for any purpose, any article or substance, being an article of merchandise or a receptacle of merchandise, or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached or otherwise placed, a representation of any such flag, standard, color or ensign, to advertise, call attention to, decorate, mark or distinguish the article or substance on which so placed, or who shall publicly mutilate, deface, defile or defy, trample upon or cast contempt, either by words or acts, upon any such flag, standard, color or ensign, ~~he or she shall be deemed~~ is guilty of a misdemeanor petty offense, and, upon conviction, shall be fined not less than \$5 nor more than \$100, and may, be confined in jail for a period not exceeding 30 days. Any justice of the peace of the county wherein the offense was committed shall have concurrent jurisdiction of such offense with the circuit or other courts of such county. The words ‘flag, standard, color or ensign of the United States,’ as used in this section, shall be construed to include any flag, standard, color, ensign, or any representation or picture of a flag, standard, color or ensign, made of or upon any substance whatever, and of any size whatever, showing the national colors, the stars and stripes. This section shall not apply to any act permitted by the statutes of the United States, or of this state, or by the regulations of the United States army and navy, or of the National Guard of this state, or of the members of the department of public safety; nor shall this section be construed to apply to the regular issue of a newspaper or other periodical, or to any book, certificate, diploma, warrant or commission, on which shall be printed said flag, disconnected from any advertisement, or to the vignette of any political ballot.

§61-1-4. Attempt to justify or uphold invasion or insurrection; penalty.

[Repealed.]

§61-1-5. Unlawful speeches, publications, and communications.

[Repealed.]

§61-1-7. Penalty for unlawful speeches, publications, and communications.

[Repealed.]

§61-1-8. Desecration of flag; penalty.

[Repealed.]

§61-1-9. Impersonation of law-enforcement officer or official; penalty.

[Repealed.]

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-1. First and second degree murder defined; punishment; allegations in indictment for homicide.

Murder by poison, lying in wait, imprisonment, starving, or by any willful, deliberate, and premeditated killing, or in the commission of, or attempt to commit, arson, kidnapping, sexual assault, robbery, burglary, breaking and entering, escape from lawful custody, or a felony offense of manufacturing or delivering a controlled substance as defined in article four, chapter sixty-a of this code, is murder of the first degree. Murder of the first degree is a Class 1 felony.

All other murder is murder of the second degree. Murder of the second degree is a Class 2 felony. A person imprisoned pursuant to the provisions of this section is not eligible for parole prior to having served a minimum of 10 years of his or her sentence or the minimum period required by §62-12-13 of this code, whichever is greater.

In an indictment for murder and manslaughter, it ~~shall not be~~ is not necessary to set forth the manner in which, or the means by which, the death of the deceased was caused, but it shall be sufficient in every such indictment to charge that the defendant did feloniously, willfully, maliciously, deliberately, and unlawfully slay, kill, and murder the deceased.

§61-2-2. ~~Penalty for murder of first degree. Voluntary manslaughter; penalty.~~

~~Murder of the first degree shall be punished by confinement in the penitentiary for life.~~

Voluntary manslaughter shall be a Class 4 felony. A person imprisoned pursuant to the provisions of this section 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.

§61-2-3. ~~Penalty for murder of second degree. Involuntary manslaughter; penalty.~~

~~Murder of the second degree shall be punished by a definite term of imprisonment in the penitentiary which is not less than ten nor more than forty years. A person imprisoned pursuant to the provisions of this section is not eligible for parole prior to having served a minimum of ten years of his or her sentence or the minimum period required by the provisions of section thirteen, article twelve, chapter sixty two, whichever is greater. Involuntary manslaughter is a Class 1 misdemeanor.~~

§61-2-4. ~~Voluntary manslaughter; penalty. Concealment of deceased human body; penalty.~~

~~Voluntary manslaughter shall be punished by a definite term of imprisonment in the penitentiary which is not less than three nor more than fifteen years. A person imprisoned pursuant to the provisions of this section 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 the provisions of section thirteen, article twelve, chapter sixty two, whichever is greater.~~

(a) Any person who, by any means, knowingly and willfully conceals, attempts to conceal or who otherwise aids and abets any person to conceal a deceased human body where death occurred as a result of criminal activity is guilty of a Class 6 felony.

(b) It is a complete defense in a prosecution pursuant to subsection (a) of this section that the defendant affirmatively brought to the attention of law enforcement, within 48 hours of concealing the body and prior to being contacted regarding the death by law enforcement, the existence and location of the concealed deceased human body.

§61-2-5. Involuntary manslaughter; penalty. Homicide punishable within state if injury occurs within and death without, or vice versa.

~~Involuntary manslaughter is a misdemeanor and, any person convicted thereof shall be confined in jail not to exceed one year, or fined not to exceed \$1,000, or both, in the discretion of the court.~~

If any person is stricken, wounded, or poisoned in, and die by reason thereof out of, this state, the offender shall be as guilty, and be prosecuted and punished, as if the death had occurred in the county in which the stroke, wound or poison was given or administered. And if any person is stricken, wounded or poisoned out of this state, and die by reason thereof within this state, the offender is as guilty, and may be prosecuted and punished, as if the mortal stroke or wound had been given, or poison administered, in the county in which the person so stricken, wounded or poisoned may die.

§61-2-5a Concealment of deceased human body; penalty.

[Repealed.]

§61-2-6 Homicide punishable within state if injury occurs within and death without, or vice versa. Attempt to kill or injure by poison; penalty.

~~If any person be stricken, wounded or poisoned in, and die by reason thereof out of, this state, the offender shall be as guilty, and be prosecuted and punished, as if the death had occurred in the county in which the stroke, wound or poison was given or administered. And if any person be stricken, wounded, or poisoned out of this state, and die by reason thereof within this state, the offender shall be as guilty, and may be prosecuted and punished,~~

~~as if the mortal stroke or wound had been given, or poison administered, in the county in which the person so stricken, wounded or poisoned may so die. Any person, who administers, or attempts to administer, any poison or other destructive thing in food, drink, medicine or otherwise, or poisons any spring, well, reservoir, conduit or pipe of water, with intent to kill or injure another person, is guilty of a Class 4 felony.~~

§61-2-7. ~~Attempt to kill or injure by poison; penalty.~~ Abortion; penalty.

~~If any person administer, or attempt to administer, any poison or other destructive thing in food, drink, medicine or otherwise, or poison any spring, well, reservoir, conduit or pipe of water, with intent to kill or injure another person, he or she shall be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than three nor more than eighteen years.~~

Any person, who administers to, or causes to be taken by, a woman, any drug or other thing, or uses any means, with intent to destroy her unborn child, or to produce abortion or miscarriage, and thereby destroys such child, or produces such abortion or miscarriage, is guilty of a Class 4 felony and if the woman dies by reason of the abortion performed upon her, that person is guilty of murder. No person, by reason of any act mentioned in this section, may be punishable where such act is done in good faith, with the intention of saving the life of the woman or child.

§61-2-8. ~~Abortion; penalty.~~ Assault and battery; penalty.

~~Any person who shall administer to, or cause to be taken by, a woman, any drug or other thing, or use any means, with intent to destroy her unborn child, or to produce abortion or miscarriage, and shall thereby destroy such child, or produce such abortion or miscarriage, shall be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than three nor more than ten years; and if such woman die by reason of such abortion performed upon her, such person shall be guilty of murder. No person, by reason of any act mentioned in this section, shall be punishable~~

~~where such act is done in good faith, with the intention of saving the life of such woman or child.~~

(a) If any person maliciously shoots, stabs, cuts or wounds any person, or by any means cause him or her bodily injury with intent to maim, disfigure, disable or kill, he or she, except where it is otherwise provided, is guilty of a Class 5 felony.

(b) Assault. — Any person who unlawfully attempts to commit a violent injury to the person of another or unlawfully commits an act that places another in reasonable apprehension of immediately receiving a violent injury is guilty of a Class 2 misdemeanor.

(c) Battery. — Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature to the person of another or unlawfully and intentionally causes physical harm to another person is guilty of a Class 1 misdemeanor.

(d) Any person convicted of a violation of subsection (b) or (c) of this section who has, in the 10 years prior to the conviction, been convicted of a violation of either subsection (b) or (c) of this section where the victim was a current or former spouse, current or former sexual or intimate partner, a person with whom the defendant has a child in common, a person with whom the defendant cohabits or has cohabited, a parent or guardian or the defendant's child or ward at the time of the offense or convicted of a violation of §61-2-28 of this code or has served a period of pretrial diversion for an alleged violation of subsection (b) or (c) of this section or §61-2-28 of this code when the victim has a present or past relationship, upon conviction, is subject to the penalties set forth in §61-2-28 of this code for a second, third or subsequent criminal act of domestic violence offense, as appropriate.

(e) (1) For purposes of this section:

'Government representative' means any officer or employee of the state or a political subdivision thereof, or a person under contract with a state agency or political subdivision thereof.

‘School employee’ means a person employed by a county board of education whether employed on a regular full-time basis, an hourly basis or otherwise.

‘Health care worker’ means any nurse, nurse practitioner, physician, physician assistant or technician practicing at, and all persons employed by or under contract to a hospital, county or district health department, long-term care facility, physician’s office, clinic, or outpatient treatment facility.

‘Emergency service personnel’ means any paid or volunteer firefighter, emergency medical technician, paramedic, or other emergency services personnel employed by or under contract with an emergency medical service provider or a state agency or political subdivision thereof.

‘Utility worker’ means any individual employed by a public utility or electric cooperative or under contract to a public utility, electric cooperative or interstate pipeline.

‘Law-enforcement officer’ has the same definition as this term is defined in §30-29-1 of this code, except for purposes of this section, ‘law-enforcement officer’ shall additionally include those individuals defined as ‘chief executive’ in §30-29-1 of this code.

‘Correctional employee’ means any individual employed by the West Virginia Division of Corrections, the West Virginia Regional Jail Authority, and the West Virginia Division of Juvenile Services and an employee of an entity providing services to incarcerated, detained or housed persons pursuant to a contract with such agencies.

‘Athletic official’ means a person at a sports event who enforces the rules of that event, such as an umpire or referee, or a person who supervises the participants, such as a coach.

‘Transport personnel’ means any driver, conductor, motorman, pilot, captain, ferryman, or other person in charge of any vehicle, including automobiles, cars, trucks, buses, aircraft, and any boat, driven by steam, electricity, gasoline, or any other motive power,

and which is being used for public conveyance, including but not limited to taxicabs, cars for hire, or ride sharing services.

(2) The Court shall consider as an aggravated factor any violation of subsection (a), (b), or (c) of this section committed against a government representative, school employee, health care worker, any emergency services personnel, utility worker, law enforcement officer, athletic official, or transport personnel while acting in their official capacity or on account of their office. All penalties enjoined by this section may be enhanced by one level.

(f) Any person convicted of any crime set forth in this section who is incarcerated in a facility operated by the West Virginia Division of Corrections or the West Virginia Regional Jail Authority, or is in the custody of the Division of Juvenile Services and is at least 18 years of age or subject to prosecution as an adult, at the time of committing the offense and whose victim is a correctional employee may not be sentenced in a manner by which the sentence would run concurrent with any other sentence being served at the time the offense giving rise to the conviction of a crime set forth in this section was committed.

~~§61-2-9 Malicious or unlawful assault; assault; battery; penalties. Assault during commission of or attempt to commit a felony; penalty.~~

~~(a) If any person maliciously shoots, stabs, cuts or wounds any person, or by any means cause him or her bodily injury with intent to maim, disfigure, disable or kill, he or she, except where it is otherwise provided, is guilty of a felony and, upon conviction thereof, shall be punished by confinement in a state correctional facility not less than two nor more than ten years. If the act is done unlawfully, but not maliciously, with the intent aforesaid, the offender is guilty of a felony and, upon conviction thereof, shall either be imprisoned in a state correctional facility not less than one nor more than five years, or be confined in jail not exceeding twelve months and fined not exceeding \$500.~~

~~(b) Assault. — Any person who unlawfully attempts to commit a violent injury to the person of another or unlawfully commits an~~

~~act that places another in reasonable apprehension of immediately receiving a violent injury is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months or fined not more than \$100, or both fined and confined.~~

~~(c) *Battery*. — Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature to the person of another or unlawfully and intentionally causes physical harm to another person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than twelve months or fined not more than \$500, or both fined and confined.~~

~~(d) Any person convicted of a violation of subsection (b) or (c) of this section who has, in the ten years prior to the conviction, been convicted of a violation of either subsection (b) or (c) of this section where the victim was a current or former spouse, current or former sexual or intimate partner, a person with whom the defendant has a child in common, a person with whom the defendant cohabits or has cohabited, a parent or guardian or the defendant's child or ward at the time of the offense or convicted of a violation of section twenty eight of this article or has served a period of pretrial diversion for an alleged violation of subsection (b) or (c) of this section or section twenty eight of this article when the victim has a present or past relationship, upon conviction, is subject to the penalties set forth in section twenty eight of this article for a second, third or subsequent criminal act of domestic violence offense, as appropriate. If any person in the commission of, or attempt to commit a felony, unlawfully shoot, stab, cut or wound another person, he or she shall be guilty of a Class 5 felony.~~

§61-2-9a. Stalking; harassment; penalties; definitions.

[Repealed.]

§61-2-9b. Penalties for malicious or unlawful assault or assault of a child near a school.

[Repealed.]

§61-2-9c. Wanton endangerment involving the use of fire; penalty.

[Repealed.]

§61-2-9d. Strangulation; definitions; penalties.

[Repealed.]

§61-2-10. Assault during commission of or attempt to commit a felony; penalty.

[Repealed]

~~§61-2-10a.~~ §61-2-10. Violent crimes against the elderly; sentence not subject to suspension or probation.

(a) ~~If any~~ Any person ~~be~~ who is convicted and sentenced for an offense defined under ~~the provisions of section nine or ten~~ §61-2-8 or §61-2-9 of this code, and if the person ~~shall have~~ has committed such offense against a person who is 65 years of age or older, then the sentence shall be mandatory and shall not be subject to suspension or probation: *Provided*, That the court may, ~~in its discretion~~, suspend the sentence and order probation to any person so convicted upon condition that such person perform public service for a period of time deemed appropriate by the court: *Provided, however*, That the public service may not be rendered in or about facilities or programs providing care or services for the elderly: *Provided further*, That the court may apply the provisions of §62-11A-1, *et seq.*, of this code to a person committed to a term of one year or less.

(b) The existence of any fact which would make any person ineligible for probation under subsection (a) of this section because of the commission or attempted commission of a felony against a victim 65 years of age or older shall not be applicable unless such fact is: (i) Found by the court upon a plea of guilty or nolo contendere; or (ii) found by the jury, if the matter is tried before a jury; or (iii) found by the court, if the matter is tried by the court, without a jury.

§61-2-10b. Malicious assault; unlawful assault; battery; and assault on governmental representatives, health care providers, utility workers, law-enforcement officers, correctional employees, and emergency medical service personnel; definitions; penalties.

[Repealed.]

§61-2-11. ~~Unlawful shooting at another in street, alley or public resort; penalty.~~ Harassment; penalties; definitions.

~~If any person unlawfully shoot at another person in any street or alley in a city, town or village, or in any place of public resort, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not less than six months nor more than three years, and be fined not less than \$100 nor more than \$1,000.~~

(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 Class 2 misdemeanor.

(b) Any person who harasses or repeatedly makes credible threats against another is guilty of a Class 2 misdemeanor.

(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 Class 1 misdemeanor.

(d) A second or subsequent conviction for a violation of subsection (a) or (b) of this section is a Class 6 felony.

(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 Class 6 felony.

(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 the 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 Class 6 felony.

(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 Class 5 felony.

(h) For the purposes of this section:

‘Bodily injury’ means substantial physical pain, illness, or any impairment of physical condition;

‘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 nonconsensual 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;

‘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;

'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;

'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

'Repeatedly' means on two or more occasions.

(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, 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) 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.

(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.

(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.

(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, may 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.

§61-2-12. Robbery or attempted robbery; penalties. Strangulation; suffocation and asphyxiation; definitions; penalties.

~~(a) Any person who commits or attempts to commit robbery by: (1) Committing violence to the person, including, but not limited to, partial strangulation or suffocation or by striking or beating; or (2) uses the threat of deadly force by the presenting of a firearm or other deadly weapon, is guilty of robbery in the first degree and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than ten years.~~

~~(b) Any person who commits or attempts to commit robbery by placing the victim in fear of bodily injury by means other than those set forth in subsection (a) of this section or any person who commits or attempts to commit robbery by the use of any means designed to temporarily disable the victim, including, but not limited to, the use of a disabling chemical substance or an electronic shock device, is guilty of robbery in the second degree and, upon conviction thereof, shall be confined in a correctional facility for not less than five years nor more than eighteen years.~~

~~(c) If any person: (1) By force and violence, or by putting in fear, feloniously takes, or feloniously attempts to take, from the person or presence of another any property or money or any other thing of value belonging to, or in the care, custody, control, management or possession of, any bank, he or she shall be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than ten nor more than twenty years; and (2) if any person in committing, or in attempting to commit, any offense defined in the preceding clause (1) of this subsection, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, disabling chemical substance or an electronic shock device, he or she shall be guilty of~~

~~a felony and, upon conviction, shall be confined in the penitentiary not less than ten years nor more than twenty five years.~~

(a) As used in this section:

'Bodily injury' means substantial physical pain, illness or any impairment of physical condition;

'Strangle' means knowingly and willfully restricting another person's air intake or blood flow by the application of pressure on the neck or throat;

'Suffocate' means knowingly and willfully restricting the normal breathing or circulation of blood by blocking the nose or mouth of another; and

'Asphyxiate' means knowingly and willfully restricting the normal breathing or circulation of blood by the application of pressure on the chest or torso.

(b) Any person who strangles, suffocates, or asphyxiates another without that person's consent and thereby causes the other person bodily injury or loss of consciousness is guilty of a Class 6 felony.

~~§61-2-13. Extortion or attempted extortion by threats; penalties. Robbery or attempted robbery; penalties.~~

~~(a) A person who threatens injury to the character, person, or property of another person, or to the character, person, or property of his or her spouse or child, or accuses him or her or them of a criminal offense, and thereby obtains anything of value, or other consideration, he or she is guilty of a felony and, upon conviction, shall be confined in a correctional facility not less than one nor more than five years. A person who makes such threat of injury or accusation of an offense as set forth in this section, but fails to obtain anything of value or other consideration, is guilty of a misdemeanor and, upon conviction, shall be confined in jail not less than two nor more than 12 months and fined not less than \$50 nor more than \$500.~~

~~(b) For purposes of this article, 'consideration' includes sexual acts as defined in §61-8B-1 of this code, and images of intimate parts defined in §61-8-28a of this code.~~

(a) Any person who commits or attempts to commit robbery by:

(1) Committing violence to the person, including, but not limited to, partial strangulation or suffocation or by striking or beating or

(2) using the threat of deadly force by the presenting of a firearm or other deadly weapon, is guilty of robbery, a Class 2 felony.

(3) (A) placing the victim in fear of bodily injury by means other than those set forth in subdivisions (1) and (2) of this subsection; or

(B) any person who commits or attempts to commit robbery by the use of any means designed to temporarily disable the victim, including, but not limited to, the use of a disabling chemical substance or an electronic shock device, is guilty of robbery, a Class 2 felony.

(c) Any person who:

(1) By force and violence, or by putting in fear, feloniously takes, or feloniously attempts to take, from the person or presence of another any property or money or any other thing of value belonging to, or in the care, custody, control, management or possession of, any bank, is guilty of a Class 3 felony and

(2) Any person who, in committing, or in attempting to commit, any offense defined in subdivision (1) of this subsection, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, disabling chemical substance or an electronic shock device, is also guilty of a Class 3 felony.

~~§61-2-14. Abduction of person; kidnapping or concealing child; penalties. Extortion or attempted extortion by threats; penalties.~~

~~(a) Any person who takes away another person, or detains another person against such person's will, with intent to marry or defile the person, or to cause the person to be married or defiled by another person; or takes away a child under the age of sixteen years from any person having lawful charge of such child, for the purpose of prostitution or concubinage, shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than three nor more than ten years.~~

~~(b) Any person, other than the father or mother, who illegally, or for any unlawful, improper or immoral purpose other than the purposes stated in subsection (a) of this section or section fourteen-a or fourteen-e of this article, seizes, take or secretes a child under sixteen years of age, from the person or persons having lawful charge of such child, shall be guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not less than one nor more than ten years.~~

(a) A person who threatens injury to the character, person, or property of another person, or to the character, person, or property of his or her spouse or child, or accuses him or her or them of a criminal offense, and thereby obtains anything of value, or other consideration, he or she is guilty of a Class 6 felony. A person who makes such threat of injury or accusation of an offense as set forth in this section but fails to obtain anything of value or other consideration, is guilty of a Class 6 felony.

(b) For purposes of this article, 'consideration' includes sexual acts as defined in §61-8B-1 of this code, and images of intimate parts defined in §61-8-28a of this code.

§61-2-14a. Kidnapping; penalty

[Repealed.]

§61-2-14b. Venue of offenses under §§61-2-14 and 61-2-14a.

[Repealed.]

§61-2-14c. Penalty for threats to kidnap or demand ransom.

[Repealed.]

§61-2-14d. Concealment or removal of minor child from custodian or from person entitled to visitation; penalties; defenses.

[Repealed.]

§61-2-14e. One aiding or abetting in offense under §61-2-14, §61-2-14a, §61-2-14c or §61-2-14d guilty as principal; venue.

[Repealed.]

§61-2-14f. Penalties for abduction of a child near a school.

[Repealed.]

§61-2-14g. Unlawful restraint; penalties.

[Repealed.]

§61-2-14h. Prohibition of purchase or sale of child; penalty; definitions; exceptions.

[Repealed.]

**§61-2-15. ~~Assault, battery on school employees; penalties.~~
Kidnapping; penalty.**

~~(a) If any person commits an assault: (1) By unlawfully attempting to commit a violent injury to the person of a school employee while he or she is engaged in the performance of his or her duties, is commuting to or from his or her place of employment or if the motive for the assault is retaliation for some action taken by the employee to supervise or discipline one or more pupils pursuant to sections one or one a, article five, chapter eighteen a of this code; or (2) by unlawfully committing an act which places a school employee in reasonable apprehension of immediately receiving a violent injury while the employee is engaged in the~~

~~performance of his or her duties, is commuting to or from his or her place of employment or if the motive for the assault is retaliation for some action taken by the employee to supervise or discipline one or more pupils pursuant to sections one or one a, article five, chapter eighteen a of this code, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the county or regional jail not less than five days nor more than six months and fined not less than \$50 nor more than \$100.~~

~~(b) If any person commits a battery: (1) By unlawfully and intentionally making physical contact of an insulting or provoking nature with the person of a school employee while he or she is engaged in the performance of his or her duties, is commuting to or from his or her place of employment or if the motive for the battery is retaliation for some action taken by the employee to supervise or discipline one or more pupils pursuant to sections one or one a, article five, chapter eighteen a of this code; or (2) by unlawfully and intentionally causing physical harm to a school employee while he or she is engaged in the performance of his or her duties, is commuting to or from his or her place of employment or if the motive for the battery is retaliation for some action taken by the employee to supervise or discipline one or more pupils pursuant to sections one or one a, article five, chapter eighteen a of this code, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be confined in the county or regional jail not less than ten days nor more than twelve months and fined not less than \$100 nor more than \$500.~~

~~(c) For the purposes of this section, 'school employee' means a person employed by a county board of education whether employed on a regular full-time basis, an hourly basis or otherwise. For the purposes of this section, a 'school employee' includes a student teacher.~~

(a) Any person who unlawfully takes custody of, conceals, confines or restrains another person against his or her will by means of force, threat of force, duress, fraud, deceit, inveiglement, misrepresentation or enticement with the intent:

(1) To hold another person for ransom, reward, or concession;

(2) To transport another person with the intent to inflict bodily injury or to terrorize the victim or another person; or

(3) To use another person as a shield or hostage, is guilty of a Class 1 felony and, upon conviction, notwithstanding the provisions of §62-12-1, et seq., of this code, is not eligible for parole.

(b) The following exceptions apply to the penalty contained in subsection (a) of this section:

(1) A jury may recommend mercy, and if the recommendation is added to their verdict, the person is eligible for parole in accordance with the provisions of §62-12-1, et seq., of this code;

(2) If the person pleads guilty, the court may provide that the person is eligible for parole in accordance with the provisions of §62-12-1, et seq., of this code and, if the court so provides, the person is eligible for parole in accordance with the provisions of that article in the same manner and with like effect as if the person had been found guilty by the verdict of a jury and the jury had recommended mercy;

(3) All cases in which the person against whom the offense is committed is returned, or is permitted to return, alive, without bodily harm having been inflicted upon him, but after ransom, money or other thing, or any concession or advantage of any sort has been paid or yielded, constitutes a Class 2 felony; or

(4) All cases in which the person against whom the offense is committed is returned, or is permitted to return, alive, without bodily harm having been inflicted upon him or her, but without ransom, money or other thing, or any concession or advantage of any sort having been paid or yielded, constitutes a Class 3 felony.

(c) For purposes of this section, ‘to use another as a hostage’ means to seize or detain and threaten to kill or injure another in order to compel a third person or a governmental organization to do, or abstain from doing, any act as an explicit or implicit condition for the release of the person detained.

(d) Notwithstanding any other provision of this section, if a violation of this section is committed by a family member of a minor abducted or held hostage who is not motivated by monetary purposes, but rather intends to conceal, take, remove the child or refuse to return the child to his or her lawful guardian in the belief, mistaken or not, that it is in the child's interest to do so, that person is guilty of a Class 6 felony.

(e) Notwithstanding any provision of this code to the contrary, where a law-enforcement agency of this state or a political subdivision thereof receives a complaint that a violation of the provisions of this section has occurred, the receiving law-enforcement agency shall notify any other law-enforcement agency with jurisdiction over the offense, including, but not limited to, the State Police and each agency so notified, shall cooperate in the investigation forthwith.

(f) It is a defense to a violation of subsection (d) of this section, that the accused's action was necessary to preserve the welfare of the minor child and the accused promptly reported his or her actions to a person with lawful custody of the minor, to law enforcement or to the Child Protective Services Division of the Department of Health and Human Resources.

(g) In the case of every offense committed in violation of the provisions of this section, regardless of whether the offense originated within or without this state, the venue of the offense shall lie in the county where the person was taken, or induced to go away or otherwise kidnapped, in the county where such person was held or detained, or in the county through which such person was conducted or transported.

(h) Any person who, with intent to extort from any other person any ransom, money or other thing, or any concession or advantage of any sort, shall, by speech, writing, printing, drawing or any other method or means of communication, directly or indirectly threaten to take away forcibly or by stealth or otherwise kidnap any person, or shall directly or indirectly demand, orally or in writing, or by any other method or means of communication, any ransom, money or other thing, or any concession or advantage of any sort, on a

threat to take away forcibly or by stealth or otherwise kidnap any person, is guilty of a Class 6 felony.

§61-2-15a. Assault, battery on athletic officials; penalties.

[Repealed.]

§61-2-16. ~~Injury to passenger by person in charge of public conveyance or boat; penalty.~~ Concealment or removal of minor child from custodian or from person entitled to visitation; penalties; defenses.

~~If any driver, conductor, motorman, captain or other person in charge of any vehicle or boat, driven by steam, electricity, gasoline or other motive power and used for public conveyance, shall, in the management of such vehicle or boat, willfully or negligently inflict bodily injury on any person, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not less than two nor more than six months, or be fined not exceeding \$500, or both.~~

(a) Any person who conceals, takes, or removes a minor child in violation of any court order, and with the intent to deprive another person of lawful custody or visitation rights, is guilty of a Class 6 felony.

(b) It shall be a defense under this section that the accused reasonably believed such action was necessary to preserve the welfare of the minor child. The mere failure to return a minor child at the expiration of any lawful custody or visitation period without the intent to deprive another person of lawful custody or visitation rights shall not constitute an offense under this section.

§61-2-16a. Malicious assault; unlawful assault; battery and recidivism of battery; assault on a driver, conductor, motorman, captain, pilot or other person in charge of any vehicle used for public conveyance.

[Repealed.]

§61-2-17. One aiding or abetting in offense under §61-2-15 or §61-2-16 guilty as principal; venue.

Any person who, in any way knowingly aid or abet any other person in the commission of any offense described in §61-2-15 or §61-2-16 of this code, either as accessory before or an accessory after the fact, such person so aiding and abetting is guilty as a principal in the commission of such offense and shall be punished in the same manner and to the same extent as is provided in said sections for the person who committed the offense. The venue of any offense committed in violation of the provisions of this section shall be as provided in §61-11-7 of this code.

§61-2-18. Unlawful restraint; penalties.

(a) Any person who, without legal authority intentionally restrains another with the intent that the other person is not allowed to leave the place of restraint and who does so by physical force or by overt or implied threat of violence or by actual physical restraint but without the intent to obtain any other concession or advantage as those terms are used in §61-2-14a of this code is guilty of a Class 1 misdemeanor.

(b) In any prosecution under this section, it is an affirmative defense that:

(1) The defendant acted reasonably and in good faith to protect the person from imminent physical danger; or

(2) The person restrained was a child less than 18 years old and that the actor was a parent or legal guardian, or a person acting under authority granted by a parent or legal guardian of such child, or by a teacher, or other school personnel, acting under authority granted by §18A-5-1 of this code, and that his or her sole purpose was to assume control of such child.

(c) As used in this section to ‘restrain’ means to restrict a person’s movement without his or her consent.

(d) This section shall not apply to acts done by a law-enforcement officer in the lawful exercise of his or her duties.

§61-2-19. Prohibition of purchase or sale of child; penalty; definitions; exceptions.

(a) Any person or agency who knowingly offers, gives, or agrees to give to another person money, property, service, or other thing of value in consideration for the recipient's locating, providing, or procuring a minor child for any purpose which entails a transfer of the legal or physical custody of the child, including, but not limited to, adoption or placement, is guilty of a felony and subject to fine and imprisonment as provided in this section.

(b) Any person who knowingly receives, accepts, or offers to accept money, property, service, or other thing of value to locate, provide or procure a minor child for any purpose which entails a transfer of the legal or physical custody of the child, including, but not limited to, adoption or placement, is guilty of a felony and subject to fine and imprisonment as provided in this section.

(c) Any person who violates the provisions of subsections (a) and (b) of this section is guilty of a Class 6 felony.

(d) A child whose parent, guardian, or custodian has sold or attempted to sell said child in violation of the provisions of §48-22-1 *et seq.* of this code may be considered an abused child as defined by §49-1-201 of this code. The court may place such a child in the custody of the Department of Health and Human Resources or with another responsible person as dictated by the best interests of the child.

(e) This section does not prohibit the payment or receipt of the following:

(1) Fees paid for reasonable and customary services provided by the Department of Health and Human Resources or any licensed or duly authorized adoption or child-placing agency;

(2) Reasonable and customary legal, medical, hospital or other expenses incurred in connection with the pregnancy, birth, and adoption proceedings;

(3) Fees and expenses included in any agreement in which a woman agrees to become a surrogate mother; or

(4) Any fees or charges authorized by law or approved by a court in a proceeding relating to the placement plan, prospective placement, or placement of a minor child for adoption.

(f) At the final hearing on the adoption as provided in §48-22-1 et seq. of this code, an affidavit of any fees and expenses paid or promised by the adoptive parents shall be submitted to the court.

§61-2-20. Failure to remove doors from abandoned refrigerators, freezers and other appliances; penalties.

No person may abandon any refrigerator or food freezer appliance or other airtight appliance having a height or length greater than two feet without first removing all entry doors therefrom.

Any person violating the provisions of this section is guilty of a Class 2 misdemeanor. Magistrates shall have jurisdiction of cases arising hereunder concurrent with courts of record.

§61-2-21. Domestic violence — criminal acts.

(a) *Domestic battery.* — Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature with his or her family or household member, or unlawfully and intentionally causes physical harm to his or her family or household member, is guilty of a Class 1 misdemeanor.

(b) *Domestic assault.* — Any person who unlawfully attempts to commit a violent injury against his or her family or household member, or unlawfully commits an act that places his or her family or household member in reasonable apprehension of immediately receiving a violent injury, is guilty of a Class 2 misdemeanor.

(c) *Second offense.* — Domestic assault or domestic battery.

A person, convicted of a violation of subsection (a) of this section after having been previously convicted of a violation of

subsection (a) or (b) of this section, after having been convicted of a violation of §61-2-9(b) or §61-2-9(c) of this code or §61-2-14 (a) of this code, where the victim was his or her current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or who has previously been granted a period of pretrial diversion pursuant to §61-11-22 of this code for a violation of subsection (a) or (b) of this section, or a violation of §61-2-9(b) or §61-2-9(c) of this code or §61-2-14 (a) of this code where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense is guilty of a Class 1 misdemeanor: *Provided*, That limit for fines thereof shall be doubled, and the person so convicted shall serve 60 actual days of confinement.

A person convicted of a violation of subsection (b) of this section after having been previously convicted of a violation of subsection (a) or (b) of this section, after having been convicted of a violation of §61-2-9(b) or §61-2-9(c) of this code or §61-2-14 (a) of this code, where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or having previously been granted a period of pretrial diversion pursuant to §61-11-22 of this code for a violation of subsection (a) or (b) of this section or §61-2-9(b), §61-2-9(c) or §61-2-14 (a), or §61-2-14(g) of this code where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense shall be convicted of a Class 2 misdemeanor: *Provided*, That limit for fines

thereof shall be doubled, and the person so convicted shall serve 30 actual days of confinement.

(d) Any person who has been convicted of a third or subsequent violation of the provisions of subsection (a) or (b) of this section, a third or subsequent violation of the provisions of §61-2-9 or §61-2-14(g) of this code, where the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or who has previously been granted a period of pretrial diversion pursuant to §61-11-22 of this code for a violation of subsection (a) or (b) of this section, or a violation of §61-2-9, or §61-2-14(g)(a) all of this code in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or any combination of convictions or diversions for these offenses, is guilty of a Class 6 felony.

(e) As used in this section, 'family or household member' means 'family or household member' as defined in §48-27-204 of this code.

(f) A person charged with a violation of this section may not also be charged with a violation of §61-2-9(b) or §61-2-9(c) of this code for the same act.

(g) No law-enforcement officer may be subject to any civil or criminal action for false arrest or unlawful detention for effecting an arrest pursuant to this section or pursuant to §48-27-1002 of this code.

§61-2-22. Abuse or neglect of incapacitated adult; definitions; penalties.

(a) The following words, when used in this section and sections §61-2-23 and §61-2-24 of this code, have the meaning ascribed, unless the context clearly indicates otherwise:

‘Abuse’ means the intentional infliction of bodily injury on an incapacitated adult;

‘Bodily injury’ means substantial physical pain, illness or any impairment of physical condition;

‘Caregiver’ means any person who has assumed the legal responsibility or a contractual obligation for the care of an incapacitated adult or has voluntarily assumed responsibility for the care of an incapacitated adult. The term includes a facility operated by any public or private agency, organization or institution which provides services to, and has assumed responsibility for the care of an incapacitated adult.

‘Incapacitated adult’ means any person eighteen years of age or older who by reason of advanced age, physical, mental or other infirmity is unable to carry on the daily activities of life necessary to sustaining life and reasonable health;

‘Neglect’ means the unreasonable failure by a caregiver to provide the care necessary to assure the physical safety or health of an incapacitated adult; and

‘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.

(b) A caregiver who neglects an incapacitated adult or who knowingly permits another person to neglect an incapacitated adult is guilty of a Class 2 misdemeanor.

(c) A caregiver who abuses an incapacitated adult or who knowingly permits another person to abuse an incapacitated adult is guilty of a Class 1 misdemeanor.

(d) A caregiver of an incapacitated adult who intentionally and maliciously abuses or neglects an incapacitated adult and causes the incapacitated adult bodily injury is guilty of a Class 5 felony.

(e) A caregiver of an incapacitated adult who intentionally and maliciously abuses or neglects an incapacitated adult and causes the incapacitated adult serious bodily injury is guilty of a Class 4 felony.

(f) Nothing in this section or in §61-2-29a of this code may be construed to mean an adult is abused or neglected for the sole reason that his or her independent decision is to rely upon treatment by spiritual means in accordance with the tenets and practices of a recognized church or religious denomination or organization in lieu of medical treatment.

(g) Nothing in this section or in §61-2-29a of this code may be construed to mean an incapacitated adult is abused or neglected if deprivation of life-sustaining treatment or other act has been provided for by the West Virginia Health Care Decisions Act, pursuant to §16-30-1 *et seq.* of this code.

§61-2-23. Death of an incapacitated adult by a caregiver; penalties.

(a) A caregiver who intentionally and maliciously neglects an incapacitated adult causing death is guilty of a Class 3 felony.

(b) A caregiver of an incapacitated adult who causes the death of an incapacitated adult by knowingly allowing any other person to intentionally or maliciously neglect the incapacitated adult is guilty of a Class 2 felony.

(c) A caregiver of an incapacitated adult who intentionally and maliciously abuses an incapacitated adult which causes the death of the incapacitated adult is guilty of a Class 1 felony.

(d) A caregiver of an incapacitated adult who causes the death of an incapacitated adult by knowingly allowing any other person to intentionally and maliciously abuse an incapacitated adult is guilty of a Class 1 felony.

(e) The provisions of this section do not apply to any caregiver or health care provider who, without malice, fails or refuses, or allows another person to, without malice, fail or refuse, to supply

an incapacitated adult with necessary medical care when the medical care conflicts with the tenets and practices of a recognized religious denomination or order of which the incapacitated adult is an adherent member.

§61-2-24. Financial exploitation of an elderly person, protected person or incapacitated adult; penalties; definitions.

(a) Any person who financially exploits an elderly person, protected person, or an incapacitated adult in the amount of less than \$2500 is guilty of a Class 1 misdemeanor.

(b) Any person who financially exploits an elderly person, protected person, or an incapacitated adult in the amount of more than \$2500 but less than \$25000 is guilty of a Class 6 felony.

(c) Any person who financially exploits an elderly person, protected person, or an incapacitated adult in the amount of more than \$25000 is guilty of a Class 5 felony.

(d) Any person convicted of any violation of this section shall, in addition to any other penalties at law, be subject to an order of restitution.

(e) In determining the value of the money, goods, property, or services referred to in subsection (a), (b) or (c) of this section, cumulated amounts or values where such money, goods, property or services were fraudulently obtained as part of a common scheme or plan may be used.

(f) Financial institutions and their employees, as defined by §31A-2A-1 of this code and as permitted by §31A-2A-4 of this code, others engaged in financially related activities, as defined by §31A-8C-1 of this code, caregivers, relatives, and other concerned persons are permitted to report suspected cases of financial exploitation to state or federal law-enforcement authorities, the county prosecuting attorney, and to the Department of Health and Human Resources, Adult Protective Services Division, or Medicaid Fraud Division, as appropriate. Public officers and employees shall report suspected cases of financial exploitation to

the appropriate entities as stated above. The requisite agencies shall investigate or cause the investigation of the allegations.

(g) When financial exploitation is suspected and to the extent permitted by federal law, financial institutions and their employees or other business entities required by federal law or regulation to file suspicious activity reports and currency transaction reports shall also be permitted to disclose suspicious activity reports or currency transaction reports to the prosecuting attorney of any county in which the transactions underlying the suspicious activity reports or currency transaction reports occurred.

(h) Any person or entity that in good faith reports a suspected case of financial exploitation pursuant to this section is immune from civil liability founded upon making that report.

(i) For the purposes of this section:

(1) ‘Incapacitated adult’ means a person as defined by §61-2-22 of this code;

(2) ‘Elderly person’ means a person who is 65 years or older;

(3) ‘Financial exploitation’ or ‘financially exploit’ means the intentional misappropriation or misuse of funds or assets of an elderly person, protected person, or incapacitated adult, but shall not apply to a transaction or disposition of funds or assets where the accused made a good-faith effort to assist the elderly person, protected person, or incapacitated adult with the management of his or her money or other things of value; and

(4) ‘Protected person’ means any person who is defined as a ‘protected person’ in §44A-1-4 of this code and who is subject to the protections of Chapter 44A or Chapter 44C of this code.

(j) Notwithstanding any provision of this code to the contrary, acting as guardian, conservator, trustee or attorney for or holding power of attorney for an elderly person, protected person or incapacitated adult may not, standing alone, constitute a defense to a violation of subsections (a), (b) or (c) of this section.

(k) Any person who willfully violates a material term of an order entered pursuant to §55-7J-5 of this code is guilty of a misdemeanor and, upon conviction thereof, shall:

(1) For the first offense, be guilty of a Class 2 misdemeanor; and

(2) For a second or subsequent offense, be guilty of a Class 1 misdemeanor.

§61-2-25. Recognizing an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person.

(a) This section may be known and cited as the Unborn Victims of Violence Act.

(b) For the purposes of this article, the following definitions shall apply: *Provided*, That these definitions only apply for purposes of prosecution of unlawful acts under this section and may not otherwise be used: (i) To create or to imply that a civil cause of action exists; or (ii) for purposes of argument in a civil cause of action, unless there has been a criminal conviction under this section.

‘Embryo’ means the developing human in its early stages. The embryonic period commences at fertilization and continues to the end of the embryonic period and the beginning of the fetal period, which occurs eight weeks after fertilization or 10 weeks after the onset of the last menstrual period.

‘Fetus’ means a developing human that has ended the embryonic period and thereafter continues to develop and mature until termination of the pregnancy or birth.

(c) For purposes of enforcing the provisions of §61-2-1, §61-2-1, and §61-2-6, of this code, §61-2-8 and §61-2-9 of this code, and §61-2-21(a) of this code, a pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims.

(d) Exceptions. — The provisions of this section do not apply to:

(1) Acts committed during a legal abortion to which the pregnant woman, or a person authorized by law to act on her behalf, consented or for which the consent is implied by law;

(2) Acts or omissions by medical or health care personnel during or as a result of medical or health-related treatment or services, including, but not limited to, medical care, abortion, diagnostic testing or fertility treatment;

(3) Acts or omissions by medical or health care personnel or scientific research personnel in performing lawful procedures involving embryos that are not in a stage of gestation in utero;

(4) Acts involving the use of force in lawful defense of self or another, but not an embryo or fetus; and

(5) Acts or omissions of a pregnant woman with respect to the embryo or fetus she is carrying.

(e) For purposes of the enforcement of the provisions of this section, a violation of the provisions of article two-i, chapter sixteen of this code shall not serve as a waiver of the protection afforded by the provisions of subdivision (1), subsection (d) of this section.

(f) Other convictions not barred. — A prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant arising from the same incident.

§61-2-26. Doors to be removed from abandoned refrigerators, freezers and other appliances; penalties.

[Repealed.]

§61-2-27. Required reporting of gunshot and other wounds.

[Repealed.]

§61-2-27a. Required reporting of burns.

[Repealed.]

§61-2-28. Domestic violence — criminal acts

[Repealed.]

§61-2-29. Abuse or neglect of incapacitated adult; definitions; penalties

[Repealed.]

§61-2-29a. Death of an incapacitated adult by a caregiver.

[Repealed.]

§61-2-29b. Financial exploitation of an elderly person, protected person or incapacitated adult; penalties; definitions.

[Repealed.]

§61-2-30. Recognizing an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person.

[Repealed]

ARTICLE 3. CRIMES AGAINST PROPERTY.**§61-3-1. Arson; degrees of arson; definitions; penalties. ~~Burning, etc., of a dwelling or outbuilding; first degree arson; penalty; definitions.~~**

~~(a) Any person who willfully and maliciously sets fire to or burns, or who causes to be burned, or who aids, counsels, procures, persuades, incites, entices or solicits any person to burn, any dwelling, whether occupied, unoccupied or vacant, or any outbuilding, whether the property of himself or herself or of another, shall be guilty of arson in the first degree and, upon conviction thereof, be sentenced to the penitentiary for a definite term of imprisonment which is not less than two nor more than~~

~~twenty years. A person imprisoned pursuant to this section is not eligible for parole prior to having served a minimum of two years of his or her sentence or the minimum period required by the provisions of section thirteen, article twelve, chapter sixty two of this code, whichever is greater.~~

(b) As used in this section:

(1) 'Dwelling' means any building or structure intended for habitation or lodging, in whole or in part, regularly or occasionally, and shall include, but not be limited to, any house, apartment, hotel, dormitory, hospital, nursing home, jail, prison, mobile home, house trailer, modular home, factory-built home or self-propelled motor home;

(2) 'Outbuilding' means any building or structure which adjoins, is part of, belongs to, or is used in connection with a dwelling, and shall include, but not be limited to, any garage, shop, shed, barn or stable.

(b) First degree arson—

(1) Any person who willfully, unlawfully, and maliciously sets fire to or burns, or who causes to be burned, or who aids, counsels, procures, persuades, incites, entices, or solicits any person to burn any occupied dwelling or outbuilding, whether the property of himself or herself or of another, is guilty of a Class 3 Felony.

(2) Any person who willfully, unlawfully, and maliciously sets fire to or burns, or who causes to be burned, or who aids, counsels, procures, persuades, incites, entices, or solicits any person to burn, any unoccupied or vacant, dwelling or outbuilding, whether the property of himself or herself or of another, is guilty of a Class 4 Felony.

(c) Second degree arson—

Any person who willfully, unlawfully, and maliciously sets fire to or burns, or who causes to be burned, or who aids, counsels, procures, persuades, incites, entices, or solicits any person to burn, any building or structure of any class or character, whether the

property of himself or herself or of another, not included or prescribed in the preceding subsection, is guilty of arson in the second degree, a Class 5 Felony.

(d) Third degree arson—

Any person who

(A) Willfully, unlawfully, and maliciously sets fire to or burns, or who causes to be burned, or who aids, counsels, procures, persuades, incites, entices, or solicits any person to burn, any personal property of any class or character, of the value of not less than \$2500, and the property of another person, or

(B) Willfully, unlawfully, and maliciously sets fire to any woods, fence, grass, straw or other thing capable of spreading fire on lands,

is guilty of arson in the third degree, a Class 6 Felony.

(e) Fourth degree arson—

Any person who willfully, unlawfully, and maliciously sets fire to or burns, or who causes to be burned, or who aids, counsels, procures, persuades, incites, entices, or solicits any person to burn, any personal property of any class or character, of the value of less than \$2500, and the property of another person, is guilty of arson in the fourth degree, a Class 1 misdemeanor.

(f) Attempted arson—

(1) Any person who willfully, unlawfully, and maliciously attempts to set fire to or burn, or attempts to cause to be burned, or attempts to aid, counsel, procure, persuade, incite, entice, or solicit any person to burn, any of the buildings, structures, or personal property mentioned in the foregoing subsections, or who commits any act preliminary thereto, or in furtherance thereof, is guilty of attempted arson, a Class 1 misdemeanor.

(2) The placing or distributing of any inflammable, explosive or combustible material or substance, or any device in any building,

structure or personal property mentioned in the foregoing sections, in an arrangement or preparation with intent to eventually, willfully, unlawfully, and maliciously, set fire to or burn, or to cause to be burned, or to aid, counsel, procure, persuade, incite, entice or solicit the setting fire to or burning of any building, structure or personal property mentioned in the foregoing sections shall, for the purposes of this section, constitutes an attempt to burn that building, structure or personal property.

(g) A person imprisoned pursuant to the provisions of this section, whose sentence is not a result of a guilty plea, is not eligible for parole prior to having served a minimum of one-third of the years of his or her sentence or the minimum period required by §62-12-13 of this code, whichever is greater.

(h) Any person convicted under any of the provisions of this section shall be liable to any person injured thereby, or in consequence thereof, for double the amount of actual damages sustained by that person.

§61-3-2. Burning, etc., of other buildings or structures; second degree arson; penalty. Burning, or attempting to burn, insured property; penalty.

~~Any person who willfully and maliciously sets fire to or burns, or who causes to be burned, or who aids, counsels, procures, persuades, incites, entices or solicits any person to burn, any building or structure of any class or character, whether the property of himself or herself or of another, not included or prescribed in the preceding section, shall be guilty of arson in the second degree and, upon conviction thereof, be sentenced to the penitentiary for a definite term of imprisonment which is not less than one nor more than ten years. A person imprisoned pursuant to this section is not eligible for parole prior to having served a minimum of one year of his or her sentence or the minimum period required by the provisions of section thirteen, article twelve, chapter sixty two of this code, whichever is greater.~~

Any person who willfully, and with intent to injure or defraud an insurer, sets fire to, or burns, or attempts to do so, or causes to

be burned, or who aids, counsels, procures, persuades, incites, entices or solicits any person to burn, any building, structure or personal property, of any class or character, whether the property of himself or herself or of another, which at the time is insured, or which is believed by the person committing an act prohibited by this section to be insured by any person against loss or damage by fire, is guilty of a Class 6 felony. A person imprisoned pursuant to this section, who committed the crime with an intent to defraud, is not eligible for parole prior to having served a minimum of one-third of the years of his or her sentence or the minimum period required by §62-12-13 of this code, whichever is greater.

§61-3-3. Burning personal property of another of the value of five hundred dollars or more; third-degree arson; penalty; Causing injuries during an arson-related crime; penalties.

~~Any person who willfully and maliciously sets fire to or burns, or who causes to be burned, or who aids, counsels, procures, persuades, incites, entices or solicits any person to burn, any personal property of any class or character, of the value of not less than \$500, and the property of another person, shall be guilty of arson in the third degree and, upon conviction thereof, be sentenced to the penitentiary for a definite term of imprisonment which is not less than one nor more than three years. A person imprisoned pursuant to this section is not eligible for parole prior to having served a minimum of one year of his or her sentence.~~

(a) Any person who violates §61-2-1 or §61-2-2 of this code, which violation causes bodily injury, but which does not result in death, to any person, is guilty of a felony one class higher than the underlying offense.

(b) Any person who violates §61-2-1 or §61-2-2 of this code, which violation causes serious bodily injury which maims, disfigures, or disables any person, but does not result in death, is guilty of a felony one class higher than the underlying offense. A person imprisoned pursuant to this section is not eligible for parole prior to having served a minimum of one-third of the years of his or her sentence or the minimum period required by §62-12-13 of this code, whichever is greater.

(c) As used in this section:

‘Bodily injury’ means injury that causes substantial physical pain, illness, or any impairment of physical condition; and

‘Serious bodily injury’ means bodily injury that creates a substantial risk of death, that causes serious or prolonged disfigurement, prolonged impairment of health, prolonged loss or impairment of the function of any bodily organ, loss of pregnancy, or the morbidity or mortality occurring because of a preterm delivery.

§61-3-4. Attempt to commit arson; fourth degree arson; penalty; Recovery of costs incurred in fighting fires caused by arson.

~~(a) Any person who willfully and maliciously attempts to set fire to or burn, or attempts to cause to be burned, or attempts to aid, counsel, procure, persuade, incite, entice or solicit any person to burn, any of the buildings, structures, or personal property mentioned in the foregoing sections, or who commits any act preliminary thereto, or in furtherance thereof, shall be guilty of arson in the fourth degree and, upon conviction thereof, be sentenced to the penitentiary for a definite term of imprisonment which is not less than one nor more than two years, or fined not to exceed \$2,500, or both. A person imprisoned pursuant to this section is not eligible for parole prior to having served a minimum of one year of his or her sentence.~~

~~(b) The placing or distributing of any inflammable, explosive or combustible material or substance, or any device in any building, structure or personal property mentioned in the foregoing sections, in an arrangement or preparation with intent to eventually, willfully and maliciously, set fire to or burn, or to cause to be burned, or to aid, counsel, procure, persuade, incite, entice or solicit the setting fire to or burning of any building, structure or personal property mentioned in the foregoing sections shall, for the purposes of this section, constitute an attempt to burn that building, structure or personal property.~~

Any person convicted of any crime enumerated in §61-2-1 or §61-2-2 of this code may be ordered to reimburse any fire department or company for the costs expended to control, extinguish and suppress the arson fire, and all reasonable costs associated therewith, including but not limited to, costs for the personal services rendered by any employees of any fire department or company, and operating costs of equipment and supplies used to control, extinguish or suppress the fire.

§61-3-5. Burning, or attempting to burn, insured property; penalty; Burglary; entry of dwelling house or outbuilding; penalties.

~~Any person who willfully and with intent to injure or defraud an insurer sets fire to or burns, or attempts so to do, or causes to be burned, or who aids, counsels, procures, persuades, incites, entices or solicits any person to burn, any building, structure or personal property, of any class or character, whether the property of himself or herself or of another, which shall at the time be insured or which is believed by the person committing an act prohibited by this section to be insured by any person against loss or damage by fire, guilty of a felony and, upon conviction thereof, be sentenced to the penitentiary for a definite term of imprisonment which is not less than one nor more than five years or fined not to exceed \$10,000, or both. A person imprisoned pursuant to this section is not eligible for parole prior to having served a minimum of one year of his or her sentence or the minimum period required by the provisions of §62-12-13 of this code, whichever is greater.~~

(a) Any person who breaks and enters, or enters without breaking, a dwelling house or outbuilding adjoining a dwelling with the intent to commit a violation of the criminal laws of this state is guilty of a Class 4 felony.

(b) The term 'dwelling house', as used in this section, includes, but is not limited to, a mobile home, house trailer, modular home, factory-built home, or self-propelled motor home, used as a dwelling regularly or only from time to time, or any other nonmotorized vehicle primarily designed for human habitation and

occupancy and used as a dwelling regularly or only from time to time.

§61-3-6. ~~Willfully, unlawfully, and maliciously setting fire on lands; Penalty; entry of house, building, vehicle, or enclosed property; penalties; counts in indictment.~~

~~If any person willfully, unlawfully, and maliciously sets fire to any woods, fence, grass, straw or other thing capable of spreading fire on lands, he or she shall be is guilty of a felony and, upon conviction, shall be sentenced to the penitentiary for a definite term of imprisonment which is not less than one year nor more than five years or fined not to exceed \$5,000, or both. He or she shall, moreover, be liable to any person injured thereby, or in consequence thereof, for double the amount of damages sustained by such person. A person imprisoned pursuant to this section is not eligible for parole prior to having served a minimum of one year of his or her sentence or the minimum period required by the provisions of section thirteen, article twelve, chapter sixty two of this code, whichever is greater~~

Any person who, at any time, breaks and enters, or enters without breaking, any office, shop, storehouse, warehouse, banking house, any other house or building which is not a dwelling house or outbuilding adjoining or occupied in conjunction with the same, any vehicle, conveyance or vessel, or any commercial, industrial or public utility property enclosed by a fence, wall, or other structure erected with the intent of the property owner of protecting or securing the area within and its contents from unauthorized persons, within the jurisdiction of any county in this state, with intent to commit a felony or any larceny, is guilty of a Class 6 felony.

An indictment for burglary may contain one or more counts for breaking and entering, or for entering without breaking, the house or building mentioned in the count for burglary under the provisions of this section and §61-3-11 of this code.

§61-3-7. ~~Causing injuries during an arson-related crime; penalties; Manufacture or possession of burglary tools; penalties.~~

~~(a) Any person who violates the provisions of sections one, two, three, four, five or six of this article, which violation causes bodily injury, but does not result in death, to any person shall be guilty of a felony and, upon conviction thereof, shall be sentenced to the penitentiary for a definite term of imprisonment which is not less than two nor more than ten years, or fined not more than \$5,000, or both. A person imprisoned pursuant to this section is not eligible for parole prior to having served a minimum of two years of his or her sentence or the minimum period required by the provisions of section thirteen, article twelve, chapter sixty two of this code, whichever is greater.~~

~~(b) Any person who violates the provisions of sections one, two, three, four, five or six of this article, which violation causes serious bodily injury which maims, disfigures, or disables any person, but does not result in death, shall be guilty of a felony and, upon conviction thereof, shall be sentenced to the penitentiary for a definite term of imprisonment which is not less than three nor more than fifteen years, or fined not more than \$10,000, or both. A person imprisoned pursuant to this section 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 the provisions of section thirteen, article twelve, chapter sixty two of this code, whichever is greater.~~

Any person who manufactures or has in his or her possession any tool, instrument or other thing adapted, designed or commonly used for committing, advancing or facilitating offenses involving unlawful entry into a premises, theft by a physical taking, or offenses involving forcible breaking of safes or other containers or safe-like depositories of property, under circumstances that manifest or demonstrate an intent to use, or has knowledge that another person intends to use the same in the commission of an offense of the same kind or character, is guilty of a Class 1 misdemeanor.

§61-3-8. Recovery of costs incurred in fighting fires caused by arson Criminal offenses involving theft detection shielding devices; detention.

~~Any person convicted of any felony enumerated in section one, two, three, four, five or six of this article may be ordered to reimburse any fire department or company for the costs expended to control, extinguish and suppress the arson fire, and all reasonable costs associated therewith, including but not limited to, costs for the personal services rendered by any employees of any fire department or company, and operating costs of equipment and supplies used to control, extinguish or suppress the fire.~~

(a) As used in this section:

‘Theft detection device’ means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.

‘Theft detection device remover’ means any tool or device specifically designed or manufactured to be used to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.

‘Theft detection shielding device’ means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

(b) A person commits unlawful distribution of a theft detection shielding device when he or she knowingly manufactures, sells, offers to sell or distribute any theft detection shielding device.

(c) A person commits unlawful possession of a theft detection shielding device when he or she knowingly possesses any theft detection shielding device with the intent to commit theft or retail theft.

(d) A person commits unlawful possession of a theft detection shielding device remover when he or she knowingly possesses any theft detection device remover with the intent to use such tool to

remove any theft detection device from any merchandise without the permission of the merchant or person owning or holding said merchandise.

(e) A person commits unlawful use of a theft detection shielding device or a theft detection shielding remover when he or she uses or attempts to use either device while committing a violation of this article.

(f) A person commits unlawful removal of a theft detection device when he or she intentionally removes any theft detection device by the use of manual force or by any tool or device, which is not specifically designed or manufactured to remove theft detection devices, from merchandise prior to purchase.

(g) Any person convicted for violating the provisions of subsections (b), (c), (d) or (e) of this section is guilty of a Class 2 misdemeanor.

(h) Any person convicted of violating the provisions of subsection (f) of this section is guilty of a Class 3 misdemeanor.

(i) The activation of an anti-shoplifting or inventory control device as a result of a person exiting the establishment or a protected area within the establishment constitutes reasonable cause for the detention of the person so exiting by the owner or operator or the establishment or by an agent or employee of the owner or operator, provided sufficient notice has been posted to advise the patrons that such a device is being utilized. Each such detention shall be made only in a reasonable manner and only for a reasonable period of time sufficient for any inquiry into the circumstances surrounding the activation of the device or for the recovery of goods.

(j) Such taking into custody and detention by a law-enforcement officer, merchant, or merchant's employee, if done in compliance with all the requirements of this section, does not render such law-enforcement officer, merchant, or merchant's employee criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

§61-3-9. Grand larceny, aggravated grand larceny, and petit larceny distinguished; penalties; Larceny of bank notes, checks, writings of value and book accounts; determination of value

(a) Any person who commits simple larceny of goods or chattels of the value of \$2,500 or more, is guilty of a Class 6 felony, designated grand larceny.

(b) Any person who commits simple larceny of goods or chattels of the value of \$25,000 or more, is guilty of a Class 5 felony, designated aggravated grand larceny.

(c) Any person who commits simple larceny of goods or chattels of the value of less than \$2,500, is guilty of a Class 1 misdemeanor, designated petit larceny.

(d) Any person who steals any bank note, check, or other writing or paper of value, or any book of accounts for or concerning money or goods due to be delivered, is guilty of the larceny thereof, and shall receive the same punishment, according to the value of the article stolen, that is prescribed for the punishment of larceny of goods or chattels.

(e) In a prosecution under this section, the money due on or secured by the writing, paper, or book, and remaining unsatisfied, or which in any event might be collected thereon, or the value of the property or money affected thereby, shall be considered to be the value of the article stolen.

§61-3-10. Receiving or transferring stolen goods.

Any person who buys or receive from another person, or aid in concealing, or transfer to a person other than the owner thereof, any stolen goods or other thing of value, which he or she knows or has reason to believe has been stolen, is guilty of the larceny thereof and may be prosecuted although the principal offender is not convicted.

~~§61-3-11. Burglary; entry of dwelling or outhouse; penalties; Bringing into this state, receiving, or disposing of property stolen in another state; penalty.~~

~~(a) Any person who breaks and enters, or enters without breaking, a dwelling house or outbuilding adjoining a dwelling with the intent to commit a violation of the criminal laws of this state is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than 15 years.~~

~~(b) The term 'dwelling house', as used in §61-3-11(a) of this code, includes, but is not limited to, a mobile home, house trailer, modular home, factory built home, or self propelled motor home, used as a dwelling regularly or only from time to time, or any other nonmotorized vehicle primarily designed for human habitation and occupancy and used as a dwelling regularly or only from time to time.~~

Any person, who brings into this state, or receives, converts to his or her own use, or sells, property of any character, of value, which was stolen in another state, and which he or she knows or has reason to believe was stolen, is guilty of the larceny thereof in the county in which such property may be found, used, converted, or sold, and may be prosecuted for the offense therein, and, upon conviction, shall be punished as provided for the offense of larceny committed within this state.

~~§61-3-12. Entry of building other than dwelling; entry of railroad, traction or motorcar, steamboat, or other vessel; penalties; counts in indictment; Embezzlement.~~

~~If any person shall, at any time, break and enter, or shall enter without breaking, any office, shop, storehouse, warehouse, banking house, or any house or building, other than a dwelling house or outhouse adjoining thereto or occupied therewith, any railroad or traction car, propelled by steam, electricity or otherwise, any steamboat or other boat or vessel, or any commercial, industrial or public utility property enclosed by a fence, wall, or other structure erected with the intent of the property owner of protecting~~

~~or securing the area within and its contents from unauthorized persons, within the jurisdiction of any county in this state, with intent to commit a felony or any larceny, he or she shall be deemed guilty of a felony and, upon conviction, shall be confined in a state correctional facility not less than one nor more than 10 years. And if any person shall, at any time, break and enter, or shall enter without breaking, any automobile, motorcar, or bus, with like intent, within the jurisdiction of any county in this state, he or she shall be guilty of a misdemeanor and, upon conviction, shall be confined in jail not less than two nor more than 12 months and be fined not exceeding \$100.~~

~~An indictment for burglary may contain one or more counts for breaking and entering, or for entering without breaking, the house or building mentioned in the count for burglary under the provisions of this section and §61-3-11 of this code.~~

(a) (1) Any officer, agent, clerk, or servant of this state, or of any county, district, school district or municipal corporation, or of any banking institution, or other corporation, or any officer of public trust in this state, or any agent, clerk or servant of any firm or person, or company or association of persons not incorporated who:

(A) Embezzles or fraudulently converts to his or her own use, bullion, money, bank notes, drafts, security for money, or any effects or property of any other person, which have come into his or her possession, or been placed under his or her care or management, by virtue of his or her office, place, or employment; or

(B) Embezzles or fraudulently converts to his or her own use, any funds obtained by the use of any card, plate, code, account number, or other means of account access that can be used, alone, or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument);

(2) Is guilty of the larceny of the value thereof.

(b) Any officer, agent, clerk, or servant of this state, or of any county, district, school district or municipal corporation who appropriates or uses for his or her own benefit, or for the benefit of any other person, any bullion, money, bank notes, drafts, security for money or funds belonging to this state or to any such county, district, school district or municipal corporation, shall be determined to have embezzled the same and is guilty of the larceny of the value thereof. In the prosecution of any such officer, agent, clerk or servant of this state or of any county, district, school district or municipal corporation charged with appropriation or use for his or her own benefit or the benefit of any other person, any bullion, money, bank notes, drafts, security for money or funds belonging to this state or to any county, district, school district or municipal corporation, it is not necessary to describe in the indictment, or to identify upon the trial, the particular bullion, money, bank notes, drafts, security for money or funds appropriated or used for his or her own benefit or for the benefit of any other person.

(c) Any person who holds a fiduciary power of attorney or who has a fiduciary relationship with a person and in so doing willfully and with intent to defraud embezzles, misappropriates or fraudulently converts for his or her own benefit, or for the benefit of another, the assets or property, real or personal, with which he or she has been entrusted, or misuses or misappropriates funds from the person to whom he or she owes a fiduciary duty or misuses any account, line of credit or credit card of the principal for purposes not contemplated by the terms of the power of attorney instrument or fiduciary relationship, or for purposes not intended by the principal in the execution of the power of attorney or for purposes not intended by the fiduciary relationship, shall be determined to have embezzled the same and, upon conviction, is guilty of the larceny of the value thereof: *Provided*, That he or she is guilty of a felony one class higher than the underlying offense.

(d) Any carrier or other person to whom money or other property which may be the subject of larceny may be delivered to be carried for hire, or if any other person who may be entrusted with such property who embezzles or fraudulently converts to his

or her own use, or secretes with intent to do so, any such property, either in mass or otherwise, before delivery thereof at the place at which, or to the person to whom, they were to be delivered, is guilty of the larceny of the value thereof: *Provided*, That he or she is guilty of a felony one class higher than the underlying offense.

(e) Any person guilty of a violation of any provision of this section is an officer, agent, clerk, or servant of any banking institution, is guilty of a felony one class higher than the underlying offense.

(f) It is not necessary to describe with specificity in the indictment of any person, or to identify upon the trial of any person, the particular bullion, money, bank note, draft or security for money, funds, or other property which is so taken, converted, or embezzled.

§61-3-13. Grand and petit larceny distinguished; penalties; Falsifying accounts; penalty

~~(a) If a person commits simple larceny of goods or chattels of the value of \$1,000 or more, such person is guilty of a felony, designated grand larceny, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one nor more than ten years, or, in the discretion of the court, be confined in jail not more than one year and shall be fined not more than \$2,500.~~

~~(b) If a person commits simple larceny of goods or chattels of the value of less than \$1,000, such person is guilty of a misdemeanor, designated petit larceny, and, upon conviction thereof, shall be confined in jail for a term not to exceed one year or fined not to exceed \$2,500, or both, in the discretion of the court.~~

Any officer, clerk or agent of this state, or of any county, district, school district or municipal corporation thereof, or of any banking institution or incorporated company, or any clerk or agent of any firm or person or association of persons not incorporated, who makes, alters or omits to make any entry in any book of account of, or in any account kept by the state, county, district, school district, municipal corporation, banking institution,

incorporated company, firm or person, or association of persons, or mutilates, destroys or conceals any such account or book of accounts, with intent in so doing to conceal, the true state of any account, or to defraud the state or any county, district, school district, municipal corporation, banking institution, company, firm or person, or with intent to enable or assist any person to obtain money to which he or she was not entitled, is guilty of a Class 5 felony.

§61-3-14. Larceny of bank notes, checks, writings of value and book accounts; penalty; Possession or use of automated sales suppression devices; penalty.

~~If any person steal any bank note, check, or other writing or paper of value, or any book of accounts for or concerning money or goods due to be delivered, he or she shall be deemed guilty of the larceny thereof, and receive the same punishment, according to the value of the article stolen, that is prescribed for the punishment of larceny of goods or chattels.~~

(a) General. — When used in this article, words defined in subsection (b) of this section shall have the meanings ascribed to them in this section, except in those instances where a different meaning is provided in this article or the context in which the word is used clearly indicates that a different meaning is intended by the Legislature.

(b) Definitions. —

‘Automated sales suppression device’ or ‘zapper’ means a software program, carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports.

‘Electronic cash register’ means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the

purpose of computing, compiling, or processing retail sales transaction data in whatever manner.

‘Phantom-ware’ means a hidden, preinstalled, or installed at a later time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.

‘Transaction data’ includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address and identification number of the vendor and the receipt or invoice number of the transaction.

‘Transaction report’ means a report documenting, but not limited to, the sales taxes collected, media totals and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

(c) It is unlawful to sell willfully and knowingly, purchase, install, transfer or possess in this state any automated sales suppression device or zapper or phantom-ware.

(d) Any person convicted of a violation of subsection (c) of this section is guilty of a Class 6 felony; and, is liable for all taxes and penalties due the state as the result of the fraudulent use of an automated sales suppression device, zapper or phantom-ware and shall forfeit all profits associated with the sale or use of an automated sales suppression device or phantom-ware.

(f) An automated sales suppression device or phantom-ware and any cash register or device containing such device or software is contraband and, as such, subject to seizure and destruction by

any duly authorized law-enforcement agency in the state, including the Criminal Investigation Division of the State Tax Department.

§61-3-15. How value of notes, book accounts and other writings determined; Destroying or concealing will; embezzlement by fiduciary; penalty.

~~In a prosecution under the preceding section, the money due on or secured by the writing, paper or book, and remaining unsatisfied, or which in any event might be collected thereon, or the value of the property or money affected thereby, shall be deemed to be the value of the article stolen.~~

Any person, who fraudulently destroys or conceals any will or codicil, with intent to prevent the probate thereof, is guilty of a Class 6 felony.

Any guardian, personal representative, or other fiduciary, who willfully and knowingly fails to make and return an inventory of any personal property (of which an inventory is required by law to be made) which may come to his or her hands as such, or willfully and knowingly fails or refuses to produce any such property for appraisal in the manner required by law, or willfully and knowingly conceals or embezzles any such property, is guilty of the larceny of the value thereof; and the failure of any such guardian, personal representative or other fiduciary to account for and pay over or deliver, when directed by the court, as required by law, any money, bullion, bank notes or other property, determined by the proper officer of court to be due and payable, is be prima facie evidence that such guardian, personal representative or other fiduciary has embezzled the same.

§61-3-16. Larceny of things savoring of realty; Obtaining money, property, and services by false pretenses; disposing of property to defraud creditors; penalties.

~~Things which savor of the realty, and are at the time they are taken part of the freehold, whether they be of the substance or produce thereof, or affixed thereto, shall be deemed goods and~~

~~chattels, of which larceny may be committed, although there be no interval between the severing and taking away.~~

(a)(1) Any person who obtains by false pretense, token, or representation, with intent to defraud, any money, goods or other property which may be the subject of larceny; or

(2) Any person who obtains, on credit, any money, goods, or other property which may be the subject of larceny, by representing that there is money due him or her or to become due him or her, and assigns the claim for such money, in writing, to the person from whom he or she obtains such money, goods or other property, and afterwards collects the money due or to become due, without the consent of the assignee, and with the intent to defraud; then

(3) Is guilty of larceny of the value thereof.

(b) Any person who obtains by any false pretense, token, or representation, with intent to defraud, the signature of another to a writing, the false making of which would be forgery, is guilty of a Class 6 felony.

(c)(1) Any person who removes any of his or her property out of any county with the intent to prevent the same from being levied upon by any execution; or

(2) Any person who secretes, assigns, or conveys, or otherwise disposes of any of his or her property with the intent to defraud any creditor or to prevent the property from being made liable for payment of debts; or

(3) Any person who receives the property of another with the intent to defraud any creditor or to prevent the property from being made liable for the payment of debts;

(4) Is guilty of a Class 1 misdemeanor.

(d) (1) Any person, firm, or corporation that obtains labor, services or any other such thing of value by any false pretense, token, or representation, with intent to defraud, the person, firm or

corporation is guilty of theft of services and is guilty of the larceny of the value thereof;

(2) Theft of services includes the obtaining of a stop payment order on a check, draft or order for payment of money owed for services performed in good faith and in substantial compliance with a written or oral contract for services, with the fraudulent intent to permanently deprive the provider of such labor, services or other such thing of value of the payment represented by such check, draft or order, and any person, firm or corporation violating the provisions of this subdivision is guilty of the larceny of the value thereof.

(e) Prosecution for an offense under this section does not bar or otherwise affect adversely any right or liability to damages, forfeiture or other civil remedy arising from any or all elements of the criminal offense.

§61-3-17. Attempted or fraudulent use, forgery, traffic of credit cards; possession and transfer of credit cards and credit card making equipment; false or fraudulent use of telephonic services; penalties.

(a) As used in this section:

‘Counterfeit credit card’ means the following:

Any credit card or a representation, depiction, facsimile, aspect, or component thereof that is counterfeit, fictitious, altered, forged, lost, stolen, incomplete or obtained in violation of this section, or as part of a scheme to defraud; or

Any invoice, voucher, sales draft or other reflection or manifestation of such a card.

‘Credit card making equipment’ means any equipment, machine, plate mechanism, impression or any other contrivance which can be used to produce a credit card, a counterfeit credit card, or any aspect or component of either.

‘Traffic’ means:

To sell, transfer, distribute, dispense, or otherwise dispose of any property; or

To buy, receive, possess, obtain control of or use property with the intent to sell, transfer, distribute, dispense or otherwise dispose of such property.

'Notice' means either information given in person or information given in writing to the person to whom the number, card or device was issued. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to that person at his or her last known address, is prima facie evidence that such notice was duly received. A cardholder's knowledge of the revocation of his or her credit card may be reasonably inferred by evidence that notice of such revocation was mailed to him or her, at least four days prior to his or her use or attempted use of the credit card, by first class mail at his or her last known address.

(b)(1) It is unlawful for any person knowingly to obtain or attempt to obtain credit, or to purchase or attempt to purchase any goods, property or service, by the use of any false, fictitious or counterfeit credit card, telephone number, credit number or other credit device, or by the use of any credit card, telephone number, credit number or other credit device of another beyond or without the authority of the person to whom the card, number or device was issued, or by the use of any credit card, telephone number, credit number or other credit device in any case where the card, number or device has been revoked and notice of such revocation has been given to the person to whom issued.

(2) It is unlawful for any person knowingly to obtain or attempt to obtain, by the use of any fraudulent scheme, device, means or method, telephone or telegraph service or the transmission of a message, signal or other communication by telephone or telegraph, or over telephone or telegraph facilities with intent to avoid payment of charges therefor.

(3) Any person who violates any provision of this subsection is guilty of the larceny of the value of the credit, goods, property, or service obtained or attempted to be obtained.

(c) Any person who makes, manufactures, presents, embosses, alters, or utters a credit card with intent to defraud any person, issuer of credit or organization providing money, goods, services, or anything else of value in exchange for payment by credit card is guilty of forgery, a Class 6 felony.

(d) Any person who traffics in or attempts to traffic in ten or more counterfeit credit cards or credit card account numbers of another in any six-month period is guilty of a Class 6 felony.

(e) Any person who receives, possesses, transfers, buys, sells, controls or has custody of any credit card making equipment with intent that the equipment be used in the production of counterfeit credit cards is guilty of a Class 6 felony.

(f) Any person who knowingly receives, possesses, acquires, controls or has custody of a counterfeit credit card is guilty of a Class 1 misdemeanor.

§61-3-18. Receiving or transferring stolen goods. Intercepting or monitoring customer telephone calls; penalty.

~~If any person buy or receive from another person, or aid in concealing, or transfer to a person other than the owner thereof, any stolen goods or other thing of value, which he or she knows or has reason to believe has been stolen, he or she shall be deemed guilty of the larceny thereof, and may be prosecuted although the principal offender be not convicted.~~

(a) It is unlawful for any person, firm or corporation to intercept or monitor, or to attempt to intercept or monitor, the transmission of a message, signal or other communication by telephone between an employee or similar agent of that person, firm or corporation and a customer of that person, firm or corporation unless the person, firm or corporation notifies each employee or agent subject to interception or monitoring that their telephone messages are subject to interception or monitoring. Any person, firm or corporation violating the provisions of this section is guilty of a Class 3 misdemeanor.

(b) Nothing contained in this section may require marking of telephone instruments nor require consent to interception or monitoring, in the case of a wiretap or other form of monitoring which is engaged in for the sole purpose of law enforcement and which is lawful in all other respects.

(c) The Public Service Commission may not issue any rule or regulation requiring or suggesting the monitoring of any message, signal or other communication by telephone to or from any telephone utility customer so as to obtain the content or substance of any such communication.

§61-3-19. ~~Bringing into this state, receiving, or disposing of property stolen in another state; penalty; Fraudulent schemes; cumulation of amounts where common scheme exists; penalties.~~

~~If any person shall bring into this state, or shall receive, convert to his or her own use, or sell, property of any character, of value, which was stolen in another state, and which he or she knows or has reason to believe was stolen, he or she shall be deemed guilty of the larceny thereof in the county in which such property may be found, used, converted or sold, and may be prosecuted for such offense therein, and, upon conviction, shall be punished as provided for the offense of larceny committed within this state.~~

(a) Any person who willfully deprives another person of any money, goods, property, or services by means of fraudulent pretenses, representations or promises is guilty of the larceny of the value thereof.

(b) In determining the value of the money, goods, property, or services referred to in subsection (a) of this section, it is permissible to cumulate amounts or values where such money, goods, property or services were fraudulently obtained as part of a common scheme or plan.

(c) A violation of law may be prosecuted under this section notwithstanding any other provision of this code.

§61-3-20. Embezzlement; Casting away, destroying, or interfering with floating craft or material; penalty.

If any officer, agent, clerk or servant of this state, or of any county, district, school district or municipal corporation, or of any banking institution, or other corporation, or any officer of public trust in this state, or any agent, clerk or servant of any firm or person, or company or association of persons not incorporated, embezzles or fraudulently converts to his or her own use, bullion, money, bank notes, drafts, security for money, or any effects or property of any other person, which shall have has come into his or her possession, or been placed under his or her care or management, by virtue of his or her office, place or employment, he or she shall be is guilty of the larceny thereof. If such the guilty person be is an officer, agent, clerk, or servant of any banking institution, he or she shall be is guilty of a felony and, upon conviction thereof, shall be imprisoned in the penitentiary a state correctional facility not less than 10 years. And it shall not be is not necessary to describe in the indictment, or to identify upon the trial, the particular bullion, money, bank note, draft or security for money which is so taken, converted to his or her own use or embezzled by him or her.

And whenever any officer, agent, clerk, or servant of this state, or of any county, district, school district or municipal corporation, shall appropriates or uses for his or her own benefit, or for the benefit of any other person, any bullion, money, bank notes, drafts, security for money or funds belonging to this state or to any such county, district, school district or municipal corporation, he or she shall be held to have embezzled the same and be is guilty of the larceny thereof. In the prosecution of any such officer, agent, clerk or servant of this state or of any county, district, school district or municipal corporation charged with appropriation or use for his or her own benefit or the benefit of any other person, any bullion, money, bank notes, drafts, security for money or funds belonging to this state or to any county, district, school district or municipal corporation, it shall not be is not necessary to describe in the indictment, or to identify upon the trial, the particular bullion, money, bank notes, drafts, security for money or funds appropriated or used for his or her own benefit or for the benefit of any other person.

Any person who willfully casts away or otherwise destroys any vessel within any county with intent to injure or defraud any owner thereof, or any owner of any property on board the same, or insurer of such a vessel or property, or any part thereof, or, who takes, carries away, removes, injures, destroys, breaks, cuts, detaches, unties, loosens, impairs, weakens, or otherwise interferes with any rope, line, fastening, connecting or other appliance used to tie, moor, attach or fasten to a bank of any stream, any floating craft, lumber, timber or material, which is the property of another, with the intent to injure, defraud or damage such other person, or to cause such floating craft, lumber, timber or material to become adrift, or to float away, without the consent of the owner thereof, is guilty of a Class 6 felony. If such act was committed without any intent to injure, defraud, or damage such other person, that person is guilty of a Class 1 misdemeanor.

§61-3-20a. Embezzlement by misuse of power of attorney or other fiduciary relationship; penalty.

[Repealed.]

§61-3-21. ~~Embezzlement by carrier or other person; Interference with or destruction of buoys, signal lights or other aids to navigation; penalty.~~

~~If any carrier or other person to whom money or other property which may be the subject of larceny may be delivered to be carried for hire, or if any other person who may be intrusted with such property, embezzle or fraudulently convert to his or her own use, or secrete with intent to do so, any such property, either in mass or otherwise, before delivery thereof at the place at which, or to the person to whom, they were to be delivered, he or she shall be deemed guilty of the larceny thereof.~~

Any person or persons, who willfully or maliciously interferes with, injures, or destroys any buoy, lamp, lantern, signal light or other aid to navigation erected or maintained by the government of this state, or of the United States, in this state, every person so offending guilty of a Class 1 misdemeanor. If the violation causes bodily injury or death, every person so offending is guilty of a Class 6 felony.

§61-3-22. Falsifying accounts; penalty; Malicious killing of animals by poison or otherwise; penalty.

If any officer, clerk or agent of this state, or of any county, district, school district or municipal corporation thereof, or of any banking institution or incorporated company, or any clerk or agent of any firm or person or association of persons not incorporated, make, alter or omit to make any entry in any book of account of, or in any account kept by such state, county, district, school district, municipal corporation, banking institution, incorporated company, firm or person, or association of persons, or mutilate, destroy or conceal any such account or book of accounts, with intent in so doing to conceal, the true state of any account, or to defraud the state or any county, district, school district, municipal corporation, banking institution, company, firm or person, or with intent to enable or assist any person to obtain money to which he or she was not entitled, such officer, clerk or agent shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years.

Any person who maliciously administers poison to or exposes poison with the intent that it should be taken by, any horse, cow or other animal of another person, or any person who maliciously maims, kills, or causes the death of any horse, cow or other animal of another person, is guilty of a Class 6 felony: *Provided*, That this section shall not be construed to include dogs.

§61-3-22a. Possession or use of automated sales suppression devices; penalty

[Repealed.]

§61-3-23. Destroying or concealing will; embezzlement by fiduciary; penalty. Removal out of county of property securing claim; penalties; fraudulent disposition of personal property in possession by virtue of lease; notice to return; failure to return; penalty; right to immediate possession.

If any person fraudulently destroy or conceal any will or codicil, with intent to prevent the probate thereof, he or she shall be guilty of a felony, and, upon conviction, be confined in the

~~penitentiary not less than one nor more than five years. If any guardian, personal representative, or other fiduciary, shall wilfully and knowingly fail to make and return an inventory of any personal property (of which an inventory is required by law to be made) which may come to his or her hands as such, or wilfully and knowingly fail or refuse to produce any such property for appraisement in the manner required by law, or wilfully and knowingly conceal or embezzle any such property, he or she shall be guilty of the larceny thereof; and the failure of any such guardian, personal representative or other fiduciary to account for and pay over or deliver, when directed by the court, as required by law, any money, bullion, bank notes or other property, determined by the proper officer of court to be due and payable, shall be prima facie evidence that such guardian, personal representative or other fiduciary has embezzled the same~~

(a) Any debtor under any security instrument conveying personal property, who retains possession of such personal property, and who, without the consent of the owner of the claim secured by the security instrument, and with intent to defraud, removes or causes to be removed any of the property securing the claim out of the county where it is situated at the time it became security for such claim or out of a county to which it was removed by virtue of a former consent of the owner of the claim under this section, or, with intent to defraud, secretes or sells the same, or converts the same to his or her own use, is guilty of a Class 2 misdemeanor.

(b) Any person in possession or control of any personal property by virtue of or subject to a written lease who, with intent to defraud and without written consent of the owner, disposes of such property by sale or transfer, or, after receiving a written notice to return the property or otherwise make the property available to the lessor, secretes or converts such property to his or her own use and in so doing places the property in a location other than the locations described in the written lease, or removes or causes to be removed such property from the state is guilty of the larceny of the value of such property.

In any prosecution under the provisions of this subsection, written notice may be mailed by certified mail, addressed to the consumer at the address of the consumer stated in the lease, and served on the consumer within 10 days of the expiration of the lease, which notice shall state that the lease has expired, and that the consumer has 10 days from receipt of the notice to return the leased property. Proof that the consumer failed to return the property within 10 days of receiving the notice shall constitute prima facie evidence, in any prosecution under this subsection, that the consumer intended to defraud the owner.

Whenever the consumer is a resident of the county in which the lease was contracted, the dealer, after written notice to the consumer within 10 days after the expiration of the lease, may obtain immediate possession of the leased property without formal process, if this can be done without breach of the peace. The dealer is not liable to the consumer for any damages for any action taken that is reasonable, necessary, and incidental to the reclaiming or taking possession of the leased property.

§61-3-24. Obtaining money, property, and services by false pretenses; disposing of property to defraud creditors; penalties. False statement as to financial condition of person, firm, or corporation; penalty.

~~(a)(1) If a person obtains from another by any false pretense, token or representation, with intent to defraud, any money, goods or other property which may be the subject of larceny; or~~

~~(2) If a person obtains on credit from another any money, goods or other property which may be the subject of larceny, by representing that there is money due him or her or to become due him or her, and assigns the claim for such money, in writing, to the person from whom he or she obtains such money, goods or other property, and afterwards collects the money due or to become due, without the consent of the assignee, and with the intent to defraud;~~

~~(3) Such person is guilty of larceny. If the value of the money, goods or other property is \$1,000 or more, such person is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the~~

~~penitentiary not less than one year nor more than ten years, or, in the discretion of the court, be confined in jail not more than one year and be fined not more than \$2,500. If the value of the money, goods or other property is less than \$1,000, such person is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not more than one year or fined not more than \$2,500, or both.~~

~~(b) If a person obtains by any false pretense, token or representation, with intent to defraud, the signature of another to a writing, the false making of which would be forgery, the person is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one year nor more than five years, or, in the discretion of the court, be confined in jail not more than one year and fined not more than \$2,500.~~

~~(c)(1) If a person removes any of his or her property out of any county with the intent to prevent the same from being levied upon by any execution; or~~

~~(2) If a person secretes, assigns or conveys, or otherwise disposes of any of his or her property with the intent to defraud any creditor or to prevent the property from being made liable for payment of debts; or~~

~~(3) If a person receives the property of another with the intent to defraud any creditor or to prevent the property from being made liable for the payment of debts;~~

~~(4) The person is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$2,500 and be confined in jail not more than one year.~~

~~(d) If a person, firm or corporation obtains labor, services or any other such thing of value from another by any false pretense, token or representation, with intent to defraud, the person, firm or corporation is guilty of theft of services. If the value of the labor, services or any other such thing of value is \$1,000 or more, the person, firm or corporation is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary not less than one year nor more than ten years, or, in the discretion of the~~

~~court, be confined in jail not more than one year and be fined not more than \$2,500. If the value of the labor, services or any other such thing of value is less than \$1,000, the person, firm or corporation is guilty of a misdemeanor, and, upon conviction thereof, shall be confined in jail not more than one year or fined not more than \$2,500, or both, in the discretion of the court.~~

~~(e) Theft of services includes the obtaining of a stop payment order on a check, draft or order for payment of money owed for services performed in good faith and in substantial compliance with a written or oral contract for services, with the fraudulent intent to permanently deprive the provider of such labor, services or other such thing of value of the payment represented by such check, draft or order. Notwithstanding the penalties set forth elsewhere in this section, any person, firm or corporation violating the provisions of this subsection is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than two times the face value of the check, draft or order.~~

~~(f) Prosecution for an offense under this section does not bar or otherwise affect adversely any right or liability to damages, forfeiture or other civil remedy arising from any or all elements of the criminal offense.~~

Any person who knowingly makes or causes to be made, either directly or indirectly, or through any agency whatever, any false statement in writing, with intent that it shall be relied upon, respecting the financial condition, or means or ability to pay, of himself or herself, or any other person, firm or corporation, in whom or in which he or she is interested, or for whom or for which he or she is acting, for the purpose of procuring in any form whatever, either the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the discount of an account receivable, or the making, acceptance, discount, sale or indorsement of a bill of exchange, or promissory note, for the benefit either of himself or herself or of such person, firm or corporation; or who, knowing that a false statement in writing has been made, respecting the financial condition or means or ability to pay, of himself or herself, or such person, firm or corporation in which he or she is interested, or for whom he or she is acting, procures, upon the faith thereof, for the benefit either of

himself or herself, or of such person, firm or corporation, either or any of the things of benefit mentioned herein; or who, knowing that a statement in writing has been made, respecting the financial condition or means or ability to pay of himself or herself or such person, firm or corporation in which he or she is interested, or for whom he or she is acting, represents on a later day, either orally or in writing, that such statement theretofore made, if then again made on such day, would be then true, when in fact such statement, if then made, would be false, and procures upon the faith thereof, for the benefit either of himself or herself or of such other person, firm or corporation, either or any of the things of benefit mentioned herein, is guilty of a Class 3 misdemeanor.

§61-3-24a. Attempted or fraudulent use, forgery, traffic of credit cards; possession and transfer of credit cards and credit card making equipment; false or fraudulent use of telephonic services; penalties.

[Repealed.]

§61-3-24b. Making, selling, possessing, transferring, or advertising for sale a device or plans for a device designed to obtain or use telephone or telegraph service or facilities by false or fraudulent means; penalty.

[Repealed.]

§61-3-24c. Intercepting or monitoring customer telephone calls; penalty.

[Repealed.]

§61-3-24d. Fraudulent schemes; cumulation of amounts where common scheme exists; penalties.

[Repealed.]

§61-3-24e. Omission to subscribe for workers' compensation insurance; failure to file a premium tax report or pay premium taxes; false testimony or statements; failure to file reports; penalties; asset forfeiture; venue.

[Repealed.]

§61-3-24f. Wrongfully seeking workers' compensation; false testimony or statements; penalties; venue.

[Repealed.]

§61-3-24g. Workers' compensation health care offenses; fraud; theft or embezzlement; false statements; penalties; notice; prohibition against providing future services; penalties; asset forfeiture; venue.

[Repealed.]

§61-3-24h. Providing false documentation to workers' compensation, to the Insurance Commissioner or a private carrier of workers' compensation insurance; altering documents or certificates from workers' compensation; penalties; venue.

[Repealed.]

§61-3-25. Casting away, destroying, or interfering with floating craft or material; penalty; Publication of false advertisements; penalty.

~~If any person wilfully cast away or otherwise destroy any vessel within any county with intent to injure or defraud any owner thereof, or any owner of any property on board the same, or insurer of such a vessel or property, or any part thereof, he or she shall be deemed guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary of this state not less than one nor more than five years; or, if any person take, carry away, remove, injure, destroy, break, cut, detach, untie, loosen, impair, weaken, or otherwise interfere with any rope, line, fastening, connecting or other appliance used to tie, moor, attach or fasten to a bank of any stream, any floating craft, lumber, timber or material, the property of another, with intent to injure, defraud or damage such other person, or to cause such floating craft, lumber, timber or material to become adrift, or to float away, without the consent of the owner thereof, he or she shall be deemed guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary of this state not less than one nor more than five years.~~

Any person, firm, corporation or association, or their agents or employees, who, with intent to sell, or in anywise dispose of, merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or over any radio or television station, or internet posting, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue and deceptive, is guilty of a petty offense, and, upon conviction thereof shall be punished by a fine of not less than \$100 nor more than \$300, and such violation, by an agent or employee, is an offense as well by the principal or employer, and they may be indicted for the same, either jointly or severally.

~~§61-3-26. Interference with or destruction of buoys, signal lights or other aids to navigation; penalty~~ Fraudulently obtaining food or lodging; penalty.

~~If any person or persons shall wilfully or maliciously interfere with, injure or destroy any buoy, lamp, lantern, signal light or other aid to navigation erected or maintained by the government of this state, or of the United States, in this state, every person so offending shall be guilty of a misdemeanor, and, upon conviction, be punished by a fine not exceeding \$500, or by imprisonment in the jail of the county not exceeding six months, or both, according to the aggravation of the offense, in the discretion of the court.~~

Any person who receives, or causes to be furnished, any food or accommodation at any hotel, inn, eating, lodging or boardinghouse, or restaurant, with intent to defraud the owner or keeper of such hotel, inn, eating, lodging or boardinghouse, or restaurant, and any person who obtains credit at any hotel, inn, eating, lodging or boardinghouse, or restaurant, by the use of any

false pretense or device, or by depositing in such hotel, inn, eating, lodging or boardinghouse, or restaurant, any baggage or property of less value than the amount of such credit, or of the bill by such person incurred, with such fraudulent intent, and any person who, after obtaining credit or accommodation at any hotel, inn, eating, lodging or boardinghouse, or restaurant, absconds from such hotel, inn, eating, lodging or boardinghouse, or restaurant, or removes or attempts to remove therefrom any baggage or personal property of any kind subject to the lien provided for in §38-11-5 of this code, with intent to defraud the owner or keeper of such hotel, inn, eating, lodging or boardinghouse, or restaurant, without first having paid, satisfied or arranged all claims or bills for lodging, entertainment or accommodation, is guilty of a petty offense, and, upon conviction thereof, shall be fined not more than \$300. For a second or subsequent offense within five years of another offense under this section, that person is guilty of a Class 2 misdemeanor.

§61-3-27. Malicious killing of animals by poison or otherwise; penalty. Intoxication of person in charge of locomotive engine or car; penalties.

~~If a person maliciously administers poison to, or exposes poison with the intent that it should be taken by, any horse, cow or other animal of another person, or if any person maliciously maims, kills, or causes the death of any horse, cow or other animal of another person, of the value of \$100 or more, the person is guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not less than one year nor more than ten years; and, if the horse, cow or other animal is of less value than \$100, the person is guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than three months and fined not more than \$500. *Provided*, That this section shall not be construed to include dogs. Any person who, while in charge of a locomotive engine, whether the same be driven by steam, electricity or other motive power, running upon the railroad or traction lines of any corporation, or while acting as conductor or brakeman of any car or train of cars on such railroad or traction line, is intoxicated, is guilty of a Class 1 misdemeanor; and for the second offense is guilty of a Class 6 felony.~~

§61-3-28. Offenses against railroad property and persons on railroad property; definitions. Jumping on or off car or train in motion; driving vehicle upon track or bridge except at crossings; penalty; exceptions.

(a) As used in this section:

(1) ‘Bodily injury’ means substantial physical pain, illness or any impairment of physical injury.

(2) ‘Railroad’ means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways, including:

(i) Commuter or other short-haul railroad passenger service in a metropolitan or suburban area; and

(ii) High-speed ground transportation systems that connect metropolitan areas but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation;

(3) ‘Railroad carrier’ means a person providing railroad transportation; railroad carrier including a right-of-way, track, bridge, yard, shop, station, tunnel, viaduct, trestle, depot, warehouse, terminal, railroad signal system, train control system, centralized dispatching system, or any other structure, appurtenance, or equipment owned, leased, or used in the operation of any railroad carrier including a train, locomotive, engine, railroad car, work equipment, rolling stock, or safety device. ‘Railroad property’ does not include administrative buildings, administrative offices, or administrative office equipment;

(4) ‘Right-of-way’ means the track or roadbed owned, leased, or operated by a railroad carrier which is located on either side of its tracks and which is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs;

(5) ‘Yard’ means a system of parallel tracks, crossovers, and switches where railroad cars are switched and made up into trains,

and where railroad cars, locomotives and other rolling stock are kept when not in use or when awaiting repairs.

(b) Whoever willfully damages or attempts to damage railroad property or willfully endangers or attempts to endanger the safety of another, by:

(1) Taking, removing, altering, or otherwise vandalizing a railroad sign, placard or marker;

(2) Throwing or dropping an object capable of causing significant damage to railroad property at or on a locomotive, railroad car or train;

(3) Shooting a firearm or other dangerous weapon at a locomotive, railroad car or train;

(4) Removing appurtenances from, damaging, or otherwise impairing the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, on a railroad owned, leased, or operated by any railroad carrier, and without consent of the railroad carrier involved;

(5) Interfering or tampering with, or obstructing in any way, or threatening to interfere with, tamper with or obstruct in any way any railcar or locomotive, switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle, culvert, embankment, structure, or appliance pertaining to or connected with any railroad carrier without consent of the railroad carrier involved; or

(6) Taking, stealing, removing, changing, adding to, altering, or in any manner interfering with any part of the operating mechanism of any locomotive, engine, tender, coach, car, caboose, or motor car used or capable of being used by any railroad carrier in this state without consent of the railroad carrier is guilty of a felony; then

(7) If, by virtue of a person undertaking any of the above actions, railroad property damage does not exceed ~~\$1,000~~ 2,500 and no bodily injury occurs to another as a result of any of the

aforesaid acts, upon conviction thereof, the person shall be ~~fin~~
~~not less than \$500 nor more than \$5,000, confined in a regional jail~~
~~for not more than one year, or both~~ guilty of a Class I misdemeanor.
If bodily injury occurs to another not acting with or in connection
with the perpetrator as a result of any of the aforesaid acts or if
railroad property damage exceeds \$1,000 2,500, ~~upon conviction~~
~~thereof, the person shall be guilty of a Class 4 Felony fined not less~~
~~\$1,000 nor more than \$10,000, committed to the custody of the~~
Commission of Corrections for not less than one nor more than ten
years, or both.

(c) Any person, not a passenger or employee, who is found
trespassing upon any railroad or traction car or train of any railroad
in this state, by jumping on or off any car or train in motion, on its
arrival at or departure from any station or depot of such railroad, or
on the passage of any such car or train over any part of such
railroad; or shall drive any horse or any horse-drawn or motor-
driven vehicle across or upon any railroad track or bridge, except
at public, private or farm crossings, such person so offending is
guilty of a Class 3 misdemeanor.

(d) The provisions of this section do not apply to any person
employed by a railroad who is performing the duties assigned by
the railroad or who is otherwise performing within the scope of his
or her employment. The provisions of this section may be applied
in addition to any penalty set forth in §61-3B-8 of this Code.

~~§61-3-29. Damage or destruction of railroad or public utility~~
~~company property, or real or personal property used for~~
~~producing, generating, transmitting, distributing, treating~~
~~or collecting electricity, natural gas, coal, water,~~
~~wastewater, stormwater, telecommunications or cable~~
~~service; penalties; restitution. Procuring gas, water or~~
~~electricity, by device, with intent to defraud; penalty.~~

~~(a) Any person who knowingly and willfully damages or~~
~~destroys any commercial or industrial real or personal property~~
~~owned by a railroad company, or public utility company, or any~~
~~real or personal property used for producing, generating,~~
~~transmitting, distributing, treating storing or collecting electricity,~~

~~natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater, telecommunications or cable service, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$2,000, or confined in jail not more than one year, or both fined and confined.~~

~~(b) Any person who knowingly and willfully damages or destroys any commercial or industrial real or personal property owned by a railroad company, or public utility company, or any real or personal property used for producing, generating, transmitting, distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater, telecommunications or cable service and thereby creates a substantial risk of serious bodily injury to another or results in the interruption of service to the public is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned in a state correctional facility not less than one nor more than three years, or both fined and imprisoned.~~

~~(c) Any person who knowingly and willfully damages or destroys any commercial or industrial real or personal property owned by a railroad company, or public utility company, or any real or personal property used for producing, generating, transmitting, distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater, telecommunications or cable service and thereby causes serious bodily injury to another is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$50,000, or imprisoned in a state correctional facility not less than one nor more than five years, or both fined and imprisoned.~~

~~(d) Any person who knowingly and willfully damages or destroys any commercial or industrial real or personal property owned by a railroad company, or public utility company, or any real or personal property used for producing, generating, transmitting, distributing, treating, storing or collecting electricity, natural gas, oil, coal, timber, timber processing, water, wastewater, stormwater, telecommunications or cable service and thereby hinders, impairs or disrupts, directly or indirectly, the normal~~

~~operation of any equipment, device, system or service put in place, in whole or in part, to protect, promote or facilitate the health or safety of any person is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.~~

~~(e) For purposes of restitution under article eleven a of this article, a railroad company, public utility, business, or owner of property that is damaged, destroyed or disrupted may be deemed a victim and entitled to restitution, should the court so order, from any person convicted of an offense under this section.~~

~~(f) Nothing in this section limits or restricts the ability of an entity referred to in subsection (a), (b), (c) or (d) of this section or a property owner or other person who has been damaged or injured as a result of a violation of this section from seeking recovery for damages arising from violation of this section.~~

Any person who, with intent to injure or defraud, procures, makes, or causes to be made, any pipe, tube, wire, or other conductor of gas, water or electric energy, and connects the same, or causes it to be connected, with any main, service pipe or other pipe for conducting or supplying gas, or water, or any wires or other conductor of electric energy, in such manner as to supply gas, water or electric energy to any lamp, motor, burner, orifice, or any other device, by or at which gas, water or electric energy is consumed, around or without passing through the meter provided for measuring and registering the quantity of gas, water or electric energy consumed, or in any other manner so as to evade payment therefor, and every person who, with like intent, injures or alters any gas, water or electric meter, or obstructs its action, is guilty of a Class 2 misdemeanor.

~~§61-3-30. Removal, injury to or destruction of property, monuments designating land boundaries and of certain no trespassing signs; penalties. Dams or obstructions in watercourses; penalty.~~

~~(a) If any person unlawfully, but not feloniously, takes and carries away, or destroys, injures or defaces any property, real or~~

personal, of another, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500, or confined in the county or regional jail not more than one year, or both fined and imprisoned.

~~(b) Any person who unlawfully, willfully and intentionally destroys, injures or defaces the real or personal property of one or more other persons or entities during the same act, series of acts or course of conduct causing a loss in the value of the property in an amount of \$2,500 or more, is guilty of the felony offense of destruction of property and, upon conviction thereof, shall be fined not more than \$2,500 or imprisoned in the state correctional facility for not less than one year nor more than ten years, or in the discretion of the court, confined in the county or regional jail not more than one year, or both fined and imprisoned.~~

~~(c) If any person breaks down, destroys, injures, defaces or removes any monument erected for the purpose of designating the boundaries of a municipality, tract or lot of land, or any tree marked for that purpose, or any sign or notice upon private property designating no trespassing upon the property, except signs or notices posted in accordance with the provisions and purposes of sections seven, eight and ten, article two, chapter twenty of this code, he or she is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$20 nor more than \$200, or confined in the county or regional jail not less than one nor more than six months, or both fined and imprisoned. Magistrates have concurrent jurisdiction of all offenses arising under the provisions of this section. The provisions of this paragraph do not apply to the owner, or his or her agent, of the lands on which such signs or notices are posted. No person may fell any timber and permit the same to remain in any navigable or floatable stream of this state when to do so obstructs the passage of boats, rafts, staves, ties, or timber of any kind.~~

Except as may be provided in Chapter 20 or Chapter 22 of this code, no person may construct or maintain any dam or other structure in any stream or watercourse, which in any way prevents or obstructs the free and easy passage of fish up or down such stream or watercourse, without first providing as a part of such dam

or other structure a suitable fish ladder, way or flume, so constructed as to allow fish easily to ascend or descend the same; which ladder, way or flume shall be constructed only upon plans, in a manner, and at a place, satisfactory to the Division of Natural Resources: *Provided*, That if the director of the Division of Natural Resources determines that there is no substantial fish life in such stream or watercourse, or that the installation of a fish ladder, way or flume would not facilitate the free and easy passage of fish up or down a stream or watercourse, or that an industrial development project requires the construction of such dam or other structure and the installation of an operational fish ladder, way or flume is impracticable, the director may, in writing, permit the construction or maintenance of a dam or other structure in a stream or watercourse without providing a suitable fish ladder, way or flume; and in all navigable and floatable streams provisions shall be made in such dam or structure for the passage of boats and other crafts, logs and other materials: *Provided, however*, That this section does not relieve such person from liability for damage to any riparian owner on account of the construction or maintenance of such dam.

Any person who violates any of the provisions of this section is guilty of a Class 1 misdemeanor, and, whether a conviction is had under this section or not, such violation is a nuisance, which may be abated at the suit of any citizen or taxpayer, the county commission of the county, or, as to fish ladders, at the suit of the director of the Division of Natural Resources, and, if the same endangers county roads, the county commission may abate such nuisance peaceably without such suit.

§61-3-31. ~~Damage to or destruction of property by bailee for hire or loan; penalty; damages recoverable in civil action. Purchase of scrap metal by scrap metal purchasing businesses, salvage yards, or recycling facilities; certificates, records and reports of such purchases; criminal penalties.~~

If any bailee for hire or loan of any property shall wilfully, or with gross negligence, damage or destroy the property of any person, while the same is in the custody or possession of such bailee, he or she shall be deemed guilty of a misdemeanor, and,

~~upon conviction shall be fined not exceeding \$100, or be imprisoned in the county jail for a term not exceeding thirty days, in the discretion of the court, and shall be liable to the owner or owners of such property for the value thereof, or the injury done to the same, in a civil action.~~ (a) For the purposes of this section, the following terms have the following meanings.

'Business registration certificate' has the same meaning ascribed to it in section two, article twelve, chapter eleven of this code.

'Purchaser' means any person in the business of purchasing scrap metal or used auto parts, any salvage yard owner or operator, or any public or commercial recycling facility owner or operator, or any agent or employee thereof, who purchases any form of scrap metal or used auto parts.

'Scrap metal' means any form of copper, aluminum, brass, lead or other nonferrous metal of any kind, a catalytic converter or any materials derived from a catalytic converter, or steel railroad track and track material.

(b) In addition to any requirement necessary to do business in this state, a scrap metal dealer shall:

(1) Have a current valid business registration certificate from the Tax Commissioner;

(2) Register any scales used for weighing scrap metal with the Division of Labor Weights and Measures office;

(3) Provide a notice of recycling activity to the Department of Environmental Protection; and

(4) Register as a scrap metal dealer with the Secretary of State, who is hereby directed to maintain a list of scrap metal dealers and make it publicly available. The list shall include the dealer's business address, hours of operation, physical address, phone number, facsimile number, if any, and the name of the owners or principal officers of the business.

(c) Any purchaser of scrap metal shall make a record of such purchase that shall contain the following information for each transaction:

(1) The full name, permanent home and business addresses and telephone number, if available, of the seller;

(2) A description and the motor vehicle license number of any vehicle used to transport the purchased scrap metal to the place of purchase;

(3) The time and date of the transaction;

(4) A complete description of the kind, character and weight of the scrap metal purchased; and

(5) A statement of whether the scrap metal was purchased, taken as collateral for a loan or taken on consignment.

(d) A purchaser also shall require and retain from the seller of the scrap metal the following:

(1) A signed certificate of ownership of the scrap metal being sold or a signed authorization from the owner of the scrap metal to sell said scrap metal; and

(2) A photocopy of a valid driver's license or identification card issued by the West Virginia Division of Motor Vehicles of the person delivering the scrap metal, or in lieu thereof, any other valid photo identification of the seller issued by any other state or the federal government: *Provided*, That, if the purchaser has a copy of the seller's valid photo identification on file, the purchaser may reference the identification that is on file, without making a separate photocopy for each transaction.

(e) It is unlawful for any purchaser to purchase any scrap metal without obtaining and recording the information required under subsections (c) and (d) of this section. The provisions of this subsection do not apply to purchases made at wholesale under contract or as a result of a bidding process: *Provided*, That the purchaser retains and makes available for review consistent with

subsection (g) of this section the contract, bill of sale or similar documentation of the purchase made at wholesale under contract or as a result of a bidding process: *Provided, however,* That the purchaser may redact any pricing or other commercially sensitive information from said contract, bill of sale or similar documentation before making it available for inspection.

(f) No purchaser of scrap metal may knowingly purchase or possess a stainless steel or aluminum beer keg, whether damaged or undamaged, or any reasonably recognizable part thereof, for the intended purpose of reselling as scrap metal unless the purchaser receives the keg or keg parts from the beer manufacturer or its authorized representative.

(g) Using a form provided by the West Virginia State Police, or his or her own form, a purchaser of scrap metal shall retain the records required by this section at his or her place of business for not less than three years after the date of the purchase. Upon completion of a purchase, the records required to be retained at a purchaser's place of business shall be available for inspection by any law-enforcement officer or, upon written request and during the purchaser's regular business hours, by any investigator employed by a public utility or railroad to investigate the theft of public utility or railroad property: *Provided,* That in lieu of the purchaser keeping the records at their place of business, the purchaser shall file the records with the local detachment of the State Police and with the chief of police of the municipality or the sheriff of the county wherein he or she is transacting business within seventy-two hours of completion of the purchase. The records shall be retained by the State Police and the chief of police of the municipality or the sheriff for a period of not less than three years.

(h) To the extent otherwise permitted by law, any investigator employed by a public utility or railroad to investigate the theft of public utility or railroad property may accompany a law-enforcement officer upon the premises of a purchaser in the execution of a valid warrant or assist law enforcement in the review of records required to be retained pursuant to this section.

(i) Upon the entry of a final determination and order by a court of competent jurisdiction, scrap metal found to have been misappropriated, stolen, or taken under false pretenses may be returned to the proper owner of such material.

(j) Nothing in this section applies to scrap purchases by manufacturing facilities that melt, or otherwise alter the form of scrap metal and transform it into a new product or to the purchase or transportation of food and beverage containers or other nonindustrial materials having a marginal value per individual unit.

(k)(1) Nothing in this section applies to a purchaser of a vehicle on which a catalytic converter is installed, a purchaser of a catalytic converter intended for installation on a vehicle owned or leased by the purchaser, or any person who purchases, other than for purposes of resale, a catalytic converter, or a motor vehicle on which a catalytic converter is installed, for personal, family, household or business use.

(2) In transactions not exempted by subdivision (1) of this subsection, any person delivering five or more automobile catalytic converters to a scrap metal dealer shall, in addition to the requirements set forth in subsection (c) of this section, execute a document stating he or she is the lawful owner of the catalytic converters, or authorized by the lawful owner to sell the catalytic converters. Next to his or her signature he or she shall place a clear impression of his or her index finger or thumb that is in ink and free of smearing. This documentation shall be maintained consistent with subsection (c) of this section.

(l) Any person who knowingly or with fraudulent intent violates any provision of this section for which no penalty is specifically set forth, including the knowing failure to make a report or the knowing falsification of any required information, is guilty of a Class 3 misdemeanor and, upon conviction, shall be fined as an enterprise; upon conviction of a second offense thereof, shall be guilty of a Class 2 misdemeanor and, upon conviction, shall be fined as an enterprise and, notwithstanding the provisions of section five, article twelve, chapter eleven of this code, the court in which the conviction occurred shall issue an order directing the

Tax Commissioner to suspend for a period of six months any business registration certificate held by that person; and upon conviction of a third or subsequent offense thereof shall be guilty of a Class 1 misdemeanor and, upon conviction, shall be fined as an enterprise, and, notwithstanding the provisions of §11-12-5 of this code, the court in which the conviction occurred shall issue an order directing the Tax Commissioner to cancel any business registration certificate held by that person and state the date said cancellation shall take effect.

(m) No person may have or take possession of any scrap metal that he or she knows, or has reason to know, has been stolen or unlawfully obtained. Any person violating this subsection is guilty of the larceny of the value thereof.

(n) No scrap metal dealer may purchase, possess, or receive scrap metal that the scrap metal dealer knows, or has reason to know, has been stolen or unlawfully obtained by the seller. Any person violating this subsection is guilty of the larceny of the value thereof.

(o) No scrap metal dealer may purchase, possess, or receive any of the following items of scrap metal, or any reasonably recognizable part thereof, without obtaining written documentation which reflects that the seller is authorized to possess and sell the item or items and that the seller is in lawful possession of the item of scrap metal:

- (1) Utility access covers;
- (2) Street light poles or fixtures;
- (3) Road or bridge guard rails;
- (4) Water meter covers;
- (5) Highway or street signs;
- (6) Traffic directional or traffic control signs;
- (7) Traffic light signals;

(8) Any metal marked with any form of the name or initials of a governmental entity;

(9) Property marked as or readily identifiable as owned by a telephone, cable, electric, water or other utility provider;

(10) Property owned and marked by a railroad;

(11) Cemetery markers or vases;

(12) Historical markers;

(13) Utility manhole covers and storm water grates; and

(14) Fire hydrant or fire hydrant caps; or

(15) Twisted pair copper telecommunications wiring of twenty-five pair or greater in 19, 22, 24 or 26 gauge.

(p) Nothing in this section prohibits a scrap dealer from purchasing or taking possession of scrap metal knowing or have reason to know that it is stolen or obtained illegally if it is done pursuant to a written agreement with law-enforcement officials.

§61-3-32. Removal out of county of property securing claim; penalties; fraudulent disposition of personal property in possession by virtue of lease; notice to return; failure to return; penalty; right to immediate possession. Precious metals and gem dealers; records; prohibited acts.

~~(a) Any debtor under any security instrument conveying personal property, who retains possession of such personal property, and who, without the consent of the owner of the claim secured by such security instrument, and with intent to defraud, removes or causes to be removed any of the property securing such claim out of the county where it is situated at the time it became security for such claim or out of a county to which it was removed by virtue of a former consent of the owner of the claim under this section, or, with intent to defraud, secretes or sells the same, or converts the same to his or her own use, shall be guilty of a misdemeanor, and, upon conviction thereof, be fined not more than~~

~~\$500, or imprisoned not more than six months, or both, in the discretion of the court.~~

~~(b) Any person in possession or control of any personal property by virtue of or subject to a written lease who, with intent to defraud and without written consent of the owner, disposes of such property by sale or transfer, or, after receiving a written notice to return the property or otherwise make the property available to the lessor, secretes or converts such property to his or her own use and in so doing places the property in a location other than the locations described in the written lease, or removes or causes to be removed such property from the state shall be deemed guilty of the larceny of such property.~~

~~In any prosecution under the provisions of this subsection, written notice may be mailed by certified mail, addressed to the consumer at the address of the consumer stated in the lease, and served on the consumer within ten days of the expiration of the lease, which notice shall state that the lease has expired and that consumer has ten days from receipt of such notice to return the leased property. Proof that the consumer failed to return the property within ten days of receiving such notice shall in any prosecution under this subsection constitute prima facie evidence that the consumer intended to defraud the owner.~~

~~Whenever the consumer is a resident of the county in which the lease was contracted, the dealer, after written notice to the consumer within ten days after the expiration of the lease, has the right to immediate possession of the leased property, without formal process to secure return and possession of the leased property, if this can be done without breach of the peace. The dealer is not liable to the consumer for any damages for any action taken that is reasonable, necessary and incidental to the reclaiming or taking possession of the leased property. (a) Each person, firm, or corporation in the business of purchasing precious metals or precious gems, or both, for any purpose other than personal, family or household use, is subject to the provisions of this section. Each such purchaser shall secure from the seller of the precious metal or precious gem sufficient proof of lawful ownership or an affidavit~~

of ownership, the original of which shall be retained by the purchaser.

(b) Each such purchaser of a precious metal or precious gem shall truly and accurately list each purchase in a permanent record book clearly showing the kind, character and amount of metal or gem purchased, any special or unique quality or item of description concerning the metal or gem purchased; the date of purchase, the full name and residence address and mailing address of the seller, and any telephone number of the seller. Such record book shall be open to inspection by any law-enforcement officer in this state during normal business hours of the purchaser. If any such purchase is made within a municipality, the purchaser shall report all the information required by this section in writing to the chief of the police department of the municipality within 24 hours of the purchase. If any such purchase is made outside of a municipality, the purchaser shall report all the information required by this section in writing to the sheriff of the county wherein the purchase was made within 24 hours of the purchase. The information required by this section shall be preserved for a period of not less than three years.

(c) Each such purchaser of a precious metal or precious gem shall not, for a period of 10 calendar days after the purchase, dispose of such metal or gem, remove such metal or gem from the state or alter in any way the form or substance of such metal or gem.

(d) As used in this section, 'precious metal' means any gold, silver, platinum, or other valuable metal; and 'precious gem' means any diamond, pearl, emerald, ruby, sapphire or similar precious stone.

(e) Any person, firm or corporation violating any provision of this section is guilty of a Class 6 felony.

~~§61-3-33. Entry upon inclosed lands; penalty; liability for damages. Unauthorized use of dumpsters; penalties.~~

~~If any person shall, without the consent of the owner or occupier thereof, enter upon the enclosed lands of another and do~~

~~any damage, or shall, without such consent, pull down in whole or in part, or injure, any fence of another, or without permission open and leave open the gate or drawbar of another, or enter upon the enclosed lands of another after being forbidden so to do, or enter thereon and curse, or insult, or annoy, the owner thereof or any person rightfully there, he or she shall be guilty of a misdemeanor, and, upon conviction, be fined not less than five nor more than \$100; and, in default of the payment of the fine, the offender may, in the discretion of the judge or justice, be committed to jail for not less than five days. He or she shall, moreover, be liable to the party injured for the damages sustained by such injury; and it shall be no defense to any prosecution or suit under this section, that such fence was not a lawful fence.~~ (a) Any person who without authorization, and for that person's own benefit, dumps garbage or trash, or assists in the unauthorized dumping of garbage or trash, in a dumpster or other solid waste container which is located on the property of another person and leased or otherwise owned or maintained by another person is guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with subsection (b) of this section. The act of throwing isolated objects into a dumpster or other solid waste container in the prevention or elimination of litter is specifically excepted from any penalties under this section.

(b) Any person convicted of a misdemeanor under subsection (a) of this section shall be subject to the following penalties:

(1) Upon a first conviction under this section, the defendant shall be convicted of a petty offense and fined not less than \$50 nor more than \$200.

(2) Upon a second conviction under this section, the defendant shall be convicted of a petty offense and fined not less than \$200 nor more than \$300.

(3) Upon any subsequent conviction in excess of a second conviction under this section, the defendant shall be guilty of a Class 3 misdemeanor.

Notwithstanding the provisions of §61-11A-4 of this code or §50-3-2a of this code, the magistrate or court may order restitution

not to exceed the value of unauthorized solid waste services received.

§61-3-34. Taking or injuring garden or field crops; penalties. Identity theft; penalty.

~~If a person enters the orchard, field, garden or market garden of another person, without the consent of the owner or occupier thereof, and does any damage to the fruit, vegetables, grain or grass growing or being thereon, or takes, carries away, injures or destroys any of the grain, fruit, grass or vegetables growing or being thereon, the person is guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$500, or confined in jail not exceeding six months, or both. If a person commits any of the acts mentioned herein, and if it is charged in the indictment or information and proved that the property injured or destroyed, or taken or carried away, is of a greater value than \$1,000, the person is guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not less than one year nor more than ten years, or, in the discretion of the court, be confined in jail not more than one year and fined not less than fifty nor more than \$2,500. Any person who knowingly takes the name, birth date, social security number, or other identifying information of another person, without the consent of that other person, with the intent to fraudulently represent that he or she is the other person for the purpose of making financial or credit transactions in the other person's name, or for the purpose of gaining employment, is guilty of a Class 6 felony and, upon conviction, shall be liable to the owner in the amount of three times the value of all damages provable resulting from such identity theft: *Provided*, That the provisions of this section do not apply to any person who obtains another person's drivers license or other form of identification for the sole purpose of misrepresenting his or her age.~~

§61-3-35. Digging cultivated ginseng; penalty. Failure to pay for gasoline.

~~(a) It shall be unlawful for any person to dig cultivated ginseng or prospect for the same, on the lands of another without written consent of the owner or owners thereof first obtained. The property~~

~~must be properly posted with 'No Trespassing' signs, 'Private Property' signs, or other signs that explain to a person to stay off the property. The signs must be of reasonable size to be read by an average person and must be posted at reasonable intervals of at least two hundred feet around the property.~~

~~(b) Any person violating this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, and, for each subsequent offense, shall be fined not less than \$1,000.~~

Any person who knowingly and willfully drives a motor vehicle off the premises of an establishment where gasoline offered for retail sale was dispensed into the fuel tank of the motor vehicle with the intent to avoid payment for the gasoline that was so dispensed is guilty of the larceny thereof. In addition to the penalties provided for by §61-3-13 of this code, upon a second conviction for larceny of gasoline, the court shall order the suspension of the person's license to drive a motor vehicle for six months, and upon a third or subsequent conviction, the court shall order the suspension of the person's license to drive a motor vehicle for one year.

Whenever a second or subsequent offense occurs under the provisions of this section, the clerk of the court shall transmit a certified abstract of the judgment to the Division of Motor Vehicles within 72 hours of the conviction. Upon receipt of the abstract of judgment the Division of Motor Vehicles shall enter an order suspending the person's license to operate a motor vehicle for the appropriate time period.

~~§61-3-36. Anchoring or beaching shanty boats on lands of another; penalties. Scanning device or reencoder fraud; felony; definitions; and penalties.~~

~~If any person, being the owner or occupier of any shanty boat, or boat of like kind, who anchors, ties or beaches such boat upon the real estate of another for a longer period than twelve hours, except in case of distress, without the permission of the owner or agent of the owner of such real estate, upon which such boat is~~

~~anchored, tied or beached, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be fined not more than \$50, or confined in the county jail not more than thirty days, in the discretion of the court. And each twelve hours that such owner or occupier, after having been notified to remove, allows such boat to remain at such place, or anchored, tied or beached upon the premises of such owner, shall be treated as a separate offense. And any such person having been notified to remove such boat, who shall, within thirty days thereafter, gain anchor, tie or beach any boat upon the real estate of such owner, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding \$50 and imprisoned in the county jail not exceeding thirty days. Any justice of the peace in any county of the state where such offense or offenses shall be committed shall have jurisdiction thereof.~~

(a) As used in this section, the term:

‘Authorized user’ means the person to whom a payment card is issued or any other person acting with the permission of the person to whom the card is issued;

‘Merchant’ means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee or independent contractor of the owner or operator. A ‘merchant’ also means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money or anything else of value from the person;

‘Payment card’ means a credit card, charge card, debit card, hotel key card, stored value card or any other card that is issued to an authorized card user and that allows the user to obtain, purchase or receive goods, services, money, or anything else of value from a merchant;

‘Reencoder’ means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card; and

‘Scanning device’ means a scanner, reader or any other electronic device that is used to access, read, scan, obtain, memorize or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

(b) Any person who uses a scanning device to access, read, obtain, memorize or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card and with the intent to defraud the authorized user, the issuer of the authorized user’s payment card or a merchant is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$2,500 or confined in jail for not more than one year, or both fined and confined.

(c) Any person who uses a reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card without the permission of the authorized user of the card from which the information is being reencoded and with the intent to defraud the authorized user, the issuer of the authorized user’s payment card or a merchant is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$2,500 or confined in jail not more than one year, or both fined and confined.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, any person who is convicted of the provisions of subsection (b) or (c) of this section who has previously been convicted of a violation of either subsection is guilty of a felony and, upon conviction, shall be imprisoned in a state correctional facility for not less than one nor more than three years or fined not more than \$5,000, or both fined and imprisoned.

§61-3-37. False statement as to financial condition of person, firm or corporation; penalty. Possession of bogus receipts or universal product codes with intent to defraud; penalties.

~~Any person who shall knowingly make or cause to be made, either directly or indirectly, or through any agency whatsoever, any false statement in writing, with intent that it shall be relied upon, respecting the financial condition, or means or ability to pay, of himself or herself, or any other person, firm or corporation, in whom or in which he or she is interested, or for whom or for which he or she is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the discount of an account receivable, or the making, acceptance, discount, sale or indorsement of a bill of exchange, or promissory note, for the benefit either of himself or herself or of such person, firm or corporation; or who, knowing that a false statement in writing has been made, respecting the financial condition or means or ability to pay, of himself or herself, or such person, firm or corporation in which he or she is interested, or for whom he or she is acting, procures, upon the faith thereof, for the benefit either of himself or herself, or of such person, firm or corporation, either or any of the things of benefit mentioned herein; or who, knowing that a statement in writing has been made, respecting the financial condition or means or ability to pay of himself or herself or such person, firm or corporation in which he or she is interested, or for whom he or she is acting, represents on a later day, either orally or in writing, that such statement theretofore made, if then again made on such day, would be then true, when in fact such statement, if then made, would be false, and procures upon the faith thereof, for the benefit either of himself or herself or of such other person, firm or corporation, either or any of the things of benefit mentioned herein, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by confinement in jail for not more than one year, or by a fine of not more than \$1,000, or both fine and imprisonment, in the discretion of the court.~~ Any person who, with intent to defraud, possesses two or more fraudulently obtained or counterfeit sales receipts or fraudulently obtained or counterfeit

universal product codes, or possesses a device the purpose of which is to manufacture counterfeit retail sales receipts or counterfeit universal product code labels, is guilty of a Class 6 felony.

§61-3-38. Publication of false advertisements; penalty. Misrepresentation of past or present military status or military awards to obtain anything of value; penalties.

~~Any person, firm, corporation or association, or their agents or employees, who, with intent to sell, or in anywise dispose of, merchandise, securities, service, or anything offered by such person, firm, corporation or association, directly or indirectly, to the public for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or an interest therein, causes, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter, or over any radio station, or in any other way, an advertisement of any sort regarding merchandise, securities, service or anything so offered to the public, which advertisement contains any assertion, representation or statement of fact which is untrue and deceptive, shall be guilty of a misdemeanor, and, upon conviction thereof shall be punished by a fine of not less than \$10 nor more than \$100, and such violation, by an agent or employee, shall be deemed an offense as well by the principal or employer, and they may be indicted for the same, either jointly or severally.~~

(a) Any person who misrepresents himself or herself to:

(1) Be a member or veteran of the armed forces of the United States; or

(2) Be a recipient of any military commendation, decoration, or medal awarded to members of the armed forces of the United States or the several states who does so with the intent to obtain money, property, or a thing of value is guilty of the offense of misrepresentation of military status.

(b)(1) Any person violating the provisions of this section of this code where the value of the money, property, or thing of value is \$2,500 or more is guilty of a Class 6 felony.

(2) Any person violating the provisions of this section where the value of the money, property, or thing of value is less than \$2,500, is guilty of a Class 1 misdemeanor.

§61-3-39. Obtaining property in return for worthless check; penalty.

[Repealed.]

§61-3-39a. Making, issuing, etc., worthless checks on a preexisting debt; penalty.

[Repealed.]

§61-3-39b. Payment as defense.

[Repealed.]

§61-3-39c. Reason for dishonor; duty of drawee.

[Repealed.]

§61-3-39d. Prima facie evidence of knowledge; identity; penalty for providing false information.

[Repealed.]

§61-3-39e. Notice of dishonor by payee; service charge.

[Repealed.]

§61-3-39f. Manner of filing complaint for warrant; form.

[Repealed.]

§61-3-39g. Complaint; notice of complaint; issuance of warrant; payment procedures; costs.

[Repealed.]

§61-3-39h. Payment of costs in worthless check cases; disposition of certain costs.

[Repealed.]

§61-3-39i. Preparation of list of worthless check warrants.

[Repealed.]

§61-3-39j. Use of worthless check list upon receipt of complaint for warrant.

[Repealed.]

§61-3-39k. Duties of prosecuting attorney upon receipt of notice of multiple worthless check warrants; magistrate court clerk to advise complainant.

[Repealed.]

§61-3-39m. Creation and operation of a program for worthless check offenders; acceptance of person in program.

[Repealed.]

§61-3-39n. Notice to persons accepted to the worthless check restitution program.

[Repealed.]

§61-3-39o. Agreement to suspend prosecution of a person accepted into the restitution program.

[Repealed.]

§61-3-39p. Fees for participation in the worthless check restitution program.

[Repealed.]

§61-3-39q. Statements by individuals referred to or participating in the worthless check restitution program.

[Repealed.]

§61-3-40. Fraudulently obtaining food or lodging; penalty.

[Repealed.]

§61-3-41. Employees conservators of the peace; special railroad policemen; penalties.

[Repealed.]

§61-3-42. Intoxication of person in charge of locomotive engine or car; penalties.

[Repealed.]

§61-3-43. Jumping on or off car or train in motion; driving vehicle upon track or bridge except at crossings; penalty.

[Repealed.]

§61-3-44. Procuring gas, water or electricity, by device, with intent to defraud; penalty.

[Repealed.]

§61-3-45. Tampering with pipes, tubes, wires or electrical conductors; penalty.

[Repealed.]

§61-3-45a. Unlawful opening of pipes, pipelines, tanks, etc.; penalties.

[Repealed.]

§61-3-46. Use of slugs, false coins, etc., in coin-box telephone; penalty.

[Repealed.]

§61-3-47. Dams or obstructions in watercourses; penalty.

[Repealed.]

§61-3-48. Offenses involving damage to shrubbery, flowers, trees and timber; limitation of section; penalties.

[Repealed.]

§61-3-48a. Cutting, damaging or carrying away without written permission, timber, trees, growing plants or the products thereof; treble damages provided.

[Repealed.]

§61-3-49. Purchase of scrap metal by scrap metal purchasing businesses, salvage yards or recycling facilities; certificates, records and reports of such purchases; criminal penalties.

[Repealed.]

§61-3-49a. Unlawful sale of used, secondhand, rebuilt, repossessed, etc., watches and clocks; penalty; revocation of license to sell.

[Repealed.]

§61-3-49b. Disruption of communications and utilities services.

[Repealed.]

§61-3-50. Unauthorized transferral of recorded sounds; sale and possession; penalties; civil action; definition.

[Repealed.]

§61-3-51. Precious metals and gem dealers; records; prohibited acts.

[Repealed.]

§61-3-52. Wrongful injuries to timber; criminal penalties.

[Repealed.]

§61-3-53. Unauthorized use of dumpsters.

[Repealed.]

§61-3-54. Taking identity of another person; penalty.

[Repealed.]

§61-3-55. Failure to pay for gasoline.

[Repealed.]

§61-3-56. Scanning device or reencoder fraud; felony; definitions; and penalties.

[Repealed.]

§61-3-57. Possession of bogus receipts or universal product codes with intent to defraud; penalties.

[Repealed.]

§61-3-58. Unlawful operation of a recording device.

[Repealed.]

§61-3-59. Misrepresentation of past or present military status or military awards to obtain anything of value; penalties.

[Repealed.]

ARTICLE 3A. SHOPLIFTING**§61-3A-3. Penalties.**

A person convicted of shoplifting shall be punished as follows:

(a) First offense conviction. — Upon a first shoplifting conviction:

(1) When the value of the merchandise is less than or equal to \$2,500, the person is guilty of a ~~misdemeanor~~ petty offense and, shall be fined not more than \$250.

(2) When the value of the merchandise exceeds \$2,500, the person is guilty of a Class 3 misdemeanor ~~and, shall be fined not less than \$100 nor more than \$500, and such fine shall not be~~

~~suspended, or the person shall be confined in jail not more than sixty days, or both.~~

(b) Second offense conviction. — Upon a second shoplifting conviction:

(1) When the value of the merchandise is less than or equal to \$2,500, the person is guilty of a Class 2 misdemeanor ~~and, shall be fined not less than \$100 nor more than \$500, and such fine shall not be suspended, or the person shall be confined in jail not more than six months or both.~~

(2) When the value of the merchandise exceeds \$2,500, the person is guilty of a Class 1 misdemeanor ~~and, shall be fined not less than \$500 and shall be confined in jail for not less than six months nor more than one year.~~

(c) Third offense conviction. — Upon a third or subsequent shoplifting conviction, ~~regardless of if~~ if the value of the merchandise, ~~the person is guilty of a felony and, shall be fined not is less than \$2,500, the person is guilty of a Class 1 misdemeanor;~~ if the value of the merchandise is greater than \$2,500, they are guilty of a Class 6 Felony nor more than \$500, and shall be imprisoned in the penitentiary a state correctional facility for not less than one year nor more than 10 years. At least one year shall actually be spent in confinement and not subject to probation. Provided, That an order for home detention by the court pursuant to the provisions of §62-11B-1 et seq. of this code may be used as an alternative sentence to the any incarceration required by this subsection.

(d) Mandatory penalty. — In addition to the fines and imprisonment imposed by this section, in all cases of conviction for the offense of shoplifting, the court shall order the defendant to pay a penalty to the mercantile establishment involved in the amount of \$50, or double the value of the merchandise involved, whichever is higher. The mercantile establishment shall be entitled to collect such mandatory penalty as in the case of a civil judgment. This penalty shall be in addition to the mercantile establishment's rights to recover the stolen merchandise.

(e) In determining the number of prior shoplifting convictions for purposes of imposing punishment under this section, the court shall disregard all such convictions occurring more than seven years prior to the shoplifting offense in question.

§61-3A-4a. Criminal offenses involving theft detection shielding devices; detention.

[Repealed.]

§61-3A-7. Organized retail theft; offenses; penalties; cumulation; venue; forfeiture.

(a) (1) Any person who enters into a common scheme or plan with two or more other persons to violate the provisions of section one of this article involving merchandise of a cumulative value of \$2,0500 or more with the intent to sell, trade or otherwise distribute the merchandise ~~shall be~~ is guilty of a Class 5 felony, ~~and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than one nor more than ten years or be fined not less than \$1,000 nor more than \$10,000, or both imprisoned and fined.~~

~~(b)~~ (2) Notwithstanding the provisions of subsection (a) subdivision (1) of this subsection any person who enters into a common scheme or plan with two or more other persons to violate the provisions of section one of this article involving merchandise of a cumulative value of \$10,000 or more with the intent to sell, trade or otherwise distribute the merchandise ~~shall be~~ is guilty of a Class 4 felony, ~~and, upon conviction, shall be imprisoned in a state correctional facility for a determinate term of not less than two nor more than twenty years fined not less than \$2,000 nor more than \$25,000, or both imprisoned and fined.~~

~~(e)~~ (b) (1) Any person who purchases, trades or barter for, or otherwise obtains with any form of consideration, merchandise with a cumulative value of \$2,500 or more from persons he knows or has reason to believe was obtained by three or more persons engaged in a common scheme or plan to violate the provisions of section one of this article ~~shall be~~ is guilty of a Class 5 felony.

~~(2) (d) Any person who violates the provisions of this section by purchasing, trading or bartering for merchandise with a cumulative value of \$2,000 or more shall, upon conviction, be imprisoned in a state correctional facility for a determinate term of not less than one year, nor more than ten years or fined not less than \$1,000 nor more than \$10,000, or both imprisoned and fined.~~

~~(e) Notwithstanding the provisions of subsection (d) of this section, any Any person who violates the provisions of subsection (e) of this section by purchasing, trading or bartering for merchandise with a cumulative value of \$10,000 or more shall, upon conviction, be imprisoned in a state correctional facility for a determinate term of not less than two years, nor more than twenty years or fined not less than \$2,000 nor more than \$25,000, or both imprisoned and fined. purchases, trades, or barters for, or otherwise obtains with any form of consideration, merchandise with a cumulative value of \$10,000 or more from persons he knows or has reason to believe was obtained by three or more persons engaged in a common scheme or plan to violate the provisions of section one of this article is guilty of a Class 4 felony.~~

~~(f) (c) In determining the value of merchandise in a prosecution under this section, it is permissible to cumulate the value of merchandise obtained as part of a common scheme or plan.~~

~~(g) (d) Violations of subsections (a), and (b) ~~and~~ (e) of this section occurring in one or more counties of this state may be prosecuted in any county wherein any part of the offense was committed and the provisions of subsection (f) (c) of this section are applicable to offenses so occurring.~~

~~(h) (e)(1) Any interest a person has acquired or maintained in any cash, asset, or other property of value in any form, derived in part or total from any proceeds obtained from participating in a violation of this section, may be seized, and forfeited consistent with the procedures in the West Virginia Contraband Forfeiture Act, as provided in §60A-7-1 *et seq.* of this code.~~

(2) Notwithstanding subdivision (1) of this subsection, at sentencing for a violation of this section, the court may direct

disgorgement to the victim or victims of any cash, asset, or other property of value in any form, derived in part or total from any proceeds obtained from such violation.

ARTICLE 3B. TRESPASS.

§61-3B-2. Trespass in structure or conveyance.

(a) Any person who knowingly enters in, upon, or under a structure or conveyance without being authorized, licensed, or invited, or having been authorized, licensed, or invited is requested to depart by the owner, tenant, or the agent of the owner or tenant, and refuses to do so, is guilty of a ~~misdemeanor~~ petty offense 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 Class 2 misdemeanor and, ~~upon conviction thereof, shall be fined not more than \$100, or confined in jail not more than six months, or both fined and confined.~~ *Provided*, That for any first violation of this subsection offense of trespass on condemned property, a court may substitute community service or pretrial diversion in lieu of a fine or confinement for trespassing on condemned property.

(c) If the offender is armed with a firearm or other dangerous weapon while in the structure or conveyance, with the intent to do bodily injury to a human being in the structure or conveyance at the time the offender knowingly trespasses, the offender, notwithstanding the provisions of §61-7-1 of this code, is guilty of a Class 6 felony ~~misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500, or be confined in jail for not more than one year, or both fined and confined.~~

§61-3B-3. Trespass on property other than structure or conveyance. Removal, injury to or destruction of property, monuments designating land boundaries and of certain no trespassing signs; penalties.

(a) It is an unlawful trespass for any person to knowingly, and without being authorized, licensed, or invited, to enter or remain

on any property, other than a structure or conveyance, as to which notice against entering or remaining is either given by actual communication to such person or by posting, fencing or cultivation.

~~(b) (1) First offense conviction. — Upon a first trespassing conviction pursuant to subsection (a) of this section, the person is guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$500~~ petty offense and shall be fined not more than \$300.

~~(c) (2) Second offense conviction. — Upon a second trespassing conviction pursuant to subsection (a) of this section, the person is guilty of a Class 3 misdemeanor. and shall be fined not less than \$500 nor more than \$1,000.~~

~~(d) (3) Third offense conviction. — Upon a third and subsequent trespassing conviction pursuant to subsection (a) of this section, the person is guilty of a Class 2 misdemeanor and shall be fined not less than \$1,000 nor more than \$1,500.~~

(b) If any person unlawfully, but not feloniously, takes and carries away, or destroys, injures or defaces any property, real or personal, of another, he or she is guilty of a Class 1 misdemeanor.

(c) Any person who unlawfully, willfully and intentionally destroys, injures or defaces the real or personal property of one or more other persons or entities during the same act, series of acts or course of conduct causing a loss in the value of the property in an amount of \$2,500 or more, is guilty of the felony offense of destruction of property; a Class 6 Felony.

(d) If any person breaks down, destroys, injures, defaces or removes any monument erected for the purpose of designating the boundaries of a municipality, tract, or lot of land, or any tree marked for that purpose, or any sign or notice upon private property designating no trespassing upon the property, except signs or notices posted in accordance with the provisions and purposes of sections seven, eight and ten, article two, chapter twenty of this code, he or she is guilty of a Class 2 misdemeanor. The provisions

of this subsection do not apply to the owner, or his or her agent, of the lands on which such signs or notices are posted.

(e) If the offender defies an order to leave, personally communicated to him or her by the owner, tenant or agent of such owner or tenant, or if the offender opens any door, fence or gate, and thereby exposes animals, crops or other property to waste, destruction or freedom, or causes any damage to property by such trespassing on property other than a structure or conveyance, he or she is guilty of a Class 1 misdemeanor ~~and, upon conviction, shall be fined not less than \$100 nor more than \$500, confined in jail for not more than six months, or both fined and confined.~~

(f) If the offender is armed with a firearm or other dangerous weapon with the unlawful and felonious intent to do bodily injury to a human being during his or her commission of the offense of trespass on property other than a structure or conveyance, such offender, notwithstanding §61-7-1. of this code, he or she is guilty of a Class 6 felony ~~misdemeanor and, upon conviction, shall be confined in jail for not more than six months, fined not more than \$100, or both confined and fined.~~

(g) Notwithstanding and in addition to any other penalties provided by law, any person who performs or causes damage to property ~~in the course of~~ during a willful trespass shall be liable to the property owner in the amount of twice the amount of such damage. However, this ~~article~~ subsection shall not apply in a labor dispute.

§61-3B-4. Trespass on student residence premises or student facility premises of an institution of higher education.

(a) For the purposes of this section:

(1) ‘Residence hall’ means housing or a unit of housing provided primarily for students as a temporary or permanent dwelling place or abode and owned, operated, or controlled by an institution of higher education.

(2) ‘Student facility’ means a facility owned, operated, or controlled by an institution of higher education at which alcoholic

liquor or nonintoxicating beer is purchased, sold, or served to students enrolled at such institution, but does not include facilities at which athletic events are regularly scheduled and an admission fee is generally charged.

(3) 'Institution of higher education' means any state university, state college or state community college under the control, supervision, and management of the West Virginia board of trustees or West Virginia board of directors, or any other university, college, or institution of higher education in the state subject to rules for accreditation under the provisions of section seven, article four, chapter eighteen-b of this code.

(4) 'Person authorized to have access to a residence hall or student facility' means:

(A) A student who resides or dwells in the residence hall; or

(B) An invited guest of a student who resides or dwells in the residence hall; or

(C) A parent, guardian or person who has legal custody of a student who resides or dwells in the residence hall; or

(D) An employee of the institution of higher education who is required by such employment by such institution to be in the residence hall or student facility and who is acting within the scope of his or her employment; or

(E) A delivery person, repair person or other such person who is not an employee of the institution of higher education but who nonetheless has a legitimate commercial reason to be in the residence hall or student facility and who is acting pursuant to such legitimate commercial reason.

(b) If a person authorized to have access to a residence hall or a student facility enters such residence hall or student facility and by such presence or acts interferes with the peaceful or orderly operation of such residence hall or student facility, such person may be asked to leave such residence hall or student facility. If a person not authorized to have access to a residence hall or student

facility enters such a residence hall or student facility, that person may be asked to leave such residence hall or student facility notwithstanding the fact that he or she has not interfered with the peaceful or orderly operation of such residence hall or student facility or otherwise committed a breach of the peace or violated any statute or ordinance. Such request to leave may be made by the president or other administrative head of the institution of higher education, an employee designated by the president to maintain order in the residence hall or student facility, a campus police officer appointed pursuant to the provisions of section five, article four, chapter eighteen-b of this code, or a municipal police officer, a sheriff or deputy sheriff, or a member of the West Virginia state police.

(c) It ~~shall be~~ is unlawful for a person to remain in a residence hall or student facility after being asked to leave as provided for in subsection (b) of this section.

(d) Any person who violates the provisions of subsection (c) of this section ~~shall be~~ is guilty of a ~~misdemeanor~~ petty offense and, upon conviction thereof, shall be fined \$15. For any second or subsequent conviction for a violation occurring within one year after a previous violation for similar conduct, such person shall be fined an amount not to exceed \$100.

(e) This section shall not be construed to be in derogation of the common law, nor shall the provisions of this section contravene or infringe upon existing statutes related to the same subject.

§61-3B-5. Trespass on state government property; aiding and abetting; penalties.

(a) Notwithstanding any provision of this code to the contrary, any person who knowingly and willfully violates an administrative order of a court, a rule or emergency rule promulgated by the secretary of administration, a joint rule of the Senate and House of Delegates or a rule of the Senate or House of Delegates relating to access to government buildings or facilities or portions thereof under their control or who knowingly and willfully aids or abets another to violate such an order, rule or joint rule is guilty of a Class

~~3~~ misdemeanor and, upon conviction, shall be confined for not more than thirty days or fined less than \$500, or both.

(b) Any person who violates the provisions of subsection (a) of this section with the intent to commit a crime which constitutes a misdemeanor is guilty of a Class 1 misdemeanor and, upon conviction, shall be confined in a county or regional jail for not more than one year or fined not more than \$1,000, or both.

(c) Any person who violates the provisions of subsection (a) of this section with the intent to commit a crime which constitutes a felony is guilty of a Class 6 felony and, upon conviction, shall be incarcerated in a state correctional facility for not less than one nor more than five years or fined not more than \$5,000, or both.

§61-3B-6. Mine trespass; penalties.

(a) A person who willfully enters an underground coal mine, whether active workings, inactive workings, or abandoned workings, without permission, is guilty of a Class 6 felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than one year and nor more than 10 years accordingly and shall be fined not less than \$5,000 nor more than \$10,000: *Provided*, That for any conviction pursuant to this subsection, any inactive or abandoned underground workings must be either: (1) Sealed; or (2) clearly identified by signage at some conspicuous place near the entrance of the mine that includes a notice that the unauthorized entry into the mine is a felony criminal offense.

(b) A person who willfully enters a surface coal mine, whether active workings, inactive workings, or abandoned workings, without permission, and with the intent to commit a felony or any larceny, is guilty of a Class 3 misdemeanor and, upon conviction thereof, shall be confined in jail not less than one week and not more than one month accordingly and shall be fined not less than \$1,000 nor more than \$5,000. For a second conviction, pursuant to this subsection, the person shall be is guilty of a Class 6 felony and shall be confined in a correctional facility not less than one year and not more than five years accordingly and shall be fined not less

than \$5,000 nor more than \$10,000. For a third or subsequent conviction, pursuant to this subsection, the person ~~shall be~~ is guilty of a Class 4 felony and shall be confined ~~in a correctional facility not less than five years and not more than 10 years~~ accordingly and shall be fined not less than \$10,000, nor more than \$25,000.

(c) If a person violates subsections (a) or (b) of this section, and during any rescue efforts for any such person, there occurs an injury that causes substantial physical pain, illness, or any impairment of physical condition to any person other than himself or herself, then that person is guilty of a Class 2 misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one week and not more than ~~one year~~ six months and shall be fined not less than \$1,000 nor more than \$5,000: *Provided*, That such jail term shall include actual confinement of not less than seven days.

(d) If a person violates subsections (a) or (b) of this section, and during any rescue efforts for any such person, there occurs an injury that creates a substantial risk of death, causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ to any person other than himself or herself, then that person is guilty of a Class 6 felony and, upon conviction thereof, shall be imprisoned accordingly ~~in a correctional facility for not less than two nor more than 10 years~~ and shall be fined not less than \$5,000 nor more than \$10,000.

(e) If a person violates subsections (a) or (b) of this section, and during any rescue efforts of such person, the death of any other person occurs, then that person is guilty of a Class 4 felony and, upon conviction thereof, shall be imprisoned accordingly ~~in a correctional facility for not less than three nor more than 15 years~~ and shall be fined not less than \$10,000 nor more than \$25,000.

(f) Notwithstanding and in addition to any other penalties provided by law, any person who performs or causes damage to property during a willful trespass in violation of this section is liable to the property owner in the amount of twice the amount of such damage.

(g) The terms ‘mine’, ‘active workings’, ‘inactive workings’, and ‘abandoned workings’ have the same meaning ascribed to such terms as set forth in §22A-1-2 of this code.

(h) Nothing in this section ~~shall~~ may be construed to prevent lawful assembly and petition for the lawful redress of grievances, during any dispute, including, but not limited to, activities protected by the West Virginia Constitution or the United States Constitution or any statute of this state or the United States.

§61-3B-7. Agricultural trespass. Animal or crop facilities trespass; penalties; injunctive relief.

(a) As used in this section:

(1) ‘Animal’ means poultry, livestock, domestic animals, and captive cervids owned and possessed by persons licensed pursuant to §19-2H-1 *et seq.* of this code. The term does not include an animal used for illegal gaming.

(2) ‘Animal or crop facility’ means a facility that is used in the production, management, sale, or processing of animals or crops. The term includes, but is not limited to:

(A) A building, greenhouse, structure, laboratory, pasture, field, paddock, pond, impoundment, or premises where animals or crops are located;

(B) A managed bee colony;

(C) A livestock market;

(D) A facility used for the preparation of, or processing of, animals, crops, or value-added foods for sale; and

(E) A facility used to carry out any agritourism activity, as that term is defined and used in §19-36-1 *et seq.* of this code.

(3) ‘Crop’ means a shrub, vine, tree, seedling, shoot, slip, or other plant capable of producing food, fiber, medicine, nursery stock, floral products, or aesthetic beauty.

(b) Any person who willfully trespasses on the property of another which constitutes an animal or crop facility with the intent to commit larceny, destroy property, or disrupt the operation of the facility is guilty of willful trespass upon an animal or crop facility.

(c) Any person who conspires with one or more persons to violate subsection (b) of this section and commits an overt act in furtherance thereof is guilty of conspiracy to willfully trespass upon an animal or crop facility.

(d) Any person who violates subsection (b) of this section is guilty of a Class 3 misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000 or confined in jail accordingly not more than 30 days, or both fined and confined.

(e) Notwithstanding the provisions of subsection (d) of this section, any person convicted of a second or subsequent violation of subsection (b) or a violation of subsection (c) of this section is guilty of a Class 6 felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$10,000, or imprisoned ~~in a state correctional facility for not less than one nor more than five years~~ accordingly, or both fined and imprisoned.

(f) Notwithstanding and in addition to any other penalties provided by law, any person who performs, or causes damage to property in the course of, a willful trespass in violation of this section is liable to the owner or operator of the animal or crop facility in the amount of twice any damage caused.

(g) The owner or operator of an animal or crop facility may bring an action for injunctive relief against a person who engages in, or threatens to engage in, conduct that constitutes a violation of this section:

(1) The action may be brought in the circuit court of any county in which any part of the conduct or threatened conduct occurs or is threatened to occur.

(2) The circuit court may grant any appropriate injunctive relief to prevent or abate the conduct or threatened conduct, including a

temporary restraining order, preliminary injunction, or permanent injunction.

(3) The circuit court may issue injunctive relief without the owner or operator of an animal or crop facility giving security for its issuance.

§61-3B-8. Offenses involving damage to shrubbery, flowers, trees and timber; limitation of section; penalties. Cutting, damaging or carrying away without written permission, timber, trees, growing plants or the products thereof; treble damages provided.

(a) It is unlawful to break, cut, take, or carry away, or in any manner to damage any of the shrubbery or flowers, including everything under the title of flora, whether wild or cultivated, growing within one hundred yards on either side of any public road in this state, without the permission in writing of the owner or tenant of the land upon which the shrubbery or flowers, including everything under the title of flora, are growing.

(b) It is unlawful for any person willfully or knowingly to have in his or her possession, or to haul along any public road in this state, any trees, shrubbery, or flowers, including everything under the title of flora, which are protected by this section, unless the person so having in his or her possession or hauling the trees, shrubbery or flowers, and any other plant, has permission in writing so to do from the owner or tenant of the land from which they have been taken.

(c) At the request of a law-enforcement officer, a person engaged in any act which would constitute an offense under the provisions of subsection (a) or (b) of this section if such act were done without the required permission specified therein, shall display the written permission to such officer.

(d) Notwithstanding the provisions of this section:

(1) An employee of the department of highways or of a county or municipality performing roadside maintenance shall obtain the permission of an owner before engaging in any act specified in

subsection (a) or (b) of this section but is not required to obtain the permission in writing or to display the written permission as provided in subsection (c) of this section; and

(B) When any of the acts specified in subsection (a) or (b) of this section are permitted pursuant to an existing contract with the owner or a predecessor in title to the subject real estate, or by virtue of a judgment or decree of a court of competent jurisdiction, or by other operation of civil law, then a public utility as defined in §24-1-2 of this code, or any other person or entity holding such existing rights, may not be required to obtain any further permission of the present owner to exercise such existing rights: *Provided*, That the holder of such existing rights shall notify the owner of the land of the holder's intent to perform proposed work upon such lands, by first class United States mail, postage prepaid, addressed to the person and address of record upon the current land books in the assessor's office in the county in which the land is situate: *Provided, however*, That if the proposed work includes several tracts within a larger area, then notice shall be sufficient if provided by publication in a newspaper of general circulation within the county, describing the boundaries and type of work proposed within such area of work. Where prior notice is not practical by reason of a sudden emergency which endangers persons or property of either the owner of the real property, the holder of these rights, the general public or public service, then the owner of the real property shall be notified that the emergency work has been performed, such notice to be by first class United States mail, as above provided for prior notice to the current owner as indicated in the land book records. Where the emergency work was performed on several tracts within a larger area, then the notice shall be sufficient if made by publication in a newspaper of general circulation within the county.

(f) Any person who violates the provisions of subsection (a) or (b) of this section is guilty of a petty offense, and, upon conviction thereof, for the first offense shall be fined not more than \$50, and, for subsequent offenses, is guilty of a Class 3 misdemeanor for each offense.

(g) Magistrates have concurrent jurisdiction with circuit courts for offenses under this subsection.

(h) Any person who enters upon the land or premises of another without written permission from the owner of the land or premises in order to cut, damage, or carry away, or cause to be cut, damaged or carried away, any timber, trees, logs, posts, fruit, nuts, growing plant, or product of any growing plant, in violation of the provisions of this section or those of §61-3B-9 of this Code shall be liable to the owner in the amount of three times the value of the timber, trees, growing plants, or products thereof, which shall be in addition to and notwithstanding any other penalties by law provided.

§61-3B-9. Sanctions for certain illegal taking and wrongful injuries to timber; penalties.

(a) It is unlawful for any person to enter upon the lands or premises of another without written permission of the owner of the lands or premises, in order to break, cut, take or carry away or in any manner to damage or cause to be broken, cut, taken or carried away or in any manner damaged, any trees or timber on the land, any person who knowingly and intentionally cuts down, injures, removes, or destroys, without the permission of the owner or his or her agent, timber of a value of \$2,500 or less, is guilty of a Class 3 misdemeanor.

(b) Any person who knowingly and intentionally cuts down, injures, removes, or destroys, without the permission of the owner or his or her agent, timber of a value of \$2,500 or more, or who is convicted of a second or subsequent violation within 10 years of a violation of subdivision (a) of this section, shall be guilty of a Class 6 felony.

(c) The necessary trimming and removal of timber shall not be considered a willful and intentional cutting down, injuring, removing, or destroying of timber if performed

(1) to permit the construction, repair, maintenance, cleanup, and operations of pipelines and utility lines and appurtenances of public utilities and public service corporations,

(2) to aid registered land surveyors and professional engineers in the performance of their professional services,

(3) for boundary line maintenance,

(4) for the construction, maintenance, and repair of streets, roads, and highways, or for the control and regulation of traffic thereon by the state, its municipalities, and its political subdivisions

(5) for the lawful operations of registered land surveyors and professional engineers; and,

(6) for the lawful operation of pipeline companies, or by the lawful operators and product purchasers of natural resources other than timber.

(d) No fine or imprisonment imposed pursuant to this subsection shall be construed to limit any cause of action by a landowner for recovery of damages otherwise allowed by law. If a person charged or convicted under the provisions of this section enters into an agreement with a landowner to make financial restitution for the landowner's timber damages, any applicable statute of limitations effecting the landowner's cause of action shall be tolled from the date the agreement was entered into until a breach of the agreement occurs.

(e) If a criminal action is brought under the provisions of this section, the county prosecutor shall publish a Class 2 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code in the county where the property involved is located which provides a description of the property and a general summary of the timber damages. If a landowner suffering timber damages is not aware of those damages prior to the publication of the Class 2 legal advertisement, any applicable statute of limitations effecting the landowner's cause of action for the recovery of damages shall be tolled from the time the damages

were incurred, and may not commence until the date the final Class 2 legal advertisement is published.

§61-3B-10. Critical Infrastructure Protection Act; prohibiting certain acts, including trespass and conspiracy to trespass against property designated a critical infrastructure facility; criminal penalties; civil action; disruption of services; criminal penalties.

(a) This section may be referred to as the ‘West Virginia Critical Infrastructure Protection Act’.

(b) For purposes of this section:

‘Critical Infrastructure’ means systems and assets, whether physical or virtual, so vital to the United States of America or the State of West Virginia that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, state economic security, national public health or safety, state public health or safety, or any combination of those matters, whether such systems or assets are in operation or are under any state of construction.

‘Critical infrastructure facility’ means one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization:

(1) A petroleum or alumina refinery,

(2) An electrical power generating facility, substation, switching station, electrical control center or electric power transmission and distribution towers and lines and associated equipment infrastructure

(3) A chemical, polymer or rubber manufacturing facility,

(4) A water intake structure, water treatment facility, wastewater treatment plant or pump station,

(5) A natural gas compressor station,

(6) A liquid natural gas terminal or storage facility,

(7) Wireline and wireless telecommunications infrastructure, including but not limited to public safety communications towers and equipment, telephone lines, communications towers and tower equipment, radio towers and tower equipment,

(8) A port, railroad switching yard, trucking terminal, or other freight transportation facility, including any railroad track, railroad bridge, railroad shop, railroad station, railroad tunnel, railroad viaduct, railroad trestle, railroad depot, warehouse, terminal, railroad signal system or train control system, or any centralized dispatching or safety system for the same,

(9) A gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas or natural gas liquids,

(10) A transmission facility used by a federally licensed radio or television station,

(11) A steelmaking facility that uses an electric arc furnace to make steel,

(12) A facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program,

(13) A dam that is regulated by the state or federal government,

(14) A natural gas distribution utility facility including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, below- or above-ground pipeline or piping and truck loading or offloading facility, a natural gas storage facility, a natural gas transmission facility, or a natural gas utility distribution facility,

(15) A crude oil or refined products storage and distribution facility including, but not limited to, valve sites, pipeline

interconnections, pump station, metering station, below- or above-ground pipeline or piping and truck loading or offloading facility,

(16) Military facilities, including national guard facilities and equipment storage areas where non-military personnel are prohibited,

(17) Department of Highways facilities and locations near or on roads or highways where the public is prohibited,

(18) Health care facilities,

(19) A timber facility or timber processing facility, or

(20) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility that is enclosed by a fence, other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.

(c)(1) Any person who willfully and knowingly trespasses or enters property containing a critical infrastructure facility without permission by the owner of the property or lawful occupant thereof is guilty of a Class 2 misdemeanor, and, upon conviction thereof, shall be fined of not less than \$250 nor more than \$1,000, or confined in jail, or both fined and confined.

(2) If the intent of the trespasser is to willfully damage, destroy, vandalize, deface, tamper with equipment, or impede or inhibit operations of the critical infrastructure facility, the person is guilty of a Class 6 felony and, upon conviction thereof, shall be fined not less than \$500 nor more than \$3,000, or imprisoned in a state correctional facility accordingly, or both fined and imprisoned.

(3) Any person who willfully damages, destroys, vandalizes, defaces or tampers with equipment in a critical infrastructure facility is guilty of a Class 5 felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000, or imprisoned in a state correctional facility accordingly, or both fined and imprisoned.

(4) If a person willfully damages, destroys, vandalizes, defaces or tampers with equipment in a critical infrastructure facility; and such action,

(A) thereby creates a substantial risk of serious bodily injury to another, or results in the interruption of service to the public; or

(B) thereby hinders, impairs or disrupts, directly or indirectly, the normal operation of any equipment, device, system or service put in place, in whole or in part, to protect, promote or facilitate the health or safety of any person; or

(C) thereby causes serious bodily injury to another; then that person is guilty of a Class 4 felony.

(5) Any person or organization who conspires with any person or organization to commit the offense of trespass against a critical infrastructure facility in violation of subdivision (1) of subsection (c) of this section is guilty of a Class 2 misdemeanor and, upon conviction thereof, shall be fined accordingly. Any person or organization who conspires with any person or organization to willfully damage, destroy, vandalize, deface, or tamper with equipment in a critical infrastructure facility is guilty of a Class 6 felony and, shall, upon conviction thereof, be fined accordingly.

(d) Any person who causes intentionally trespasses against a critical infrastructure facility and by such act causes a disruption of communication services or public utility services to ten or more households or subscribers shall be guilty of a Class 2 misdemeanor. For a second offense, the person is guilty of a Class 6 felony; and for third and subsequent offenses, the person is guilty of a Class 5 felony.

(e)(1) Any person who is arrested for or convicted of an offense under this section may be held civilly liable for any damages to personal or real property while trespassing, in addition to the penalties imposed by this section.

(2) Any person or entity that compensates, provides consideration to, or remunerates a person for trespassing as

described in subdivision (1) of subsection (c) of this section may also be held liable for damages to personal or real property committed by the person compensated or remunerated for trespassing.

(f) The provisions of this section do not apply to:

(1) Any person or organization:

(i) Monitoring or attentive to compliance with public or worker safety laws, or, wage and hour requirements;

(ii) Picketing at the workplace that is otherwise lawful and arises out of a bona fide labor dispute including any controversy concerning wages, salaries, hours, working conditions or benefits, including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements; or

(iii) Engaging in union organizing or recruitment activities including attempting to reach workers verbally, in writing with pamphlets and investigation of non-union working conditions, or both.

(2) The right to free speech or assembly, including, but not limited to, protesting and picketing.

(3) To a contractor who has a contractual relationship with a critical infrastructure facility and the contractor's employees are acting within their scope of employment performing work at a critical infrastructure facility.

ARTICLE 3C. WEST VIRGINIA COMPUTER CRIME AND ABUSE ACT.

§61-3C-2. Legislative findings. Definitions.

The Legislature finds that:

~~(a) The computer and related industries play an essential role in the commerce and welfare of this state.~~

~~(b) Computer-related crime is a growing problem in business and government.~~

~~(c) Computer related crime has a direct effect on state commerce and can result in serious economic and, in some cases, physical harm to the public.~~

~~(d) Because of the pervasiveness of computers in today's society, opportunities are great for computer related crimes through the introduction of false records into a computer or computer system, the unauthorized use of computers and computer facilities, the alteration and destruction of computers, computer programs and computer data, and the theft of computer resources, computer software and computer data.~~

~~(e) Because computers have now become an integral part of society, the Legislature recognizes the need to protect the rights of owners and legitimate users of computers and computer systems, as well as the privacy interest of the general public, from those who abuse computers and computer systems.~~

~~(f) While various forms of computer crime or abuse might possibly be the subject of criminal charges or civil suit based on other provisions of law, it is appropriate and desirable that a supplemental and additional statute be provided which specifically proscribes various forms of computer crime and abuse and provides criminal penalties and civil remedies therefor.~~

As used in this article, unless the context clearly indicates otherwise:

'Access' means to instruct, communicate with, store data in, retrieve data from, intercept data from or otherwise make use of any computer, computer network, computer program, computer software, computer data or other computer resources.

'Authorization' means the express or implied consent given by a person to another to access or use said person's computer, computer network, computer program, computer software, computer system, password, identifying code or personal identification number.

‘Computer’ means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic or storage functions and includes any data storage facility or communication facility directly related to or operating in conjunction with such device. The term ‘computer’ includes any connected or directly related device, equipment or facility which enables the computer to store, retrieve or communicate computer programs, computer data or the results of computer operations to or from a person, another computer or another device, file servers, mainframe systems, desktop personal computers, laptop personal computers, tablet personal computers, cellular telephones, game consoles and any other electronic data storage device or equipment, but such term does not include an automated typewriter or typesetter, a portable hand-held calculator or other similar device.

‘Computer contaminant’ means any set of computer instructions that are designed to damage or destroy information within a computer, computer system or computer network without the consent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms that are self-replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources or damage or destroy the normal operation of the computer.

‘Computer data’ means any representation of knowledge, facts, concepts, instruction or other information computed, classified, processed, transmitted, received, retrieved, originated, stored, manifested, measured, detected, recorded, reproduced, handled or utilized by a computer, computer network, computer program or computer software and may be in any medium, including, but not limited to, computer printouts, microfilm, microfiche, magnetic storage media, optical storage media, punch paper tape or punch cards, or it may be stored internally in read-only memory or random access memory of a computer or any other peripheral device.

‘Computer network’ means a set of connected devices and communication facilities, including more than one computer, with

the capability to transmit computer data among them through such communication facilities.

‘Computer operations’ means arithmetic, logical, storage, display, monitoring or retrieval functions or any combination thereof and includes, but is not limited to, communication with, storage of data in or to, or retrieval of data from any device and the human manual manipulation of electronic magnetic impulses. A ‘computer operation’ for a particular computer shall also mean any function for which that computer was designed.

‘Computer program’ means an ordered set of computer data representing instructions or statements, in a form readable by a computer, which controls, directs or otherwise influences the functioning of a computer or computer network.

‘Computer software’ means a set of computer programs, procedures and associated documentation concerned with computer data or with the operation of a computer, computer program or computer network.

‘Computer services’ means computer access time, computer data processing or computer data storage and the computer data processed or stored in connection therewith.

‘Computer supplies’ means punch cards, paper tape, magnetic tape, magnetic disks or diskettes, optical disks or diskettes, disk or diskette packs, paper, microfilm and any other tangible input, output or storage medium used in connection with a computer, computer network, computer data, computer software or computer program.

‘Computer resources’ includes, but is not limited to, information retrieval; computer data processing, transmission and storage; and any other functions performed, in whole or in part, by the use of a computer, computer network, computer software or computer program.

‘Owner’ means any person who owns or leases or is a licensee of a computer, computer network, computer data, computer

program, computer software, computer resources or computer supplies.

'Person' means any natural person, general partnership, limited partnership, trust, association, corporation, joint venture or any state, county or municipal government and any subdivision, branch, department, or agency thereof.

'Property' includes:

(1) Real property;

(2) Computers and computer networks;

(3) Financial instruments, computer data, computer programs, computer software and all other personal property regardless of whether they are:

(I) Tangible or intangible;

(ii) In a format readable by humans or by a computer;

(iii) In transit between computers or within a computer network or between any devices which comprise a computer; or

(iv) Located on any paper or in any device on which it is stored by a computer or by a human; and

(4) Computer services.

'Value' means having any potential to provide any direct or indirect gain or advantage to any person.

'Financial instrument' includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security or any computerized representation thereof.

'Value of property or computer services' shall be: (1) The market value of the property or computer services at the time of a violation of this article; or (2) if the property or computer services

are unrecoverable, damaged or destroyed as a result of a violation of section six or seven of this article, the cost of reproducing or replacing the property or computer services at the time of the violation.

§61-3C-3. Definitions. Computer fraud; access to Legislative or state-owned computer; criminal penalties.

~~As used in this article, unless the context clearly indicates otherwise:~~

~~(a) ‘Access’ means to instruct, communicate with, store data in, retrieve data from, intercept data from or otherwise make use of any computer, computer network, computer program, computer software, computer data or other computer resources.~~

~~(b) ‘Authorization’ means the express or implied consent given by a person to another to access or use said person’s computer, computer network, computer program, computer software, computer system, password, identifying code or personal identification number.~~

~~(c) ‘Computer’ means an electronic, magnetic, optical, electrochemical or other high-speed data processing device performing logical, arithmetic or storage functions and includes any data storage facility or communication facility directly related to or operating in conjunction with such device. The term ‘computer’ includes any connected or directly related device, equipment or facility which enables the computer to store, retrieve or communicate computer programs, computer data or the results of computer operations to or from a person, another computer or another device, file servers, mainframe systems, desktop personal computers, laptop personal computers, tablet personal computers, cellular telephones, game consoles and any other electronic data storage device or equipment, but such term does not include an automated typewriter or typesetter, a portable hand-held calculator or other similar device.~~

~~(d) ‘Computer contaminant’ means any set of computer instructions that are designed to damage or destroy information~~

within a computer, computer system or computer network without the consent or permission of the owner of the information. They include, but are not limited to, a group of computer instructions commonly called viruses or worms that are self replicating or self-propagating and are designed to contaminate other computer programs or computer data, consume computer resources or damage or destroy the normal operation of the computer.

(e) 'Computer data' means any representation of knowledge, facts, concepts, instruction or other information computed, classified, processed, transmitted, received, retrieved, originated, stored, manifested, measured, detected, recorded, reproduced, handled or utilized by a computer, computer network, computer program or computer software and may be in any medium, including, but not limited to, computer printouts, microfilm, microfiche, magnetic storage media, optical storage media, punch paper tape or punch cards, or it may be stored internally in read-only memory or random access memory of a computer or any other peripheral device.

(f) 'Computer network' means a set of connected devices and communication facilities, including more than one computer, with the capability to transmit computer data among them through such communication facilities.

(g) 'Computer operations' means arithmetic, logical, storage, display, monitoring or retrieval functions or any combination thereof and includes, but is not limited to, communication with, storage of data in or to, or retrieval of data from any device and the human manual manipulation of electronic magnetic impulses. A 'computer operation' for a particular computer shall also mean any function for which that computer was designed.

(h) 'Computer program' means an ordered set of computer data representing instructions or statements, in a form readable by a computer, which controls, directs or otherwise influences the functioning of a computer or computer network.

(I) 'Computer software' means a set of computer programs, procedures and associated documentation concerned with

~~computer data or with the operation of a computer, computer program or computer network.~~

~~(j) 'Computer services' means computer access time, computer data processing or computer data storage and the computer data processed or stored in connection therewith.~~

~~(k) 'Computer supplies' means punch cards, paper tape, magnetic tape, magnetic disks or diskettes, optical disks or diskettes, disk or diskette packs, paper, microfilm and any other tangible input, output or storage medium used in connection with a computer, computer network, computer data, computer software or computer program.~~

~~(l) 'Computer resources' includes, but is not limited to, information retrieval; computer data processing, transmission and storage; and any other functions performed, in whole or in part, by the use of a computer, computer network, computer software or computer program.~~

~~(m) 'Owner' means any person who owns or leases or is a licensee of a computer, computer network, computer data, computer program, computer software, computer resources or computer supplies.~~

~~(n) 'Person' means any natural person, general partnership, limited partnership, trust, association, corporation, joint venture or any state, county or municipal government and any subdivision, branch, department or agency thereof.~~

~~(o) 'Property' includes:~~

~~(1) Real property;~~

~~(2) Computers and computer networks;~~

~~(3) Financial instruments, computer data, computer programs, computer software and all other personal property regardless of whether they are:~~

~~(1) Tangible or intangible;~~

~~(ii) In a format readable by humans or by a computer;~~

~~(iii) In transit between computers or within a computer network or between any devices which comprise a computer; or~~

~~(iv) Located on any paper or in any device on which it is stored by a computer or by a human; and~~

~~(4) Computer services.~~

~~(p) 'Value' means having any potential to provide any direct or indirect gain or advantage to any person.~~

~~(q) 'Financial instrument' includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security or any computerized representation thereof.~~

~~(r) 'Value of property or computer services' shall be: (1) The market value of the property or computer services at the time of a violation of this article; or (2) if the property or computer services are unrecoverable, damaged or destroyed as a result of a violation of section six or seven of this article, the cost of reproducing or replacing the property or computer services at the time of the violation.~~

(a) Any person who, knowingly and willfully, directly, or indirectly, accesses or causes to be accessed any computer, computer services or computer network for the purpose of (1) executing any scheme or artifice to defraud or (2) obtaining money, property or services by means of fraudulent pretenses, representations or promises is guilty of a Class 5 felony.

(b)(1) Any person who, knowingly and willfully, directly, or indirectly, accesses, attempts to access, or causes to be accessed any data stored in a Legislative or state-owned computer without authorization is guilty of a Class 6 felony.

(2) Notwithstanding the provisions of §61-3C-16. of this code to the contrary, in any criminal prosecution under this subsection

against a state employee, public officer, or member of the Legislature, it is not a defense (A) that the defendant had reasonable grounds to believe that he or she had authorization to access the data merely because of his or her employment or membership, or (B) that the defendant could not have reasonably known that he or she did not have authorization to access the data: *Provided*, That the Joint Committee on Government and Finance shall promulgate rules for the respective houses of the Legislature regarding appropriate access of members and staff and others to the legislative computer system.

§61-3C-4. Computer fraud; access to Legislature computer; criminal penalties. Unauthorized access to computer services.

~~(a) Any person who, knowingly and willfully, directly or indirectly, accesses or causes to be accessed any computer, computer services or computer network for the purpose of (1) executing any scheme or artifice to defraud or (2) obtaining money, property or services by means of fraudulent pretenses, representations or promises is guilty of a felony, and, upon conviction thereof, shall be fined not more than \$10,000 or imprisoned in the penitentiary for not more than ten years, or both fined and imprisoned.~~

~~(b)(1) Any person who, knowingly and willfully, directly or indirectly, accesses, attempts to access, or causes to be accessed any data stored in a computer owned by the Legislature without authorization is guilty of a felony, and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in the penitentiary for not more than five years, or both fined and imprisoned.~~

~~(2) Notwithstanding the provisions of section seventeen of this article to the contrary, in any criminal prosecution under this subsection against an employee or member of the Legislature, it shall not be a defense (A) that the defendant had reasonable grounds to believe that he or she had authorization to access the data merely because of his or her employment or membership, or (B) that the defendant could not have reasonably known he or she~~

~~did not have authorization to access the data: *Provided*, That the Joint Committee on Government and Finance shall promulgate rules for the respective houses of the Legislature regarding appropriate access of members and staff and others to the legislative computer system.~~

Any person who knowingly, willfully and without authorization, directly or indirectly, accesses or causes to be accessed a computer or computer network with the intent to obtain computer services is guilty of a Class 1 misdemeanor, and, upon conviction thereof, shall, further, be liable to the value of any economic benefit derived from such unauthorized access.

§61-3C-5. Unauthorized access to computer services.
Unauthorized possession of computer data or programs.

~~Any person who knowingly, willfully and without authorization, directly or indirectly, accesses or causes to be accessed a computer or computer network with the intent to obtain computer services shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$200 nor more than \$1,000 or confined in the county jail not more than one year, or both.~~

(a) Any person who knowingly, willfully and without authorization possesses any computer data or computer program belonging to another and having a value of \$25,000 or more is guilty of a Class 5 felony.

(b) Any person who knowingly, willfully and without authorization possesses any computer data or computer program belonging to another and having a value of less than \$25,000 but greater than \$2,500 is guilty of a Class 6 felony.

(c) Any person who knowingly, willfully and without authorization possesses any computer data or computer program belonging to another and having a value of \$2,500 or less is guilty of a Class 1 misdemeanor.

§61-3C-6. Unauthorized possession of computer data or programs. Alteration, destruction, etc., of computer equipment.

~~(a) Any person who knowingly, willfully and without authorization possesses any computer data or computer program belonging to another and having a value of \$5,000 or more shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than \$10,000 or imprisoned in the penitentiary for not more than ten years, or both.~~

~~(b) Any person who knowingly, willfully and without authorization possesses any computer data or computer program belonging to another and having a value of less than \$5,000 shall be guilty of a misdemeanor, and, upon conviction thereof shall be fined not more than \$1,000 or confined in the county jail for not more than one year, or both.~~

Any person who knowingly, willfully and without authorization, directly or indirectly, tampers with, deletes, alters, damages or destroys or attempts to tamper with, delete, alter, damage or destroy any computer, computer network, computer software, computer resources, computer program or computer data or who knowingly introduces, directly or indirectly, a computer contaminant into any computer, computer program or computer network which results in a loss of value of property or computer services, is guilty of larceny of the value of the property or services so lost.

§61-3C-7. Alteration, destruction, etc., of computer equipment. Disruption of computer services.

~~(a) *Misdemeanor offenses.*— Any person who knowingly, willfully and without authorization, directly or indirectly, tampers with, deletes, alters, damages or destroys or attempts to tamper with, delete, alter, damage or destroy any computer, computer network, computer software, computer resources, computer program or computer data or who knowingly introduces, directly or indirectly, a computer contaminant into any computer, computer program or computer network which results in a loss of value of~~

~~property or computer services up to \$1,000, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in the county or regional jail not more than six months, or both.~~

~~(b) Felony offenses.— Any person who knowingly, willfully and without authorization, directly or indirectly, damages or destroys or attempts to damage or destroy any computer, computer network, computer software, computer resources, computer program or computer data by knowingly introducing, directly or indirectly, a computer contaminant into any computer, computer program or computer network which results in a loss of value of property or computer services more than \$1,000 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$200 and not more than \$10,000 or confined in a state correctional facility not more than ten years, or both, or, in the discretion of the court, be fined not less than \$200 nor more than \$1,000 and confined in the county or regional jail not more than one year.~~

(a) Any person who knowingly, willfully and without authorization, directly or indirectly, disrupts or degrades or causes the disruption or degradation of computer services or denies or causes the denial of computer services to an authorized recipient or user of such computer services, is guilty of a Class 6 Felony;

(b) If such act results in a serious risk of bodily injury or death to any person, or in such bodily injury or death, the person is guilty of a Class 4 Felony.

§61-3C-8. Disruption of computer services. Unauthorized possession of computer information, etc.

~~Any person who knowingly, willfully and without authorization, directly or indirectly, disrupts or degrades or causes the disruption or degradation of computer services or denies or causes the denial of computer services to an authorized recipient or user of such computer services, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$200 nor more than \$1,000 or confined in the county jail not more than one year, or both. Any person who knowingly, willfully and without~~

authorization, possesses any computer data, computer software, computer supplies or a computer program which he or she knows or reasonably should know was obtained in violation of any section of this article is guilty of a Class 3 misdemeanor.

§61-3C-9. Unauthorized possession of computer information, etc. Disclosure of computer security information.

~~Any person who knowingly, willfully and without authorization, possesses any computer data, computer software, computer supplies or a computer program which he or she knows or reasonably should know was obtained in violation of any section of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$200 nor more than \$1,000 or confined in the county jail for not more than one year, or both.~~

Any person who knowingly, willfully and without authorization discloses a password, identifying code, personal identification number or other confidential information about a computer security system to another person is guilty of a Class 6 felony.

§61-3C-10. Disclosure of computer security information. Obtaining confidential public information.

~~Any person who knowingly, willfully and without authorization discloses a password, identifying code, personal identification number or other confidential information about a computer security system to another person shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500 or confined in the county jail for not more than six months, or both.~~

(a) Any person who knowingly, willfully and without authorization accesses or causes to be accessed any computer or computer network and thereby obtains information filed by any person with the state or any county or municipality which is required by law to be kept confidential is guilty of a Class 6 felony.

(b) Any person who knowingly, willfully and without authorization accesses or causes to be accessed any computer or computer network with the intent to cause harm to another, whether physical, financial, or reputational, and thereby obtains information filed by any person with the state or any county or municipality which is required by law to be kept confidential is guilty of a Class 5 felony.

§61-3C-11. ~~Obtaining confidential public information.~~
Computer invasion of privacy.

~~Any person who knowingly, willfully and without authorization accesses or causes to be accessed any computer or computer network and thereby obtains information filed by any person with the state or any county or municipality which is required by law to be kept confidential shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500 or confined in the county jail not more than six months, or both.~~

(a) Any person who knowingly, willfully and without authorization accesses a computer or computer network and examines any employment, salary, credit or any other financial or personal information relating to any other person, after the time at which the offender knows or reasonably should know that he or she is without authorization to view the information displayed, is guilty of a Class 1 misdemeanor.

Any person who knowingly, willfully and without authorization accesses a computer or computer network with the intent to cause harm to another, whether physical, financial, or reputational, and examines any employment, salary, credit or any other financial or personal information relating to any other person, after the time at which the offender knows or reasonably should know that he or she is without authorization to view the information displayed, is guilty of a Class 6 felony.

§61-3C-12. ~~Computer invasion of privacy.~~ Fraud and related activity in connection with access devices.

~~Any person who knowingly, willfully and without authorization accesses a computer or computer network and~~

~~examines any employment, salary, credit or any other financial or personal information relating to any other person, after the time at which the offender knows or reasonably should know that he or she is without authorization to view the information displayed, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$500 or confined in the county jail for not more than six months, or both.~~

(a) As used in this section, the following terms shall have the following meanings:

‘Access device’ means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument), or that can be used to initiate a transfer of any other thing of value;

‘Counterfeit access device’ means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;

‘Unauthorized access device’ means any access device that is lost, stolen, expired, revoked, canceled, or obtained without authority;

‘Produce’ includes design, alter, authenticate, duplicate, or assemble;

‘Traffic’ means transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of.

(b) Any person who knowingly and willfully possesses any counterfeit or unauthorized access device is guilty of a Class 2 misdemeanor.

(c) (1) Any person who knowingly, willfully and with intent to defraud uses a counterfeit or unauthorized access device is guilty of the larceny of the value of the money, goods, services, funds, or any other thing of value so obtained;

(2) For purposes of this section, the value of the use of said access device, whether counterfeit or unauthorized, shall be calculated in the aggregate rather than for each individual occurrence.

(d) Any person who knowingly, willfully and with intent to defraud possesses a counterfeit or unauthorized access device or who knowingly, willfully and with intent to defraud, produces or traffics in any counterfeit or unauthorized access device is guilty of a Class 6 felony.

(e) This section shall not prohibit any lawfully authorized investigative or protective activity of any state, county or municipal law-enforcement agency.

§61-3C-13. Fraud and related activity in connection with access devices. Endangering public safety.

(a) As used in this section, the following terms shall have the following meanings:

(1) ~~‘Access device’ means any card, plate, code, account number, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument);~~

(2) ~~‘Counterfeit access device’ means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;~~

(3) ~~‘Unauthorized access device’ means any access device that is lost, stolen, expired, revoked, canceled, or obtained without authority;~~

(4) ~~‘Produce’ includes design, alter, authenticate, duplicate, or assemble;~~

(5) ~~‘Traffic’ means transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of.~~

~~(b) Any person who knowingly and willfully possesses any counterfeit or unauthorized access device shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$1,000 or confined in the county jail for not more than six months, or both.~~

~~(c) Any person who knowingly, willfully and with intent to defraud possesses a counterfeit or unauthorized access device or who knowingly, willfully and with intent to defraud, uses, produces or traffics in any counterfeit or unauthorized access device shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than \$10,000 or imprisoned in the penitentiary not more than ten years, or both.~~

~~(d) This section shall not prohibit any lawfully authorized investigative or protective activity of any state, county or municipal law enforcement agency.~~

Any person who accesses a computer or computer network and knowingly, willfully and without authorization (a) interrupts or impairs the providing of services by any private or public utility; (b) interrupts or impairs the providing of any medical services; (c) interrupts or impairs the providing of services by any state, county or local government agency, public carrier or public communication service; or otherwise endangers public safety is guilty of a Class 3 felony.

§61-3C-14. Endangering public safety. Obscene, anonymous, harassing, and threatening communications by computer, cell phones and electronic communication devices; penalty.

~~Any person who accesses a computer or computer network and knowingly, willfully and without authorization (a) interrupts or impairs the providing of services by any private or public utility; (b) interrupts or impairs the providing of any medical services; (c) interrupts or impairs the providing of services by any state, county or local government agency, public carrier or public communication service; or otherwise endangers public safety shall be guilty of a felony, and, upon conviction thereof, shall be fined~~

~~not more than \$50,000 or imprisoned not more than twenty years, or both.~~

(a) It is unlawful for any person, with the intent to harass or abuse another person, to use a computer, mobile phone, personal digital assistant, or other electronic communication device to:

(1) Make contact with another person without disclosing his or her identity with the intent to harass or abuse;

(2) Make contact with a person after being requested by the person to desist from contacting them: *Provided*, That a communication made by a lender or debt collector to a consumer, regarding an overdue debt of the consumer that does not violate Chapter 46A of this code, does not violate this subsection;

(3) Threaten to commit a crime against any person or property;
or

(4) Cause obscene material to be delivered or transmitted to a specific person after being requested to desist from sending such material.

(b) For purposes of this section:

(1) ‘Electronic communication device’ means and includes a telephone, wireless phone, computer, pager or any other electronic or wireless device which is capable of transmitting a document, image, voice, e-mail or text message using such device in an electronic, digital or analog form from one person or location so it may be viewed or received by another person or persons at other locations.

(2) ‘Use of a computer, mobile phone, personal digital assistant or other electronic communication device’ includes, but is not limited to, the transmission of text messages, electronic mail, photographs, videos, images or other nonvoice data by means of an electronic communication system, and includes the transmission of such data, documents, messages and images to another’s computer, e-mail account, mobile phone, personal digital assistant or other electronic communication device.

(3) ‘Obscene material’ means material that:

(A) An average person, applying contemporary adult community standards, would find, taken as a whole, appeals to the prurient interest, is intended to appeal to the prurient interest, or is pandered to a prurient interest;

(B) An average person, applying contemporary adult community standards, would find, depicts or describes, in a patently offensive way, sexually explicit conduct consisting of an ultimate sexual act, normal or perverted, actual or simulated, an excretory function, masturbation, lewd exhibition of the genitals, or sadomasochistic sexual abuse; and

(C) A reasonable person would find, taken as a whole, lacks literary, artistic, political, or scientific value.

(c) It is unlawful for any person to knowingly permit a computer, mobile phone or personal digital assistant or other electronic communication device under his or her control to be used for any purpose prohibited by this section.

(d) Any offense committed under this section may be determined to have occurred at the place at which the contact originated or the place at which the contact was received or intended to be received.

(e) Any person who violates a provision of this section is guilty of a Class 2 misdemeanor. For a second or subsequent offense, the person is guilty of a Class 1 misdemeanor.

§61-3C-14a. Obscene, anonymous, harassing, and threatening communications by computer, cell phones and electronic communication devices; penalty.

[Repealed]

§61-3C-14b. Soliciting, etc. a minor via computer; soliciting a minor and traveling to engage the minor in prohibited sexual activity; penalties.

[Repealed]

§61-3C-14c. Cyberbullying or specific acts of electronic harassment of minors; definitions; penalties; exceptions.

[Repealed]

§61-3C-15. Computer as instrument of forgery. Soliciting, etc. a minor via computer; soliciting a minor and traveling to engage the minor in prohibited sexual activity; penalties.

~~The creation, alteration or deletion of any computer data contained in any computer or computer network, which if done on a tangible document or instrument would constitute forgery under section five, article four, chapter sixty one of this code will also be deemed to be forgery. The absence of a tangible writing directly created or altered by the offender shall not be a defense to any crime set forth in section five, article four, chapter sixty one if a creation, alteration or deletion of computer data was involved in lieu of a tangible document or instrument.~~

(a) Any person over the age of 18, who knowingly uses a computer to solicit, entice, seduce or lure, or attempt to solicit, entice, seduce or lure, a minor known or believed to be at least four years younger than the person using the computer or a person he or she believes to be a minor, in order to engage in any illegal act proscribed by the provisions of §§61-8-1 et seq., §§61-8B-1 et seq., §§61-8C-1 et seq., or §§61-8D-1 et seq., or any felony offense under §60A-4-401, is guilty of a Class 5 felony.

(b) Any person over the age of 18 who uses a computer in the manner proscribed by the provisions of subsection (a) of this section and who additionally engages in any overt act designed to bring himself or herself into the minor's, or the person believed to be a minor's, physical presence with the intent to engage in any sexual activity or conduct with such a minor that is prohibited by law, is guilty of a Class 3 felony: *Provided*, That subsection (a) shall be considered a lesser included offense to that created by this subsection.

§61-3C-16. Civil relief; damages. Cyberbullying or specific acts of electronic harassment of minors; definitions; penalties; exceptions.

~~(a) Any person whose property or person is injured by reason of a violation of any provision of this article may sue therefor in circuit court and may be entitled to recover for each violation:~~

~~(1) Compensatory damages;~~

~~(2) Punitive damages; and~~

~~(3) Such other relief, including injunctive relief, as the court may deem appropriate.~~

~~Without limiting the generality of the term, ‘damages’ shall include loss of profits.~~

~~(b) At the request of any party to an action brought pursuant to this section, the court may, in its discretion, conduct all legal proceedings in such a manner as to protect the secrecy and security of the computer network, computer data, computer program or computer software involved in order to prevent any possible recurrence of the same or a similar act by another person or to protect any trade secret or confidential information of any person. For the purposes of this section ‘trade secret’ means the whole or any portion or phase of any scientific or technological information, design, process, procedure or formula or improvement which is secret and of value. A trade secret shall be presumed to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those authorized by the owner to have access thereto for a limited purpose.~~

~~(c) The provisions of this section shall not be construed to limit any person’s right to pursue any additional civil remedy otherwise allowed by law.~~

~~(d) A civil action under this section must be commenced before the earlier of: (1) Five years after the last act in the course of conduct constituting a violation of this article; or (2) two years after the plaintiff discovers or reasonably should have discovered the~~

~~last act in the course of conduct constituting a violation of this article.~~

(a) It is unlawful for a person to use a computer or computer network knowingly and intentionally, as defined in §61-3C-3 of this code, to engage in conduct with the intent to harass, intimidate, or bully a minor, including, but not limited to:

(1) Posting, disseminating, or encouraging others to post or disseminate private, personal, or sexual information pertaining to a minor on the Internet; or

(2) Posting obscene material, as defined in §61-3C-14a of this code, in a real or doctored image of a minor on the Internet;

(b) For the purposes of this section:

(1) ‘Harass, intimidate or bully’ means any intentional gesture, or any intentional electronic, written, verbal, or physical act, communication, transmission, or threat that:

(A) A reasonable person under the circumstances should know the act will have the effect of any one or more of the following:

(i) Physically harming a minor;

(ii) Damaging a minor’s property;

(iii) Placing a minor in reasonable fear of harm to his or her person; or

(iv) Placing a minor in reasonable fear of damage to his or her property; or

(B) Is sufficiently severe, persistent, or pervasive that it creates an intimidating, threatening, or emotionally abusive environment for a minor.

(2) ‘Minor’ means an individual under the age of 18 years old.

(c) This section does not apply to a peaceful activity intended to:

(i) Express a political view; or

(ii) Provide information to others with no intent to harass, intimidate, or bully.

(d) Any person who violates this section is guilty of a Class 1 misdemeanor.

§61-3C-17. Defenses to criminal prosecution. Computer as instrument of forgery.

~~(a) In any criminal prosecution under this article, it shall be a defense that:~~

~~(1) The defendant had reasonable grounds to believe that he or she had authority to access or could not have reasonably known he or she did not have authority to access the computer, computer network, computer data, computer program or computer software in question; or,~~

~~(2) The defendant had reasonable grounds to believe that he or she had the right to alter or destroy the computer data, computer software or computer program in question; or,~~

~~(3) The defendant had reasonable grounds to believe that he or she had the right to copy, reproduce, duplicate or disclose the computer data, computer program, computer security system information or computer software in question.~~

~~(b) Nothing in this section shall be construed to limit any defense available to a person charged with a violation of this article.~~

The creation, alteration or deletion of any computer data contained in any computer or computer network, which if done on a tangible document or instrument would constitute forgery under §61-4-5 of this code shall also be considered to be forgery. The absence of a tangible writing directly created or altered by the offender shall not be a defense to any crime set forth in §61-4-5 of this code if a creation, alteration, or deletion of computer data was involved in lieu of a tangible document or instrument.

§61-3C-18. Venue. Civil relief; damages.

~~For the purpose of criminal and civil venue under this article, any violation of this article shall be considered to have been committed:~~

~~(1) In any county in which any act was performed in furtherance of any course of conduct which violates this article;~~

~~(2) In the county of the principal place of business in this state of the aggrieved owner of the computer, computer data, computer program, computer software or computer network, or any part thereof;~~

~~(3) In any county in which any violator had control or possession of any proceeds of the violation or any books, records, documentation, property, financial instrument, computer data, computer software, computer program, or other material or objects which were used in furtherance of or obtained as a result of the violation;~~

~~(4) In any county from which, to which, or through which any access to a computer or computer network was made, whether by wires, electromagnetic waves, microwaves or any other means of communication; and~~

~~(5) In the county in which the aggrieved owner or the defendant resides or either of them maintains a place of business.~~

(a) Any person whose property or person is injured by reason of a violation of any provision of this article may sue therefor in circuit court and may be entitled to recover for each violation:

(1) Compensatory damages;

(2) Punitive damages; and

(3) Such other relief, including injunctive relief, as the court may consider appropriate.

Without limiting the generality of the term, 'damages' shall include loss of profits.

(b) At the request of any party to an action brought pursuant to this section, the court may conduct all legal proceedings in such a manner as to protect the secrecy and security of the computer network, computer data, computer program or computer software involved in order to prevent any possible recurrence of the same or a similar act by another person or to protect any trade secret or confidential information of any person. For the purposes of this section 'trade secret' means the whole or any portion or phase of any scientific or technological information, design, process, procedure or formula or improvement which is secret and of value. A trade secret is presumed to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those authorized by the owner to have access thereto for a limited purpose.

(c) The provisions of this section shall not be construed to limit any person's right to pursue any additional civil remedy otherwise allowed by law.

(d) A civil action under this section shall be commenced before the earlier of: (1) Five years after the last act in the course of conduct constituting a violation of this article; or (2) two years after the plaintiff discovers or reasonably should have discovered the last act in the course of conduct constituting a violation of this article.

~~§61-3C-19. Prosecution under other criminal statutes not prohibited.~~ Defenses to criminal prosecution.

~~Criminal prosecution pursuant to this article shall not prevent prosecution pursuant to any other provision of law.~~

(a) In any criminal prosecution under this article, it is a defense that:

(1) The defendant had reasonable grounds to believe that he or she had authority to access or could not have reasonably known he or she did not have authority to access the computer, computer network, computer data, computer program or computer software in question; or,

(2) The defendant had reasonable grounds to believe that he or she had the right to alter or destroy the computer data, computer software or computer program in question; or,

(3) The defendant had reasonable grounds to believe that he or she had the right to copy, reproduce, duplicate, or disclose the computer data, computer program, computer security system information or computer software in question.

(b) Nothing in this section may be construed to limit any defense available to a person charged with a violation of this article.

§61-3C-20. Personal jurisdiction. Venue.

~~Any person who violates any provision of this article and, in doing so, accesses, permits access to, causes access to or attempts to access a computer, computer network, computer data, computer resources, computer software or computer program which is located, in whole or in part, within this state, or passes through this state in transit, shall be subject to criminal prosecution and punishment in this state and to the civil jurisdiction of the courts of this state.~~

For the purpose of criminal and civil venue under this article, any violation of this article shall be considered to have been committed:

(1) In any county in which any act was performed in furtherance of any course of conduct which violates this article;

(2) In the county of the principal place of business in this state of the aggrieved owner of the computer, computer data, computer program, computer software or computer network, or any part thereof;

(3) In any county in which any violator had control or possession of any proceeds of the violation or any books, records, documentation, property, financial instrument, computer data, computer software, computer program, or other material or objects

which were used in furtherance of or obtained as a result of the violation;

(4) In any county from which, to which, or through which any access to a computer or computer network was made, whether by wires, electromagnetic waves, microwaves, or any other means of communication; and

(5) In the county in which the aggrieved owner or the defendant resides or either of them maintains a place of business.

§61-3C-21. Severability. Prosecution under other criminal statutes not prohibited.

~~If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications of this article which can be given effect without the invalid provision or application, and to that end the provisions of this article are declared to be severable.~~

Criminal prosecution pursuant to this article may not prevent prosecution pursuant to any other provision of law.

§61-3C-22. Personal jurisdiction.

Any person who violates any provision of this article and, in doing so, accesses, permits access to, causes access to or attempts to access a computer, computer network, computer data, computer resources, computer software or computer program, which is located, in whole or in part, within this state, or passes through this state in transit, is subject to criminal prosecution and punishment in this state and to the civil jurisdiction of the courts of this state.

§61-3C-23. Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or applications of this article which can be given effect without the invalid provision or application, and to that end the provisions of this article are declared to be severable.

ARTICLE 3D. THEFT OF CABLE TELEVISION SERVICES.**§61-3D-2. Acquisition of cable television services.**

(a) A person who acquires cable television services for himself or herself or another, whether through his or her own efforts or with the assistance of another, or both, by:

(1) Making or maintaining any unauthorized connection, whether physically, electrically, or inductively, to a distribution or transmission line;

(2) Attaching or maintaining the attachment of any unauthorized device to any cable, wire, or other component of a cable system or to a television receiving set connected to a cable system;

(3) Making or maintaining any unauthorized modification or alteration to any device installed by a cable system operator; or

(4) Knowingly permits another person to enter upon his or her property for the purpose of securing cable service in an unauthorized manner as described in subdivision (1), (2) or (3) of this subsection ~~shall be~~ is guilty of a misdemeanor and, upon conviction, shall be punished in accordance with subsection (c) of this section.

(b) A person who subscribes to and receives cable television services through an authorized connection of a television receiving set at his or her dwelling and, within his or her dwelling, makes an authorized or an unauthorized connection of an additional television receiving set or sets or audio system which receives cable television service through such authorized connection, ~~shall~~ is not be guilty of a misdemeanor under subsection (a) of this section.

(c) Any person convicted of a misdemeanor under subsection (a) of this section shall be subject to the following penalties:

(1) Upon a first conviction under this section, the defendant ~~shall be~~ is guilty of a misdemeanor or petty offense and fined not less than \$100, nor more than \$250.

(2) Upon a second conviction under this section, the defendant ~~shall be fined not less than \$250, nor more than \$500, or imprisoned in the county jail not more than thirty days, or both fined and imprisoned~~ is guilty of a Class 3 misdemeanor.

(3) Upon any subsequent conviction in excess of a second conviction under this section, the defendant shall be ~~fined not less than \$500, nor more than \$1,000, or imprisoned in the county jail not less than thirty days nor more than sixty days, or both fined and imprisoned~~ is guilty of a Class 2 misdemeanor.

Notwithstanding ~~the provisions of~~ §61-11A-4 or section §50-3-2a of this code, the magistrate or court may order restitution not to exceed the value of unauthorized cable services received.

§61-3D-3. Sale or transfer of the device or plan intended for acquisition or diversion.

(a) A person who sells, gives, or otherwise transfers to another or offers, advertises or exposes for sale to another any device, mechanism, tool or printed circuit, or any kit, plan or instructional procedure for the making of such device, mechanism, tool or printed circuit, with the knowledge that another will acquire cable television services in violation of this article, ~~shall be~~ is guilty of a misdemeanor and, shall be punishable in accordance with subsection (b) of this section.

(b) (1) Upon a first conviction under this section, the defendant ~~shall be fined not less than \$250, nor more than \$500~~ is guilty of a petty offense and fined not less than \$100, nor more than \$250.

(2) Upon a second conviction under this section, the defendant ~~shall be fined not less than \$500, nor more than \$1,000, or imprisoned in the county jail not more than thirty days, or both fined and imprisoned~~ is guilty of a Class 3 misdemeanor.

(3) Upon any subsequent conviction in excess of a second conviction under this section, the defendant ~~shall be fined not less than \$500, nor more than \$1,000, or imprisoned in the county jail not less than sixty days, nor more than one year~~ is guilty of a Class 2 misdemeanor.

ARTICLE 3E. OFFENSES INVOLVING EXPLOSIVES.

§61-3E-1. Definitions.

As used in this article, unless the context otherwise requires:

‘Bodily injury’ means injury that causes substantial physical pain, illness, or any impairment of physical condition

‘Destructive device’ means any bomb, grenade, mine, rocket, missile, pipe bomb or similar device containing an explosive, incendiary, explosive gas or expanding gas which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts, either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled.

‘Destructive device’ does not include a firearm as such is defined in §61-7-2 of this code, or sparkling devices, novelties, toy caps, model rockets and their components or fireworks as these terms are defined in §29-3E-2 of this code, or high-power rockets and their components, as defined in this section.

‘Explosive material’ means any chemical compound, mechanical mixture or device that is commonly used or can be used for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packaging that an ignition by fire, by friction, by concussion, by percussion, by detonator or by any part of the compound or mixture may cause a sudden generation of highly heated gases. These materials include, but are not limited to, powders for blasting, high or low explosives, blasting materials, blasting agents, blasting emulsions, blasting fuses other than electric circuit breakers, detonators, blasting caps and other

detonating agents and black or smokeless powders not manufactured or used for lawful sporting purposes. Also included are all explosive materials listed annually by the office of the State Fire Marshal and published in the State Register, said publication being hereby mandated.

‘High power rocket’ means the term as defined in National Fire Protection Association Standard 1127, ‘Code for High Power Rocketry.’

‘Hoax bomb’ means any device or object that by its design, construction, content, or characteristics appears to be, or is represented to be or to contain a destructive device, explosive material or incendiary device as defined in this section, but is, in fact, an inoperative facsimile or imitation of such a destructive device, explosive material or incendiary device.

‘Incendiary device’ means a container containing gasoline, kerosene, fuel oil, or derivative thereof, or other flammable or combustible material, having a wick or other substance or device which, if set or ignited, is capable of igniting such gasoline, kerosene, fuel oil, or derivative thereof, or other flammable or combustible material: *Provided*, That no similar device commercially manufactured and used solely for the purpose of illumination shall be ~~deemed~~ considered to be an incendiary device.

‘Legal authority’ means that right as expressly stated by statute or law.

‘Model rocket’ means the term as defined in National Fire Protection Association Standard 1122, ‘Code for Model Rocketry.’

‘Person’ means an individual, corporation, company, association, firm, partnership, society or joint stock company.

‘Serious bodily injury’ means bodily injury that creates a substantial risk of death, that causes serious or prolonged disfigurement, prolonged impairment of health, prolonged loss or impairment of the function of any bodily organ, loss of pregnancy,

or the morbidity or mortality occurring because of a preterm delivery.

‘Storage magazine’ is defined to mean any building or structure, other than an explosives manufacturing building, approved by the legal authority for the storage of explosive materials.

§61-3E-3. Illegal possession of destructive devices, explosive materials or incendiary devices; penalty.

Any person who possesses or manufactures any explosive material without first obtaining a permit to use explosives from the office of the state Fire Marshal or who possesses or manufactures any destructive device or incendiary device ~~shall be~~ is guilty of a Class 6 felony ~~and, upon conviction thereof, shall be committed to the custody of the Division of Corrections for not less than one nor more than ten years or fined not more than \$5,000, or both.~~

§61-3E-4. Criminal use of destructive device, explosive material, or incendiary device; penalty.

Any person who unlawfully and intentionally damages the property of another or attempts to damage the property of another by the use of a destructive device, explosive material or incendiary device ~~shall be~~ is guilty of a Class 5 felony ~~and, upon conviction thereof, shall be committed to the custody of the Division of Corrections for not less than two nor more than ten years, or fined not more than \$10,000, or both.~~

§61-3E-5. Causing accidental or intentional death or injury; penalties.

(a) Any person who violates the provisions of this article which violation causes bodily injury to any person ~~shall be~~ is guilty of a Class 5 felony ~~and, upon conviction thereof, shall be committed to the custody of the Division of Corrections for not less than two nor more than ten years, or fined not more than \$5,000, or both; if the violation was undertaken with the intent to cause bodily injury or death, that person is guilty of a Class 4 felony.~~

(b) Any person who violates the provisions of this article which violation causes serious bodily injury to any person ~~shall be~~ is guilty of a Class 4 felony and, ~~upon conviction thereof, shall be committed to the custody of the Division of Corrections for not less than three nor more than fifteen years, or fined not more than \$10,000, or both; if the violation was undertaken with the intent to cause bodily injury or death, that person is guilty of a Class 3 felony.~~

(c) Any person who violates the provisions of this article which violation causes the death of any person ~~shall be~~ is guilty of a Class 3 felony and, ~~upon conviction thereof, shall be committed to the custody of the Division of Corrections for a definite term of years of not less than ten years nor more than forty years; if the violation was undertaken with the intent to cause bodily injury or death, that person is guilty of a Class 2 felony.~~

No person sentenced to a period of imprisonment pursuant to the provisions of this subsection ~~shall~~ may be eligible for parole prior to having served a minimum of 10 years.

§61-3E-6. Causing death or injury to an explosives detection animal; penalty.

Any person who violates the provisions of this article which violation causes death, serious or debilitating bodily injury to an explosives detection animal owned or used by a law-enforcement agency, ~~shall be~~ is guilty of a Class 6 felony and, ~~upon conviction thereof, be committed to the custody of the Division of Corrections for not less than one year nor more than five years or fined not more than \$5,000 or both; if the violation was undertaken with the intent to cause bodily injury or death to the animal, that person is guilty of a Class 5 felony.~~

Any person convicted of a violation of this section shall be ordered to make restitution to the law-enforcement agency, the Department of Military Affairs and Public Safety or to the State Fire Marshal or other fire prevention or investigation department or agency owning the animal for any veterinary bills, and replacement costs of any disabled or killed animal.

§61-3E-7. Manufacture, purchase, sale, advertising for sale, transporting or possession or use of a hoax bomb; possession or use in commission of a felony; penalty.

(a) Any person who knowingly manufactures, purchases, sells, advertises for sale, transports, or possesses a hoax bomb with intent to violate any provision of this code ~~shall be~~ is guilty of a Class 1 misdemeanor. ~~Any person convicted of a violation of this section shall be incarcerated in a county or regional jail for not less than six months nor more than one year, or fined \$5,000, or both.~~

(b) Notwithstanding the provisions of subsection (a) of this section, any person who possesses or uses a hoax bomb to commit or attempt to commit any felony ~~shall be~~ is guilty of a Class 6 felony and, ~~upon conviction thereof, shall be committed to the custody of the Division of Corrections for not less than one nor more than ten years, or fined not more than \$10,000, or both.~~

§61-3E-8. Theft of explosive material from storage magazines or buildings; penalty.

Any person who breaks and enters or shall enter without breaking any storage magazine, shop, office, storehouse, warehouse or any other building or out-house adjoining thereto, any railcar, boat, vessel or motor vehicle within the jurisdiction of any county within this state where explosive material is stored, with the intent to commit larceny of the explosive material ~~shall be~~ is guilty of a Class 5 felony and, ~~upon conviction thereof, shall be committed to the custody of the Division of Corrections for not less than one nor more than ten years or fined not more than \$10,000, or both.~~

§61-3E-9. Receipt, possession, storage, sale, or transportation of stolen explosive material; penalty.

Any person who receives, conceals, transports, ships, stores, barter, sells, or disposes of any explosive material knowing or have reason to know that such materials is stolen is guilty of a Class 6 felony and, ~~upon conviction thereof, shall be committed to the~~

~~custody of the Division of Corrections for not less than one nor more than ten years or fined not more than \$10,000, or both.~~

§61-3E-10. Wanton endangerment involving destructive devices, explosive materials, or incendiary devices; penalty.

~~Any person who wantonly performs any act with a destructive device, explosive material or incendiary device which creates substantial risk of death or serious bodily injury to another shall be is guilty of a Class 5 felony and, upon conviction thereof, shall be committed to the custody of the Division of Corrections for not less than two years nor more than ten years or fined not more than \$10,000, or both.~~

§61-3E-12. Contraband, seizure, forfeiture.

(a) Any destructive device, explosive material, incendiary device, or hoax bomb possessed, involved in, used, or intended to be used in a violation of this article or any violation of any criminal law or regulation of this state are hereby declared to be contraband and any property interest therein shall be vested in the State of West Virginia. ~~Said~~ The contraband may be seized by the office of the state Fire Marshal or other law-enforcement agency conducting said investigation and upon application to the circuit court of the county in which said contraband is seized be forfeited to the State of West Virginia for destruction or for training purposes by the office of the state Fire Marshal or other law-enforcement agency.

(b) The Legislature hereby finds and declares that the seizure and use of items under the provisions of this article is not contemplated to be a forfeiture as the same is used in section five, article XII of the Constitution of West Virginia and to the extent that the seizure and use may be found to be such a forfeiture, the Legislature hereby finds and declares that the proceeds from a seizure and use under this article is not part of net proceeds as the same is contemplated by section five, article XII of the Constitution of West Virginia.

§61-3E-13. Legislative findings.

[Repealed.]

ARTICLE 3F. WORTHLESS CHECKS.**§61-3F-1. Obtaining property in return for worthless check; penalty.**

It is unlawful for any person, firm, or corporation to obtain any money, services, goods or other property or thing of value by means of a check, draft, or order for the payment of money or its equivalent upon any bank or other depository, knowing at the time of the making, drawing, issuing, uttering or delivering of the check, draft or order that there is not sufficient funds on deposit in or credit with such bank or other depository with which to pay the same upon presentation. The making, drawing, issuing, uttering or delivery of any such check, draft or order, for or on behalf of any corporation, or its name, by any officer or agent of the corporation, shall subject the officer or agent to the penalties of this section to the same extent as though the check, draft or order was his or her own personal act, when the agent or officer knows that the corporation does not have sufficient funds on deposit in or credit with the bank or depository from which the check, draft or order can legally be paid upon presentment.

This section shall not apply to any check, draft, or order when the payee or holder knows or has been expressly notified prior to the acceptance of same or has reason to believe that the drawer did not have on deposit or to his or her credit with the drawee sufficient funds to ensure payment as aforesaid, nor may this section apply to any postdated check, draft or order.

No prosecution may be confined to the provisions of this section by virtue of the fact that worthless checks, drafts, or orders may be employed in the commission of some other criminal act.

A person who violates the provisions of this section is guilty of the larceny of the amount of the check, draft, or order.

§61-3F-2. Making, issuing, etc., worthless checks on a preexisting debt; penalty.

(a) It is unlawful for any person, firm, or corporation to make, draw, issue, utter or deliver any check, draft or order for the

payment of money or its equivalent on a preexisting debt upon any bank or other depository, knowing or having reason to know there is not sufficient funds on deposit in or credit with the bank or other depository with which to pay the check, draft or order upon presentation. The making, drawing, issuing, uttering, or delivering of any check, draft or order on a preexisting debt, for or on behalf of any corporation, or its name, by any officer or agent of the corporation, shall subject the officer or agent to the penalty of this section to the same extent as though the check, draft or order was his or her own personal act.

(b) This section shall not apply to any check, draft or order when the payee or holder knows or has been expressly notified prior to the acceptance of same or has reason to believe that the drawer did not have on deposit or to his or her credit with the drawee sufficient funds to ensure payment as aforesaid, nor shall this section apply to any postdated check, draft or order. This section shall not apply when the insufficiency of funds or credit is caused by any adjustment to the drawer's account by the bank or other depository without notice to the drawer or is caused by the dishonoring of any check, draft or order deposited in the account unless there is knowledge or reason to believe that the check, draft or order would be dishonored.

(c) Any person violating the provisions of this section is guilty of a petty offense and, upon conviction thereof, shall be fined not more than \$200; and, upon a third or subsequent conviction thereof, shall be convicted of a Class 3 misdemeanor.

§61-3F-3. Payment as defense.

Payment of a dishonored check, draft, or order, made to the magistrate clerk within 10 days after the notice mailed to the defendant pursuant to §61-3F-8 of this code, constitutes a complete defense or ground for dismissal of charges brought under §61-3F-1 or §61-3F-2 of this code.

§61-3F-4. Reason for dishonor; duty of drawee.

The drawee of any check, draft, or order, before refusing to pay the same to the holder thereof upon presentation, shall cause to be

written, printed, or stamped in plain language thereon or attached thereto, the reason for drawee's dishonor or refusal to pay same. In all prosecutions under §61-3F-1 or §61-3F-2 of this code, the introduction in evidence of any unpaid and dishonored check, draft, or other written order, having the drawee's refusal to pay stamped or written thereon, or attached thereto, with the reason therefor as aforesaid shall be prima facie evidence of :

(a) The making or uttering of said check, draft or other written order, and the due presentation to the drawee for payment and the dishonor thereof, and that the same was properly dishonored for the reasons written, stamped, or attached by the drawee on such dishonored checks, drafts, or orders; and

(b) As against the maker or drawer thereof, of the withdrawing from deposit with the drawee named in the check, draft, or other written order, of the funds on deposit with such drawee necessary to ensure payment of said check, draft or other written order upon presentation within a reasonable time after negotiation; and

(c) The drawing, making, uttering, or delivering of a check, draft or written order with the knowledge of insufficient funds in or credit with such drawee.

§61-3F-5. Prima facie evidence of knowledge; identity; penalty for providing false information.

(a) In any prosecution under §61-3F-1 of this code, the making, drawing, uttering or delivery of a check, draft or order, the payment of which is refused by the drawee because of lack of funds or credit, shall be prima facie evidence that the drawer has knowledge at the time of making, drawing, issuing, uttering or delivering the check, draft or order that there is not sufficient funds or credit to pay the same, unless the check, draft or order is paid along with any charges or costs authorized by this article.

(b) In any prosecution under §61-3F-2 of this code, it shall constitute prima facie evidence of the identity of the drawer of a check, draft order if at the time of acceptance of the check, draft, or order there is obtained the following information: Name and residence, business or mailing address and either a valid motor

vehicle operator’s number or the drawer’s home or work phone number or place of employment. This information may be recorded on the check, draft or order itself or may be retained on file by the payee and referred to on the check, draft, or order by identifying number or other similar means.

(c) Any person who provides false information when information is requested prior to accepting a check, draft or order either at the time the check, draft or order is presented or for the purpose of obtaining a check cashing identification card or similar check cashing privilege is guilty of a Class 3 misdemeanor.

§61-3F-6. Notice of dishonor by payee; service charge.

The payee or holder of a check, draft or order which has been dishonored because of insufficient funds or credit may send notice thereof to the drawer of the check, draft, or order. The payee or holder of any dishonored check may impose a fee of up to \$25 per worthless check. This fee shall not be imposed or collected after a complaint for warrant has been delivered to magistrate court. No payee or holder of a check, draft or order which has been dishonored because of insufficient funds or credit may incur any civil or criminal liability for the sending of a notice substantially in the form provided herein, other provisions of law notwithstanding. The form of the notice shall be substantially as follows:

‘You are hereby notified that a check, number....., issued by you on (date of check), drawn upon (name of bank), and payable to....., has been dishonored. Pursuant to West Virginia law, you have ten days from the date of this notice to tender payment of the full amount of the check plus a fee of \$..... (not to exceed \$25 a worthless check) to the undersigned at..... You are further notified that in the event the above amount is timely paid in full you will not be subject to legal proceedings, civil or criminal.

Dated....., 20....

.....

(Signed).’

The provisions of this section do not authorize the making of any other written or oral threats of prosecution to enforce or enhance the collection or honoring of the dishonored check, draft or order.

The holder or payee of any check, draft or order shall relinquish the check, draft, or order to the maker upon tender of the full amount due at any time before a complaint for warrant has been presented to magistrate court. If a complaint for warrant has been presented to magistrate court, payment may be made only through the court and any holder or payee unlawfully accepting payment after that time shall be liable for all costs which may be imposed by the magistrate court in the matter, including all costs which may have accrued by the time the magistrate court is notified of the payment.

§61-3F-7. Manner of filing complaint for warrant; form.

(a) Notwithstanding §62-1-1 of this code, a complaint for warrant for violations of §61-3F-1 or §61-3F-2 of this code need not be made upon oath before a magistrate but may be made upon oath before any magistrate court clerk or other court officer authorized to administer oaths or before a notary public in any county of the state and may be delivered by mail or otherwise to the magistrate court of the county wherein venue lies: *Provided*, That nothing in this section changes the authority and responsibility of the prosecuting attorney to prosecute any person or persons for violations of §61-3F-1 or §61-3F-2 of this code.

(b) A complaint for warrant for violations of §61-3F-2 of this code shall be considered sufficient if it is in form substantially as follows:

‘State of West Virginia

County of....., to wit:

....., upon oath complains that:

(a) Within one year past, on the..... day of....., 20...., in the county stated above,..... (?the maker’) unlawfully

issued and delivered to..... a check, draft or order with the following words and figures:

..... 20.... No.....

.....

(Name of Bank)

Pay to the Order of..... \$..... Dollars

For..... when the maker did not have funds on deposit in or credit with this bank with which to pay the check, draft or order upon presentation against the peace and dignity of the State of West Virginia. The complainant therefore prays a warrant issue and that the maker be apprehended and held to answer the warrant and dealt with in relation thereto according to the law.

(b) At the time the check, draft or order was delivered and before it was accepted there was either on the check or on a record in the possession of the complainant the following information regarding the identity of the maker:

(1) Name.....

(2) Residence address.....

(3) Business address.....

(4) Mailing address.....

(5) Motor vehicle operator's number.....

(6) Home phone.....

(7) Work phone.....

(8) Place of employment.....

That since the time the check, draft or order was delivered the complainant has ascertained to the best of his or her knowledge and belief the following facts concerning the maker:

Full name.....

Home address.....

Home phone no..... Business phone no.....

Place of employment.....

Race..... Sex..... Height.....

Date of birth.....

Day Month Year

....., Complainant

.....

Address Phone No.

(c) The complainant's bank or financial institution has imposed on or collected from the complainant a service charge in the amount of \$..... in connection with the check, draft or order described above.

Taken, subscribed and sworn to before me, this..... day of....., 20....

.....

.....

(Title)

My commission expires the..... day of....., 20....'

(c) The failure to supply information indicated in parts (b) or (c) of the foregoing complaint for warrant shall not affect the sufficiency of the complaint.

§61-3F-8. Complaint; notice of complaint; issuance of warrant; payment procedures; costs.

After receipt of a complaint for warrant for a violation of §61-3F-1 or §61-3F-2 of this code, the magistrate court shall proceed

with the issuance of the warrant as is provided by law: *Provided*, That no warrant may issue for an offense under §61-3F-1 or §61-3F-2 of this code which, upon conviction, would be punishable as a misdemeanor, unless the payee or holder of the check, draft or order which has been dishonored has sent notice thereof to the drawer of the check, draft or order in accordance with §61-3F-6 of this code, or unless notice has been sent by the magistrate as hereinafter provided. Proof that the notice was sent by the payee or holder may be evidenced by presentation of a return receipt indicating that the notice was mailed to the drawer by certified mail, or, if the mailed notice was not received or was refused by the drawer, by presentation of the mailed notice itself. The magistrate court shall receive and hold the check, draft, or order.

Upon receipt of a complaint for a misdemeanor warrant unaccompanied by proof that notice was sent by the payee or holder, the magistrate court shall immediately prepare and mail to the drawer of the check, draft or order a notice in form substantially as follows. The magistrate court shall impose any service charge reflected in the complaint as having been imposed on the payee or holder by the payee's or holder's bank or financial institution in connection with the check, draft or order and additional court costs in the amount of \$25. This notice shall be mailed to the drawer by United States mail, first class and postpaid, at the address provided at the time of presenting the check, draft or order. Service of this notice is complete upon mailing. The notice shall be in form substantially as follows:

'You are hereby notified that a complaint for a warrant for your arrest has been filed with this office to the following effect and purpose by..... who upon oath complains that on the..... day of....., 20...., you did unlawfully issue and deliver unto him or her a certain check, draft or order in the amount of..... drawn on..... (name of bank or financial institution)..... where you did not have funds on deposit in or credit with the bank or financial institution with which to pay the check, draft or order upon presentation and pray that a warrant issue and that you be apprehended wherever you may be found by an officer authorized to make an arrest and dealt with in accordance with the laws of the State of West Virginia.

A warrant for arrest will be issued on or after the..... day of....., 20.....

You can nullify the effect of this complaint and avoid arrest by paying to the magistrate court clerk at..... the amount due on the check, draft or order; service charges imposed on the payee or holder by the payee's or holder's bank or financial institution in connection with the check, draft or order in the amount of.....; and the costs of this proceeding in the amount of \$25 on or before the..... day of....., 20....., at which time you will be given a receipt with which you can obtain the check, draft or order from the magistrate court. The complainant is forbidden by law to accept payment after the complaint is filed.

Magistrate Court of..... County

.....

Date:.....'

This notice shall give the drawer of any such check, draft, or order 10 days within which to make payment to magistrate court. In the event the drawer pays the total amount set forth in the notice to the magistrate court within the ten-day period, no warrant may issue. The payment may be made to the magistrate court in person or by mail by cash, certified check, bank draft or money order and, in the event the payment is made by mail, the magistrate court clerk shall immediately mail to the maker of the check, draft or order the receipt required by this section. In the event the total amount is not so paid the court shall proceed with the issuance of the warrant as is provided by law.

Upon receipt of payment of the total amount the magistrate court clerk shall issue to the drawer a receipt sufficiently describing the check, draft, or order with which receipt the drawer is entitled to receive the dishonored check, draft or order from the magistrate court holding it. The magistrate court clerk shall forward the amount of the check, draft, or order, together with any service charge reflected on the complaint as having been imposed on the payee or holder by the payee's or holder's bank or financial

institution in connection with the check, draft or order, to the payee or holder thereof, along with a description of the check, draft or order sufficient to enable the person filing the complaint to identify it and the transaction involved. Costs collected shall be dealt with as is provided by law for other criminal proceedings.

The drawer of a check, draft, or order against whom a warrant has been issued may at any time prior to trial pay to the court the amount of the check, draft or order; any service charge reflected in the complaint as having been imposed on the payee or holder by the payee's or holder's bank or financial institution in connection with the check, draft or order; and the court costs which would be assessed if the person were found guilty of the offense charged. These costs shall be imposed in accordance with §50-3-2 of this code.

§61-3F-9. Payment of costs in worthless check cases; disposition of certain costs.

(a) In any prosecution under §61-3F-1 or §61-3F-2 of this code, the costs that may otherwise be imposed against the drawer of any check, draft or order shall be imposed on the person initiating the prosecution if:

(1) Payment of the check, draft or order is accepted by the payee or holder thereof after the filing of a complaint for warrant and the charge is subsequently withdrawn or dismissed at the request of the complainant: *Provided*, That the provisions of this subdivision do not apply where a charge is dismissed, and restitution is paid as a condition of a plea agreement. The defendant shall be assessed costs for the prosecution of each charge of which he or she stands convicted and the fee for court costs assessed pursuant to §61-3F-8 of this code for each charge dismissed as a result of the plea agreement;

(2) The payee or holder had reason to believe that the check, draft, or order would be dishonored;

(3) The check, draft or order was postdated; or

(4) The matter is dismissed for failure to prosecute.

(b) Costs collected by magistrate court for issuance of notice as authorized by §61-3F-8 of this code shall not be paid into the special county fund created by §50-3-4 of this code but shall be accounted for separately and retained by the county in a fund designated the Worthless Check Fund until the sheriff issues warrants in furtherance of the allowable expenses specifically provided for by this section. These costs shall not be included in any calculation of the amount of funds to be retained by the county under §50-3-4 of this code.

(c) A county may, after agreement with the court administrator's office of the Supreme Court of Appeals, appropriate and spend from the Worthless Check Fund herein established such sums as are necessary to pay or defray the expenses of providing a deputy sheriff to serve warrants for worthless check offenses and to pay or defray the expenses of providing additional deputy clerks in the office of the magistrate court clerk. After payment of these expenses, or after a determination that these services are not necessary, a county may appropriate and spend from the fund the sums necessary to defray:

(1) The expenses of providing bailiff and service of process services by the sheriff;

(2) The cost of acquiring or renting magistrate court offices and providing utilities and telephones and telephone service to such offices;

(3) The cost of complying with §61-3F-10 of this code; and

(4) The expenses of other services are provided to magistrate courts by the county.

§61-3F-10. Preparation of list of worthless check warrants.

Beginning on July 1, 2021, the magistrate court clerk of every county shall, between the first and fifth day of each month thereafter, prepare a cumulative list of all check warrants issued by the magistrates of the county during the preceding 12 calendar months and after the effective date of this section: *Provided*, That upon completion of each cumulative list, the list which was

completed for the next preceding month and any copy thereof shall be destroyed by the magistrate court clerk. The persons charged in the warrants shall be listed alphabetically. The list shall also contain the total number of warrants issued against each named person for the period covered by the report, the number assigned to each warrant, and the date each such warrant was issued. A copy of the cumulative list of worthless check warrants shall be forthwith forwarded to each magistrate in the county and to the prosecuting attorney thereof. Upon the request of magistrates or prosecutors in other counties of this state, the lists shall be regularly forwarded to them.

§61-3F-11. Use of worthless check list upon receipt of complaint for warrant.

On and after July 1, 2021, when a complaint for worthless check warrant is received by a magistrate court, the person receiving the complaint shall consult the current list of worthless check warrants for the county and any current lists of other counties in his or her possession to determine whether the defendant named in the complaint for warrant is also named on the list or lists as a person who has had worthless check warrants issued against him or her during the period covered by the lists. If the list or lists consulted indicate that the person named in the complaint has had no more than one worthless check warrant issued against him or her within the time period covered by the lists, the person receiving the complaint for warrant shall proceed to have a warrant issued or a notice served, as may be appropriate, in accordance with §61-3F-8 of this code. If the list or lists consulted indicate that the person named in the complaint has had two or more worthless check warrants issued against him or her within the time period covered by the lists, the person receiving the complaint for warrant shall not cause a warrant to be issued, but shall instead forthwith prepare a ‘Notice of Multiple Worthless Check Warrants,’ which shall be in a form substantially as follows:

‘NOTICE OF MULTIPLE WORTHLESS CHECK WARRANTS

THIS NOTICE IS TO BE ISSUED ONLY WHEN AN INDIVIDUAL HAS HAD TWO OR MORE WORTHLESS CHECK WARRANTS ISSUED IN THE PRECEDING TWELVE MONTHS

To: prosecuting attorney of..... County From: Magistrate Court of..... County

This is to notify you that..... who resides at..... has issued worthless checks during the preceding twelve months for which warrants have been issued.

In accordance with the provisions of §61-3-10 of the code of West Virginia you have 10 days to advise this court on how to proceed in this matter.’

A list of the worthless check warrants shall be attached to said notice, along with information concerning the check which is the subject of the pending complaint for worthless check warrant. Warrant numbers, check numbers, dates of checks, amounts of checks, payees, and drawee financial institutions for the checks listed shall be set forth.

Immediately upon preparation of the said notice, a copy thereof shall be forwarded to the prosecuting attorney of each county upon whose list of worthless check warrants the defendant’s name appears.

§61-3F-12. Duties of prosecuting attorney upon receipt of notice of multiple worthless check warrants; magistrate court clerk to advise complainant.

(a) Within 10 days after receiving a notice of multiple worthless check warrants forwarded in accordance with the provisions of the preceding section, a prosecuting attorney shall review the information contained therein, may consult additional current lists of worthless check warrants, and make other investigation, and shall make a written recommendation to the magistrate court which forwarded the notice that:

(1) A warrant should be issued, or a notice should be forwarded, as may be appropriate, in accordance with the provisions of section eight of this article, or

(2) A warrant should be issued for an offense defined under §61-3-24 of this code, or

(3) No action should be taken by the magistrate court pending a presentation to the appropriate grand jury of a bill seeking an indictment for an offense defined under §61-3-24 of this code.

(b) Upon receipt of the recommendation of the prosecuting attorney, the magistrate court clerk of the magistrate court holding the pending complaint for worthless check warrant shall forward a copy of the prosecuting attorney's recommendation to the complainant, shall inform the complainant that the prosecuting attorney's recommendation is advisory only, and shall request the complainant to advise the court in what manner he or she desires to proceed.

§61-3F-13. Creation and operation of a program for worthless check offenders; acceptance of person in program.

(a) A prosecuting attorney may create within his or her office a worthless check restitution program for persons who have violated §61-3F-1 or §61-3F-2 of this code. This program may be conducted by the prosecuting attorney in conjunction with a law-enforcement agency or by a private entity under contract with the prosecuting attorney.

(b) The prosecuting attorney may adopt standards to determine the appropriateness of an individual case for the program. In developing these standards, the prosecuting attorney shall consider the following factors:

(1) The amount of the check, draft or order made, drawn, issued, uttered, or delivered;

(2) The person's criminal record;

(3) The number of times the person has participated in the program; and

(4) The number of warrants or cases pending against the person for violations of §61-3F-1 or §61-3F-2 of this code.

(c) Except as provided in §61-3F-15 of this code, nothing in this section may preclude the prosecuting attorney from prosecuting violations of §61-3F-1 or §61-3F-2 of this code.

(d) Nothing in this section may be construed or interpreted to mandate funding for any worthless check restitution program created in a prosecuting attorney's office or to require any appropriation by the Legislature.

(e) Notwithstanding any other provision of law to the contrary, no case is appropriate for referral to the program unless notice has been provided pursuant to §61-3F-6 or §61-3F-8 of this code.

§61-3F-14. Notice to persons accepted to the worthless check restitution program.

(a) Upon approval of an individual case for referral to the worthless check restitution program, a representative of the program shall send a notice by registered or certified mail to the person named in the complaint or warrant.

(b) This notice shall contain:

(1) The date and amount of the check, draft, or order;

(2) The name of the payee or holder;

(3) The date by which the individual shall contact the designated representative of the worthless check restitution program;

(4) A demand for full restitution of the face amount of the check, draft or order and any fees reflected in the complaint or warrant as having been imposed on the payee or holder by the payee's or holder's bank or financial institution; and

(5) A statement that failure to pay restitution and fees may result in criminal prosecution.

§61-3F-15. Agreement to suspend prosecution of a person accepted into the restitution program.

(a) The prosecuting attorney may enter into an agreement with a participant of the worthless check restitution program to suspend prosecution for a period to be determined by the prosecuting attorney.

(b) To remain eligible for the worthless check restitution program, the participant shall:

(1) Contact a representative of the program before the date required by the notice sent pursuant to §61-3F-14 of this code;

(2) Agree to comply with all the program terms;

(3) Complete a class conducted by the prosecuting attorney, his or her designee, or a private entity under contract with the prosecuting attorney, which offers offender education and instruction;

(4) Pay a fee in the amount of \$10 to be deposited in the 'worthless check fund' established pursuant to the provisions of section nine of this article;

(5) Pay the fee required to participate in the class;

(6) Pay full victim restitution; and

(7) Pay all fees for participation in the program, unless those fees are waived.

(c) The prosecuting attorney shall agree not to file criminal charges if the participant in the program completes the conditions of the agreement.

§61-3F-16. Fees for participation in the worthless check restitution program.

(a) The prosecuting attorney, his or her designee, or a private entity under contract with the prosecuting attorney may collect a

fee not to exceed \$100 from any person participating in the worthless check restitution program: *Provided*, That the prosecuting attorney shall waive the fee if he or she determines that the person is indigent and unable to pay the fee.

(b) All fees collected pursuant to subsection (a) of this section by the prosecutor shall be remitted to the sheriff. The sheriff shall establish a special fund in the county treasury, designated the worthless check restitution program fund, in which the sheriff shall deposit all fees remitted by the prosecutor. The county commission shall appropriate money from the fund for the administration of the worthless check restitution program. The county commission shall also appropriate any excess money from the fund to supplement the annual operation expense appropriation of the office of the prosecuting attorney, if the prosecuting attorney certifies in writing to the county commission that a surplus exists in the fund at the end of the fiscal year.

§61-3F-17. Statements by individuals referred to or participating in the worthless check restitution program.

Any statement made by a person referred to the worthless check restitution program in connection with the determination of his or her eligibility for participation in the program and any statement made or information given by that person while participating in the program is inadmissible in any civil or criminal action or proceeding.

ARTICLE 4. FORGERY AND CRIMES AGAINST THE CURRENCY.

§61-4-1. Forgery of public record, certificate, return or attestation of court or officer; penalty.

If Any person ~~who forge~~ forges a public record, or a certificate, returns or attestation of a clerk of a court, notary public, judge, justice, magistrate, or any public officer, in relation to any matter wherein such certificate, return, or attestation may be received as legal proof, or utters or attempts to employ as true such forged record, certificate, return or attestation, knowing the same to be forged, ~~he or she shall be~~ is guilty of a Class 5 felony, ~~and, upon~~

~~conviction, shall be confined in the penitentiary not less than two nor more than ten years.~~

§61-4-2. Forgery of official seals; keeping or concealing instrument for forging same; penalty.

If Any person ~~who forge~~ forges, or keeps or conceals any instrument for the purpose of forging, the seal of a court, or of any public office or body politic or corporate in this state, ~~he or she shall be deemed is~~ is guilty of a Class 5 felony, ~~and, upon conviction,~~ shall be confined in the penitentiary not less than two nor more than ten years.

§61-4-3. Counterfeiting; penalty.

If any Any person ~~who forge~~ forges any coin, current by law or usage in this state, or any note or bill of a banking institution, or fraudulently ~~make~~ makes any base coin, or a note or bill purporting to be the note or bill of a banking institution, when such banking institution does not exist; or ~~utter~~ utters or ~~attempt~~ attempts to employ as true, or sell, exchange or deliver, or ~~offer~~ offers to sell, exchange or deliver, or receive on sale, exchange, or delivery, with intent to utter or employ or to have the same uttered or employed as true, any such false, forged, or base coin, note or bill, knowing it to be so, ~~he or she shall be deemed is~~ is guilty of a Class 5 felony; ~~and, upon conviction,~~ shall be confined in the penitentiary not less than two nor more than ten years.

§61-4-4. Making plates, etc., for forgery; possession of same; penalty.

If any Any person who ~~engrave, stamp, or cast, or otherwise~~ makes or mends, engraves, stamps, or casts, any plate, block, press or other thing adapted and designed for the forging and false-making of any writing or other thing, the forging or false-making whereof is punishable by this article; or if ~~such~~ the person ~~have~~ has in his or her possession any such plate, block, press, or other thing, with intent to use, or cause or permit it to be used, in forging or false-making any such writing or other thing, ~~he or she shall be~~

~~deemed is guilty of a Class 5 felony, and, upon conviction, shall be confined in the penitentiary not less than two nor more ten years.~~

§61-4-5. Forging or uttering other writing; penalty; creation of unauthorized demand draft.

(a) ~~(1) If any person forge any writing, other than such as is mentioned in the first and third sections §61-4-1 and §61-4-3 of this article, to the prejudice of another's right, or utter or attempt to employ as true such forged writing, knowing it to be forged, in the value of \$2,500 or more, such person is guilty of a Class 6 felony and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years, or, in the discretion of the court, be confined in jail not more than one year and be fined not exceeding \$500.~~

(2) If any person forge any writing, other than such as is mentioned in the first and third sections of this article, to the prejudice of another's right, or utter or attempt to employ as true such forged writing, knowing it to be forged, the value of \$25,000 or more, such person is guilty of a Class 5 felony.

(3) If any person forge any writing, other than such as is mentioned in the first and third sections of this article, to the prejudice of another's right, or utter or attempt to employ as true such forged writing, knowing it to be forged, in the value of less than \$2,500, such person is guilty of a Class 1 misdemeanor.

(4) If any person forge multiple writings to the prejudice of another's right, or utter or attempt to employ as true such forged writing, knowing it to be forged, then the value of such writings may be aggregated as part of determining the offense for which the person is to be charged.

(b) It is a violation of this section to create a demand draft under the purported authority of another person for the purpose of charging the other person's account with a bank or other financial institution, or to utter or attempt to employ as true such demand draft, if the demand draft is created with the intent to defraud, and either or both of the following elements is present:

(1) The person does not, in fact, have the authority to charge the other person's account; or

(2) The amount of the demand draft exceeds the amount authorized to be charged.

(c) (1) If a person creates a demand draft without authority or which exceeds the amount authorized to be charged to an account, and the demand draft contains the account holder's printed or typewritten name or account number, or a notation that the account holder authorized the draft, or a statement 'No signature required', 'Authorization on file', 'Signature on file', or words to that effect, the demand draft is the equivalent of a check on which the drawer's signature is forged or altered, and the provisions of subsection (a) of this section apply.

(2) If any person creates multiple demand drafts, as specified in subsection (b) of this section, then the value of such writings may be aggregated as part of determining the offense for which the person is to be charged.

(d) For purposes of this section, the term 'demand draft' shall have the meaning ascribed to it in §46-3-104 of this code.

§61-4-6. Possession of counterfeit currency with intent to utter; penalty.

If any person have in his or her possession forged bank notes, or pieces of forged or base coin, such as are mentioned in ~~the third section~~ §61-4-3 of this code, knowing the same to be forged or base, with intent to utter or employ the same as true, or to sell, exchange, or deliver them, so as to enable any other person to utter or employ them as true, he or she shall, ~~if the number of such notes or pieces of coin in his or her possession at the same time, be ten or more, be deemed guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than five years, and if the number thereof be less than ten, he or she shall be deemed guilty of a Class 1 misdemeanor., and, upon conviction, shall be confined in jail not less than six months nor more than one year and be fined not exceeding \$500~~

§61-4-7. Unauthorized currency; penalty.

(a) If any person shall, without authority of law, issue any note, cryptocurrency, or other security purporting that money or other thing of value is payable by or on behalf of such person, with intent thereby to create a circulating medium, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be is guilty of a Class 2 misdemeanor, and, upon conviction, shall be confined in jail not more than six months and fined not more than \$500; and the acceptance of any such note, cryptocurrency, or security shall not operate as a payment of any debt or claim due or to become due to the person so accepting the same: *Provided*, That nothing in this section shall be so construed as to prevent the giving of checks, promissory notes, single bills, bonds, orders, drafts or bills of exchange for a debt or claim due or to become due.

(b) For purposes of this section, the term 'cryptocurrency' shall have the meaning ascribed to it in §61-15-1 of this code.

§61-4-8. Passing or receiving unauthorized currency knowingly; penalty.

(a) If any person not punishable under the provisions of the preceding section shall knowingly pass or receive in payment any such note, cryptocurrency, or security, he or she shall be guilty of a Class 3 misdemeanor, and, upon conviction, shall be fined not less than \$10 nor more than \$100

(b) For purposes of this section, the term 'cryptocurrency' shall have the meaning ascribed to it in §61-15-1 of this code.

§61-4-9. Unauthorized use, transfer, acquisition, alteration, or possession of certain benefits.

(a) For the purposes of this section:

(1) 'Benefits' means any payment, allotments, money, goods, or other things of value granted pursuant to a benefit program;

(2) 'Benefit access device' means any card, plate, account number or other means of access that can be used, alone or in

conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value that can be used to initiate a transfer of funds;

(3) 'Benefit program' includes the Federal Food Stamp Act, Supplemental Nutritional Assistance Program, Temporary Assistance to Needy Families or other similar state or federal financial assistance program; and

(4) 'Terms of the benefit program' includes all statutes, rules, regulations, or other requirements of that specific benefit program for use of the benefits.

(b) Any person who knowingly uses, transfers, acquires, alters, or possesses benefits or one or more benefit access device contrary to the terms of the benefit program ~~shall~~ is:

~~(1) If the benefits are of a value of less than \$1,000, be guilty of a misdemeanor and, upon conviction thereof, shall for a first offense be fined not more than \$1,000 or confined in a regional jail for not more than one year, or both fined and confined, and for a second and any subsequent offense shall be fined not more than \$1,000 or confined in a regional jail for not less than thirty days and not more than one year~~ If the benefits are of a value of less than \$2,500, guilty of a Class 2 misdemeanor, and for a second and any subsequent conviction guilty of a Class 1 misdemeanor;

~~(2) If the benefits are of a value of \$1,000 or more, but less than \$5,000, be guilty of a felony and, upon conviction, shall for a first offense be fined not more than \$10,000 or imprisoned in a state correctional facility for not more than three years, or both fined and imprisoned, and for a second and any subsequent offense shall be fined not more than \$10,000 or imprisoned for not less than six months nor more than five years, or both fined and imprisoned; and~~

If the benefits are of a value of \$2,500 or more, guilty of a Class 6 felony, and for a second and any subsequent conviction guilty of a Class 5 felony; and

~~(3) If the benefits are of a value of \$5,000 or more, be guilty of a felony and, upon conviction, fined not more than \$250,000 or~~

~~imprisoned in a state correctional facility for not more than ten years, or both fined and imprisoned.~~ If the benefits are of a value of \$25,000 or more, guilty of a Class 5 felony, and for a second or subsequent offense, guilty of a Class 4 felony.

(c) Any person who presents, or causes to be presented, benefits or one or more benefit access device for payment, allotments, money, goods, or other things of value knowing the same to have been received, transferred, or used in any manner in violation of the terms of the benefit program is:

~~(1) If the benefits are of a value of less than \$1,000, guilty of a misdemeanor and, upon conviction, shall for a first offense be fined not more than \$1,000 or confined in a regional jail for not more than one year, or both fined and confined, and for a second and any subsequent conviction shall be fined not more than \$1,000 or confined in a regional jail for not less than thirty days and not more than one year; If the benefits are of a value of less than \$2,500, guilty of a Class 2 misdemeanor, and for a second and any subsequent conviction guilty of a Class 1 misdemeanor;~~

~~(2) If the benefits are of a value of \$1,000 or more, guilty of a felony and, upon conviction, shall for a first offense be fined not more than \$20,000 or imprisoned in a state correctional facility for not more than five years, or both fined and imprisoned, and for a second and any subsequent conviction shall be fined not more than \$20,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.~~ If the benefits are of a value of \$2,500 or more, guilty of a Class 6 felony, and for a second and any subsequent conviction guilty of a Class 5 felony; and

(3) If the benefits are of a value of \$25,000 or more, guilty of a Class 5 felony, and for a second or subsequent offense, guilty of a Class 4 felony.

(d) Notwithstanding the penalties contained in this section, in the case of any individual convicted of an offense under this section, the court may permit the individual to perform work approved by the court, in lieu of confinement, for the purpose of

providing restitution for losses incurred by the United States and the state agency as a result of the offense for which the individual was convicted. If the court permits the individual to perform work and the individual agrees, the court shall withhold the imposition of the sentence on the condition that the individual perform the assigned work. Upon the successful completion of the assigned work the court shall waive any confinement from the sentence.

(e) For purposes of this section, possession of two or more benefit access devices without authorization is prima facie evidence that an individual has knowledge the possession of the benefit access devices is a violation of the terms of the benefit program.

(f) In determining the value in this section, it is permissible to cumulate amounts or values of benefits.

(g) Notwithstanding any provision of this code to the contrary, no person who knowingly acquires benefits or one or more benefit access device contrary to the terms of the benefit program may be subject to prosecution under both this section and §9-5-4 of this code for conduct arising out of the same transaction or occurrence.

§61-4-10 Payment cards; falsely making or loading the same; penalty.

(a) Any person who falsely makes or falsely stamps a purported payment card or falsely loads or causes to be falsely loaded a payment card into a digital wallet is guilty of forgery and is subject to the penalties set forth in §61-4-5 of this code. A person ‘falsely makes’ a payment card when such person makes or draws, in whole or in part, a device or instrument which purports to be the payment card of a named issuer, but which is not such a payment card because the issuer did not authorize the making or drawing, or when the person so alters a payment card which was validly issued. A person ‘falsely stamps’ a payment card when, without the authorization of the named issuer, the person completes a payment card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the payment card before it can be used by a cardholder. A person ‘falsely loads’ or

‘causes to be falsely loaded’ a payment card into a digital wallet when that person stores or causes to be stored on a digital wallet the digital form of (1) a payment card falsely made or falsely stamped by that person, (2) a payment card taken, procured, received or retained by such person under circumstances that constitute a violation of this section or (3) a payment card that such person knows is falsely made, falsely stamped, forged, expired or revoked.

(b) For purposes of this section, ‘Payment card’ shall mean a credit card, charge card, debit card or any other card that is issued to an authorized card user and that allows the user to obtain, purchase or receive goods, services, money, or anything else of value from a merchant.

ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-1. Perjury and subornation of perjury defined; false swearing defined. Penalties for perjury, subornation of perjury, and false swearing.

(a) (1) Any person who is under an oath or affirmation which has been lawfully administered and who willfully testifies falsely regarding a material matter in a trial of any person, corporation, or other legal entity for a felony, or before any grand jury which is considering a felony indictment, shall be guilty of the felony offense of perjury.

(b) (2) Any person who induces or procures another person to testify falsely regarding a material matter in a trial of any person, corporation, or other legal entity for a felony, or before any grand jury which is considering a felony indictment, shall be guilty of the felony offense of subornation of perjury.

(b) To willfully swear falsely, under oath or affirmation lawfully administered, in a trial of the witness or any other person for a felony, concerning a matter or thing not material, and on any occasion other than a trial for a felony, concerning any matter or thing material or not material, or to procure another person to do so, is false swearing and is a misdemeanor.

(c) A person convicted of perjury or subornation of perjury is guilty of a Class 6 felony, and a person convicted of false swearing is guilty of a Class 1 misdemeanor. And in either case the person convicted shall be adjudged forever incapable of holding any office of honor, trust or profit in this state, or of serving as a juror.

§61-5-2. False swearing defined. Aiding escape and other offenses relating to adults and juveniles in custody or confinement; penalties.

~~To willfully swear falsely, under oath or affirmation lawfully administered, in a trial of the witness or any other person for a felony, concerning a matter or thing not material, and on any occasion other than a trial for a felony, concerning any matter or thing material or not material, or to procure another person to do so, is false swearing and is a misdemeanor.~~

(a) When any adult or juvenile is lawfully detained in custody or confinement in any jail, state correctional facility, juvenile facility or juvenile detention center, and any other person delivers anything into the place of custody or confinement of the adult or juvenile with the intent to aid or facilitate the adult's or juvenile's escape or attempted escape therefrom, or if the other person forcibly rescues or attempts to rescue an adult or a juvenile therefrom, the other person is guilty of a Class 6 felony.

(b) When any adult or juvenile is lawfully detained in custody or confinement in any jail, a state correctional facility or a juvenile facility or juvenile detention center, and any other person delivers any money or other thing of value, any written or printed matter, any article of merchandise, food or clothing, any medicine, utensil or instrument of any kind to the adult or juvenile without the express authority and permission of the supervising officer and with knowledge that the adult or juvenile is lawfully detained, the other person is guilty of a Class 2 misdemeanor: *Provided*, That the provisions of this section do not prohibit an attorney or his or her employees from supplying any written or printed material to an adult or juvenile which pertains to that attorney's representation of the adult or juvenile.

(c)(1) Any person, who transports any alcoholic liquor, nonintoxicating beer, poison, implement of escape, dangerous material, weapon, or any controlled substance as defined by Chapter 60A of this code onto the grounds of any jail, state correctional facility, juvenile facility or juvenile detention center within this state and is unauthorized by law to do so, or is unauthorized by the persons supervising the facility, is guilty of a Class 6 felony.

(2) Any person, who willfully and knowingly transports or causes to be transported any telecommunications device into or upon any portion of any jail, state correctional facility, juvenile facility or juvenile detention center within this state that is not generally open and accessible to members of the public without prior approval from the warden or administrator or designee and that person is unauthorized by law to do so, or is unauthorized by the persons supervising the facility, is guilty of a Class 1 misdemeanor.

(d) Any person, who delivers any alcoholic liquor, nonintoxicating beer, poison, implement of escape, dangerous material, weapon, or any controlled substance as defined by chapter sixty-a of this code to an adult or juvenile in custody or confinement in any jail, state correctional facility, juvenile facility or juvenile detention center within this state and is unauthorized by law to do so, or is unauthorized by the persons supervising the facility, is guilty of a Class 6 felony.

(e) Whoever purchases, accepts as a gift or secures by barter, trade or in any other manner any article or articles manufactured at or belonging to any jail, state correctional facility, juvenile facility or juvenile detention center from any adult or juvenile detained therein is guilty of a Class 1 misdemeanor: *Provided*, That the provisions of this subsection do not apply to articles specially manufactured in any facility under the authorization of the persons supervising the facility and which are offered for sale within or outside of the facility.

(f) Whoever persuades, induces, or entices, or attempts to persuade, induce, or entice any person who is in custody, or

confined in any jail, state correctional facility, juvenile facility, or juvenile detention center to escape therefrom, or to engage or aid in any insubordination to the persons supervising the facility, is guilty of a Class 6 felony.

(g) (1) An inmate of a jail, state correctional facility, juvenile facility or juvenile detention center having in his or her possession any poison, implement of escape, dangerous material, weapon, unauthorized telecommunications device, or any controlled substance as defined by Chapter 60A of this code is guilty of a Class 6 felony.

(2) An inmate of a jail, state correctional facility, juvenile facility or juvenile detention center having in his or her possession any alcoholic liquor, nonintoxicating beer, money, or other thing of value, any written or printed matter, any article of merchandise, food or clothing, any medicine, utensil or instrument of any kind without the express authority and permission of the supervising officer is guilty of a Class 1 misdemeanor.

(h) As used in this section:

(1) 'Dangerous material' means any incendiary material or device, highly flammable or caustic liquid, explosive, bullet or other material readily capable of causing death or serious bodily injury.

(2) 'Delivers' means to transfer an item to an adult or juvenile who is detained in custody or confinement in any jail, correctional facility, juvenile facility or juvenile detention center or a building appurtenant to those places. The term includes bringing the item into a jail, correctional facility, juvenile facility or juvenile detention center or a building appurtenant to those places. The term includes putting an item in a place where it may be obtained by an inmate.

(3) 'Inmate' means an adult or juvenile who is detained in custody or confinement in any jail, correctional facility, juvenile facility, or juvenile detention center, regardless of whether the individual is temporarily absent due to medical treatment,

transportation, court appearance or other reason for a temporary absence.

(4) 'Implement of escape' means a tool, implement, device, equipment, or other item which an inmate is not authorized to possess capable of facilitating, aiding or concealing an escape or attempted escape by an inmate.

(5) 'Telecommunication device' means any type of instrument, device, machine or equipment which is capable of transmitting telephonic, electronic, digital, cellular or radio communications or any part of an instrument, device, machine or equipment which is capable of facilitating the transmission of telephonic, electronic, digital, cellular or radio communications regardless of whether the part itself is able to transmit. The term includes, but is not limited to, cellular phones, digital phones, and modem equipment devices.

(6) 'Weapon' means an implement readily capable of lethal use and includes any firearm, knife, dagger, razor, other cutting or stabbing implement or club. The term includes any item which has been modified or adapted so that it can be used as a firearm, knife, dagger, razor, other cutting or stabbing implement or club. For purposes of this definition, the term 'firearm' includes an unloaded firearm or the unassembled components of a firearm.

§61-5-3. Penalties for perjury, subornation of perjury, and false swearing. Permitting escape; refusal of custody of prisoner; penalties.

A person convicted of perjury or subornation of perjury shall be guilty of a felony, and a person convicted of false swearing shall be guilty of a misdemeanor. And in either case the person convicted shall be adjudged forever incapable of holding any office of honor, trust or profit in this state, or of serving as a juror. Any Jailer or other officer, or private correctional officer, who aids or voluntarily allows a prisoner convicted or charged with a felony or misdemeanor to escape from his or her custody, is guilty of a Class 5 felony. Any such jailer or other officer, or private correctional officer who, negligently, but not voluntarily, allows a person convicted of or charged with felony, or negligently, but not

voluntarily allows a person convicted of or charged with an offense not a felony, to escape from his or her custody, or willfully refuses to receive into his or her custody any person lawfully committed thereto, is guilty of a Class 1 misdemeanor.

§61-5-4. Bribery or attempted bribery; penalty. Persons in custody of institutions or officers.

~~If any person shall bribe, by directly or indirectly giving to or bestowing upon, or shall attempt to bribe by directly or indirectly giving to or bestowing upon, any executive, legislative, judicial, or ministerial officer of this state, or any member of the Legislature, after his election or appointment and either before or after he shall have been qualified or shall have taken his seat, any gift, gratuity, money, testimonial or other valuable thing, or shall make promise thereof, in order to influence him in the performance of any of his official, public duties, or with intent to influence his act, vote, opinion, decision or judgment on any matter, question, cause or proceeding, or to induce or procure him to vote or withhold his vote on any question or proceeding which is then or may thereafter be pending, or may by law come or be brought before him in his official capacity, he shall be guilty of a felony, and, upon conviction, shall be imprisoned in the penitentiary not less than one nor more than ten years, and shall, moreover, be forever disqualified from holding any office or position of honor, trust or profit in this state. Whoever, escapes or attempts to escape by any means from the custody of a county sheriff, the director of the Regional Jail Authority, an authorized representative of said persons, a law-enforcement officer, probation officer, employee of the Division of Corrections, court bailiff, or from any institution, facility, or any alternative sentence confinement, by which he or she is lawfully confined, if the custody or confinement is by virtue of a charge or conviction for a felony, is guilty of a Class 6 felony; and if the custody or confinement is by virtue of a charge or conviction for a misdemeanor, is guilty of a Class 1 misdemeanor.~~

§61-5-5. Demanding or receiving bribes; penalty. Escapes and aiding in escapes; terms of confinement in addition to previous sentence.

~~Any executive, legislative, judicial or ministerial officer, or member of the Legislature, who shall demand, receive or accept any gift, gratuity, money, testimonial or other valuable thing, or shall exact any promise to make such gift or to pay to him money, testimonial or other valuable thing, or to do any act beneficial to such officer or member of the Legislature, from any person, company or corporation, under an agreement or understanding that his vote, opinion, judgment or decision shall be given or withheld in any particular manner upon a particular side of any question, cause or proceeding, which is, or may be by law brought before him in his official capacity, or that in such capacity he shall make any particular nomination or appointment, or for any vote or influence he may give or withhold as such officer or member of the Legislature, or that such officer will fail to perform or improperly perform any of his official, public duties, shall be guilty of a felony and, upon conviction thereof, shall be confined in the penitentiary not less than one nor more than ten years; and in addition thereto such officer or member of the Legislature shall forfeit the office then held by him and shall be forever disqualified from holding any office or position of honor, trust or profit in this state. The terms of confinement specified in §25-4-11 of this code or in §61-5-8, §61-5-9, and §61-5-10 of this code. shall be in addition to the period or periods of confinement to which any person convicted under this section may be subject to and shall commence at the expiration of any such former sentence.~~

~~**§61-5-6. Receiving bribe by officer in delay of service of process; penalty. Escapes from, and other offenses relating to, state benevolent and correctional institution, or private prison or mental health facilities; penalties.**~~

~~If any officer authorized to serve legal process receive any money or other thing of value for omitting or delaying to perform any duty pertaining to his or her office, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than six months and be fined not exceeding \$100.~~

~~Except where otherwise provided, any person, who abducts any person who is an inmate or patient of any state benevolent or correctional institution, private prison or mental health facility is~~

guilty of a Class 5 felony, and, upon conviction thereof, shall be imprisoned in the penitentiary for not more than five years. Any person, who persuades, induces, or entices, or attempts to persuade, induce or entice, any person who is an inmate or patient of any institution, private prison or facility to escape therefrom, or who conceals or harbors any such person, knowing him or her to have run away from any institution, private prison or facility, is guilty of a Class 6 felony.

Any fugitive from any state benevolent or correctional institution, private prison, or mental health facility, may, on the order of the superintendent or other officer of the institution or facility, be arrested and returned to the institution or facility, or to any officer or agent thereof, by any sheriff, police officer or other person, and may also be arrested and returned by any officer or agent of such institution, private prison or facility.

Any person, who trespasses, idles, lounges or loiters upon the grounds of any state benevolent or correctional institution, private prison or mental health facility or communicates, or attempts to communicate, by signals, signs, writings or otherwise with any inmate or patient of such institution, private prison or facility, or conveys or assists in any way in establishing communication between an inmate or patient of such institution, private prison or facility and any person or persons outside thereof, except as authorized by the rules or regulations in force by the authority governing the same, is guilty of a Class 3 misdemeanor. Any person, who, with intent to defraud, purchases, accepts as a gift, or secures by barter or trade, or in any other manner, any article of clothing from an inmate or patient of any state benevolent or correctional institution, private prison or mental health facility issued to him or her, by any officer of the institution or facility, or by any private correctional officer of the private prison for his or her use, or, with such intent, secures any other article or articles belonging to any inmate or patient of the institution, private prison or facility or to the institution, private prison or facility from an inmate or patient thereof, is guilty of a petty offense and, upon conviction thereof, shall be fined a sum not less than double the value of the articles, except that in no case shall the fine be less

than \$500. Magistrates shall have jurisdiction of all misdemeanors included in this paragraph, concurrently with the circuit court.

~~§61-5-7. Bribery of commissioner of court, Auditor, justice of the peace, arbitrator, umpire, juror, or other county official, either elected or appointed; penalty. Escape from custody of the commissioner of corrections.~~

~~Any person who gives or offers, directly or through any other person or persons, or promises, directly or indirectly, to give any money or other thing of value to a commissioner appointed by a court, Auditor, justice of the peace, arbitrator, umpire, juror (although not impaneled), or other county official, either elected or appointed, with intent to bias his or her opinion or influence his or her decision in relation to any matter in which he or she is acting or is to act; and any such commissioner, Auditor, justice of the peace, arbitrator, umpire, juror, or other county official, either elected or appointed, who corruptly takes or receives such money or other thing of value, or who agrees to take such money or other thing of value to bias or influence his or her opinion or action or both, shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years, and fined in addition thereto not exceeding \$5,000. Any person who escapes from the custody of the commissioner of corrections, regardless of where such person is confined or where the escape occurs, is guilty of a Class 5 felony. A term of imprisonment imposed pursuant to the provisions of this section shall be imposed as a consecutive sentence and shall not be served concurrently with any imprisonment, confinement or detention imposed under any prior sentence being served or otherwise being discharged at the time that person commits an offense under the provisions of this section. A person charged with an offense under the provisions of this section shall not be released from the custody of the Commissioner of Corrections while the prosecution of the alleged offense is pending: *Provided*, That time served by that person after any other prior sentence has been served or otherwise discharged shall be applied to any sentence which may ultimately be imposed for an offense under this section. Venue for the~~

prosecution of a violation of this section shall be in the county in which the escape occurs.

§61-5-8. Aiding escape and other offenses relating to adults and juveniles in custody or confinement; penalties. Escape from custody of the Director of Juvenile Services; penalties.

~~(a) Where any adult or juvenile is lawfully detained in custody or confinement in any jail, state correctional facility, juvenile facility or juvenile detention center, if any other person delivers anything into the place of custody or confinement of the adult or juvenile with the intent to aid or facilitate the adult's or juvenile's escape or attempted escape therefrom, or if the other person forcibly rescues or attempts to rescue an adult or a juvenile therefrom, the other person is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility not less than one nor more than ten years.~~

~~(b) Where any adult or juvenile is lawfully detained in custody or confinement in any jail, a state correctional facility or a juvenile facility or juvenile detention center, if any other person delivers any money or other thing of value, any written or printed matter, any article of merchandise, food or clothing, any medicine, utensil or instrument of any kind to the adult or juvenile without the express authority and permission of the supervising officer and with knowledge that the adult or juvenile is lawfully detained, the other person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 and confined in jail not less than three nor more than twelve months: *Provided*, That the provisions of this section do not prohibit an attorney or his or her employees from supplying any written or printed material to an adult or juvenile which pertains to that attorney's representation of the adult or juvenile.~~

~~(c)(1) If any person transports any alcoholic liquor, nonintoxicating beer, poison, implement of escape, dangerous material, weapon, or any controlled substance as defined by chapter sixty a of this code onto the grounds of any jail, state correctional facility, juvenile facility or juvenile detention center within this state and is unauthorized by law to do so, or is~~

~~unauthorized by the persons supervising the facility, the person is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or confined in a state correctional facility not less than two years nor more than ten years, or both, or, in the discretion of the court, be confined in jail not more than one year and fined not more than \$500.~~

~~(2) If any person willfully and knowingly transports or causes to be transported any telecommunications device into or upon any portion of any jail, state correctional facility, juvenile facility or juvenile detention center within this state that is not generally open and accessible to members of the public without prior approval from the warden/administrator or designee and such person is unauthorized by law to do so, or is unauthorized by the persons supervising the facility, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or confined in jail not more than one year or both fined and confined.~~

~~(d) If any person delivers any alcoholic liquor, nonintoxicating beer, poison, implement of escape, dangerous material, weapon or any controlled substance as defined by chapter sixty a of this code to an adult or juvenile in custody or confinement in any jail, state correctional facility, juvenile facility or juvenile detention center within this state and is unauthorized by law to do so, or is unauthorized by the persons supervising the facility, the person is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or confined in a state correctional facility not less than one year nor more than five years, or both.~~

~~(e) Whoever purchases, accepts as a gift or secures by barter, trade or in any other manner any article or articles manufactured at or belonging to any jail, state correctional facility, juvenile facility or juvenile detention center from any adult or juvenile detained therein is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 and confined in jail not less than three nor more than twelve months: *Provided*, That the provisions of this subsection do not apply to articles specially manufactured in any facility under the authorization of~~

the persons supervising the facility and which are offered for sale within or outside of the facility.

~~(f) Whoever persuades, induces or entices or attempts to persuade, induce or entice any person who is in custody or confined in any jail, state correctional facility, juvenile facility or juvenile detention center to escape therefrom or to engage or aid in any insubordination to the persons supervising the facility is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 and confined in jail not less than three nor more than twelve months.~~

~~(g) (1) An inmate of a jail, state correctional facility, juvenile facility or juvenile detention center having in his or her possession any poison, implement of escape, dangerous material, weapon, telecommunications device or any controlled substance as defined by chapter sixty-a of this code is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or confined in a state correctional facility not less than one year nor more than five years, or both, or, in the discretion of the court, be confined in jail not more than one year and fined not more than \$500.~~

~~(2) An inmate of a jail, state correctional facility, juvenile facility or juvenile detention center having in his or her possession any alcoholic liquor, nonintoxicating beer, money or other thing of value, any written or printed matter, any article of merchandise, food or clothing, any medicine, utensil or instrument of any kind without the express authority and permission of the supervising officer is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 and confined in jail not more than twelve months.~~

~~(h) As used in this section:~~

~~(1) 'Dangerous material' means any incendiary material or device, highly flammable or caustic liquid, explosive, bullet or other material readily capable of causing death or serious bodily injury.~~

~~(2) 'Delivers' means to transfer an item to an adult or juvenile who is detained in custody or confinement in any jail, correctional facility, juvenile facility or juvenile detention center or a building appurtenant to those places. The term includes bringing the item into a jail, correctional facility, juvenile facility or juvenile detention center or a building appurtenant to those places. The term includes putting an item in a place where it may be obtained by an inmate.~~

~~(3) 'Inmate' means an adult or juvenile who is detained in custody or confinement in any jail, correctional facility, juvenile facility or juvenile detention center, regardless of whether the individual is temporarily absent due to medical treatment, transportation, court appearance or other reason for a temporary absence.~~

~~(4) 'Implement of escape' means a tool, implement, device, equipment or other item which an inmate is not authorized to possess capable of facilitating, aiding or concealing an escape or attempted escape by an inmate.~~

~~(5) 'Telecommunication device' means any type of instrument, device, machine or equipment which is capable of transmitting telephonic, electronic, digital, cellular or radio communications or any part of an instrument, device, machine or equipment which is capable of facilitating the transmission of telephonic, electronic, digital, cellular or radio communications regardless of whether the part itself is able to transmit. The term includes, but is not limited to, cellular phones, digital phones and modem equipment devices.~~

~~(6) 'Weapon' means an implement readily capable of lethal use and includes any firearm, knife, dagger, razor, other cutting or stabbing implement or club. The term includes any item which has been modified or adapted so that it can be used as a firearm, knife, dagger, razor, other cutting or stabbing implement or club. For purposes of this definition, the term 'firearm' includes an unloaded firearm or the unassembled components of a firearm. (a) Any person, under the age of 18 years of age, who escapes or attempts to escape from the custody of the Director of Juvenile Services, regardless of where that person is confined or where the escape~~

occurs, is guilty of a delinquent act and subject to the jurisdiction of the circuit court of the county in which the escape occurred, pursuant to §49-4-701 of this code: *Provided*, That upon agreement of all parties, the prosecution of the escape may be transferred to the circuit court from which the juvenile was originally committed.

(b) Any person, over the age of 18 years of age or any juvenile who has been transferred to the adult jurisdiction of the committing court, who escapes or attempts to escape from the custody of the Director of Juvenile Services, regardless of where that person is confined or where the escape or attempted escape occurs, is guilty of escape and, if the person is detained or confined for an offense which is a felony or would have been a felony if committed by an adult is guilty of a Class 5 felony. Any person, over the age of 18 years of age or any juvenile who has been transferred to the adult jurisdiction of the committing court, who is detained for an offense which is a misdemeanor or would have been a misdemeanor if committed by an adult is guilty of a Class 1 misdemeanor.

(c) The time to be served by such person for an offense under this section shall be consecutive to any other sentence and shall commence after any other prior sentence has been served or otherwise discharged.

§61-5-9. Permitting escape; refusal of custody of prisoner; penalties. Refusal of officer to make, or delay in making, arrest; penalty.

~~If a jailer or other officer, or private correctional officer aid or voluntarily suffer a prisoner convicted or charged with felony to escape from his or her custody, he or she shall be deemed guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than five years. If any such jailer or other officer, or private correctional officer negligently, but not voluntarily, suffer a person convicted of or charged with felony, or voluntarily or negligently suffer a person convicted of or charged with an offense not a felony, to escape from his or her custody, or willfully refuse to receive into his or her custody any person lawfully committed thereto, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not~~

less than six months, or be fined not exceeding \$1,000, or both such fine and confinement. If any officer willfully and corruptly refuses to execute any lawful process, requiring him or her to apprehend or confine a person convicted of or charged with an offense, or shall willfully and corruptly omit or delay to execute that process, whereby the person escapes and goes at large, the officer is guilty of a Class 2 misdemeanor.

§61-5-10. Persons in custody of institutions or officers. Refusal of person to aid officer; penalty.

~~Whoever escapes or attempts to escape by any means from the custody of a county sheriff, the director of the Regional Jail Authority, an authorized representative of said persons, a law-enforcement officer, probation officer, employee of the Division of Corrections, court bailiff, or from any institution, facility, or any alternative sentence confinement, by which he or she is lawfully confined, if the custody or confinement is by virtue of a charge or conviction for a felony, is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not more than five years; and if the custody or confinement is by virtue of a charge or conviction for a misdemeanor, is guilty of a misdemeanor and, upon conviction thereof, he or she shall be confined in a county or regional jail for not more than one year. If any person, who, without good cause, on being required by any sheriff or other officer, refuses or neglects to assist him or her in the execution of his or her office in a criminal case, or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, or in any case of escape or rescue, is guilty of a Class 2 misdemeanor: *Provided*, that no person may be compelled to place themselves at risk of physical harm in rendering such assistance.~~

§61-5-11. Escapes and aiding in escapes; terms of confinement in addition to previous sentence. Refusal of officer to execute act or process of Legislature or order of Governor; penalty.

~~The terms of confinement specified in section eleven, article four, chapter twenty five of this code or in sections eight, nine and ten of this article shall be in addition to the period or periods of~~

confinement to which any person convicted under this section may be subject to and shall commence at the expiration of any such former sentence. Any officer of this state whose duty it is to execute or enforce any act of the Legislature, or any legal process or proceeding arising thereunder, or any lawful order or proclamation of the Governor of the state, and who willfully neglects or refuses to execute or enforce the same, without good cause, for every such offense, is guilty of a Class 2 misdemeanor.

~~§61-5-12. Escapes from, and other offenses relating to, state benevolent and correctional institution, or private prison or mental health facilities; penalties. Obstructing officer; fleeing from officer; making false statements to officer; interfering with emergency communications; penalties; definitions.~~

~~Except where otherwise provided, whoever abducts any person who is an inmate or patient of any state benevolent or correctional institution, private prison or mental health facility is guilty of a felony, and, upon conviction thereof, shall be imprisoned in the penitentiary for not more than five years. Whoever persuades, induces or entices, or attempts to persuade, induce or entice, any person who is an inmate or patient of any such institution, private prison or facility to escape therefrom, or whoever conceals or harbors any such person, knowing him or her to have run away from any such institution, private prison or facility, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, and in addition thereto, in the discretion of the court, may be imprisoned in the county jail not more than six months.~~

~~Any fugitive from any state benevolent or correctional institution, private prison or mental health facility, may, on the order of the superintendent or other officer of such institution or facility, be arrested and returned to such institution or facility, or to any officer or agent thereof, by any sheriff, police officer or other person, and may also be arrested and returned by any officer or agent of such institution, private prison or facility.~~

~~Whoever trespasses, idles, lounges or loiters upon the grounds of any other state benevolent or correctional institution, private prison or mental health facility or communicates, or attempts to communicate, by signals, signs, writings or otherwise with any inmate or patient of such institution, private prison or facility, or conveys or assists in any way in establishing communication between an inmate or patient of such institution, private prison or facility and any person or persons outside thereof, except as authorized by the rules or regulations in force by the authority governing the same, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$20 nor more than \$500, or imprisoned not more than thirty days in the county jail, or both, in the discretion of the court or magistrate. Whoever, with intent to defraud, purchases, accepts as a gift, or secures by barter or trade, or in any other manner, any article of clothing from an inmate or patient of any state benevolent or correctional institution, private prison or mental health facility issued to him or her, by any officer of such institution or facility, or by any private correctional officer of such private prison for his or her use, or, with such intent, secures any other article or articles belonging to any inmate or patient of such institution, private prison or facility or to such institution, private prison or facility from an inmate or patient thereof, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined a sum not less than double the value of such articles, except that in no case shall the fine be less than \$100. Magistrates shall have jurisdiction of all misdemeanors included in this paragraph, concurrently with the circuit court.~~

(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 Class 1 misdemeanor.

(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 Class 6 felony.

(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 Class 1 misdemeanor. 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.

(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 Class 1 misdemeanor.

(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 Class 1 misdemeanor.

(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 Class 6 felony.

(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 Class 6 felony.

(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 Class 5 felony.

(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 Class 3 felony. 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 Class 5 felony.

(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 service 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 Class 3 misdemeanor.

(5) A person who is convicted of a second offense under this subsection is guilty of a Class 2 misdemeanor.

(6) A person who is convicted of a third or subsequent offense under this subsection is guilty of a Class 1 misdemeanor.

(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.

§61-5-12a. Escape from custody of the commissioner of corrections.

[Repealed.]

§61-5-12b. Escape from custody of the Director of Juvenile Services.

[Repealed.]

§61-5-13. Refusal of officer to make, or delay in making, arrest; penalty. Officer not liable for act done under statute or executive order afterward declared unconstitutional.

~~If any officer wilfully and corruptly refuse to execute any lawful process, requiring him or her to apprehend or confine a person convicted of or charged with an offense, or shall wilfully and corruptly omit or delay to execute such process, whereby such person shall escape and go at large, such officer shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than six months, and be fined not exceeding \$500. No officer in the lawful exercise or discharge of his or her official duty under any act of the Legislature, or any order or proclamation of the Governor of this state, may be held personally responsible therefor in any action, suit, prosecution or proceeding, civil or criminal, by reason of such act, order or proclamation being afterwards adjudged by any court of this state to be unconstitutional. Nor may his or her official bond be liable in any civil proceeding therefor.~~

§61-5-14. ~~Refusal of person to aid officer; penalty. Compounding offenses and misprision; penalties.~~

~~If any person shall, on being required by any sheriff or other officer, refuse or neglect to assist him or her in the execution of his or her office in a criminal case, or in the preservation of the peace, or the apprehending or securing of any person for a breach of the peace, or in any case of escape or rescue, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than six months and be fined not exceeding \$100. Any person, who knowing of the commission of an offense, takes any money, or reward, or an engagement therefor, upon an agreement~~

or undertaking, expressed or implied, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, if the offense is a felony, is guilty of a Class 1 misdemeanor and, if the offense is not a felony, unless it is punishable merely by a forfeiture, is guilty of a Class 2 misdemeanor.

~~§61-5-15. Refusal of person to execute order of arrest by justice; penalty. Exacting excessive fees; penalty.~~

~~If any person, being required by a justice, on view of a breach of the peace or other offense, to bring before him or her the offender, shall refuse or neglect to obey the justice, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be punished as provided in the preceding section; and if the justice declare himself or herself to be such, or if he or she be known to the offender, ignorance of his or her office shall not be pleaded as an excuse. If any officer, for performing an official duty for which a fee or compensation is allowed or provided by law, knowingly demand and receive a greater fee or compensation than is so allowed or provided, he or she shall be guilty of a Class 3 misdemeanor.~~

~~§61-5-16. Refusal of officer to execute act or process of Legislature or order of Governor; penalty. Issuing fraudulent fee bills; penalty.~~

~~Any officer of this state whose duty it is to execute or enforce any act of the Legislature, or any legal process or proceeding arising thereunder, or any lawful order or proclamation of the Governor of the state, and who shall wilfully neglect or refuse to execute or enforce the same, shall, for every such offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500, and may, in the discretion of the court, be imprisoned not exceeding one year. Any person, authorized by law to charge fees for services performed by him or her, and to issue fee bills therefor, fraudulently issue a fee bill for a service not performed by him or her, or for more than he or she is entitled to, is guilty of a Class 3 misdemeanor; and, in addition thereto, shall forfeit his or her office~~

and be forever incapable of holding any office of honor, trust or profit in this state.

§61-5-17. Obstructing officer; fleeing from officer; making false statements to officer; interfering with emergency communications; penalties; definitions. Alteration, concealment or destruction of public record by officer; penalty.

(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.~~

~~(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 service 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. Any clerk of a court, or other public officer, who fraudulently makes a false entry, or erases, alters or destroys any record in his or her keeping and belonging to his or her office, or who willfully secretes any such record from any person having the right to inspect the same, is guilty of a Class 6 felony; and, in addition thereto, shall forfeit his or her office and be forever incapable of holding any office of honor, trust or profit in this state.

§61-5-18. Officer not liable for act done under statute or executive order afterward declared unconstitutional. Larceny, concealment, or destruction of public record by person not officer; penalty.

No officer in the lawful exercise or discharge of his or her official duty under any act of the Legislature, or any order or proclamation of the Governor of this state, shall be held personally responsible therefor in any action, suit, prosecution or proceeding, civil or criminal, by reason of such act, order or proclamation being afterwards adjudged by any court of this state to be unconstitutional. Nor shall his or her official bond be liable in any civil proceeding therefor. Any person, other than an officer in lawful charge thereof, who steals, fraudulently secretes or destroys, a public record or any part thereof, is guilty of a Class 1 misdemeanor.

§61-5-19. Compounding offenses and misprision; penalties. Corrupt summoning of jurors to find biased verdict; penalty.

If any person, knowing of the commission of an offense, take any money, or reward, or an engagement therefor, upon an agreement or undertaking, expressed or implied, to compound or

~~conceal such offense, or not to prosecute therefor, or not to give evidence thereof, he or she shall, if such offense be a felony, be guilty of a misdemeanor, and, upon conviction, be confined in jail not more than one year and fined not exceeding \$500; and if such offense be not a felony, unless it be punishable merely by a forfeiture to him or her, he or she may be confined in jail not more than six months, and shall be fined not exceeding \$100. A sheriff or other officer who, corruptly, or through favor or ill will, summons a juror, with intent that such juror shall find a verdict for or against any party to an action, or shall be biased in his or her conduct as such juror, is guilty of a Class 6 felony, and shall forfeit his or her office and be forever incapable of holding any office of honor, trust or profit in this state.~~

§61-5-20. ~~Exacting excessive fees; penalty. Procuring the summoning of biased juror by party other than officer; penalty.~~

~~If any officer, for performing an official duty for which a fee or compensation is allowed or provided by law, knowingly demand and receive a greater fee or compensation than is so allowed or provided, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding \$50. Any person, who procures or attempts to procure a juror to be summoned, with intent that such juror shall find a verdict for or against either party to an action or shall be biased in his or her conduct as such juror, is guilty of a Class 6 felony.~~

§61-5-21. ~~Issuing fraudulent fee bills; penalty. Discrimination against employee summoned for jury duty; penalty.~~

~~If any person authorized by law to charge fees for services performed by him or her, and to issue fee bills therefor, fraudulently issue a fee bill for a service not performed by him or her, or for more than he or she is entitled to, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding \$500; and, in addition thereto, he or she shall forfeit his or her office and be forever incapable of holding any office of honor, trust or profit in this state. It is unlawful for any person to terminate or threaten to terminate from employment or decrease the~~

regular compensation of employment of an employee for time the employee was not actually away from his or her employment because an employee received, or was served with a summons for jury duty, or was absent from work to respond to a summons for jury duty or to serve on any jury in any court of this state, the United States, or any state of the United States.

Any person violating the provisions of this section is guilty of a Class 3 misdemeanor.

§61-5-22. Alteration, concealment or destruction of public record by officer; penalty. Contempt of court; what constitutes contempt; jury trial; presence of defendant.

If any clerk of a court, or other public officer, fraudulently make a false entry, or erase, alter or destroy any record in his or her keeping and belonging to his or her office, or shall wilfully secrete any such record from any person having the right to inspect the same, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and be fined not exceeding \$1,000; and, in addition thereto, he or she shall forfeit his or her office and be forever incapable of holding any office of honor, trust or profit in this state. The courts and the judges thereof may issue attachment for contempt and punish them summarily only in the following cases: (a) Misbehavior in the presence of the court, or so near thereto as to obstruct or interrupt the administration of justice; (b) violence or threats of violence to a judge or officer of the court, or to a juror, witness, or party going to, attending or returning from the court, for or in respect of any act or proceeding had, or to be had, in such court; (c) misbehavior of an officer of the court, in his or her official character; (d) disobedience to or resistance of any officer of the court, juror, witness, or other person, to any lawful process, judgment, decree or order of the said court. No court may, without a jury, for any such contempt as is mentioned in subdivision (a) of this section, impose a sentence for any such offense in excess of a Class 3 misdemeanor. But, in any such case, the court may impanel a jury (without an indictment or any formal pleading) to ascertain the fine or imprisonment proper to be inflicted and may give judgment according to the verdict: *Provided*, that in no such case may the

penalty prescribed by that judgment exceed a Class 1 misdemeanor. Additionally, any jury trial for contempt shall be presided over a different judge than the judge against whom such contempt was alleged to have been rendered. No court may impose a fine for contempt, unless the defendant is present in court, or has have been served with a rule of the court to show cause, on some certain day, and has failed to appear and show cause.

§61-5-23. Larceny, concealment or destruction of public record by person not officer; penalty. Intimidation of and retaliation against public officers and employees, jurors, and witnesses; fraudulent official proceedings and legal processes against public officials and employees; penalties.

~~If any person, other than an officer in lawful charge thereof, steal, fraudulently secrete or destroy, a public record or any part thereof, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and be fined not exceeding \$1,000.~~

(a) Definitions. — As used in this section:

‘Fraudulent’ means not legally issued or sanctioned under the laws of this state or of the United States, including forged, false, and materially misstated;

‘Legal process’ means an action, appeal, document instrument, or other writing issued, filed, or recorded to pursue a claim against person or property, exercise jurisdiction, enforce a judgment, fine a person, put a lien on property, authorize a search and seizure, arrest a person, incarcerate a person, or direct a person to appear, perform, or refrain from performing a specified act. ‘Legal process’ includes, but is not limited to, a complaint, decree, demand, indictment, injunction, judgment, lien, motion, notice, order, petition, pleading, sentence, subpoena, summons, warrant, or writ;

‘Official proceeding’ means a proceeding involving a legal process or other process of a tribunal of this state or of the United States;

'Person' means an individual, group, association, corporation, or any other entity;

'Public official or employee' means an elected or appointed official or employee of a state or federal court, commission, department, agency, political subdivision, or any governmental instrumentality;

'Recorder' means a clerk or other employee in charge of recording instruments in a court, commission, or other tribunal of this state or of the United States; and

'Tribunal' means a court or other judicial or quasi-judicial entity, or an administrative, legislative, or executive body, or that of a political subdivision, created or authorized under the constitution or laws of this state or of the United States.

(b) Intimidation; harassment. — It is unlawful for a person to use intimidation, physical force, harassment, or a fraudulent legal process or official proceeding, or to threaten to do so where such threat is directed at inciting or producing imminent lawless action of a violent nature that could cause bodily harm and is likely to incite or produce such action or to attempt to do so, with the intent to:

(1) Impede or obstruct a public official or employee from performing his or her official duties;

(2) Impede or obstruct a juror or witness from performing his or her official duties in an official proceeding;

(3) Influence, delay, or prevent the testimony of any person in an official proceeding; or

(4) Cause or induce a person to: (A) Withhold testimony, or withhold a record, document or other object from an official proceeding; (B) alter, destroy, mutilate, or conceal a record, document, or other object impairing its integrity or availability for use in an official proceeding; (C) evade an official proceeding summoning a person to appear as a witness or produce a record, document, or other object for an official proceeding; or (D) be

absent from an official proceeding to which such person has been summoned.

(c) Retaliation. — It is unlawful for a person to cause injury or loss to person or property, or to threaten to do so where such threat is directed at inciting or producing imminent lawless action of a violent nature that could cause bodily harm and is likely to incite or produce such action or to attempt to do so, with the intent to:

(1) Retaliate against a public official or employee for the performance or nonperformance of an official duty;

(2) Retaliate against a juror or witness for performing his or her official duties in an official proceeding; or

(3) Retaliate against any other person for attending, testifying, or participating in an official proceeding, or for the production of any record, document, or other object produced by a person in an official proceeding.

(d) Penalty. — A person convicted of an offense under subsections (b) or (c) of this section is guilty of a Class 5 felony.

(e) Civil cause of action. — A person who violates this section is liable in a civil action to any person harmed by the violation for injury or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting a civil action commenced under this subsection, which is not the exclusive remedy of a person who suffers injury or loss to person or property as a result of a violation of this section.

(f) Civil sanctions. — In addition to the criminal and civil penalties set forth in this section, any fraudulent official proceeding or legal process brought in a tribunal of this state in violation of this section shall be dismissed by the tribunal and the person may be ordered to reimburse the aggravated person for reasonable attorney's fees, court costs, and other expenses incurred in defending or dismissing such action.

(1) Refusal to record. — A recorder may refuse to record a clearly fraudulent lien or other legal process against a public official or employee or his or her property. The recorder does not have a duty to inspect or investigate whether a lien or other legal process is fraudulent, nor is the recorder liable for refusing to record a lien or other legal process that the recorder believes is in violation of this section; and

(2) If a fraudulent lien or other legal process against a public official or employee or his or her property is recorded then:

(A) Request to release lien. — The public official or employee may send a written request by certified mail to the person who filed the fraudulent lien or legal process requesting the person to release or dismiss the lien or legal process. If such lien or legal process is not properly released or dismissed within 21 days, then it shall be inferred that the person intended to harass the public official or employee in violation of subsection (b) of this section and shall be subject to the criminal penalties in subsection (d) of this section and any other remedies provided in this section; or

(B) Notice of fraudulent lien. — A government attorney on behalf of the public official or employee may record a notice of fraudulent lien or legal process with the recorder who accepted the lien or legal process for filing. Such notice shall invalidate the fraudulent lien or legal process and cause it to be removed from the records. No filing fee may be charged for the filing of the notice.

(g) A person's lack of belief in the jurisdiction or authority of this state or of the United States is no defense to prosecution of a civil or criminal action under this section.

(h)(1) Nothing in this section prohibits or in any way limits the lawful acts of legitimate public officials or employees;

(2) Nothing in this section prohibits or in any way limits a person's lawful and legitimate right to freely assemble, express opinions, or designate group affiliation; or

(3) Nothing in this section prohibits or in any way limits a person's lawful and legitimate access to a tribunal of this state or prevents a person from instituting or responding to a lawful action.

§61-5-24. ~~Corrupt summoning of jurors to find biased verdict; penalty. Fraudulent official proceedings; causing a public employee or official to file a fraudulent legal process; impersonation of a public official, employee or tribunal; penalties.~~

~~A sheriff or other officer who, corruptly, or through favor or ill will, shall summon a juror, with intent that such juror shall find a verdict for or against any party to an action, or shall be biased in his or her conduct as such juror, shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not exceeding six months and fined not exceeding \$500, and shall forfeit his or her office and be forever incapable of holding any office of honor, trust or profit in this state.~~

(a) Definitions. — For the purpose of this section, the following terms have the meaning ascribed to them in section twenty-seven of this article: 'Fraudulent', 'legal process', 'official proceeding', 'person', 'public official or employee', 'recorder', and 'tribunal'.

(b) Fraudulent official proceedings. — It is unlawful for a person to knowingly engage in a fraudulent official proceeding or legal process.

(c) Fraudulent filings. — It is unlawful for a person to knowingly cause a public official or employee to file, record or deliver a fraudulent claim of indebtedness, common law lien or other lien, financial statement, complaint, summons, judgment, warrant or other legal process, including those issued as the result of a fraudulent official proceeding.

(d) Fraudulent service. — It is unlawful for a person to knowingly serve a public official or employee with a fraudulent claim of indebtedness, common law lien or other lien, financial statement, complaint, summons, judgment, warrant or other legal

process, including those issued as the result of a fraudulent official proceeding.

(f) *First offense.* — Any person who violates a provision of this section is guilty of a Class 1 misdemeanor.

(g) *Second offense.* — Any person convicted of a second or subsequent offense under this section is guilty of a Class 6 felony.

(h) *Civil cause of action.* — A person who violates this section is liable in a civil action to any person harmed by the violation for injury or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs and other expenses incurred as a result of prosecuting the civil action commenced under this subsection, which is not the exclusive remedy of a person who suffers injury or loss to person or property as a result of a violation of this section.

(i) *Civil sanctions.* — In addition to the criminal and civil penalties set forth in this section, a fraudulent official proceeding or legal process brought in a tribunal in violation of this section shall be dismissed by the tribunal and the person may be ordered to reimburse the aggravated person for reasonable attorney's fees, court costs and other expenses incurred in defending or dismissing such action.

(1) *Refusal to record.* — A recorder may refuse to record a clearly fraudulent lien or other legal process against a person or his or her property. The recorder does not have a duty to inspect or investigate whether a lien or other legal process is fraudulent nor is the recorder liable for refusing to record a lien or other legal process that the recorder believes is in violation of this section.

(2) If a fraudulent lien or other legal process against a person or his or her property is recorded then:

(A) *Request to release lien.* — A person may send a written request by certified mail to the person who filed the fraudulent lien or legal process, requesting the person to release or dismiss the lien or legal process. If such lien or legal process is not properly released or dismissed within twenty-one days, then the person shall

be presumed to have intended to have committed a violation of this section and shall be subject to the penalties provided for in this section; or

(B) *Petition to circuit court.* — A person may petition the circuit court of the county where the fraudulent lien or legal process was recorded for an order that may be granted ex parte directing the person who filed the lien or legal process to appear before the court and show cause why the lien or legal process should not be released or dismissed, deemed fraudulent and the person penalized as provided for in this section.

(i) The petition shall set forth a concise statement of the facts and the grounds upon which relief is requested.

(ii) No filing fee shall be charged for the filing of such petitions.

(iii) The order to show cause shall be served upon the person who filed the lien or legal process according to rule 4 of the rules of civil procedure and the date of the hearing set within twenty-one days of the order.

(iv) The order to show cause shall clearly state that if the person who filed the lien or legal process fails to appear at the time and place noticed in the order, then the lien or legal process shall be released or dismissed, deemed fraudulent and the person shall be subject to the penalties provided for in this section.

(v) If a hearing takes place or if, on its own motion, the circuit court determines that the lien or legal process is fraudulent, then the circuit court shall release or dismiss it and subject the person to the penalties provided for in this section.

(vi) If the circuit court determines that the lien or legal process is valid, then the circuit court shall issue an order stating such and may award reasonable attorney's fees, court costs and other expenses to the prevailing party.

(j) A person's lack of belief in the jurisdiction or authority of this state or of the United States is no defense to prosecution of a civil or criminal action under this section.

(k)(1) Nothing in this section prohibits or in any way limits the lawful acts of a legitimate public official or employee.

(2) Nothing in this section prohibits or in any way limits a person's lawful and legitimate right to freely assemble, express opinions or designate group affiliation.

(3) Nothing in this section prohibits or in any way limits a person's lawful and legitimate access to a tribunal of this state nor does it prevent a person from instituting or responding to a lawful action.

§61-5-25. Procuring the summoning of biased juror by party other than officer; penalty. Impersonation; penalty; subsequent offenses.

If any person shall procure or attempt to procure a juror to be summoned, with intent that such juror shall find a verdict for or against either party to an action or shall be biased in his or her conduct as such juror, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding \$500. (a) Any person who knowingly impersonates or purports to exercise any function of a public official, employee, tribunal, or official proceeding without legal authority to do so, with the intent to induce a person to submit to or rely on the fraudulent authority of the person is guilty of a Class 1 misdemeanor.

(b) Any person who falsely represents himself or herself to be a law-enforcement officer, or law-enforcement official, or to be under the order or direction of any such person, or any person not a law-enforcement officer, or law-enforcement official who wears, the uniform prescribed for such persons, or the badge or other insignia, adopted for use by such persons with the intent to deceive another person is guilty of a Class 1 misdemeanor. For purposes of this section, the terms law-enforcement officer and law-enforcement official are defined by §30-29-1 of this code, except

that such terms do not include members of the Division of Public Safety and do not include individuals hired by nonpublic entities for the provision of security services.

(c) *Second offense.* — Any person convicted of a second or subsequent offense under this section is guilty of a Class 6 felony.

§61-5-25a. Discrimination against employee summoned for jury duty; penalty.

[Repealed.]

~~§61-5-26. Contempt of court; what constitutes contempt; jury trial; presence of defendant. Failure to perform official duties; penalty.~~

~~The courts and the judges thereof may issue attachment for contempt and punish them summarily only in the following cases: (a) Misbehavior in the presence of the court, or so near thereto as to obstruct or interrupt the administration of justice; (b) violence or threats of violence to a judge or officer of the court, or to a juror, witness, or party going to, attending or returning from the court, for or in respect of any act or proceeding had, or to be had, in such court; (c) misbehavior of an officer of the court, in his or her official character; (d) disobedience to or resistance of any officer of the court, juror, witness, or other person, to any lawful process, judgment, decree or order of the said court. No court shall, without a jury, for any such contempt as is mentioned in subdivision (a) of this section, impose a fine exceeding \$50, or imprison more than ten days. But in any such case the court may impanel a jury (without an indictment or any formal pleading) to ascertain the fine or imprisonment proper to be inflicted, and may give judgment according to the verdict. No court shall impose a fine for contempt, unless the defendant be present in court, or shall have been served with a rule of the court to show cause, on some certain day, and shall have failed to appear and show cause. Any person holding any office or appointment in this state, who willfully fails or refuses to perform any duty required of him or her by law, is guilty of a petty offense, and, upon conviction thereof, shall, if no other~~

punishment is prescribed by law, shall be fined not exceeding \$1000.

~~§61-5-27. Intimidation of and retaliation against public officers and employees, jurors, and witnesses; fraudulent official proceedings and legal processes against public officials and employees; penalties. Failure to meet an obligation to pay support to a minor; penalties.~~

(a) Definitions. — As used in this section:

(1) ~~‘Fraudulent’ means not legally issued or sanctioned under the laws of this state or of the United States, including forged, false, and materially misstated;~~

(2) ~~‘Legal process’ means an action, appeal, document instrument, or other writing issued, filed, or recorded to pursue a claim against person or property, exercise jurisdiction, enforce a judgment, fine a person, put a lien on property, authorize a search and seizure, arrest a person, incarcerate a person, or direct a person to appear, perform, or refrain from performing a specified act. ‘Legal process’ includes, but is not limited to, a complaint, decree, demand, indictment, injunction, judgment, lien, motion, notice, order, petition, pleading, sentence, subpoena, summons, warrant, or writ;~~

(3) ~~‘Official proceeding’ means a proceeding involving a legal process or other process of a tribunal of this state or of the United States;~~

(4) ~~‘Person’ means an individual, group, association, corporation, or any other entity;~~

(5) ~~‘Public official or employee’ means an elected or appointed official or employee of a state or federal court, commission, department, agency, political subdivision, or any governmental instrumentality;~~

(6) ~~‘Recorder’ means a clerk or other employee in charge of recording instruments in a court, commission, or other tribunal of this state or of the United States; and~~

~~(7) 'Tribunal' means a court or other judicial or quasi-judicial entity, or an administrative, legislative, or executive body, or that of a political subdivision, created or authorized under the constitution or laws of this state or of the United States.~~

~~(b) Intimidation; harassment.— It is unlawful for a person to use intimidation, physical force, harassment, or a fraudulent legal process or official proceeding, or to threaten to do so where such threat is directed at inciting or producing imminent lawless action of a violent nature that could cause bodily harm and is likely to incite or produce such action or to attempt to do so, with the intent to:~~

~~(1) Impede or obstruct a public official or employee from performing his or her official duties;~~

~~(2) Impede or obstruct a juror or witness from performing his or her official duties in an official proceeding;~~

~~(3) Influence, delay, or prevent the testimony of any person in an official proceeding; or~~

~~(4) Cause or induce a person to: (A) Withhold testimony, or withhold a record, document or other object from an official proceeding; (B) alter, destroy, mutilate, or conceal a record, document, or other object impairing its integrity or availability for use in an official proceeding; (C) evade an official proceeding summoning a person to appear as a witness or produce a record, document, or other object for an official proceeding; or (D) be absent from an official proceeding to which such person has been summoned.~~

~~(c) Retaliation.— It is unlawful for a person to cause injury or loss to person or property, or to threaten to do so where such threat is directed at inciting or producing imminent lawless action of a violent nature that could cause bodily harm and is likely to incite or produce such action or to attempt to do so, with the intent to:~~

~~(1) Retaliate against a public official or employee for the performance or nonperformance of an official duty;~~

~~(2) Retaliate against a juror or witness for performing his or her official duties in an official proceeding; or~~

~~(3) Retaliate against any other person for attending, testifying, or participating in an official proceeding, or for the production of any record, document, or other object produced by a person in an official proceeding.~~

~~(d) Penalty. — A person convicted of an offense under subsections (b) or (c) of this section is guilty of a felony and shall be confined in a correctional facility not less than one nor more than 10 years, fined not more than \$2,000, or both.~~

~~(e) Civil cause of action. — A person who violates this section is liable in a civil action to any person harmed by the violation for injury or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting a civil action commenced under this subsection, which is not the exclusive remedy of a person who suffers injury or loss to person or property as a result of a violation of this section.~~

~~(f) Civil sanctions. — In addition to the criminal and civil penalties set forth in this section, any fraudulent official proceeding or legal process brought in a tribunal of this state in violation of this section shall be dismissed by the tribunal and the person may be ordered to reimburse the aggravated person for reasonable attorney's fees, court costs, and other expenses incurred in defending or dismissing such action.~~

~~(1) Refusal to record. — A recorder may refuse to record a clearly fraudulent lien or other legal process against a public official or employee or his or her property. The recorder does not have a duty to inspect or investigate whether a lien or other legal process is fraudulent, nor is the recorder liable for refusing to record a lien or other legal process that the recorder believes is in violation of this section; and~~

~~(2) If a fraudulent lien or other legal process against a public official or employee or his or her property is recorded then:~~

~~(A) Request to release lien. — The public official or employee may send a written request by certified mail to the person who filed the fraudulent lien or legal process requesting the person to release or dismiss the lien or legal process. If such lien or legal process is not properly released or dismissed within 21 days, then it shall be inferred that the person intended to harass the public official or employee in violation of subsection (b) of this section and shall be subject to the criminal penalties in subsection (d) of this section and any other remedies provided in this section; or~~

~~(B) Notice of fraudulent lien. — A government attorney on behalf of the public official or employee may record a notice of fraudulent lien or legal process with the recorder who accepted the lien or legal process for filing. Such notice shall invalidate the fraudulent lien or legal process and cause it to be removed from the records. No filing fee shall be charged for the filing of the notice.~~

~~(g) A person's lack of belief in the jurisdiction or authority of this state or of the United States is no defense to prosecution of a civil or criminal action under this section.~~

~~(h)(1) Nothing in this section prohibits or in any way limits the lawful acts of legitimate public officials or employees;~~

~~(2) Nothing in this section prohibits or in any way limits a person's lawful and legitimate right to freely assemble, express opinions, or designate group affiliation; or~~

~~(3) Nothing in this section prohibits or in any way limits a person's lawful and legitimate access to a tribunal of this state or prevents a person from instituting or responding to a lawful action.~~

(a) A person who: (1) repeatedly and willfully fails to pay his or her court-ordered support which he or she can reasonably provide and which he or she knows he or she has a duty to provide to a minor; and (2) is subject to court order to pay any amount for the support of a minor child and is delinquent in meeting the full obligation established by the order and has been delinquent for a period of at least six months duration, is guilty of a Class 1 misdemeanor.

(b) A person who repeatedly and willfully fails to pay his or her court-ordered support which he or she can reasonably provide and which he or she knows he or she has a duty to provide to a minor by virtue of a court or administrative order and the failure results in twelve months without payment of support that remains unpaid, is guilty of a Class 6 felony.

§61-5-27a. Fraudulent official proceedings; causing a public employee or official to file a fraudulent legal process; impersonation of a public official, employee or tribunal; penalties.

[Repealed.]

§61-5-28. Failure to perform official duties; penalty.

[Repealed.]

§61-5-29. Failure to meet an obligation to pay support to a minor; penalties.

[Repealed.]

ARTICLE 5A. BRIBERY AND CORRUPT PRACTICES.

§61-5A-9. Penalties; disqualification to hold office; statute of limitations for misdemeanor offenses.

(a) Any person who violates any of the provisions of section three of this article shall be guilty of a Class 6 felony, ~~and, upon conviction thereof, shall be punished, if an individual, by imprisonment in the penitentiary not less than one nor more than ten years, and, if a corporation, by a fine of not exceeding \$50,000.~~ Any person convicted of violating any of the provisions of section three of this article shall also be forever disqualified from holding any office or position of honor, trust or profit of government in this state.

(b) Any person who violates any of the provisions of section four of this article shall be guilty of a Class 1 misdemeanor, ~~and, upon conviction thereof, shall be punished by confinement in jail~~

~~not less than three months nor more than one year or by a fine of not exceeding \$5,000 or, in the discretion of the court, by both such confinement and fine.~~

(c) Any person who violates any of the provisions of section five of this article shall be guilty of a Class 1 misdemeanor, ~~and, upon conviction thereof, shall be punished by confinement in jail not less than three months nor more than one year or by a fine of not exceeding \$5,000 or, in the discretion of the court, by both such confinement and fine,~~ unless such person threatened to commit a crime or made a threat with the purpose to influence an administrative or judicial proceeding, in which event, he or she shall, upon conviction thereof, be guilty of a Class 6 felony and, additionally, shall also be forever disqualified from holding any office or position of honor, trust or profit of government in this state and, shall be punished as specified in subsection (a) of this section for a violation of any of the provisions of section three of this article.

(d) Any person who violates any of the provisions of section six or section seven of this article shall be guilty of a Class 1 misdemeanor, ~~and, upon conviction thereof, shall be punished by confinement in jail not less than three months nor more than one year or by a fine of not less than \$50 nor more than \$1,000 or, in the discretion of the court, by both such confinement and fine.~~

(e) Notwithstanding the provisions of §61-11-9 of this code or any other provision of law to the contrary, a prosecution for a misdemeanor under the provisions of this article shall be commenced within six years after the offense was committed.

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-1. Suppression of riots and unlawful assemblages.

All members of the West Virginia State Police, the Division of Protective Services, all sheriffs within their respective counties and all mayors within their respective jurisdiction, may suppress riots, routs, and unlawful assemblages. It shall be the duty of each of them to go among, or as near as may be with safety, to persons

riotously, tumultuously, or unlawfully assembled, and in the name of the law command them to disperse; and if they shall not thereupon immediately and peaceably disperse, such member of the West Virginia State Police, or of the Division of Protective Services, sheriff or mayor giving the command, and any other present, shall command the assistance of all persons present, and of all or any part of other law-enforcement personnel available to him or her, as need be, in arresting and securing those so assembled. ~~If any person present, on being required to give his or her assistance, depart, or fail to obey, he or she shall be deemed a rioter.~~

§61-6-1a. Control of riots and unlawful assemblages.

[Repealed.]

§61-6-1b. Disorderly conduct; penalty.

[Repealed.]

§61-6-2. ~~Commitment and recognizance of rioters.~~ Control of riots and unlawful assemblages.

~~If any person be arrested for a riot, rout or unlawful assemblage, he or she shall be taken without unreasonable delay before a justice of the county in which the arrest is made who shall commit him to jail, unless he shall enter into a recognizance, with sufficient security, to appear before the court having jurisdiction of the offense, at its next term, to answer therefor, and in the meantime to be of good behavior and to keep the peace.~~

Members of the West Virginia State Police, the Division of Protective Services, sheriffs and mayors, and those acting under their order, may, when engaged in suppressing a riot, rout or unlawful assemblage, cordon off any area or areas threatened by such riot, rout or unlawful assemblage, and may take all actions which are necessary and reasonable under the emergency to restore law and order, and such actions may be, but are not limited to, the following:

(a) Prohibit the sale, offering for sale, dispensing, furnishing, or transportation of firearms or other dangerous weapons, ammunition, dynamite, or other dangerous explosives in, to or from such areas.

(b) Prohibit the sale, offering for sale, dispensing, furnishing, or consumption of alcoholic beverages or nonintoxicating beer in a public place in such areas, and prohibit the transportation of alcoholic beverages or nonintoxicating beer in, to, or from such areas.

(c) Impose curfews, as required, to control movement of persons in, to, and from such areas.

(d) Enter a private dwelling or other building or other private place in such areas when in fresh pursuit of a rioter, when in search of a sniper who has fired upon a person from such a dwelling or other building or place or when in search of firearms, other dangerous weapons, ammunition, dynamite, or other dangerous explosives when there is reason to believe that such items are stored in the said dwelling, building, or place and that they will be removed therefrom before a search warrant could be obtained.

No person shall willfully fail to obey a lawful order of any mayor, sheriff, deputy sheriff, municipal police officer, member of the West Virginia State Police, or the Division of Protective Services, or other officer, given pursuant to this section.

Any person who violates an order given pursuant to the authority of this section shall be guilty of a Class 2 misdemeanor.

~~§61-6-3. Failure of member of West Virginia State Police officer, officer of the Division of Protective Services, mayor, or sheriff to exercise powers at riots and unlawful assemblages; penalty. Disorderly conduct; penalty~~

~~If any member of the West Virginia State Police, the Division of Protective Services, sheriff, or mayor have notice of a riotous, tumultuous, or unlawful assemblage in his or her respective jurisdiction as provided in section one of this article, and fail to proceed immediately to the place of such assemblage, or as near as~~

~~he or she may safely go, or fail to exercise his or her authority for suppressing it and arresting the offenders, he or she shall be fined not to exceed \$100.~~

(a) Any person who, in a public place, any office or office building of the State of West Virginia, or in the State Capitol complex, or on any other property owned, leased, occupied or controlled by the State of West Virginia, a mobile home park, a public parking area, a common area of an apartment building or dormitory, or a common area of a privately owned commercial shopping center, mall or other group of commercial retail establishments, disturbs the peace of others by violent, profane, indecent or boisterous conduct or language or by the making of unreasonably loud noise that is intended to cause annoyance or alarm to another person, and who persists in such conduct after being requested to desist by a law-enforcement officer acting in his or her lawful capacity, is guilty of the petty offense of disorderly conduct. Nothing in this subsection should may be construed as a deterrence to the lawful and orderly public right to demonstrate in support or protest of public policy issues.

(b) For purposes of this section:

‘Mobile home park’ means a privately owned residential housing area or subdivision wherein the dwelling units are comprised mainly of mobile homes and wherein the occupants of such dwelling units share common elements for purposes of ingress and egress, parking, recreation and other like residential purposes.

‘Mobile home’ means a moveable or portable unit, designed, and constructed to be towed on its own chassis (comprised of frame and wheels) and designed to be connected to utilities for year-round occupancy. The term includes: (A) Units containing parts that may be folded, collapsed, or telescoped when being towed and that may be expanded to provide additional cubic capacity; and (B) units composed of two or more separately towable components designed to be joined into one integral unit capable of being separated again into the components for repeated towing.

'Public parking area' means an area, whether publicly or privately owned or maintained, open to the use of the public for parking motor vehicles.

~~§61-6-6. Destruction of building by rioters; penalty therefor and for rioting without such injury~~ Mobs and lynching; penalties; liability of county or city.

~~If any person engaged in a riot, rout or unlawful assemblage, pull down or destroy, in whole or in part, any dwelling house, courthouse, jail, prison, asylum, hospital, school or college building, or any public building of any character, or assist therein, he or she shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years; and though no such building be injured, every rioter, and every person unlawfully or tumultuously assembled, shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and fined not exceeding \$500.~~

Any collection of individuals, five or more in number, assembled for the unlawful purpose of offering violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional or regulative powers over any person or persons by violence, and without lawful authority, shall be regarded and designated as a 'mob' or 'riotous assemblage.'

The term 'serious injury,' for the purposes of this section, shall include any injury to property which shall cause damage to the owner thereof, or any injury to the person which shall temporarily or permanently disable the person injured from earning a livelihood.

The putting to death of any person within this state by a mob or riotous assemblage shall be murder, and every person participating in such mob or riotous assemblage by which a person is put to death is guilty of murder, and, upon conviction thereof, shall be punished as the law provides in other cases of murder.

Persons who compose a mob or riotous assemblage, with the intent to inflict damage or injury to the person or property of any individual charged with crimes, or, under the pretense of exercising correctional powers over such person or persons by violence, and without lawful authority, are guilty of a Class 2 misdemeanor. Persons who compose a mob or riotous assemblage, and who inflicts damage or injury to the person or property of any individual charged with crimes, are guilty of a Class 6 felony.

Persons composing a mob or riotous assemblage under the provisions of this section, who, by violence, inflict serious injury to the property or to the person of any other person upon the pretense of exercising correctional or regulative powers over such person or persons, and without authority of the law, are guilty of a Class 5 felony, and, upon conviction thereof, shall be imprisoned in a state correctional facility not exceeding five years; and any person suffering serious injury to his or her person or his or her property by a mob, shall have an action against the county or city in which serious injury is inflicted, for such damages as he or she may sustain, to an amount not to exceed \$50,000.

The county, in which the person or persons charged with a crime are taken from a state, county, or municipal officer, and lynched and put to death, shall be subject to a forfeiture of \$500,000, which may be recovered by appropriate action therefor, in the name of the personal representative of the person put to death, for the use of his or her dependent family or estate. The action may be brought in any state court. If the forfeiture is not paid upon recovery of judgment therefor, the court rendering such judgment may enforce the payment thereof, and may compel the levy and collection of a tax therefor, or otherwise compel the payment thereof by mandamus or other appropriate process, and every officer of the county, and every other person who disobeys or fails to comply with any lawful order of the court, shall be liable to punishment according to law as for contempt and to any other penalties provided by law therefor.

The fact that any person so put to death was taken from any state, county, or municipal officer in one county, by a mob or riotous assemblage of five or more persons, and transported out of

that county before the killing took place, and the fact that the killing occurred out of the county from which such person may have been taken from the state, county or municipal officer, shall not relieve the county from which he or she was taken from the liability provided by this section. If the person so taken from such officer or officers is transported from and put to death and lynched in another county outside of the county wherein he or she was taken from such officer or officers, no county through which that person was transported, or in which that person has been lynched and put to death, shall be liable to damages hereunder, unless it is clearly shown that the officers or citizens in such county or counties participated in, aided, abetted or encouraged such unlawful putting to death.

Every state, county or municipal officer having the duty or power of preservation or conservation of the peace at the time and place of any such putting to death, or the committing of serious injury to the person or to the property as prescribed in this section, who, having reasonable cause to believe that the same is to be done, or is attempted to be done, and neglects or omits to prevent the same, and every such officer from whose custody such person may be taken by the mob or riotous assemblage, and put to death by the same, or whose property or person suffers serious injury at the hands of such mob or riotous assemblage, is guilty of negligence in the discharge of his or her official duty, and the county or city which shall have been sued and compelled to pay damages as herein provided may recover same from such negligent officer by appropriate action upon his or her official bond.

In any prosecution for any of the offenses defined herein, and any action for the forfeiture imposed as herein provided, every person who has participated in the lynching or in the putting to death of, or in the infliction of great bodily violence or serious injury to the person or the property of any person, without authority of the law, and every person who entertains or has expressed any opinion in favor of lynching or in the justification or excuse thereof, or whose character, conduct, or opinions have been or are such as, in the judgment of the court, may tend to disqualify him or her for an impartial and unprejudiced trial of the cause, shall be

disqualified to serve as a juror, and in any such action or prosecution, any attorney interested in the case shall be entitled to make full inquiry thereof and to produce evidence thereon; and every person who refuses to answer any inquiry touching his or her qualifications on the ground that he or she may thereby incriminate himself or herself shall be disqualified.

~~§61-6-7. Conspiracy to inflict injury to persons or property; infliction of injury or death in pursuance thereof; penalties. Disturbance of religious worship; penalty~~

If any person willfully interrupt, molest or disturb any assembly of people met for the worship of God, or for prayer, or for any Sunday school or religious instruction, he or she shall be guilty of a Class 2 misdemeanor. Any officer may put such offender under restraint during such religious worship.

~~§61-6-8. Release or rescue of person in custody charged or convicted under §61-6-7; penalty. Disturbance of schools, societies, and other assemblies; penalty.~~

If any person, by force, or other unlawful means, shall release or rescue, or attempt to release or rescue, a person in prison or other custody, charged with, or convicted of an offense under the provisions of the preceding section of this article, he or she shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years.

Any person who willfully interrupts, molests or disturbs any free school, or other school, a school exhibition, or any literary society, or any other society or meeting formed or convened for intellectual, social or moral improvement, or for improvement in music, either vocal or instrumental, or for any moral or social amusement, or any other society organized or carried on under or in pursuance of the laws of this state, or any fourth of July celebration, Christmas tree, or church festival, or any other festival, or any society, lawfully carried on, is guilty of a Class 3 misdemeanor.

~~§61-6-9. Intimidation of witness for state in conspiracy prosecutions; penalties. Loitering on school property; penalty; exceptions.~~

~~If any person shall, by threats, menaces, or otherwise, intimidate, or attempt to intimidate, a witness for the state in any prosecution under the provisions of sections seven and eight of this article, for the purpose of preventing the attendance of such witness at the trial of such case, or shall in any way or manner prevent, or attempt to prevent, the attendance of any such witness at such trial, he or she shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years, or he or she may, in the discretion of the court, be confined in jail not less than three nor more than twelve months, and fined not less than \$100 nor more than \$5,000.~~

A person, not a student in regular attendance, may not loiter in or about any school, school building or school grounds in violation of any posted rules or regulations governing the use of any such school without written permission from the principal.

Any person who violates the provisions of this section is guilty of a Class 2 misdemeanor. Upon a second or subsequent conviction, any such person is guilty of a Class 1 misdemeanor.

~~§61-6-10 Reward for arrest in conspiracy cases; employment of special policemen and detectives. Camping upon governmental grounds or lawns; penalties; public nuisance.~~

~~The Governor is hereby authorized, whenever in his or her opinion it is proper to do so, to offer rewards, and employ special policemen and detectives, and to employ any and all means in his or her power, including the employment of any portion of the military forces of the state, to secure the apprehension of any and all persons belonging to any such unlawful combination or who shall be charged with the commission of any offense mentioned in the seventh, eighth and ninth sections of this article.~~

Any person who goes upon the ground or lawn surrounding or adjacent to (1) the state Capitol building or any state office building which is a part of the state Capitol complex, or (2) a county courthouse, or (3) any municipal office building where the principal business of the municipality is conducted, which ground or lawn is owned by or leased to the State of West Virginia, the county, or such municipality, as the case may be, and place, erect or construct or attempt to place, erect or construct for himself or herself or others shelter accommodations thereon or use any such erected shelter accommodations, without the written permission first had and obtained of the Governor, the county court, or the governing body of the municipality, as the case may be, is guilty of a Class 3 misdemeanor, and any such shelter accommodations are hereby constituted a public nuisance which may be abated at the expense of any such person. Each day upon which any violation of the provisions of this section continues shall constitute a separate offense.

§61-6-11. False reports concerning bombs or other explosive devices; penalties.

(a) Any person who imparts or conveys or causes to be imparted or conveyed any false information, knowing or having reasonable cause to believe the information to be false, concerning the presence of any bomb or other explosive device in, at, on, near, under or against any dwelling house, structure, improvement, building, bridge, motor vehicle, vessel, boat, railroad car, airplane or other place or concerning an attempt or alleged attempt being made or to be made to so place or explode any bomb or other explosive device is guilty of a Class 6 felony.

(b) If any person violates any provision of this section and the violation directly causes economic harm as defined in subsection (d) of this section, in addition to any other penalty, the circuit court may order the offender to pay the victim or victims restitution, in accordance with §61-11A-1 *et seq.* of this code, for economic loss caused by the violation in an amount not to exceed the economic harm suffered. Nothing in this section may be construed to limit the authority of the circuit court to order restitution pursuant to other provisions of this code.

(c) Notwithstanding any provision of this section to the contrary, any person violating the provisions of subsection (a) of this section whose violation of the subsection results in another suffering serious bodily injury is guilty of a Class 5 felony. Each injury resulting from a violation of subsection (a) of this section constitutes a separate offense.

(d) As used in this section, 'economic harm' means all direct, incidental and consequential pecuniary harm suffered by a victim as a result of criminal conduct. Economic harm includes, but is not limited to, the following:

(1) All wages, salaries or other compensation lost as a result of the criminal conduct;

(2) The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(3) The cost of all wages, salaries or other compensation paid to employees for time those employees spent in reacting to the results of the criminal conduct; or

(4) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct.

§61-6-12. Mobs and lynchings; penalties; liability of county or city. Falsely reporting an emergency incident.

~~Any collection of individuals, five or more in number, assembled for the unlawful purpose of offering violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional or regulative powers over any person or persons by violence, and without lawful authority, shall be regarded and designated as a 'mob' or 'riotous assemblage.'~~

~~The term 'serious injury,' for the purposes of this section, shall include any injury to property which shall cause damage to the owner thereof, or any injury to the person which shall temporarily~~

~~or permanently disable the person injured from earning a livelihood.~~

~~The putting to death of any person within this state by a mob or riotous assemblage shall be murder, and every person participating in such mob or riotous assemblage by which a person is put to death shall be guilty of murder, and, upon conviction thereof, shall be punished as the law provides in other cases of murder.~~

~~Any person or persons who shall compose a mob or riotous assemblage, with the intent to inflict damage or injury to the person or property of any individual charged with crimes, or, under the pretense of exercising correctional powers over such person or persons by violence, and without lawful authority, shall be subject to a fine of not less than \$100 nor more than \$1,000, and may be imprisoned, in the discretion of the court, in the county jail not less than thirty days nor more than twelve months for each and every offense. Any person or persons who shall compose a mob or riotous assemblage, and who shall inflict damage or injury to the person or property of any individual charged with crimes, shall be guilty of a felony and, upon conviction, shall be confined in the penitentiary not less than one nor more than ten years for each and every offense.~~

~~Any person or persons composing a mob or riotous assemblage under the provisions of this section, who shall, by violence, inflict serious injury to the property or to the person of any other person upon the pretense of exercising correctional or regulative powers over such person or persons, and without authority of the law, shall be deemed guilty of a felony, and, upon conviction thereof, shall be confined in the penitentiary not exceeding five years; and any person suffering serious injury to his or her person or his or her property by a mob, shall have an action against the county or city in which such serious injury is inflicted, for such damages as he or she may sustain, to an amount not to exceed \$5,000.~~

~~The county in which such person charged with a crime has been taken from a state, county or municipal officer, and lynched and put to death, shall be subject to a forfeiture of \$5,000, which may~~

~~be recovered by appropriate action therefor, in the name of the personal representative of the person put to death, for the use of his or her dependent family or estate. Such action may be brought in any state court. If such forfeiture is not paid upon recovery of judgment therefor, the court rendering such judgment shall have power to enforce the payment thereof, and may compel the levy and collection of a tax therefor, or otherwise compel the payment thereof by mandamus or other appropriate process, and every officer of such county, and every other person who disobeys or fails to comply with any lawful order of the court, shall be liable to punishment according to law as for contempt and to any other penalties provided by law therefor.~~

~~The fact that any person so put to death shall have been taken from any state, county or municipal officer in one county, by a mob or riotous assemblage of five or more persons, and transported out of such county before such killing shall have taken place, and the fact that such killing occurred out of the county from which such person may have been taken from such state, county or municipal officer, shall not relieve such county from which he or she was taken from the liability provided by this section. And if the person so taken from such officer or officers shall be transported from and put to death and lynched in another county outside of the county wherein he or she was taken from such officer or officers, no county through which such person may have been transported, or in which such person has been lynched and put to death, shall be liable to damages hereunder, unless it is clearly shown that the officers or citizens in such county or counties participated in, aided, abetted or encouraged such unlawful putting to death.~~

~~Every state, county or municipal officer having the duty or power of preservation or conservation of the peace at the time and place of any such putting to death, or the committing of serious injury to the person or to the property as prescribed in this section, who, having reasonable cause to believe that the same is to be done, or is attempted to be done, and neglects or omits to prevent the same, and every such officer from whose custody such person may be taken by such mob or riotous assemblage, and put to death by the same, or whose property or person suffers serious injury at the~~

~~hands of such mob or riotous assemblage, shall be guilty of negligence in the discharge of his or her official duty, and the county or city which shall have been sued and compelled to pay damages as herein provided may recover same from such negligent officer by appropriate action upon his or her official bond.~~

~~In any prosecution for any of the offenses defined herein, and any action for the forfeiture imposed as herein provided, every person who has participated in the lynching or in the putting to death of, or in the infliction of great bodily violence or serious injury to the person or the property of any person, without authority of the law, and every person who entertains or has expressed any opinion in favor of lynching or in the justification or excuse thereof, or whose character, conduct, or opinions have been or are such as, in the judgment of the court, may tend to disqualify him or her for an impartial and unprejudiced trial of the cause, shall be disqualified to serve as a juror, and in any such action or prosecution, any attorney interested in the case shall be entitled to make full inquiry thereof and to produce evidence thereon; and every person who refuses to answer any inquiry touching his or her qualifications on the ground that he or she may thereby incriminate himself or herself shall be disqualified as aforesaid.~~

A person is guilty of reporting a false emergency incident when knowing the information reported, conveyed, or circulated is false or baseless, he or she:

(1) Initiates or circulates a false report or warning of or impending occurrence of a fire, explosion, crime, catastrophe, accident, illness, or other emergency under circumstances in which it is likely that public alarm or inconvenience will result or that firefighting apparatus, ambulance apparatus, one or more rescue vehicles or other emergency apparatus might be summoned; or

(2) Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe, accident, illness or other emergency in which it is likely that public alarm or inconvenience will result or that

firefighting apparatus, ambulance apparatus, one or more rescue vehicles or other emergency apparatus might be summoned, which did not occur, does not in fact exist; or

(3) Reports to a law-enforcement officer or agency the alleged occurrence of any offense or incident which did not in fact occur or an allegedly impending occurrence of an offense or incident which is not in fact about to occur or false information relating to an actual offense or incident or to the alleged implication of some person therein; or

(4) Without just cause, calls, or summons by telephone, fire alarm system or otherwise, any firefighting apparatus, ambulance apparatus, rescue vehicles or other emergency vehicles.

Any person who violates this section is guilty of a Class 2 misdemeanor.

§61-6-13. Disturbance of religious worship; penalty. Willful disruption of governmental processes; offenses occurring at State Capitol Complex; penalties.

If any person wilfully interrupt, molest or disturb any assembly of people met for the worship of God, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than six months and fined not less than \$25 nor more than \$100. Any officer may put such offender under restraint during religious worship, and the court trying the case may require bond or recognizance of him or her for not more than one year to be of good behavior.

(a) Any person who willfully interrupts or molests the orderly and peaceful process of any department, division, agency, or branch of state government or of its political subdivisions, is guilty of a Class 2 misdemeanor: *Provided*, That any assembly in a peaceable, lawful, and orderly manner for a redress of grievances shall not be a violation of this section.

(b) It is unlawful for any person to bring upon the State Capitol Complex any weapon as defined in §61-7-2 of this code: *Provided*, That a person who may lawfully possess a firearm may keep a

firearm in his or her motor vehicle upon the State Capitol Complex if the vehicle is locked and the weapon is out of normal view. It is unlawful for any person to willfully deface any trees, wall, floor, stairs, ceiling, column, statue, monument, structure, surface, artwork, or adornment in the State Capitol Complex. It is unlawful for any person or persons to willfully block or otherwise willfully obstruct any public access, stair, or elevator in the State Capitol Complex after being asked by a law-enforcement officer acting in his or her official capacity to desist: *Provided, however,* That, in order to preserve the constitutional right of the people to assemble, it is not willful blocking or willful obstruction for persons gathered in a group or crowd if the persons move to the side or part to allow other persons to pass by the group or crowd to gain ingress or egress: *Provided further,* That this subsection does not apply to a law-enforcement officer acting in his or her official capacity.

Any person who violates this subsection is guilty of a Class 2 misdemeanor.

§61-6-14. Disturbance of schools, societies, and other assemblies; penalty. Threats of terrorist acts, conveying false information concerning terrorist acts and committing terrorist hoaxes prohibited; penalties.

~~If any person wilfully interrupt, molest or disturb any free school, Sunday school, or other school, a school exhibition, or any literary society, or any other society or meeting formed or convened for intellectual, social or moral improvement, or for improvement in music, either vocal or instrumental, or for any moral or social amusement, or any other society organized or carried on under or in pursuance of the laws of this state, or any fourth of July celebration, Christmas tree, or church festival, or any other festival, or any society, lawfully carried on, he or she shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than \$10 nor more than \$50, and, at the discretion of the court, be confined in jail not more than thirty days in addition to such fine.~~

(a) As used in this section:

‘Economic harm’ means all direct, incidental and consequential pecuniary harm suffered by a victim as a result of criminal conduct. Economic harm includes, but is not limited to, the following:

(1) All wages, salaries or other compensation lost as a result of the criminal conduct;

(2) The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(3) The cost of all wages, salaries or other compensation paid to employees for time those employees spent in reacting to the results of the criminal conduct; or

(4) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct.

‘Hoax substance or device’ means any substance or device that is shaped, sized, colored, marked, imprinted, numbered, labeled, packaged, distributed, priced or delivered so as to cause a reasonable person to believe that the substance or device is of a nature which is capable of causing serious bodily injury or damage to property or the environment.

‘Terrorist act’ means an act that is:

(1) Likely to result in serious bodily injury or damage to property or the environment; and

(2) Intended to:

(A) Intimidate or coerce the civilian population;

(B) Influence the policy of a branch or level of government by intimidation or coercion;

(C) Affect the conduct of a branch or level of government by intimidation or coercion; or

(D) Retaliate against a branch or level of government for a policy or conduct of the government.

(b) Any person who knowingly and willfully threatens to commit a terrorist act, with or without the intent to commit the act, is guilty of a Class 6 felony.

(c) Any person who knowingly and willfully conveys false information knowing the information to be false concerning an attempt or alleged attempt being made or to be made of a terrorist act is guilty of a Class 6 felony.

(d) Any person who uses a hoax substance or device with the specific intent to commit a terrorist act is guilty of a Class 5 felony.

(e) The court shall order any person convicted of an offense under this section to pay the victim restitution in an amount not to exceed the total amount of any economic harm suffered.

(f) The court shall order any person convicted of an offense under this section to reimburse the state or any subdivision of the state for any expenses incurred by the state or the subdivision incident to its response to a violation of this section.

(g) The conviction of any person under the provisions of this section does not preclude or otherwise limit any civil proceedings arising from the same act.

§61-6-14a. Loitering on school property; penalty; exceptions.

[Repealed.]

§61-6-15. Prohibiting violations of an individual's civil rights; penalties.

(a) All persons within the boundaries of the State of West Virginia have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation or sex.

(b) Any person who by force or threat of force, willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, or oppresses or threatens any other person in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of the State of West Virginia or by the Constitution or laws of the United States, because of the other person's race, color, religion, ancestry, national origin, political affiliation or sex, is guilty of a Class 6 felony.

(c) Any person who conspires with another person or persons to willfully injure, oppress, threaten, or intimidate or interfere with any citizen because of that other person's race, color, religion, ancestry, national origin, political affiliation or sex in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of the State of West Virginia or by the Constitution or laws of the United States, and who in willful furtherance thereof assembles with one or more persons for the purpose of teaching any technique or means capable of causing property damage, bodily injury or death when such person or persons intend to employ such techniques or means to violate this section, each such person is guilty of a Class 6 felony.

(d) The fact that a person committed a felony or misdemeanor, or attempted to commit a felony, because of the victim's race, color, religion, ancestry, national origin, political affiliation, or sex, shall be considered a circumstance in aggravation of any crime in imposing sentence.

(e) Nothing contained in this section makes unlawful the teaching of any technique in self-defense.

(f) Nothing in this section may be construed so as to make it unlawful nor to prohibit nor, in any manner, to impede or to interfere with any person in conducting labor union or labor union organizing activities.

§61-6-16. Wearing masks, hoods, or face coverings.

(a) Except as otherwise provided in this section, no person, whether in a motor vehicle or otherwise, may wear any mask, hood

or device whereby any portion of the face is so covered, with the intent of concealing their identity while engaged in the commission of any illegal act.

(b) The provisions of this section, additionally and specifically, do not apply to any person, not committing an illegal act, who is:

(1) Under sixteen years of age;

(2) Wearing a traditional holiday costume;

(3) Engaged in a trade or employment where a mask, hood or device is worn for the purpose of ensuring the physical safety of the wearer;

(4) Using a mask, hood or device in theatrical productions, including use in mardi gras celebrations or similar masquerade balls;

(5) Wearing a mask, hood or device prescribed for civil defense drills, exercises, or emergencies; or

(6) Wearing a mask, hood, or device for the sole purpose of protection from the elements or while participating in a winter sport.

(c) Any person who violates any provision of this section is guilty of a Class 3 misdemeanor, and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than one year, or both fined and confined.

~~§61-6-17. False reports concerning bombs or other explosive devices; penalties. Falsely reporting child abuse.~~

~~(a) Any person who imparts or conveys or causes to be imparted or conveyed any false information, knowing or having reasonable cause to believe the information to be false, concerning the presence of any bomb or other explosive device in, at, on, near, under or against any dwelling house, structure, improvement, building, bridge, motor vehicle, vessel, boat, railroad car, airplane or other place or concerning an attempt or alleged attempt being~~

~~made or to be made to so place or explode any bomb or other explosive device is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$2,000 or confined in a state correctional facility for not less than one year nor more than three years, or both.~~

~~(b) If any person violates any provision of this section and the violation directly causes economic harm as defined in subsection (d) of this section, in addition to any other penalty, the circuit court may order the offender to pay the victim or victims restitution, in accordance with the provisions of article eleven-a of this chapter, for economic loss caused by the violation in an amount not to exceed the economic harm suffered. Nothing in this section may be construed to limit the circuit court's authority to order restitution pursuant to other provisions of this code.~~

~~(c) Notwithstanding any provision of this section to the contrary, any person violating the provisions of subsection (a) of this section whose violation of the subsection results in another suffering serious bodily injury is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not less than one year nor more than five years or fined not more than \$10,000, or both. Each injury resulting from a violation of subsection (a) of this section constitutes a separate offense.~~

~~(d) As used in this section, 'economic harm' means all direct, incidental and consequential pecuniary harm suffered by a victim as a result of criminal conduct. Economic harm includes, but is not limited to, the following:~~

~~(1) All wages, salaries or other compensation lost as a result of the criminal conduct;~~

~~(2) The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;~~

~~(3) The cost of all wages, salaries or other compensation paid to employees for time those employees spent in reacting to the results of the criminal conduct; or~~

~~(4) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct.~~

(a) Any person who knowingly and intentionally reports or causes to be reported to a law-enforcement officer, child protective service worker, or judicial officer that another has committed child sexual abuse, child abuse, or neglect as those terms are defined in §49-1-201 of this code who when doing so knows or has reason to know the accusation is false, is guilty of a Class 6 felony, and, upon conviction, shall be fined not more than \$1,000, sentenced to not more than sixty hours of court-approved community service, or both fined and ordered to community service.

(b) In addition to any other sanctions imposed by the provisions of this section, any person convicted of a violation of this section, and who does it with the intent to influence a child custody decision, shall be required to attend and complete a court-approved parenting class.

§61-6-18. Camping upon governmental grounds or lawns; penalties; public nuisance.

[Repealed]

§61-6-19. Willful disruption of governmental processes; offenses occurring at State Capitol Complex; penalties.

[Repealed]

§61-6-20. Falsely reporting an emergency incident.

[Repealed]

§61-6-21. Prohibiting violations of an individual's civil rights; penalties.

[Repealed]

§61-6-22. Wearing masks, hoods, or face coverings.

[Repealed]

§61-6-23. Shooting range; limitations on nuisance actions; noise ordinances.

[Repealed]

§61-6-24. Threats of terrorist acts, conveying false information concerning terrorist acts and committing terrorist hoaxes prohibited; penalties.

[Repealed]

§61-6-25. Falsely reporting child abuse.

[Repealed]

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-3. Carrying a deadly weapon without provisional license or other authorization by persons under twenty-one years of age; penalties.

(a) Any person under twenty-one years of age and not otherwise prohibited from possessing firearms under §61-7-7 of this code who carries a concealed deadly weapon, without a state license or other lawful authorization established under the provisions of this code, is guilty of a Class 2 misdemeanor ~~and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and may be imprisoned in jail for not more than twelve months for the first offense; but upon conviction of a second or subsequent offense, he or she is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years and fined not less than \$1,000 nor more than \$5,000.~~

(b) ~~The prosecuting attorney in all cases shall ascertain whether or not the charge made by the grand jury is a first offense or is a second or subsequent offense and, if it is a second or subsequent offense, it shall be so stated in the indictment returned, and the prosecuting attorney shall introduce the record evidence before the trial court of such second or subsequent offense and may not be~~

~~permitted to use discretion in introducing evidence to prove the same on the trial.~~

§61-7-4. License to carry deadly weapons; how obtained.

(a) Except as provided in §61-7-4(h) of this code, any person desiring to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, and pay to the sheriff, at the time of application, a fee of \$25. Concealed weapons license may only be issued for pistols and revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U.S.C. §922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide United States citizen or legal resident thereof and resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is twenty-one years of age or older;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this subsection in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. §921(a)(33), or a misdemeanor offense of assault or battery either under §61-2-28 of this code or §61-2-9(b) or §61-2-9(c) of this code, in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation, or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed, the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n), from receiving, possessing, or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n).

(c) Twenty-five dollars of the application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful

completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course includes the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college or private or public institution or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States military, reserve or National Guard or proof of other handgun qualification received while serving in any branch of the United States military, reserve, or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section and shall include the instructor's name, signature and NRA or state instructor identification number, if applicable.

(e) All concealed weapons license applications must be notarized by a notary public duly licensed under §39-4-1 *et seq.* of this code. Falsification of any portion of the application constitutes false swearing and is punishable under §61-5-2 of this code.

(f) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall

issue, reissue, or deny the license within 45 days after the application is filed if all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West Virginia State Police within 30 days of receipt. A license in effect as of the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause, be valid until the licensee's birthday during the fifth year from the date of issuance or five years from the date of issuance, whichever is later in time. Renewals of such licenses and licenses newly issued after the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause, be valid for a period of five years from the licensees' most recent birthday.

(h) Each license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. All duplicate license cards issued on or after July 1, 2017, shall be uniform across all 55 counties in size, appearance and information and shall feature a photograph of the licensee.

(i) The Superintendent of the West Virginia State Police, in cooperation with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial.

The petition shall be filed within 30 days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a concealed weapon license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days thereafter, notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing

application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Notwithstanding subsection (a) of this section, with respect to application by an honorably discharged veteran of the armed forces of the United States or a former law-enforcement officer honorably retired from agencies governed by §7-14-1 *et seq.* of this code; §8-14-1 *et seq.* of this code; §15-2-1 *et seq.* of this code; and §20-7-1 *et seq.* of this code, an honorably retired officer or an honorably discharged veteran of the armed forces of the United States is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this section are applicable to these applicants.

(q) Information collected under this section, including applications, supporting documents, permits, renewals or any other information that would identify an applicant for or holder of a concealed weapon license, is confidential: *Provided*, That this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. ~~A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense. Any person who violates this subsection is guilty of a petty offense.~~

(r) A person who pays fees for training or application pursuant to this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid for training not to exceed \$50: *Provided*, That if such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application.

(s) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon license issued in accordance with the provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver on the lands or waters of this state.

§61-7-4a. Provisional license to carry deadly weapons; how obtained.

(a) Any person who is at least eighteen years of age and less than twenty-one years of age who desires to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for a provisional license, and pay to the sheriff, at the time of application, a fee of \$15. Provisional licenses may only be issued for pistols or revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant's full name, date of birth, Social Security number, a description of the applicant's physical features, the applicant's place of birth, the applicant's country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide resident of this state and of the county in which the application is made and has a valid driver's license or other state-issued photo identification showing the residence;

(3) That the applicant is at least eighteen years of age and less than twenty-one years of age;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside, or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this section within five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U. S. C. §921(a)(33), or a misdemeanor offense of assault or battery under either section twenty-eight, article two of this chapter or subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction, or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed, the applicant must provide a court order

reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under section seven of this article or federal law, including 18 U. S. C. §922(g) or (n), from receiving, possessing, or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for handling and firing the weapon;

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

(b) For provisional license applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal history record responses and the National Interstate Identification Index and shall review the information received in order to verify that the information required in subsection (a) of this section is true and correct. A provisional license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available does not indicate that receipt of or possession of a firearm by the applicant would be in violation of the provisions of section seven of this article or federal law, including 18 U. S. C. §922(g) or (n).

(c) Fifteen dollars of the application fee and any fees for replacement of lost or stolen provisional licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in said fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons provisional licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or

operating needs of the sheriff's office, as the sheriff considers appropriate.

(d) All persons applying for a provisional license must complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course included the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college, or private or public institution, or organization or handgun training school utilizing instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any proof of current or former service in the United States armed forces, armed forces reserves or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization, or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant, or a copy of any document which shows successful completion of the course or class, is evidence of qualification under this section. Certificates, affidavits, or other documents submitted to show completion of a course or class shall include instructor information and proof of instructor certification, including, if applicable, the instructor's NRA instructor certification number.

(e) All provisional license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application

constitutes false swearing and is punishable under section two, article five of this chapter.

(f) The sheriff shall issue a provisional license unless the sheriff determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue, or deny the license within forty-five days after the application is filed once all required background checks authorized by this section are completed.

(g) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$15 which the sheriff shall forward to the Superintendent of the West Virginia State Police within thirty days of receipt. The provisional license is valid until the licensee turns twenty-one years of age, unless sooner revoked.

(h) Each provisional license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all provisional license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. Duplicate license cards issued shall be uniform across all fifty-five counties in size, appearance and information and must feature a photograph of the licensee. The provisional license shall be readily distinguishable from a license issued pursuant to section four of this article and shall state: 'NOT NICS EXEMPT. This license confers the same rights and privileges to carry a concealed pistol or revolver on the lands or waters of this state as a license issued pursuant to section four, article seven, chapter sixty-one of this code, except that this license does not satisfy the requirements of 18 U. S. C. §922(t)(3). A NICS check must be performed prior to purchase of a firearm from a federally licensed firearm dealer.'

(i) The Superintendent of the West Virginia State Police, in coordination with the West Virginia Sheriffs' Bureau of

Professional Standards, shall prepare uniform applications for provisional licenses and license cards showing that the license has been granted and shall perform any other act required to protect the state and to enforce this section.

(j) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a provisional license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within thirty days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a provisional license under the criteria set forth in this section. The applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(k) If a provisional license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a provisional concealed weapon license moves from the address named in the application to another county within the state, the license remains valid until the licensee turns twenty-one years of age unless the sheriff of the new county has determined that the person is no longer eligible for a provisional concealed weapon license under this article, and the sheriff shall issue a new provisional license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the provisional license is granted, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police, at any time so requested, a certified list of all provisional licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued provisional concealed weapon licenses.

(n) The sheriff shall deny any application or revoke any existing provisional license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(o) A person who is engaged in the receipt, review or in the issuance or revocation of a concealed weapon provisional license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(p) Information collected under this section, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for or holder of a concealed weapon provisional license, is confidential: *Provided*, That this information may be disclosed to a law enforcement agency or officer: (i) To determine the validity of a provisional license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a petty offense, misdemeanor ~~and, upon conviction thereof, shall be fined not less than \$50 or more than \$200 for each offense.~~

(q) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a provisional concealed weapon license issued in accordance with the provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver on the lands or waters of this state.

§61-7-7. Persons prohibited from possessing firearms; classifications; right of nonprohibited persons over twenty-one years of age to carry concealed deadly weapons; offenses and penalties; reinstatement of rights to possess; offenses; penalties.

(a) Except as provided in this section, no person ~~shall~~ may possess a firearm, as such is defined in section two of this article, who:

(1) Has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) Is habitually addicted to alcohol;

(3) Is an unlawful user of or habitually addicted to any controlled substance;

(4) Has been adjudicated to be mentally incompetent or who has been involuntarily committed to a mental institution pursuant to the provisions of Chapter 27 of this code or in similar law of another jurisdiction: *Provided*, That once an individual has been adjudicated as a mental defective or involuntarily committed to a mental institution, he or she shall be duly notified that they are to immediately surrender any firearms in their ownership or possession: *Provided, however*, That the mental hygiene commissioner or circuit judge shall first make a determination of the appropriate public or private individual or entity to act as conservator for the surrendered property;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the armed forces under dishonorable conditions;

(7) Is subject to a domestic violence protective order that:

(A) Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;

(B) Restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) By its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(8) Has been convicted of a misdemeanor offense of assault or battery either under the provisions of §61-2-28 of this code or the provisions of §61-2-29(b) or §61-2-29(c) of this code of this code or a federal or state statute with the same essential elements in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense or has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of domestic violence.

~~Any person who violates the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in the county jail for not less than ninety days nor more than one year, or both.~~ Any person who violates the provisions of this subsection shall be guilty of a Class 1 misdemeanor.

(b) Notwithstanding the provisions of subsection (a) of this section, any person:

(1) Who has been convicted in this state or any other jurisdiction of a felony crime of violence against the person of another or of a felony sexual offense; or

(2) Who has been convicted in this state or any other jurisdiction of a felony controlled substance offense involving a

Schedule I controlled substance other than marijuana, a Schedule II or a Schedule III controlled substance as such are defined in §§60A-2-204, 205 and 206 of this code and who possesses a firearm as such is defined §61-7-2 in section two of this code ~~shall be is~~ guilty of a Class 6 felony ~~and, upon conviction thereof, shall be confined in a state correctional facility for not more than five years or fined not more than \$5,000, or both. The provisions of subsection (f) of this section shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.~~

(3) The provisions of subsection (f) of this section shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.

(c) Any person may carry a concealed deadly weapon without a license therefor who is:

(1) At least 21-one years of age;

(2) A United States citizen or legal resident thereof;

(3) Not prohibited from possessing a firearm under the provisions of this section; and

(4) Not prohibited from possessing a firearm under the provisions of 18 U. S. C. §922(g) or (n).

(d) As a separate and additional offense to the offense provided for in subsection (a) of this section, and in addition to any other offenses outlined in this code, and except as provided by subsection (e) of this section, any person prohibited by subsection (a) of this section from possessing a firearm who carries a concealed firearm is guilty of a Class 6 felony ~~and, upon conviction thereof, shall be confined in a state correctional facility for not more than three years or fined not more than \$5,000, or both.~~

(e) As a separate and additional offense to the offense described in subsection (b) of this section, and in addition to any other offenses outlined in this code, any person prohibited by subsection (b) of this section from possessing a firearm who carries a

~~concealed firearm is guilty of a Class 5 felony; and, upon conviction thereof, shall be confined in a state correctional facility for not more than ten years or fined not more than \$10,000, or both.~~

(f) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm, and if the court finds by clear and convincing evidence that the person petitioner is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the petitioner person to possess a firearm if such possession would not violate any federal law: *Provided*, That a person prohibited from possessing a firearm by the provisions of subdivision (4), subsection (a) of this section may petition to regain the ability to possess a firearm in accordance with the provisions of §61-7A-5 of this code.

(5) The provisions of subsection (f) of this section do not apply to persons convicted of an offense identified in this section.

(g) Any person who has been convicted of an offense which disqualifies him or her from possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set aside or who subsequent thereto receives an unconditional pardon for said offense shall not be prohibited from possessing a firearm by the provisions of the section.

§61-7-9. Possession of machine guns, penalties.

[Repealed]

§61-7-10. Deadly weapons for sale or hire; sale to prohibited persons; penalties.

~~(a) Any person who violates the provisions of subsection (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$5,000 or confined in jail for not more than one year, or both fined and confined, except that where the person violating subsection (b) is other than a natural person, the person shall be fined not more than \$10,000.~~

~~(b)~~ (a) A person may not knowingly sell, rent, give or lend, or, where the person is other than a natural person, knowingly permit an employee thereof to knowingly sell, rent, give or lend, any deadly weapon other than a firearm to a person prohibited from possessing a deadly weapon other than a firearm by any provision of this article. Any natural person who violates the provisions of this section is guilty of a Class 1 misdemeanor.

~~(e)~~ (b) A person may not knowingly sell, rent, give, or lend, or where the person is other than a natural person, knowingly permit an employee thereof to knowingly sell, rent, give or lend a firearm or ammunition to a person prohibited by any provision of this article or the provisions of 18 U.S.C. §922. ~~(d)~~ Any person who violates any of the provisions of this subsection ~~(e) of this section~~ is guilty of a Class 5 felony, and, upon conviction thereof, shall be fined not more than \$100,000, imprisoned in a state correctional facility for a definite term of years of not less than three years nor more than 10 years, or both fined and imprisoned, except that where the person committing an offense punishable under this subsection is other than a natural person, the person shall be fined not more than \$250,000.

~~(e)~~ (c) ~~Any person who knowingly solicits, persuades, encourages or entices~~ A person may not knowingly solicit, persuade, encourage or entice a licensed dealer or private seller of firearms or ammunition to transfer a firearm or ammunition under circumstances which the person knows would violate the laws of this state or the United States ~~is guilty of a felony~~. Any person who willfully procures another to engage in conduct prohibited by this subsection shall be punished as a principal. This subsection does not apply to a law-enforcement officer acting in his or her official capacity. Any person who violates the provisions of this subsection is guilty of a Class 6 felony and, upon conviction thereof, shall be fined not more than \$5,000, imprisoned in a state correctional facility for a definite term or not less than one year nor more than five years, or both fined and imprisoned.

§61-7-11. Brandishing deadly weapons; threatening or causing breach of the peace; criminal penalties.

It ~~shall be~~ unlawful for any person armed with a firearm or other deadly weapon, whether licensed to carry the same or not, to carry, brandish or use such weapon in a way or manner to cause, or threaten, a breach of the peace. Any person violating this section ~~shall be guilty of a Class 1 misdemeanor, and, upon conviction thereof, shall be fined not less than \$50 nor more than \$1,000, or shall be confined in the county jail not less than ninety days nor more than one year, or both.~~

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(I) of this code are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds thereof;

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring.

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county, or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to §62-12-5 or Chapter 49 of this code in the performance of his or her duties;

(C) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c), carries that firearm in a concealed manner, and has on their person official identification in accordance with that act;

(D) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

(E) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

(F) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

(G) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;

(H) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

(I) ~~Any person, 21 years old or older, who has a valid concealed handgun permit may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided*, That: Any person, 21 years old or older, and not otherwise prohibited, may legally possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided*, That: (i) When he or she is occupying the vehicle the person stores the handgun out of view from persons outside the vehicle; or (ii) When he or she is not occupying the vehicle the person stores the handgun out of view from persons outside the vehicle, the vehicle is locked, and the handgun is in a glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.~~

(3) A person violating this subsection is guilty of a Class 5 felony ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.~~

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-

11a(b) of this code may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license, or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled

in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials. (2) A person violating this subsection is guilty of a Class 1 misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or shall be confined in jail not more than one year, or both fined and confined.

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

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

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime. A person violating this subsection is guilty of a Class 5 felony.

~~(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.~~

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

§61-7-12. Wanton endangerment involving a firearm.

Any person who wantonly performs any act with a firearm which creates a substantial risk of death or serious bodily injury to another shall be guilty of a Class 5 felony, ~~and, upon conviction thereof, shall be confined in the penitentiary for a definite term of years of not less than one year nor more than five years, or, in the discretion of the court, confined in the county jail for not more than one year, or fined not less than \$250 nor more than \$2,500, or both.~~

For purposes of this section, the term ‘firearm’ shall have the same meaning ascribed to such term as set forth in §61-7-2 of this code.

§61-7-14. Right of certain persons to limit possession of firearms on premises.

This section may be referred to as ‘The Business Liability Protection Act’.

(a) As used in this section:

‘Parking lot’ means any property that is used for parking motor vehicles and is available to customers, employees, or invitees for temporary or long-term parking or storage of motor vehicles: *Provided*, That for purposes of this section, parking lot does not include the private parking area at a business located at the primary residence of the property owner.

‘Motor vehicle’ means any privately-owned automobile, truck, minivan, sports utility vehicle, motor home, recreational vehicle, motorcycle, motor scooter, or any other vehicle operated on the roads of this state and, which is required to be registered under state law: *Provided*, That for purposes of this section, motor vehicle does not mean vehicles owned, rented, or leased by an employer and used by the employee in the course of employment.

‘Employee’ means any person, who is over 18 years of age, not prohibited from possessing firearms by the provisions of this code or federal law, and

- (1) Works for salary, wages, or other remuneration;
- (2) Is an independent contractor; or
- (3) Is a volunteer, intern, or other similar individual for an employer.

‘Employer’ means any business that is a sole proprietorship, partnership, corporation, limited liability company, professional association, cooperative, joint venture, trust, firm, institution, association, or public-sector entity, that has employees.

‘Invitee’ means any business invitee, including a customer or visitor, who is lawfully on the premises of a public or private employer.

‘Locked inside or locked to’ means

(1) The vehicle is locked; or

(2) The firearm is in a locked trunk, glove box, or other interior compartment, or

(3) The firearm is in a locked container securely fixed to the vehicle; or

(4) The firearm is secured and locked to the vehicle itself by the use of some form of attachment and lock.

(b) Notwithstanding the provisions of this article, any owner, lessee, or other person charged with the care, custody, and control of real property may prohibit the carrying openly or concealing of any firearm or deadly weapon on property under his or her domain: *Provided*, That for purposes of this section ‘person’ means an individual or any entity which may acquire title to real property: *Provided, however*, That for purposes of this section ‘natural person’ means an individual human being.

(c) (1) Any natural person carrying or possessing a firearm or other deadly weapon on the property of another who refuses to temporarily relinquish possession of the firearm or other deadly weapon, upon being requested to do so, or to leave the premises, while in possession of the firearm or other deadly weapon, is guilty of a Class 2 misdemeanor ~~and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail not more than six months, or both.~~ *Provided*,

~~That~~

(2) The provisions of this section do not apply to a natural person as set forth in §61-7-6(a)(5) through §61-7-6(a)(7) and §61-7-6(a)(9) through §61-7-6(a)(10) of this code while acting in his or her official capacity or to a natural person as set forth in §61-7-

6(b)(1) through §61-7-6(b)(8) of this code, while acting in his or her official capacity: *Provided, however,* That under no circumstances, except as provided for by the provisions of §61-7-11a(b)(2)(A) through (I) of this code, may any natural person possess or carry or cause the possession or carrying of any firearm or other deadly weapon on the premises of any primary or secondary educational facility in this state unless the natural person is a law-enforcement officer or he or she has the express written permission of the county school superintendent.

(3) ~~Provided, however, That under~~ Under no circumstances, except as provided for by the provisions of §61-7-11a(b)(2)(A) through (I) of this code, may any natural person possess or carry or cause the possession or carrying of any firearm or other deadly weapon on the premises of any primary or secondary educational facility in this state unless the natural person is a law-enforcement officer or he or she has the express written permission of the county school superintendent.

(d) Prohibited acts. – Notwithstanding the provisions of subsections (b) and (c) of this section:

(1) No owner, lessee, or other person charged with the care, custody, and control of real property may prohibit any customer, employee, or invitee from possessing any legally owned firearm, when the firearm is

(A) Lawfully possessed;

(B) Out of view;

(C) Locked inside or locked to a motor vehicle in a parking lot;
and

(D) When the customer, employee, or invitee is lawfully allowed to be present in that area.

(2) No owner, lessee, or other person charged with the care, custody, and control of real property may violate the privacy rights of a customer, employee, or invitee either

(A) By verbal or written inquiry, regarding the presence or absence of a firearm locked inside or locked to a motor vehicle in a parking lot; or

(B) By conducting an actual search of a motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle: *Provided*, That a search of a motor vehicle in a parking lot to ascertain the presence of a firearm within that motor vehicle may only be conducted by on-duty, law enforcement personnel, in accordance with statutory and constitutional protections.

(C) No owner, lessee, or other person charged with the care, custody, and control of real property may take any action against a customer, employee, or invitee based upon verbal or written statements of any party concerning possession of a firearm stored inside a motor vehicle in a parking lot for lawful purposes, except upon statements made pertaining to unlawful purposes or threats of unlawful actions involving a firearm made in violation of §61-6-24 of this code.

(3) No employer may condition employment upon either:

(A) The fact that an employee or prospective employee holds or does not hold a license issued pursuant to §61-7-4 or §61-7-4a of this code; or

(B) An agreement with an employee or a prospective employee prohibiting that natural person from keeping a legal firearm locked inside or locked to a motor vehicle in a parking lot when the firearm is kept for lawful purposes.

(4) No owner, lessee, or other person charged with the care, custody, and control of real property may prohibit or attempt to prevent any customer, employee, or invitee from entering the parking lot of the person's place of business because the customer's, employee's, or invitee's motor vehicle contains a legal firearm being carried for lawful purposes that is out of view within the customer's, employee's, or invitee's motor vehicle.

(e) Limitations on duty of care; immunity from civil liability.

(1) When subject to the provisions of subsection (d) of this section, an employer, owner, lessee, or other person charged with the care, custody, and control of real property has no duty of care related to the acts prohibited under said subsection.

(2) An employer, owner, lessee, or other person charged with the care, custody, and control of real property is not liable in a civil action for money damages based upon any actions or inactions taken in compliance with subsection (d) of this section. The immunity provided in this subdivision does not extend to civil actions based on actions or inactions of employers, owners, lessees, or other persons charged with the care, custody, and control of real property unrelated to subsection (d) of this section.

(3) Nothing contained in this section may be interpreted to expand any existing duty or create any additional duty on the part of an employer, owner, lessee, or other person charged with the care, custody, and control of real property.

(f) Enforcement. – The Attorney General ~~is authorized to~~ may enforce the provisions of subsection (d) of this section and may bring an action seeking either:

(1) Injunctive or other appropriate equitable relief to protect the exercise or enjoyment of the rights secured in subsection (d) of any customer, employee, or invitee;

(2) Civil penalties of no more than \$5,000 for each violation of subsection (d) and all costs and attorney's fees associated with bringing the action; or

(3) Both the equitable relief and civil penalties described in subdivisions (1) and (2) of this section, including costs and attorney's fees. This action must be brought in the name of the state and instituted in the Circuit Court of Kanawha County. The Attorney General may negotiate a settlement with any alleged violator in the course of his or her enforcement of subsection (d) of this section.

(4) Notwithstanding any other provision in this section to the contrary, the authority granted to the Attorney General in this

subsection does not affect the right of a customer, employee, or invitee aggrieved under the authority of subsection (d) of this section to bring an action for violation of the rights protected under this section in his or her own name and instituted in the circuit court for the county where the alleged violator resides, has a principal place of business, or where the alleged violation occurred. In any successful action brought by a customer, employee, or invitee aggrieved under the authority of subsection (d) of this section, the court may award injunctive or other appropriate equitable relief and civil penalties as set forth in subdivisions one, two and three of this subsection. In any action brought by a customer, employee, or invitee aggrieved under the authority of subsection (d) of this section, the court shall award all court costs and attorney's fees to the prevailing party.

§61-7-15. Persons prohibited from committing violent crime while wearing body armor; penalties.

(a) A person who wears or is otherwise equipped with body armor while committing a felony offense, an element of which is force, the threat of force, physical harm to another or the use or presentment of a firearm or other deadly weapon, is guilty of a Class 5 felony and, upon conviction thereof, shall be confined in a correctional facility for not less than two nor more than ten years or fined not more than \$10,000, or both.

(b) As used in this section, 'body armor' means a jacket, vest, or other similar apparel or device constructed to provide ballistic resistance to penetration and deformation and intended to protect the human torso against gunfire. The term may include, but is not limited to, apparel that incorporates inserts, or variations in construction of the ballistic panel over small areas of the torso, for the purpose of increasing the basic level of protection of the armor (whether ballistic or blunt trauma) on localized areas. Body armor may be constructed of Kevlar or other similar fabric and may be reinforced with other materials. Body armor may incorporate 'threat' or 'trauma' plates (which are inserts that fit into the vest that will stop more powerful rounds) or may, as 'threat armor', incorporate hard panels.

§61-7-15a. Use or presentation of a firearm during commission of a felony; penalties.

As a separate and distinct offense, and in addition to any and all other offenses provided for in this code, any person who, while engaged in the commission of a felony, uses, or presents a firearm ~~shall be is guilty of a Class 4 felony, and, upon conviction, shall be imprisoned in a state correctional facility for not more than ten years.~~

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENY.

§61-8-1. Bigamy; defined; criminal penalty.

~~Any person, being married, who, during the life of the former husband or wife, shall marry another person in this state, or, if the marriage with such other person take place out of this state, shall thereafter cohabit with such other person in this state, shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than one nor more than five years.~~

(a) A person is guilty of bigamy if he or she intentionally marries or purports to marry another person when either person has a living spouse.

(b) In any prosecution under this section, it is a defense that at the time of the subsequent marriage or purported marriage:

(1) The person reasonably believed that the prior spouse was dead; or

(2) A court had entered a judgment purporting to terminate, void, dissolve or annul any prior disqualifying marriage and the actor did not know that the judgment was invalid; or

(3) The husband or wife by a former marriage has been absent for seven successive years without being known to be alive; or

(4) The person reasonably believed that he or she was legally eligible to marry.

(c) The criminal offense of bigamy is a Class 1 misdemeanor.

§61-8-2. Same — Effect of absence, divorce or void marriage.

[Repealed.]

§61-8-5. ~~House of ill fame and assignation; penalties; jurisdiction of courts.~~ Prostitution; definitions.

~~(a) Any person who shall keep, set up, maintain, or operate any house, place, building, hotel, tourist camp, other structure, or part thereof, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall own any place, house, hotel, tourist camp, other structure, or part thereof, or trailer or other conveyance knowing the same to be used for the purpose of prostitution, lewdness, or assignation, or who shall let, sublet, or rent any such place, premises, or conveyance to another with knowledge or good reason to know of the intention of the lessee or rentee to use such place, premises, or conveyance for prostitution, lewdness, or assignation; or who shall offer, or offer to secure, another for the purpose of prostitution, or for any other lewd or indecent act; or who shall receive or offer or agree to receive any person into any house, place, building, hotel, tourist camp, or other structure, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or who for another or others shall direct, take, or transport, or offer or agree to take or transport, or aid or assist in transporting, any person to any house, place, building, hotel, tourist camp, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period not less than six months nor more than one year, and by a fine of not less than \$100 and not to exceed \$250, and upon conviction for any subsequent offense under this section shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.~~

~~(b) Any person who shall engage in prostitution, lewdness, or assignation, or who shall solicit, induce, entice, or procure another to commit an act of prostitution, lewdness, or assignation; or who shall reside in, enter, or remain in any house, place, building, hotel, tourist camp, or other structure, or enter or remain in any vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any of the acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period of not less than sixty days nor more than six months, and by a fine of not less than \$50 and not to exceed \$100; and upon conviction for the second offense under this section, be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than \$100 and not to exceed \$250, and upon conviction for any subsequent offense under this section shall be punished by imprisonment in the penitentiary for not less than one year nor more than three years.~~

~~The subsequent offense provision shall apply only to the pimp, panderer, solicitor, operator or any person benefiting financially or otherwise from the earnings of a prostitute.~~

~~(c) All leases and agreements, oral or written, for letting, subletting, or renting any house, place, building, hotel, tourist camp, or other structure which is used for the purpose of prostitution, lewdness, or assignation, shall be void from and after the date of any person who is a party to such an agreement shall be convicted of an offense hereunder. The term 'tourist camp' shall include any temporary or permanent buildings, tents, cabins, or structures, or trailers, or other vehicles which are maintained, offered, or used for dwelling or sleeping quarters for pay.~~

~~(d) In the trial of any person, charged with a violation of any of the provisions of this section, testimony concerning the reputation or character of any house, place, building, hotel, tourist camp, or other structure, and of the person or persons who reside in or frequent same, and of the defendant or defendants, shall be admissible in evidence in support of the charge. Justices of the peace shall have concurrent jurisdiction with circuit, intermediate,~~

~~and criminal courts to try and determine the misdemeanors set forth and described in this section.~~

As to §§61-8-5a through 61-8-8b of this code, unless a different meaning is plainly required:

‘Arranging’ or ‘advancing’ prostitution means any act or attempt to procure or otherwise make arrangements for the purpose of prostitution, including but not limited to knowingly:

(1) causing or aiding a person to commit or engage in prostitution;

(2) procuring or soliciting a patron for prostitution;

(3) providing a person or premises for prostitution purposes;

(4) operating or assisting in the operation of a house of prostitution or a prostitution enterprise; or,

(5) engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution;

‘Domestic partner’ means person with whom another person maintains a household and an intimate relationship other than a person to whom he or she is legally married.

‘Spouse’ means any legally married person.

‘Prostitution’ means the commercial act or practice of engaging in a sexual act or sexual contact with another person who is not their spouse or domestic partner in return for giving or receiving a fee, money, an equivalent of money, or a thing of value.

‘Prostitution-related offenses’ means those crimes and offenses defined in §§61-8-5 through 8 of this code.

‘Sexual act’ means:

(1) The penetration, however slight, of the anus or vulva of another by a penis;

(2) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; or

(3) The penetration, however slight, of the anus or vulva by a hand or finger or by any object.

(4) The emission of semen or an orgasm is not required for the purposes of subparagraphs (1) to (3) of this paragraph.

‘Sexual contact’ means any intentional touching, either directly or through clothing, of the breasts, buttocks, anus or any part of the sex organs of another person, or intentional touching of any part of another person’s body by the actor’s sex organs, where the victim is not married to the actor and the touching is done for the purpose of gratifying the sexual desire of either party.

‘Solicit for prostitution’ means to invite, entice, offer, persuade, or agree to engage in prostitution.

‘Person’ means an individual eighteen years of age or older.

‘Mentally defective’ means that a person suffers from a mental disease or defect which renders that person incapable of appraising the nature of his or her conduct.

‘Mentally incapacitated’ means that a person is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of a controlled or intoxicating substance administered to that person without his or her consent or as a result of any other act committed upon that person without his or her consent.

‘Physically helpless’ means that a person is unconscious, or for any reason is physically unable to communicate unwillingness to an act.

‘Prostitution enterprise’ means two or more persons engaged in an arrangement, agreement, or organization with unified operation or common control for the purpose of conducting activities involving, or in any way related to, prostitution.

§61-8-5a. Prostitution; solicitation; criminal provisions; penalties.

(a) It is unlawful for any person to engage in prostitution or to solicit for prostitution. The offense of prostitution is a Class 3 misdemeanor. If an individual arrested for engaging in prostitution produces, before or at trial, a recognized and certified physician, laboratory, or medical report indicating the individual is free of any sexually transmitted disease (STD), the offense shall be reduced to a petty offense.

(b) Any person who knowingly solicits an individual for prostitution who is not at least 18 years of age, or has reason to know they are soliciting an individual for prostitution who is not at least 18 years of age, is guilty of a Class 2 felony.

(c) Any person who knowingly solicits an individual for prostitution who is mentally defective or mentally incapacitated or has reason to know they are soliciting an individual for prostitution who is mentally defective or mentally incapacitated, is guilty of a Class 2 felony.

(d) In addition to any other sentence authorized by this section, a person who violates subsection (a) of this section, upon conviction may be ordered to pay a fine of up to \$500 to be deposited into the Crime Victims Compensation Fund as defined in §14-2A-4 of this code.

(e) In addition to any other sentence authorized by this section, a person who violates subsection (b) of this section, upon conviction may be ordered to pay a fine of up to \$5,500 to be deposited into the Crime Victims Compensation Fund as defined in §14-2A-4.

§61-8-6. Detention of person in place of prostitution; pandering, inducing, or causing a person to engage in prostitution; criminal provisions; penalty.

(a)(1) ~~Whoever shall~~ Any person who by any means keep, hold, detain or restrain keeps, holds, detains or restrains any person in a house of prostitution or other place where prostitution is practiced

or allowed; or ~~whoever shall~~ who directly or indirectly, ~~keep, hold, detain or restrain,~~ keeps, holds, detains or restrains or ~~attempt attempts~~ to keep, hold, detain or restrain, in any house of prostitution or other place where prostitution is practiced or allowed, any person by any means, for the purpose of compelling such person, directly or indirectly, to pay, liquidate or cancel any debt, dues or obligations incurred or said to have been incurred by such person ~~shall,~~ upon conviction for the first offense under this ~~section,~~ subsection, is guilty of a Class 1 misdemeanor. Any person convicted of a second or subsequent offense under this subsection, is guilty of a Class 6 felony. ~~be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than one hundred not more than five hundred dollars, and upon conviction for any subsequent offense under this section, shall be punished by imprisonment in the penitentiary for not less than one nor more than three years.~~ *Provided,* ~~That in any offense under this section where the person is so kept, held, detained or restrained is a minor, any person violating the provisions of this section shall be guilty of a felony, and, upon conviction, shall be confined in the penitentiary not less than two years nor more than five years or fined not more than five thousand dollars, or both.~~

(2) In any offense under this section where the person so kept, held, detained, or restrained is a minor, any person violating the provisions of this subsection is guilty of a Class 5 felony.

(b)(1) It is unlawful for any person to recruit or attempt to recruit any individual to engage in prostitution. An offense of this subsection is a Class 1 misdemeanor. Each subsequent offense of this subsection is a Class 6 felony.

(2) If the recruitment or attempt to recruit any individual to engage in prostitution involves any element of coercion, detention, physical force, force of will, or compulsion, the offense is a Class 6 felony.

(3) If the recruitment or attempt to recruit involves any individual under the age of 18, the offense is a Class 4 felony

(c) It is unlawful for any parent, guardian, or other person having legal custody of an individual under 18 years of age to consent to the individual being taken, detained, or used by any person, for the purpose of prostitution. Any person who violates this subsection is guilty of a Class 5 felony.

(d) It is unlawful for any parent, guardian, or other person having legal custody of an individual who is mentally defective, mentally incapacitated, or physically helpless, to permit or consent to the individual being recruited, taken, compelled, detained, or used by any person for the purpose of prostitution. Any person who violates this subsection is guilty of a Class 5 felony.

(e) Any person who receives any money or other thing of value for or on account of arranging or advancing an act of prostitution is guilty of a Class 1 misdemeanor.

(f) Any person who by force, fraud, intimidation, or threats causes a spouse or domestic partner of that person to engage in an act of prostitution, shall be guilty of a Class 5 felony.

§61-8-6a. Abducting, enticing, or harboring a child for purposes of prostitution; penalties.

(a) It is unlawful for any person, for purposes of prostitution, to:

(1) Knowingly coerce, persuade, entice, or forcibly abduct a child under 18 years of age from his or her home or usual place of residence, or from the custody and control of the child's parents or legal guardian; or

(2) Knowingly secrete or harbor any child so coerced, persuaded, enticed, or abducted from his or her home or usual abode, or from the custody and control of the child's parents or guardian.

(b) A person who violates or attempts or conspires to violate subsection (a)(1) or (a)(2) of this section is guilty of a Class 2 felony.

§61-8-7. Procuring for house of prostitution; penalty; venue; competency as witness; marriage no defense. Promoting or permitting prostitution; house of prostitution; evidence; and penalty.

~~Any person who shall procure an inmate for a house of prostitution, or who, by promises, threats, violence, or by any device or scheme, shall cause, induce, persuade or encourage a person to become an inmate of a house of prostitution, or shall procure a place as inmate in a house of prostitution for a person; or any person who shall, by promises, threats, violence, or by any device or scheme cause, induce, persuade or encourage an inmate of a house of prostitution to remain therein as such inmate; or any person who shall, by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procure any person to become an inmate of a house of ill fame, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into or leave this state for the purpose of prostitution, or who shall procure any person to become an inmate of a house of ill fame within this state or to come into or leave this state for the purpose of prostitution; or shall receive or give or agree to receive or give any money or thing of value for procuring or attempting to procure any person to become an inmate of a house of ill fame within this state, or to come into or leave this state for the purpose of prostitution, shall be guilty of pandering, and, upon a first conviction for an offense under this section, shall be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than \$100 nor more than \$500, and upon conviction for any subsequent offense under this section shall be punished by imprisonment in the penitentiary for a period of not less than one nor more than five years: *Provided*, That where the inmate referred to in this section is a minor, any person violating the provisions of this section shall be guilty of a felony, and, upon conviction shall be confined in the penitentiary not less than two years nor more than five years or fined not more than \$5,000, or both.~~

~~It shall not be a defense to prosecution for any of the acts prohibited in this section that any part of such act or acts shall have~~

~~been committed outside of this state, and the offense shall in such case be deemed and alleged to have been committed and the offender tried and punished in any county in which the prostitution was intended to be practiced, or in which the offense was consummated, or any overt act in furtherance of the offense was committed.~~

~~Any such person shall be a competent witness in any prosecution under this section to testify for or against the accused as to any transaction, or as to conversation with the accused, or by the accused with another person or persons in his or her presence, notwithstanding his or her having married the accused before or after the violation of any of the provisions of this section, whether called as a witness during the existence of the marriage or after its dissolution. The act or state of marriage shall not be a defense to any violation of this section.~~

(a)(1) A person commits the offense of promoting prostitution if he or she knowingly advances prostitution or profits from prostitution by managing, supervising, controlling, procuring an individual for a house of prostitution or for an individual, having a possessory or proprietary interest in, or owning, either alone or in association with another, a house of prostitution or a prostitution enterprise involving two or more prostitutes.

(2) For the purpose of this section, a house of prostitution includes any house, place, building, hotel, other structure, conveyance, and all affiliated premises used by persons for the purpose of prostitution. Any oral or written lease or agreement to let, rent or sublet any house of prostitution is void from the date of conviction of this section.

(3) Evidence concerning the reputation or character of the place in question is admissible.

(b) The first offense of promoting prostitution is a Class 1 misdemeanor. Any subsequent offense is a Class 6 felony.

(c) In addition to any other sentence authorized by this section, a person who violates this section, upon conviction, shall be

ordered to pay a fine of \$2,500 to be deposited into the Crime Victims Compensation Fund as defined in §14-2A-4 of this code.

§61-8-8. Sexual Solicitation; penalty. Receiving support from prostitution; pimping; penalty; prostitute may testify

~~Any person who, knowing another person to be a prostitute, shall live or derive support or maintenance, in whole or in part, from the earnings or proceeds of the prostitution of such prostitute, or from money loaned or advanced to or charged against such prostitution by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or shall tout or receive compensation for touting for such prostitution, shall be guilty of pimping, and, upon the first conviction for such offense, shall be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than \$100 nor more than \$500; and, upon a conviction for any subsequent offense hereunder, shall be punished by imprisonment in the penitentiary for a period of not less than one nor more than three years: *Provided*, That where the prostitute referred to in this section is a minor, any person violating the provisions of this section shall be guilty of a felony, and, upon conviction shall be confined in the penitentiary not less than two years or fined not more than \$5,000, or both. A prostitute shall be a competent witness in any prosecution hereunder to testify for or against the accused as to any transaction or conversation with the accused, or by the accused with another person or persons in the presence of the prostitute, even if the prostitute may have married the accused before or after the violation of any of the provisions of this section, whether called as a witness during the existence of the marriage or after its dissolution.~~

(a) A person commits the offense of sexual solicitation if he or she knowingly advances prostitution by:

(1) Offering or agreeing to pay a fee to a person to engage in sexual activity with him or her or another person; or

(2) Soliciting or requesting a person to engage in sexual activity with him or her in return for a fee.

(b) The offense of sexual solicitation is a Class 3 misdemeanor.

(c) It is an affirmative defense to prosecution under this section that the person engaged in an act of sexual solicitation as a result of being a victim of human trafficking, as defined in §61-14-1(6) of this code.

(d) In addition to any other sentence authorized by this section, a person who violates this section upon conviction shall be ordered to pay a fine of \$500 to be deposited into the Crime Victims Compensation Fund as defined in §14-2A-4 of this code.

§61-8-8a. Affirmative defense to prostitution.

(a) It is an affirmative defense to prostitution that:

(1) The person engaged in an act of prostitution because they were a victim of human trafficking, as defined in §61-14-1(6) of this code, and in good faith cooperated with law enforcement in the investigation and prosecution of that offense of human trafficking; or,

(2) The person engaged in an act of prostitution was secreted away or abducted against their will for the purpose of prostitution, as addressed in §61-2-14 of this code; or,

(3) The person engaged in an act of prostitution was physically helpless, mentally defective, or mentally incapacitated.

§61-8-8b. Separate offenses; aggravating circumstances; restitution; Compensation Award to Victims of Crimes; law enforcement notification; forfeiture, and debarment.

(a) Separate violations. — For purposes of §§61-8-5 to 61-8-8 of this code, each adult or minor victim constitutes a separate offense.

(b) Aggravating circumstance. —

(1) Notwithstanding any provision of this code to the contrary, if an individual is convicted of an offense under §61-8-6 or §61-8-6a of this code, and the trier of fact makes a finding that the offense

involved an aggravating circumstance, the individual shall not be eligible for parole before serving one-third of the period of confinement adjudged in the sentence.

(2) For purposes of this subsection, ‘aggravating circumstance’ means the individual recruited, enticed, or obtained the victim of the offense from a shelter or facility that serves runaway youths, children in foster care, the homeless or victims of human trafficking, domestic violence or sexual assault.

(c) Restitution. —

(1) The court shall order a person convicted of an offense under this article to pay restitution to the victim of the offense.

(2) A judgment order for restitution may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action in accordance with §61-11A-4 of this code, including filing a lien against the person, firm or corporation against whom restitution is ordered.

(3) The court shall order restitution under subdivision (1) of this subsection even if the victim is unavailable to accept payment of restitution.

(4) If the victim does not claim restitution ordered under subdivision (1) of this subsection within five years of the entry of the order, the restitution shall be paid to the Crime Victims Compensation Fund created under §14-2A-4 of this code.

(d) Eligibility for Compensation Award to Victims of Crimes, §14-2A-1, et seq. — Notwithstanding the definition of victim in §14-2A-3 of this code, a victim of any offense under this article is a victim for all purposes of §14-2A-1, et seq of this code: *Provided*, That for purposes of §14-2A-14(b) of this code, if otherwise qualified, a victim of any offense under this article may not be denied eligibility solely for the failure to report to law enforcement within the designated time frame.

(e) Law Enforcement Notification. — If a law-enforcement officer encounters a child who reasonably appears to be a victim of

an offense under this article, the officer shall notify the Department of Health and Human Resources. If available, the Department of Health and Human Resources may notify the Domestic Violence Program serving the area where the child is found.

(f) Forfeiture; Debarment. –

(1) The following are declared to be contraband and no person may have a property interest in them:

(A) All property which is directly or indirectly used or intended for use in any manner to facilitate a violation of this article; and

(B) Any property constituting or derived from gross profits or other proceeds obtained from a violation of this article.

(2) In any action under this section, the court may enter such restraining orders or take other appropriate action, including acceptance of performance bonds, in connection with any interest that is subject to forfeiture.

(3) Forfeiture actions under this section shall use the procedure set forth in §§60A-7-704 to 708 of this code.

(4) Any person or business entity convicted of a violation of this article shall be debarred from state or local government contracts.

§61-8-9. Indecent exposure.

(a) A person is guilty of indecent exposure when such person, without permission of the victim, intentionally exposes his or her sex organs or anus or the sex organs or anus of another person, or intentionally causes such exposure by another or engages in any overt act of sexual gratification, and does so under circumstances in which the person knows that the conduct is likely to cause affront or alarm: *Provided*, That it is not considered indecent exposure for a mother to breast feed a child in any location, public or private.

(b) Except as provided in subsection (c) of this section, any person who violates the provisions of this section shall be guilty of

a Class 3 misdemeanor and, ~~upon conviction thereof, shall be confined in jail not more than ninety days, or fined not more than \$250, or both fined and confined.~~

(c) Any person who violates the provisions of subsection (a) of this section by intentionally exposing himself or herself to another person and the exposure was done for the purpose of sexual gratification, is guilty of a Class 1 misdemeanor. ~~and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not more than twelve months, or both. For a second offense, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined in jail for not less than thirty days nor more than twelve months. For a third or subsequent offense, the person is guilty of a Class 6 felony, and, upon conviction thereof, shall be fined not more than \$3,000 and imprisoned in a state correctional facility for not less than one year nor more than five years.~~

§61-8-9a. Child abuse; education; curriculum.

[Repealed.]

§61-8-10. Administering anesthetics to female save in presence of third person; penalty.

[Repealed.]

§61-8-11. Breathing, inhaling, or drinking certain intoxicating compounds; penalty.

(a) No person ~~shall~~ may intentionally breathe, inhale, or drink any compound, liquid, or chemical containing acetone, amylacetate, benzol or benzene, butyl acetate, butyl alcohol, carbon tetrachloride, chloroform, cyclohexanone, ethanol or ethyl alcohol, ethyl acetate, hexane, isopropanol or isopropyl alcohol, isopropyl acetate, methyl 'cellosolve' acetate, methyl ethyl ketone, methyl isobutyl ketone, toluol or toluene, trichloroethylene, tricresyl phosphate, xylol or xylene, or any other solvent, material substance, chemical, or combination thereof, having the property of releasing toxic vapors for the purpose of inducing a condition of intoxication, stupefaction, depression, giddiness, paralysis, or

irrational behavior or in any manner changing, distorting, or disturbing the Auditory, visual, or mental processes. For the purposes of this section, any condition so induced shall be ~~deemed~~ considered to be an intoxicated condition.

(b) This section does not apply to:

(1) Any person who commits any act described herein pursuant to the direction or prescription of a licensed physician or dentist authorized to so direct or prescribe, including the inhalation of anesthesia for medical or dental purposes; or

(2) To any alcoholic liquor or nonintoxicating beer as defined in section five, article one, chapter sixty of this code.

(c) Any person who violates the provisions of this section is guilty of a Class 3 misdemeanor; ~~and, upon conviction thereof, shall be fined not more than \$100 or be confined in a county or regional jail for not more than sixty days, or both fined and imprisoned.~~

§61-8-12. Incest; penalty.

a) For the purposes of this section:

(1) ‘Aunt’ means the sister of a person’s mother or father;

(2) ‘Brother’ means the son of a person’s mother or father;

(3) ‘Daughter’ means a person’s natural daughter, adoptive daughter, or the daughter of a person’s husband or wife;

(4) ‘Father’ means a person’s natural father, adoptive father, or the husband of a person’s mother;

(5) ‘Granddaughter’ means the daughter of a person’s son or daughter;

(6) ‘Grandfather’ means the father of a person’s father or mother;

(7) 'Grandmother' means the mother of a person's father or mother;

(8) 'Grandson' means the son of a person's son or daughter;

(9) 'Mother' means a person's natural mother, adoptive mother, or the wife of a person's father;

(10) 'Niece' means the daughter of a person's brother or sister;

(11) 'Nephew' means the son of a person's brother or sister;

(12) 'Sexual intercourse' means any act between persons involving penetration, however slight, of the female sex organ by the male sex organ or involving contact between the sex organs of one person and the mouth or anus of another person;

(13) 'Sexual intrusion' means any act between persons involving penetration, however slight, of the female sex organ or of the anus of any person by an object for the purpose of degrading or humiliating the person so penetrated or for gratifying the sexual desire of either party;

(14) 'Sister' means the daughter of a person's father or mother;

(15) 'Son' means a person's natural son, adoptive son, or the son of a person's husband or wife; and

(16) 'Uncle' means the brother of a person's father or mother;

(17) 'Step-relative' means a relative by marriage.

(b) (1) A person is guilty of incest when such that person engages in sexual intercourse or sexual intrusion with his or her father, mother, brother, sister, daughter, son, grandfather, grandmother, grandson, granddaughter, nephew, niece, uncle, or aunt.

(2) For the purposes of this section, sexual intercourse between two consenting adult step-relatives is not prohibited.

(c) Any person who violates the provisions of this section shall be guilty of a Class 3 felony, ~~and, upon conviction thereof, shall be imprisoned in the penitentiary not less than 5 years nor more than 15 years, or fined not less than \$500 nor more than \$5,000 and imprisoned in the penitentiary not less than five years nor more than fifteen years.~~

(d) In addition to any penalty provided under this section and any restitution which may be ordered by the court under §§61-11A-1, *et seq.* of this code, the court may order any person convicted under the provisions of this section, where the victim is a minor, to pay all or any portion of the cost of medical, psychological, or psychiatric treatment of the victim, the need for which results from the act or acts for which the person is convicted, whether or not the victim is considered to have sustained bodily injury.

(e) In any case where a person is convicted of an offense described in this section against a child and further has or may have custodial, visitation, or other parental rights to the child, the court shall find that the person is an abusing parent within the meaning of §49-4-601 through §49-4-610 of this code, and shall take further action in accord with the provisions of those sections.

§61-8-14. Disinterment or displacement of dead body or part thereof; damage to cemetery or graveyard; penalties; damages in civil action.

(a) Any person who unlawfully and intentionally disinters or displaces a dead human body, or any part of a dead human body, placed or deposited in any vault, mausoleum or any temporary or permanent burial place, removes personal effects of the decedent removes or damages caskets, surrounds, outer burial containers, or any other device used in making the original burial; transports unlawfully removed human remains from the cemetery; or knowingly receives unlawfully removed human remains from the cemetery is guilty of a Class 6 felony, ~~and, upon conviction thereof, shall be confined in a state correctional facility for a determinate sentence of not more than five years.~~

(b)(1) Any person who intentionally desecrates any tomb, plot, monument, memorial, or marker in a cemetery, or any gate, door, fence, wall, post, or railing, or any enclosure for the protection of a cemetery or any property in a cemetery, graveyard, mausoleum, or other designated human burial site is guilty of a Class 1 misdemeanor, ~~and, upon conviction thereof, shall be fined not more than \$2,000, or confined in jail not more than one year, or both fined and confined.~~

(2) Any person who intentionally and without legal right destroys, cuts, breaks, removes, or injures any building, statuary, ornamentation, landscape contents, including a tree, shrub, flower, or plant, within the limits of a cemetery, is guilty of a Class 1 misdemeanor, ~~and, upon conviction thereof, shall be fined not more than \$2,000, or confined in jail not more than one year, or both fined and confined.~~

(3) For the purposes of this subsection, 'desecrate' means destroying, cutting, mutilating, effacing, injuring, tearing down, removing, defacing, damaging or otherwise physically mistreating in a way that a reasonable person knows will outrage the sensibilities of persons likely to observe or discover his or her actions.

§61-8-15. Prohibition on certain demonstrations at funerals.

(a) No person may carry out, with respect to any cemetery or building at which a funeral or memorial service or ceremony is to be held, a demonstration within 500 feet of the cemetery or building that:

(1) Is conducted during the period beginning 60 minutes before and ending 60 minutes after the funeral or memorial service or ceremony is held; and

(2) Includes, as a part of such demonstration, any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral or memorial service or ceremony.

(b) For purposes of this section, the term ‘demonstration’ includes the following:

(1) Any picketing or similar conduct.

(2) Any oration, speech, use of sound amplification equipment or device, or similar conduct before an assembled group of people that is not part of a funeral or memorial service or ceremony.

(3) The display of any placard, banner, flag, or similar device, unless such a display is part of a funeral or memorial service or ceremony.

(4) The distribution of any handbill, pamphlet, leaflet, or other written or printed matter other than a program distributed as part of a funeral or memorial service or ceremony.

(c) Any person who violates the provisions of subsection (a) is guilty of a Class 1 misdemeanor and, upon conviction thereof, shall be confined in jail for an indeterminate sentence of not more than one year and fined not less than \$200 nor more than \$5.

§61-8-16. Obscene, anonymous, harassing, repeated and threatening telephone calls; penalty.

(a) It is unlawful for any person with intent to harass or abuse another by means of telephone to:

(1) Make any comment, request, suggestion, or proposal which is obscene; or

(2) Make a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to harass any person at the called number; or

(3) Make or cause the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

(4) Make repeated telephone calls, during which conversation ensues, with intent to harass any person at the called number; or

(5) Threaten to commit a crime against any person or property.

(b) It ~~shall be~~ is unlawful for any person to knowingly permit any telephone under his or her control to be used for any purpose prohibited by this section.

(c) Any offense committed under this section may be ~~deemed~~ considered to have occurred at the place at which the telephone call was made, or the place at which the telephone call was received.

(d) Any person who violates any provision of this section is guilty of a Class 1 misdemeanor, ~~and, upon conviction thereof, shall be fined not more than \$500, or confined in jail not more than six months, or both fined and confined.~~

§61-8-19. Cruelty to animals; penalties; exclusions.

(a)(1) It is unlawful for any person to intentionally, knowingly, or recklessly,

(A) Mistreat an animal in cruel manner;

(B) Abandon an animal;

(C) Withhold;

(i) Proper sustenance, including food or water;

(ii) Shelter that protects from the elements of weather; or

(iii) Medical treatment, necessary to sustain normal health and fitness or to end the suffering of any animal;

(D) Abandon an animal to die;

(E) Leave an animal unattended and confined in a motor vehicle when physical injury to or death of the animal is likely to result;

(F) Ride an animal when it is physically unfit;

(G) Bait or harass an animal for the purpose of making it perform for a person's amusement;

(H) Cruelly chain or tether an animal; or

(I) Use, train or possess a domesticated animal for the purpose of seizing, detaining or mistreating any other domesticated animal.

(2) Any person in violation of subdivision (1) of this subsection is guilty of a Class 2 misdemeanor and, upon conviction thereof, shall be fined not less than \$300 nor more than \$2,000 or confined in jail not more than six months, or both.

(b) A person who intentionally tortures, or mutilates or maliciously kills an animal, or causes, procures, or authorizes any other person to torture, mutilate or maliciously kill an animal, is guilty of a Class 6 felony and, upon conviction thereof, shall be confined in a correctional facility not less than one nor more than five years and be fined not less than \$1,000 nor more than \$5,000. For the purposes of this subsection, 'torture' means an action taken for the primary purpose of inflicting pain.

(c) A person, other than a licensed veterinarian or a person acting under the direction or with the approval of a licensed veterinarian, who knowingly and willfully administers or causes to be administered to any animal participating in any contest any controlled substance or any other drug for the purpose of altering or otherwise affecting said animal's performance is guilty of a Class 3 misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$2,000.

(d) Any person convicted of a violation of this section forfeits his or her interest in any animal and all interest in the animal vests in the humane society or county pound of the county in which the conviction was rendered and the person is, in addition to any fine imposed, liable for any costs incurred or to be incurred by the humane society or county pound as a result.

(e) For the purpose of this section, the term 'controlled substance' has the same meaning ascribed to it by §60A-1-100(d) of this code.

(f) The provisions of this section do not apply to lawful acts of hunting, fishing, trapping or animal training or farm livestock,

poultry, gaming fowl or wildlife kept in private or licensed game farms if kept and maintained according to usual and accepted standards of livestock, poultry, gaming fowl or wildlife or game farm production and management, nor to humane use of animals or activities regulated under and in conformity with the provisions of 7 U.S.C. §2131, *et seq.*, and the regulations promulgated thereunder, as both statutes and regulations are in effect on the effective date of this section.

(g) Notwithstanding the provisions of subsection (a) of this section, any person convicted of a second or subsequent violation of subsection (a) is guilty of a Class 1 misdemeanor ~~and, shall be confined in jail for a period of not less than ninety days nor more than one year, fined not less than \$500 nor more than \$3,000, or both.~~ The incarceration set forth in this subsection is mandatory unless the provisions of subsection (h) of this section are complied with.

(h)(1) Notwithstanding any provision of this code to the contrary, no person who has been convicted of a violation of the provisions of subsection (a) or (b) of this section may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed the evaluation. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the evaluation.

(2) For any person convicted of a violation of subsection (a) or (b) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless the defendant is determined by the court to be indigent, he or she is responsible for the cost of the program.

(i) In addition to any other penalty which can be imposed for a violation of this section, a court shall prohibit any person so convicted from possessing, owning, or residing with any animal or type of animal for a period of five years following entry of a misdemeanor conviction and fifteen years following entry of a felony conviction. A violation under this subsection is a petty

~~offense including misdemeanor punishable by a fine not exceeding \$2,000 and forfeiture of the animal.~~

§61-8-19a. Animal fighting ventures prohibited.

(a) For the purpose of this article, 'animal fighting venture' means any event that involves a fight conducted or to be conducted between at least two animals for purposes of sport, wagering, or entertainment: *Provided*, That it shall not be deemed to include any lawful activity the primary purpose of which involves the use of one or more animals in racing or in hunting another animal: *Provided, however*, That 'animal fighting venture' does not include the lawful use of livestock as such is defined in §19-10B-2 of this code or exotic species of animals bred or possessed for exhibition purposes when such exhibition purposes do not include animal fighting or training therefor.

(b) It is unlawful for any person to conduct, finance, manage, supervise, direct, engage in, be employed at, or sell an admission to any animal fighting venture or to knowingly allow property under his care, custody or control to be so used.

(c) It is unlawful for any person to possess an animal with the intent to engage the animal in an animal fighting venture.

(d) Any person who violates the provisions of this section is guilty of a Class 6 felony ~~misdemeanor and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in the county jail not exceeding one year, or both so fined and confined: *Provided*, That if the animal is a wild animal, game animal or fur bearing animal, as defined in section two, article one, chapter twenty of this code, or wildlife not indigenous to West Virginia, or of a canine, feline, porcine, bovine, or equine species whether wild or domesticated, the person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$2,500 and not more than \$5,000, and imprisoned in a state correctional facility for not less than two nor more than five years, or both fined and imprisoned.~~

(e) Any person convicted of a violation of this section shall be divested of ownership and control of such animals and liable for all costs of their care and maintenance pursuant to §7-10-4 of this code.

§61-8-19b. Attendance at animal fighting ventures prohibited; penalty.

(a) It is unlawful for any person to knowingly attend or knowingly cause an individual who has not attained the age of ~~eighteen~~ 18 to attend, an animal fighting venture involving animals as defined in §61-8-19a of this code.

(b) Any person who violates the provisions of this section is guilty of a Class 1 misdemeanor ~~and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in the county or regional jail not more than one year, or both fined and imprisoned.~~

~~(c) Notwithstanding the provisions of subsection (b) of this section, any person convicted of a third or subsequent violation of subsection (a) of this section is guilty of a felony and, shall be fined not less than \$2,500 and not more than \$5,000, imprisoned in a state correctional facility not less than one year nor more than five years, or both fined and imprisoned.~~

§61-8-19c. Wagering at animal fighting venture prohibited; penalty.

(a) It is unlawful for any person to bet or wager money or any other thing of value in any location or place where an animal fighting venture occurs.

(b) Any person who violates the provisions of this section is guilty of a Class 1 misdemeanor ~~and, upon conviction thereof, shall be fined not less than \$300 and not more than \$2,000, or confined in jail not more than one year, or both fined and imprisoned.~~

~~(c) Notwithstanding the provisions of subsection (b) of this section, any person who is convicted of a third or subsequent violation of this section is guilty of a felony and, upon conviction~~

~~thereof, shall be fined not less than \$2,500 and not more than \$5,000, or imprisoned in a state correctional facility not less than one year nor more than five years, or both fined and imprisoned.~~

§61-8-20. Keeping or using live birds to be shot at; penalty.

[Repealed.]

§61-8-21. Search warrants relating to cruelty to animals.

(a) If a complaint is made that complainant has reason to believe that an animal has been or is being cruelly treated, or that the laws related to cruelty to animals have been or are being violated in any particular building or place, a warrant may be issued under this article to search such building or place intended for use or which is or has been used as a means of committing the criminal offense of cruelty to animals.

(b) A warrant may issue only upon complaint or affirmation setting forth the facts establishing the grounds for issuing the warrant, supported by affidavit sworn to or affirmed before the judge or magistrate.

~~(c) If the judge or magistrate is satisfied there is probable cause to believe that grounds therefor exist, he shall issue a search warrant. has reasonable cause to believe there are reasonable made to a court or magistrate which is authorized to issue warrants in eriminal cases that the complainant believes, and, such court or magistrate, if satisfied that cause for such belief, they shall issue a search warrant~~

(d) The search warrant shall:

(1) Note that evidence exists to believe that the laws in relation to cruelty to animals have been, are being, or are about to be violated in a particular location, building or place;

(2) Particularly describe and identify the subject property, the location, the name of any person to be searched or particularly describe any person to be searched, and authorize any sheriff, deputy sheriff, constable, or police officer, natural resources police

officers as established in §20-7-4 of this code, or any other duly authorized law enforcement officer to search such person, building or place;

(3) Authorize any law enforcement officer to make a search of said building and arrest any person found violating §61-8-19, §61-8-19a, §61-8-19b, or §61-8-19c of this code, and any other criminal offenses in plain view;

(4) Authorize any law enforcement officer to seize and take custody of any animal believed to be cruelly treated; and,

(5) Reflect that no search may be made after sunset, unless specially authorized by the judge or magistrate upon satisfactory cause shown.

(e) This section may not be construed as a limitation on the power of law enforcement officers to seize animals as evidence at the time of the arrest.

§61-8-22. Search warrants relating to birds and animals kept for fighting.

If complaint is made to a court judge or magistrate authorized to issue warrants in criminal cases that the complainant believes, and has reasonable cause to believe, that preparations are being made for an exhibition of the fighting of birds, dogs, or other animals, or that such exhibition is in progress, or that birds, dogs, or other animals are kept shall, in accordance with §61-8-21 of this code, issue a search warrant authorizing any sheriff, deputy sheriff, constable, or police officer, or natural resources police officers as denoted and established in §20-7-4 of this code, to search such place, building, or tenement at any hour of the day or night, and take possession of all such birds, dogs or other animals there found, and any animal fighting paraphernalia such as, but not limited to, hanging scales, treadmills, spring poles, electrocution cords, gaffs – blades attached to rooster legs for cockfighting, breaking sticks – used to pry open dogs’ jaws in dogfights, first aid (‘go’) kits, deceased animals, pedigrees, registration papers, fight records, cash, guns, calendars, date books, business cards, magazines,

photos, trace evidence such as wound tissue, feathers or blood, as well as objects used for training animals to fight such as treadmills and hot walkers, and to arrest all persons there present at any such exhibition or where preparations for such an exhibition are being made, or where birds, dogs, or other animals are kept or trained for fighting.

§61-8-23. Search without warrant where there is an exhibition of the fighting of birds or animals.

Any officer authorized to serve criminal process may, without warrant, enter any property, place, building, or tenement in which there is an exhibition of the fighting of birds, dogs, or other animals, or in which preparations are being made for such an exhibition and arrest all persons there present and take possession of and remove from the place of seizure the birds, dogs, or other animals engaged in fighting or there found and intended to be used or engaged in fighting, or kept or trained for fighting and hold the same in custody subject to the order of the court as hereinafter provided.

§61-8-25. Requiring children to beg, sing, or play musical instruments in streets; penalty.

[Repealed.]

§61-8-26. Permitting children to sing, dance or act in a dance house, etc.; penalty.

[Repealed.]

§61-8-27. Unlawful admission of children to dance house, etc.; penalty.

Any proprietor or any person in charge of a dance house, concert saloon, theater, museum, or similar place of amusement, or other place, where wines or spirituous or malt liquors are sold or given away, or any place of entertainment injurious to health or morals who admits or permits to remain therein any minor under the age of 18 years, unless accompanied by his or her parent or guardian, is guilty of a petty offense; misdemeanor and, on

~~conviction thereof, shall be punished by a fine not exceeding \$200:~~ *Provided*, That there is exemption from this prohibition for: (a) A private hotel, private nine-hole golf course, private resort hotel, and private golf club licensed pursuant to §60-7-1 *et seq.* of this code and in compliance with §60-7-2(g)(8), §60-7-2(h)(7), §60-7-2(i)(7), and §60-7-2(j)(7) of this code; (b) a private club with more than 1,000 members that is in good standing with the Alcohol Beverage Control Commissioner, that has been approved by the Alcohol Beverage Control Commissioner and which has designated certain seating areas on its licensed premises as nonalcoholic liquor and nonintoxicating beer areas, as noted in the licensee's floorplan; or (c) a private fair and festival that is in compliance with §60-7-2(f)(7) of this code, by utilizing a mandatory carding or identification program whereby all members or guests being served or sold alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer are asked and must provide their proper identification to verify their identity and further that they are of legal drinking age, 21 years of age or older, prior to each sale or service of alcoholic liquors, nonintoxicating beer, or nonintoxicating craft beer.

§61-8-27a. Use of false identification, etc., by person underage; penalty.

Any person who exhibits or displays a false or erroneous birth certificate, draft card, registration card or certificate, license, or identification card or certificate of any kind or character, or who exhibits or displays any certificate, card or license of any kind or character not his own, for the purpose of purchasing or drinking beer or liquor or gaining admittance to any establishment, from which he or she would otherwise be barred by reason of age, shall be guilty of a petty offense. ~~misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than \$25 nor more than \$100, and, in the discretion of the court, may be imprisoned in the county jail not exceeding thirty days.~~

§61-8-28. Criminal invasion of privacy; penalties.

(a) For the purposes of this section, the words or terms defined in this subsection have the meanings ascribed to them. These

definitions are applicable unless a different meaning clearly appears from the context:

(1) ‘A person fully or partially nude’ means a male or female who is either clothed or unclothed so that:

(A) All or any part of his or her genitals, pubic area or buttocks is visible; or

(B) in the case of a female only, a part of a nipple of her breast is visible and is without a fully opaque covering;

(2) ‘To visually portray’ a person means to create a reproducible image of that person by means of:

(A) A photograph;

(B) A motion picture;

(C) A video tape;

(D) A digital recording; or

(E) Any other mechanical or electronic recording process or device that can preserve, for later viewing, a visual image of a person; and

(3) ‘Place where a reasonable person would have an expectation of privacy’ means a place where a reasonable person would believe that he or she could, in privacy, be fully or partially nude without expecting that the act of exposing his or her body was being visually portrayed by another person.

(b) It is unlawful for a person to knowingly visually portray another person without that other person’s knowledge, while that other person is fully or partially nude and is in a place where a reasonable person would have an expectation of privacy. A person who violates the provisions of this subsection is guilty of a Class 1 misdemeanor, ~~and, upon conviction, shall be confined in a county or regional jail for not more than one year or fined not more than \$5,000, or both.~~

(c) Any person who displays or distributes visual images of another person with knowledge that said visual images were obtained in violation of subsection (b) of this section is guilty of a Class 1 misdemeanor, ~~and, upon conviction, shall be confined in a county or regional jail for not more than one year or fined not more than \$5,000, or both.~~

(d) A person who is convicted of a second or subsequent violation of subsection (b) or (c) of this section is guilty of a Class 6 felony, ~~and, upon conviction, shall be confined in a state correctional facility for not less than one year nor more than five years or fined not more than \$10,000, or both.~~

§61-8-28a. Nonconsensual disclosure of private intimate images; definitions; and penalties.

(a) As used in this section:

‘Disclose’ means to publish, publicly display, distribute, deliver, circulate, or disseminate by any means, including, but not limited to, electronic transmission.

‘Image’ means a photograph, videotape, motion picture film, digital recording, or any product of any mechanical or electronic recording process or device that can preserve, for later viewing, a visual image.

‘Intimate parts’ means a person’s genitalia, pubic area, anus or female post-pubescent breasts.

To ‘publicly disclose’ means to disclose an image to one or more persons other than those persons whom the person depicted understood would view the image at the time it was captured.

(b) No person may knowingly and intentionally disclose, cause to be disclosed or threaten to disclose, with the intent to harass, intimidate, threaten, humiliate, embarrass, or coerce, an image of another which shows the intimate parts of the depicted person or shows the depicted person engaged in sexually explicit conduct which was captured under circumstances where the person

depicted had a reasonable expectation that the image would not be publicly disclosed.

(c) (1) A person convicted of a violation of subsection (b) of this section is guilty of a Class 6 felony, ~~misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year, fined not less than \$1,000 nor more than \$5,000, or both confined and fined.~~

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a person convicted of a second or subsequent violation of subsection (b) of this section is guilty of a Class 5 felony and, ~~upon conviction thereof, shall be imprisoned in a state correctional facility for not more than three years, fined not less than \$2,500 nor more than \$10,000, or both imprisoned and fined.~~

(d) The provisions of this section do not apply to:

(1) Images disclosed with the prior written consent of the person depicted;

(2) Images depicting the person voluntarily exposing himself or herself in a public or commercial setting; or

(3) Disclosures made through the reporting of illegal conduct or the lawful and common practices of law enforcement, criminal reporting, legal proceeding, or medical treatment.

(e) Nothing in this section shall be construed to impose liability on the provider of an interactive computer service as defined by 47 U.S.C. §230(f)(2), an information service as defined by 47 U.S.C. §153(24), or telecommunications service as defined by 47 U.S.C. §153(53), for content provided by another person.

§61-8-29. Criminal loitering by persons on supervised release.

(a) Any person serving a period of supervised release of 10 years or more pursuant to ~~the provision of~~ §62-12-26 of this code who loiters within 1,000 feet of the property line of the residence or workplace of a victim of a sexually violent offense for which the person was convicted ~~shall be~~ is guilty of a Class 3 misdemeanor

~~and, upon conviction thereof, shall be confined in jail for not more than thirty days.~~

(b) Any person serving a period of supervised release of 10 years or more pursuant to ~~the provisions of §62-12-26 of this code~~ for an offense where the victim was a minor who loiters within 1,000 feet of the property line of a facility or business the principal purpose of which is the education, entertainment or care of minor children, playground, athletic facility or school bus stop shall be guilty of a Class 3 misdemeanor ~~and, upon conviction thereof, shall be confined in jail for a period of not more than thirty days.~~

(c) A person does not violate the provisions of subsection (a) or (b) of this section unless he or she has previously been asked to leave the proscribed location by an authorized person and thereafter refuses to leave or leaves and thereafter returns to the proscribed location.

(d) As used in this section:

‘Authorized person’ means:

(1) A law-enforcement officer acting in his or her official capacity;

(2) A security officer employed by a business or facility to protect persons or property acting in his or her employment capacity;

(3) An owner, manager or employee of a facility or business having a principal purpose the caring for, education or entertainment of minors;

(4) A victim or parent, guardian or lawful temporary or permanent custodian thereof;

(5) An employee of a county Board of Education acting in his or her employment capacity.

‘Facility or business, the principal purpose of which is the education, entertainment or care of minor children’ means:

- (1) A pre-school, primary, intermediate, middle, or high school, either public or private;
- (2) A childcare facility;
- (3) A park;
- (4) An athletic facility used by minors;
- (5) A school bus stop.

‘Loitering’ means to enter or remain on property while having no legitimate purpose or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose.

(e) Nothing in this section ~~shall~~ may be construed to prohibit or limit a person’s presence within one thousand feet of a location or facility referenced in this section if the person is there present for the purposes of supervision, counseling, or other activity in which the person is directed to participate as a condition of supervision or where the person has the express permission of his supervising officer to be present.

§61-8-30. Photography of a corpse or person being provided medical care or assistance; prohibitions; exceptions; Jonathan’s Law.

- (a) As used in this section:

‘Disclose’ means to sell, manufacture, give, provide, lend, trade, mail, deliver, transfer, publish, distribute, circulate, disseminate, present, exhibit, advertise, offer or otherwise make available or make known to any third party.

‘First responder’ means law-enforcement officers, firefighters, emergency medical services personnel and other similar individuals authorized to respond to calls for public safety services or emergency medical assistance.

- (b)(1) A first responder who is present at a motor vehicle accident or other emergency situation for the purpose of providing public safety services or medical care or assistance shall not

photograph, film, videotape, record or otherwise reproduce in any manner the image of a human corpse or a person being provided medical care or assistance, except for a legitimate law-enforcement purpose, public safety purpose, health care purpose, insurance purpose, legal investigation or legal proceeding involving an injured or deceased person or pursuant to a court order.

(2) A first responder shall not knowingly disclose any photograph, film, videotape, record or other reproduction of the image of a human corpse or a person being provided medical care or assistance at the scene of a motor vehicle accident or other emergency situation without prior written consent of the injured person, the person's next-of-kin if the injured person cannot provide consent, or personal representative under law of a deceased person, unless that disclosure is for a legitimate law enforcement purpose, public safety purpose, health care purpose, insurance purpose, legal investigation or legal proceeding involving an injured or deceased person or pursuant to a court order.

(3) Any person who violates subdivision (1) or (2) of this subsection is guilty of a petty offense. ~~misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500.~~ For a second offense, the person is guilty of a Class 3 ~~misdemeanor. and, upon conviction thereof, shall be confined in jail for twenty four hours and shall be fined not less than \$100 nor more than \$750.~~ For a third or subsequent offense, the person is guilty of a Class 2 ~~misdemeanor. and, upon conviction thereof, shall be confined in jail for not less than twenty four hours nor more than six months and shall be fined not less than \$1,000 nor more than \$5,000.~~

(c) This section shall be known as 'Jonathan's Law'.

§61-8-31. Therapeutic deception; penalties.

(a) In this section, unless a different meaning plainly is required:

‘Client’ or ‘patient’ means a person who is being treated clinically or medically by a psychotherapist for more than one session or initial visit.

‘Psychotherapist’ means any of the following:

(1) A psychiatrist licensed pursuant to §30-3-1, *et seq.* of this code;

(2) A psychologist licensed pursuant to Psychologists; School Psychologists, in §30-21-1, *et seq.* of this code, or a medical psychologist licensed pursuant to §30-3-1, *et seq.* of this code;

(3) A licensed clinical social worker licensed pursuant to §30-30-1, *et seq.* of this code; or

(4) A mental health counselor licensed pursuant to §30-31-1, *et seq.* of this code.

(3) ‘Sexual contact’ has the same meaning as provided in §61-8B-1, *et seq.* of this code.

(4) ‘Sexual intercourse’ has the same meaning as provided in §61-8B-1, *et seq.* of this code.

(5) ‘Therapeutic deception’ means a representation by the psychotherapist to the patient or client that sexual contact or sexual intercourse with the psychotherapist is consistent with or part of the treatment of the patient or client.

(b) It is unlawful for any psychotherapist, or any person who fraudulently represents himself or herself as a psychotherapist, to engage in sexual contact or sexual intercourse with a client or patient by means of therapeutic deception.

(c) For purposes of this section, consent of the patient or client is not a defense, regardless of the age of the patient or client.

(d) Any person who violates subsection (b) of this section is guilty of a Class 6 felony; ~~and, upon conviction thereof, shall be fined not more than \$10,000.00 or imprisoned in a state~~

~~correctional facility for not less than one year nor more than five years, or both fined and imprisoned.~~

ARTICLE 8A. PREPARATION, DISTRIBUTION OR EXHIBITION OF OBSCENE MATTER TO MINORS.

§61-8A-1. Definitions.

When used in this article, the following words, and any variations thereof required by the context, shall have the meaning ascribed to them in this section:

‘Adult’ means a person 18 years of age or older.

‘Computer’ means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic or storage functions ~~and includes~~ including remote cloud based data storage, and any other data storage facility or communication facility directly related to or operating in conjunction with such device. As used in this article, computer includes file servers, mainframe systems, desktop personal computers, laptop personal computers, tablet personal computers, cellular telephones, game consoles and any electronic data storage device or equipment. The term ‘computer’ includes any connected or directly related device, equipment or facility which enables the computer to store, retrieve or communicate computer programs, computer data or the results of computer operations to or from a person, another computer, or another device, but such term does not include an automated typewriter or typesetter, a portable hand-held calculator or other similar device.

‘Computer network’ means the interconnection of hardware or wireless communication lines with a computer through remote terminals, or a complex consisting of two or more interconnected computers.

‘Display’ means to show, exhibit, or expose matter, in a manner visible to general or invited public, including minors. As used in this article, display shall include the placing or exhibiting of matter on or in a billboard, viewing screen, theater, marquee,

newsstand, display rack, window, showcase, display case or similar public place.

‘Distribute’ means to transfer possession, transport, transmit, sell or rent, whether with or without consideration.

‘Employee’ means any individual who renders personal services in the course of a business, who receives compensation and who has no financial interest in the ownership or operation of the business other than his or her salary or wages.

‘Internet’ means the international computer network of both federal and nonfederal interoperable packet switched data networks.

‘Knowledge of the character of the matter’ means having awareness of or notice of the overall sexual content and character of matter as depicting, representing, or describing obscene matter.

‘Matter’ means any visual, audio, or physical item, article, production transmission, publication, exhibition, or live performance, or reproduction thereof, including any two- or three-dimensional visual or written material, film, picture, drawing, video, graphic, or computer generated or reproduced image; or any book, magazine, newspaper or other visual or written material; or any motion picture or other pictorial representation; or any statue or other figure; or any recording, transcription, or mechanical, chemical, or electrical reproduction; or any other articles, video laser disc, computer hardware and software, or computer generated images or message recording, transcription, or object, or any public or commercial live exhibition performed for consideration or before an audience of one or more.

‘Minor’ means an unemancipated person under 18 years of age.

‘Obscene matter’ means matter that:

(1) An average person, applying contemporary adult community standards, would find, taken as a whole, appeals to the prurient interest, is intended to appeal to the prurient interest, or is pandered to a prurient interest;

(2) An average person, applying community standards, would find depicts or describes, in a patently offensive way, sexually explicit conduct; and

(3) A reasonable person would find, taken as a whole, lacks serious literary, artistic, political, or scientific value.

‘Parent’ includes a biological or adoptive parent, legal guardian, or legal custodian.

‘Person’ means any adult, partnership, firm, association, corporation, or other legal entity.

‘Sexually explicit conduct’ means an ultimate sexual act, normal or perverted, actual, or simulated, including sexual intercourse, sodomy, oral copulation, sexual bestiality, sexual sadism and masochism, masturbation, excretory functions and lewd exhibition of the genitals.

§61-8A-2. Distribution and display to minor of obscene matter; penalties; defenses.

(a) Any adult, with knowledge of the character of the matter, who knowingly and intentionally distributes, offers to distribute, or displays to a minor any obscene matter, is guilty of a Class 6 felony and, ~~upon conviction thereof, shall be fined not more than \$25,000, or confined in a state correctional facility for not more than five years, or both.~~

(b) It is a defense to a prosecution under the provisions of this section that the obscene matter:

(1) Was displayed in an area from which minors are physically excluded and the matter so located cannot be viewed by a minor from nonrestricted areas; or

(2) Was covered by a device, commonly known as a ‘blinder rack,’ such that the lower two thirds of the cover of the material is not exposed to view; or

(3) Was enclosed in an opaque wrapper such that the lower two thirds of the cover of the material was not exposed to view; or

(4) Was displayed or distributed after taking reasonable steps to receive, obtain or check an adult identification card, such as a driver's license or other technically or reasonably feasible means of verification of age.

(c) It is a defense to an alleged violation under this section that a parent had taken reasonable steps to limit the minor's access to the obscene matter.

§61-8A-4. Use of obscene matter with intent to seduce minor.

Any adult, having knowledge of the character of the matter, who knows or believes that a person is a minor at least four years younger than the adult, and distributes, offers to distribute or displays by any means any obscene matter to the person who is known or believed to be a minor at least four years younger than the adult, and such distribution, offer to distribute, or display is undertaken with the intent or for the purpose of facilitating the sexual seduction or abuse of the minor, is guilty of a Class 5 felony and, upon conviction thereof, shall be fined not more than \$25,000, or imprisoned in a state correctional facility for not more than five years, or both. For a second and each subsequent commission of such offense, such person is guilty of a felony and, upon conviction, shall be fined not more than \$50,000 or imprisoned in a state correctional facility for not more than ten years, or both.

§61-8A-5. Employment or use of minor to produce obscene matter or assist in doing sexually explicit conduct; penalties.

Any adult who, with knowledge that a person is a minor or who fails to exercise reasonable care in ascertaining the age of a minor, hires, employs, or uses such minor to produce obscene matter or to do or assist in doing any sexually explicit conduct, is guilty of a Class 5 felony and, upon conviction thereof, shall be fined not more than \$50,000 or confined in a state correctional facility for not more than ten years, or both.

ARTICLE 8B. SEXUAL OFFENSES.**§61-8B-3. Sexual assault in the first degree.**

(a) A person is guilty of sexual assault in the first degree when:

(1) The person engages in sexual intercourse or sexual intrusion with another person and, in so doing:

(i) Inflicts serious bodily injury upon anyone; or

(ii) Employs a deadly weapon in the commission of the act; or

(2) The person, being 14 years old or more, engages in sexual intercourse or sexual intrusion with another person who is younger than 12 years old and is not married to that person.

(b) Any person violating the provisions of this section is guilty of a Class 2 felony and, ~~upon conviction thereof, shall be imprisoned in a state correctional facility not less than fifteen nor more than thirty five years, or fined not less than \$1,000 nor more than \$10,000 and imprisoned in a state correctional facility not less than fifteen nor more than thirty five years.~~

(c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any person violating the provisions of subsection (a) of this section who is 18 years of age or older and whose victim is younger than 12 years of age, is a Class 1 felony ~~shall be imprisonment in a state correctional facility for not less than twenty five nor more than one hundred years and a fine of not less than \$5,000 nor more than \$25,000.~~

§61-8B-4. Sexual assault in the second degree.

(a) A person is guilty of sexual assault in the second degree when:

(1) Such person engages in sexual intercourse or sexual intrusion with another person without the person's consent, and the lack of consent results from forcible compulsion; or

(2) Such person engages in sexual intercourse or sexual intrusion with another person who is physically helpless; or,

(b) Any person who violates the provisions of this section shall be guilty of a Class 3 felony, ~~and, upon conviction thereof, shall be imprisoned in the penitentiary not less than ten nor more than twenty five years, or fined not less than \$1,000 nor more than \$10,000 and imprisoned in the penitentiary not less than ten nor more than twenty five years.~~

§61-8B-4a. Sexual extortion.

(a) For the purposes of this section,

‘Recording’ includes without limitation an image, photograph, or video;

‘Sexually explicit conduct’ means sexual conduct, sexual intercourse, or sexual intrusion;

‘State of nudity’ means:

(1) The appearance of a human anus, human genitals, or female breast below a point immediately above the top of the areola; or

(2) A state of dress that fails to opaquely cover a human anus, human genitals, or a female breast below a point immediately above the top of the areola;

(b) A person is guilty of sexual extortion if:

(1) With purpose to coerce another person to engage in sexual contact or sexual intercourse, the person communicates a threat to:

(A) Damage the property or harm the reputation of the other person; or

(B) Produce or distribute a recording of the other person engaged in sexually explicit conduct or depicted in a state of nudity; or,

(2) With purpose to produce or distribute a recording of a person in a state of nudity or engaged in sexually explicit conduct, the person communicates a threat to:

(A) Damage the property or harm the reputation of the other person; or

(B) produce or distribute a recording of the other person engaged in sexually explicit conduct or depicted in a state of nudity; or,

(3) The person knowingly causes another person to engage in sexual contact, sexually explicit conduct, or to produce or distribute a recording of a person in a state of nudity or engaged in a sexually explicit conduct by communicating a threat to:

(A) Damage the property or harm the reputation of the other person; or

(B) Produce or distribute a recording of the other person depicted in a state of nudity or engaged in sexually explicit conduct.

(c) Any person who violates the provisions of this section is guilty of a Class 5 felony.

§61-8B-5. Sexual assault in the third degree.

(a) A person is guilty of sexual assault in the third degree when:

(1) The person engages in sexual intercourse or sexual intrusion with another person who is mentally defective or mentally incapacitated; or

(2) The person, being sixteen years old or more, engages in sexual intercourse or sexual intrusion with another person who is less than 16 years old and who is at least four years younger than the defendant and is not married to the defendant.

(b) Any person violating the provisions of this section is guilty of a Class 6 felony ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor~~

~~more than five years, or fined not more than \$10,000 and imprisoned in a state correctional facility not less than one year nor more than five years.~~

§61-8B-7. Sexual abuse in the first degree.

(a) A person is guilty of sexual abuse in the first degree when:

(1) Such person subjects another person to sexual contact without their consent, and the lack of consent results from forcible compulsion; or

(2) Such person subjects another person to sexual contact who is physically helpless; or

(3) Such person, being 14 years old or more, subjects another person to sexual contact who is younger than 12 years old.

(b) Any person who violates the provisions of this section shall be guilty of a Class 6 felony, ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one year nor more than five years, or fined not more than \$10,000 and imprisoned in a state correctional facility not less than one year nor more than five years.~~

(c) Notwithstanding the provisions of subsection (b) of this section, the penalty for any person violating the provisions of subsection (a) of this section who is 18 years of age or older and whose victim is younger than 12 years of age, ~~shall be~~ is guilty of a Class 3 felony ~~shall be imprisonment for not less than five nor more than twenty five years and fined not less than \$1,000 nor more than \$5,000.~~

§61-8B-8. Sexual abuse in the second degree.

(a) A person is guilty of sexual abuse in the second degree when such person subjects another person to sexual contact who is mentally defective or mentally incapacitated.

(b) Any person who violates the provisions of this section ~~shall be~~ is guilty of a Class 1 misdemeanor, ~~and, upon conviction~~

~~thereof, shall be confined in the county jail not more than twelve months, or fined not more than \$500 and confined in the county jail not more than twelve months.~~

§61-8B-9. Sexual abuse in the third degree.

(a) A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent, when such lack of consent is due to the victim's incapacity to consent by reason of being less than 16 years old.

(b) In any prosecution under this section it is a defense that:

(1) The defendant was less than 16 years old; or

(2) The defendant was less than four years older than the victim.

(c) Any person who violates the provisions of this section ~~shall be is~~ guilty of a Class 3 misdemeanor, ~~and, upon conviction thereof, shall be confined in the county jail not more than ninety days, or fined not more than \$500 and confined in the county jail not more than ninety days.~~

§61-8B-9b. Enhanced penalties for subsequent offenses committed by those previously convicted of sexually violent offenses against children.

(a) Notwithstanding any provision of this article to the contrary, any person who has been convicted of a sexually violent offense, as defined in §15-12-2 of this code, against a victim under the age of 12 years old and thereafter commits and thereafter is convicted of one of the following offenses shall be subject to the following penalties unless another provision of this code authorizes a longer sentence:

(1) For a violation of §61-8B-3 of this code, the penalty shall be a Class 1 felony; ~~imprisonment in a state correctional facility for not less than fifty nor more than one hundred fifty years;~~

(2) For a violation of §61-8B-4 of this code, the penalty shall be a Class 2 felony; ~~imprisonment in a state correctional facility for not less than thirty nor more than one hundred years;~~

(3) For a violation of §61-8B-5 of this code, the penalty shall be a Class 4 felony; ~~imprisonment in a state correctional facility for not less than five nor more than twenty five years;~~

(4) For a violation of §61-8B-7 of this code, the penalty shall be a Class 3 felony; ~~imprisonment in a state correctional facility for not less than ten nor more than thirty five years; and~~

(5) Notwithstanding the penalty provisions of §61-8B-8 of this code, a violation of its provisions by a person previously convicted of a sexually violent offense, as defined in §15-12-2 of this code, shall be a Class 4 felony ~~and, the penalty therefor shall be imprisonment in a state correctional facility for not less than three nor more than fifteen years.~~

(b) Notwithstanding the provisions of §62-12-2 of this code, any person sentenced pursuant to this section shall not be eligible for probation.

(c) Notwithstanding the provisions of §62-11A-1a, §62-11B-4, and §62-12-2 of this code, a person sentenced under this section shall not be eligible for home incarceration or an alternative sentence.

§61-8B-10. Imposition of sexual acts on persons incarcerated or under supervision.

(a) Any person employed by the Division of Corrections and Rehabilitation, any person working at a correctional facility managed by the Commissioner of Corrections and Rehabilitation pursuant to contract or as an employee of a state agency or as a volunteer or any person employed by, or acting pursuant to, the authority of any sheriff, county commission, or court to ensure compliance with the provisions of §62-11B-1 *et seq.* of this code who engages in sexual intercourse, sexual intrusion, or sexual contact with a person who is incarcerated in this state is guilty of a Class 6 felony ~~and, upon conviction thereof, shall be fined not more~~

~~than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years or both fined and imprisoned.~~

(b) Any person employed by the Division of Corrections and Rehabilitation as a parole officer or by the West Virginia Supreme Court of Appeals as an adult or juvenile probation officer, who engages in sexual intercourse, sexual intrusion, or sexual contact with a person said parole officer or probation officer is charged as part of his or her employment with supervising, is guilty of a Class 6 felony and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(c) Any person working or volunteering in an alternative sentence program authorized by the provisions of §62-11C-1, *et seq.*, of this code who, as part of his or her employment or volunteer duties, supervises program participants, engages in sexual intercourse, sexual intrusion, or sexual contact with a program participant is guilty of a Class 6 felony and upon conviction, shall be fined not more than \$5,000, imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(d) The term ‘incarcerated in this state’ for purposes of this section includes in addition to its usual meaning, offenders serving a sentence under the provisions of article §62-11B-1, *et seq.*, of this code.

(e) Authorized pat-down, strip search or other security related tasks do not constitute sexual contact pursuant to this section.

§61-8B-12. Ignorance of victim incapacity to consent; defense.
~~Same—Defense.~~

(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, mentally defective, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant at the time he or she engaged in the conduct constituting the offense did not know of the facts or conditions

responsible for such incapacity to consent, unless the defendant is reckless in failing to know such facts or conditions.

§61-8B-18. Rule-making authority.

[Repealed]

ARTICLE 8C. FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS.

§61-8C-1. Definitions.

For the purposes of this article:

‘Minor’ means any child under eighteen years of age.

~~‘Knowledge’~~ ‘Knowingly’ means knowing or having reasonable cause to know which warrants further inspection or inquiry.

‘Sexually explicit conduct’ includes any of the following, whether actually performed

or simulated:

- (1) Genital to genital intercourse;
- (2) Fellatio;
- (3) Cunnilingus;
- (4) Anal intercourse;
- (5) Oral to anal intercourse;
- (6) Bestiality;
- (7) Masturbation;
- (8) Sadomasochistic abuse, including, but not limited to, flagellation, torture or bondage;
- (9) Excretory functions in a sexual context; or

(10) Exhibition of the genitals, pubic or rectal areas of any person in a sexual context.

‘Person’ means an individual, partnership, firm, association, corporation or other legal entity.

‘Coerces’ means:

(1) The use or threat of force against, abduction of, serious harm to or physical restraint of an individual;

(2) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, physical restraint of or deportation of an individual;

(3) The abuse or threatened abuse of law or legal process;

(4) The destruction or taking of, or the threatened destruction or taking of, an individual’s identification document or other property; or

(5) The use of an individual’s physical or mental impairment when the impairment has a substantial adverse effect on the individual’s cognitive or volitional function.

(6) As used in this section, ‘coercion’ does not include statements or actions made by a duly authorized state or federal law-enforcement officer as part of a lawful law enforcement investigation or undercover action.

‘Visual portrayal’ has the same meaning as defined at §61-8C-3b(b)(2) of this code;

§61-8C-2. Use of minors in filming sexually explicit conduct prohibited; penalty.

(a) Any person who causes or knowingly permits, uses, persuades, induces, entices, or coerces such minor to engage in or uses such minor to do or assist in any sexually explicit conduct ~~shall be~~ is guilty of a Class 5 felony ~~when such person has knowledge that any such act is being photographed or filmed.~~ Upon

~~conviction thereof, such person shall be fined not more than \$10,000, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.~~

(b) Any person who produces a visual portrayal, photographs, or films such minor engaging in any sexually explicit conduct ~~shall be is~~ guilty of a Class 5 felony, ~~and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.~~

(c) (1) Any parent, legal guardian or person having custody and control of a minor, who produces a visual portrayal, photographs, or films such minor in any sexually explicit conduct, or causes or knowingly permits, uses, persuades, induces, entices, or coerces such minor child to engage in or assist in any sexually explicit act ~~shall be is~~ guilty of a Class 5 felony ~~when such person has knowledge that any such act may be photographed or filmed. Upon conviction thereof, such person shall be fined not more than \$10,000, or imprisoned in the penitentiary not more than ten years, or both fined and imprisoned.~~ ~~one, article fourteen. Chapter sixty one.~~

(2) If any parent, legal guardian, person in a position of trust, or any person with knowledge, sends or causes to be sent, or distributes, exhibits, possesses, displays, or transports, any material visually portraying a child under his or her care, custody or control engaged in any sexually explicit conduct the sentence in this subsection the court may impose up to an additional two years of confinement.

§61-8C-3. Distribution and exhibiting of material depicting minors engaged in sexually explicit conduct prohibited; penalty.

(a) Any person who, knowingly and willfully, sends or causes to be sent or distributes, exhibits, possesses, electronically accesses with intent to view, or displays or transports any material visually portraying a minor engaged in any sexually explicit conduct is guilty of a Class 5 felony.

(b) Any person who violates the provisions of subsection (a) of this section when the conduct involves fifty or fewer images is guilty of a Class 6 felony. ~~shall, upon conviction, be imprisoned in a state correctional facility for not more than two years or fined not more than \$2,000 or both.~~

(c) Any person who violates the provisions of subsection (a) of this section when the conduct involves more than 50 but fewer than 600 images is guilty of a Class 5 felony. ~~shall, upon conviction, be imprisoned in a state correctional facility for not less than two nor more than ten years or fined not more than \$5,000, or both.~~

(d) Notwithstanding the provisions of subsections (b) and (c) of this section any person who violates the provisions of subsection (a) of this section when the conduct involves 600 or more images or depicts violence against a child or a child engaging in bestiality is guilty of a Class 3 felony. ~~shall, upon conviction, be imprisoned in a state correctional facility for not less than five nor more than fifteen years or fined not more than \$25,000, or both.~~

(e) For purposes of this section each video clip, movie or similar recording of five minutes or less shall constitute 75 images. A video clip, movie, or similar recording of a duration longer than five minutes shall be ~~deemed~~ considered to constitute 75 images for every two minutes in length it exceeds five minutes.

§61-8C-3a. Prohibiting child erotica; penalties.

(a) Any person age 18 or over who knowingly and intentionally produces, possesses, displays or distributes, in any form, any visual portrayals of minors who are partially clothed, where the visual portrayals are: (1) Unrelated to the sale of a commercially available legal product; and (2) used for purely prurient purposes, is guilty of a Class 1 misdemeanor ~~and, upon conviction thereof, shall be confined in jail for not more than one year or fined not more than \$1,000, or both confined and fined.~~

(b) As used in this section only:

(1) 'Purely prurient purposes' means for the specific purpose of sexual gratification or sexual arousal from viewing the visual portrayals prohibited by this section; and

(2) 'Commercially available' means for sale to the general public.

(3) A 'minor' is a child under the age of 16 years, or a person who is 16 years of age or older but less than 18 years old and who is mentally defective or mentally incapacitated.

§61-8C-3b. Prohibiting juveniles from manufacturing, possessing, and distributing nude or partially nude images of minors; creating exemptions; declaring a violation to be an act of juvenile delinquency; and providing for the punishment thereof.

(a) Any minor who intentionally possesses, creates, produces, distributes, presents, transmits, posts, exchanges, or otherwise disseminates a visual portrayal of another minor posing in an inappropriate sexual manner or who distributes, presents, transmits, posts, exchanges, or otherwise disseminates a visual portrayal of himself or herself posing in an inappropriate sexual manner is guilty of an act of delinquency and, upon adjudication, disposition may be made by the circuit court pursuant to the provisions of §49-4-701 through §49-4-725 of this code.

(b) As used in this section:

'Posing in an inappropriate sexual manner' means exhibition of bare female breast, female or male genitalia, pubic, or rectal areas of a minor for purposes of sexual titillation.

~~(2) 'Visual portrayal' means:~~

~~(A.1) A photograph;~~

~~(B.2) A motion picture;~~

~~(C) A digital image;~~

~~(D) A digital video recording; or~~

~~(E) Any other mechanical or electronic recording process or device that can preserve, for later viewing, a visual image of a person that includes, but is not limited to, computers, cellphones, personal digital assistance, and other digital storage or transmitting devices;~~

‘Visual portrayal’ means: a reproducible image of a person by means of a visual depiction, including but not limited to a photograph, motion picture, digital image, computer image, computer generated image, video tape, digital recording, digital video recording, undeveloped film or videotape, data stored on a computer, computer disk, cellphone, personal digital assistance, transmitting devices, or by electronic means which is capable of conversion into a visual image that has been transmitted by any means, whether or not stored in a permanent format, data which is capable of conversion into a visual image that has been transmitted by any means whether or not stored in a permanent format, or any other mechanical or electronic recording process or device that can preserve, for later viewing, a visual image of a person including, but not limited to computers, cellphones, personal digital assistance, and other digital storage or transmitting devices;

(c) It shall be an affirmative defense to an alleged violation of this section that a minor charged with possession of the prohibited visual depiction did neither solicit its receipt nor distribute, transmit, or present it to another person by any means.

(d) Notwithstanding the provisions of §15-12-1, *et seq.*, of this code, an adjudication of delinquency under the provisions of this section shall not subject the minor to the requirements of that article and chapter.

ARTICLE 8D. CHILD ABUSE.

§61-8D-1. Definitions.

In this article, unless a different meaning is plainly required:

‘Abuse’ means the infliction upon a minor child of physical injury by other than accidental means.

‘Child’ means any person under eighteen years of age not otherwise emancipated by law.

‘Controlled substance’ means controlled substance as that term is defined in §61A-1-101(d) of this code.

‘Custodian’ means a person over the age of fourteen years who has or shares actual physical possession or care and custody of a child on a full-time or temporary basis, regardless of whether such person has been granted custody of the child by any contract, agreement, or legal proceeding. ‘Custodian’ shall also include, but not be limited to, the spouse of a parent, guardian or custodian, or a person cohabiting with a parent, guardian, or custodian in the relationship of husband and wife, where such spouse or other person shares actual physical possession or care and custody of a child with the parent, guardian, or custodian.

‘Guardian’ means a person who has care and custody of a child as the result of any contract, agreement, or legal proceeding.

‘Gross neglect’ means reckless or intentional conduct, behavior or inaction by a parent, guardian or custodian that evidences a clear disregard for a minor child’s health, safety, or welfare.

‘Neglect’ means the unreasonable failure by a parent, guardian, or custodian of a minor child to exercise a minimum degree of care to assure the minor child’s physical safety or health. For purposes of this article, the following do not constitute ‘neglect’ by a parent, guardian, or custodian:

- (1) Permitting a minor child to participate in athletic activities or other similar activities that if done properly are not inherently dangerous, regardless of whether that participation creates a risk of bodily injury;
- (2) Exercising discretion in choosing a lawful method of educating a minor child; or

(3) Exercising discretion in making decisions regarding the nutrition and medical care provided to a minor child based upon religious conviction or reasonable personal belief.

‘Parent’ means the biological father or mother of a child, or the foster or adoptive mother or father of a child, or a stepparent of a child or legal guardian.

‘Sexual contact’ means sexual contact as that term is defined in §61-8B-1. of this code.

‘Sexual exploitation’ means an act whereby:

(1) A parent, custodian, guardian, or other person in a position of trust to a child, whether for financial gain or not, persuades, induces, entices, or coerces the child to engage in sexually explicit conduct as that term is defined in §61-8C-1. of this code; or

(2) A parent, guardian, custodian or other person in a position of trust in relation to a child persuades, induces, entices or coerces the child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, person in a position of trust or a third person, or to display his or her sex organs under circumstances in which the parent, guardian, custodian or other person in a position of trust knows such display is likely to be observed by others who would be affronted or alarmed.

‘Sexual intercourse’ means sexual intercourse as that term is defined in §61-8B-1 of this code.

‘Sexual intrusion’ means sexual intrusion as that term is defined in §61-8B-1-one of this code.

A ‘person in a position of trust in relation to a child’ refers to any person who is acting in the place of a parent and charged with any of a parent’s rights, duties or responsibilities concerning a child or someone responsible for the general supervision of a child’s welfare, or any person who by virtue of their occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of the child.

§61-8D-2. Murder of a child by a parent, guardian or custodian or other person by refusal or failure to supply necessities, or by delivery, administration, or ingestion of a controlled substance; tenets and practices of a recognized religious denomination or order; penalties.

(a) If any parent, guardian, or custodian shall maliciously and intentionally cause the death of a child under his or her care, custody, or control by his or her failure or refusal to supply such child with necessary food, clothing, shelter, or medical care, then such parent, guardian or custodian ~~shall be~~ is guilty of a Class 1 felony. murder in the first degree.

(b) If any parent, guardian, or custodian ~~shall cause~~ causes the death of a child under his or her care, custody, or control by knowingly allowing any other person to maliciously and intentionally fail or refuse to supply such child with necessary food, clothing, shelter, or medical care, then such other person and such parent, guardian or custodian shall each be guilty of a Class 1 felony. murder in the first degree.

(c) The penalty for offenses defined by this section shall be that which is prescribed for murder ~~in~~ of the first degree under the provisions of §61-2-1 of this code.

(d) The provisions of this section shall not apply to any parent, guardian or custodian who fails or refuses, or allows another person to fail or refuse, to supply a child under the care, custody or control of such parent, guardian, or custodian with necessary medical care, when such medical care conflicts with the tenets and practices of a recognized religious denomination or order of which such parent, guardian or custodian is an adherent or member.

(e) Without in any manner excluding any other method of establishing a recognized method of religious healing, if the fees and expenses incurred in connection with treatment are deductible pursuant to the regulations or rules promulgated by the United States Internal Revenue Service, the treatment is presumed to constitute a recognized method of religious healing.

§61-8D-2a. Death of a child by a parent, guardian or custodian or other person by child abuse; criminal penalties.

(a) If any parent, guardian, or custodian maliciously and intentionally inflicts upon a child under his or her care, custody or control substantial physical pain, illness, or any impairment of physical condition by other than accidental means, thereby causing the death of such child, then such parent, guardian or custodian is guilty of a Class 1 felony.

(b) If any parent, guardian, or custodian knowingly allows any other person to maliciously and intentionally inflict upon a child under the care, custody or control of ~~such~~ the parent, guardian or custodian substantial physical pain, illness or any impairment of physical condition by other than accidental means, which thereby causes the death of ~~such~~ the child, then such other person and ~~such~~ parent, guardian or custodian are each guilty of a Class 1 felony.

(c) Any person convicted of a felony described in subsection (a) or (b) of this section ~~shall be imprisoned in a state correctional facility for a period of fifteen years to life. A person imprisoned pursuant to the provisions of this section is not eligible for parole prior to having served a minimum of 15 years of his or her sentence.~~

§61-8D-3. Child abuse resulting in injury; child abuse creating risk of injury; criminal penalties.

(a) If Any parent, guardian, or custodian who shall abuse ~~abuses~~ a child and by ~~such~~ the abuse ~~cause such~~ causes the child bodily injury as such term is defined in §61-8B-1 of this code, ~~then such parent, guardian or custodian shall be~~ is guilty of a Class 6 felony ~~and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 and imprisoned in a state correctional facility for not less than one nor more than five years, or in the discretion of the court, be confined in jail for not more than one year.~~

(b) If Any parent, guardian, or custodian who shall abuse ~~abuses~~ a child and by ~~such~~ the abuse ~~cause said~~ causes the child

serious bodily injury as such term is defined in §61-8B-1 of this code, ~~then such parent, guardian or custodian shall be~~ is guilty of a Class 5 felony and, ~~upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 and committed to the custody of the Division of Corrections not less than two nor more than ten years.~~

(c) Any parent, guardian or custodian who abuses a child and by the abuse creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, to the child is guilty of a Class 6 felony and, ~~upon conviction thereof, shall be fined not more than \$3,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both.~~

(d)(1) If a parent, guardian or custodian who has not previously been convicted under this section, §61-8D-4 of this code, or a law of another state or the federal government with the same essential elements abuses a child and by the abuse creates a substantial risk of bodily injury, as bodily injury is defined in §61-8B-1 of this code, to the child is guilty of a Class 2 misdemeanor and, ~~upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than six months, or both.~~

(2) For a second offense under this subsection or for a person with one prior conviction under this section, §61-8D-4 of this code, or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a Class 1 misdemeanor and, ~~upon conviction thereof, shall be fined not more than \$1,500 and confined in jail not less than thirty days nor more than one year, or both.~~

(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, §61-8D-4 of this code, or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a Class 6 felony. ~~felony and, upon conviction thereof, shall be fined not more than \$3,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both.~~

(e) Any person convicted of a misdemeanor offense under this section:

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by Department of Health and Human Resources, Bureau for Children and Families through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) Shall not be required to register pursuant to §15-13-1 *et seq.* of this code; and

(3) Shall not, solely by virtue of the conviction, have their custody, visitation, or parental rights automatically restricted.

(f) Nothing in this section shall preclude a parent, guardian, or custodian from providing reasonable discipline to a child.

§61-8D-3a. Female genital mutilation; penalties; definitions.

(a) Except as otherwise provided in subsection (b) of this section, any person who circumcises, excises or infibulates, in whole or in part, the labia majora, labia minora or clitoris of a female under the age of 18, or any parent, guardian or custodian of a female under the age of eighteen who allows the circumcision, excision or infibulation, in whole or in part, of such female's labia majora, labia minora or clitoris, ~~shall be is~~ guilty of a Class 5 felony and, ~~upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than ten years and fined not less than \$1,000 nor more than \$5,000.~~

(b) A surgical procedure is not a violation of this section if the procedure:

(1) Is necessary to preserve the health of the child on whom it is performed and is performed by a licensed medical professional authorized to practice medicine in this state; or

(2) The procedure is performed on a child who is in labor or has just given birth and is performed for legitimate medical

purposes connected with that labor or birth by a licensed medical professional authorized to practice medicine in this state.

(c) A person's belief that the conduct described in subsection (a) of this section: (i) is required as a matter of custom, ritual or standard practice; or (ii) was consented to by the female on which the circumcision, excision or infibulation was performed shall not constitute a defense to criminal prosecution under subsection (a) of this section.

§61-8D-4. Child neglect resulting in injury; child neglect creating risk of injury; criminal penalties.

(a) If a parent, guardian, or custodian neglects a child and by such neglect causes the child bodily injury, as bodily injury is defined in §61-8B-1 of this code, then the parent, guardian or custodian is guilty of a Class 6 felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 dollars or imprisoned in a state correctional facility for not less than one nor more than three years, or in the discretion of the court, be confined in jail for not more than one year, or both.

(b) If a parent, guardian, or custodian neglects a child and by such neglect cause the child serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, then the parent, guardian or custodian is guilty of a Class 5 felony and, upon conviction thereof, shall be fined not less than \$300 nor more than \$3,000 dollars or imprisoned in a state correctional facility for not less than one nor more than ten years, or both.

(c) If a parent, guardian, or custodian grossly neglects a child and by that gross neglect creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in §61-8B-1 of this code, of the child then the parent, guardian or custodian is guilty of a Class 6 felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 dollars or imprisoned in a state correctional facility for not less than one nor more than five years, or both.

(d)(1) If a parent, guardian, or custodian who has not been previously convicted under this section, §61-8D-3 of this code, or a law of another state or the federal government with the same essential elements neglects a child and by that neglect creates a substantial risk of bodily injury, as defined in §61-8B-1 of this code, to the child, then the parent, guardian or custodian, is guilty of a Class 2 misdemeanor ~~and, upon conviction thereof, for a first offense, shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than six months, or both fined and confined.~~

(2) For a second offense under this subsection or for a person with one prior conviction under this section, §61-8D-3 of this code, or a law of another state or the federal government with the same essential elements, the parent, guardian, or custodian is guilty of a Class 1 misdemeanor ~~and, upon conviction thereof, shall be fined not more than \$1,000 and confined in jail not less than thirty days nor more than one year, or both.~~

(3) For a third or subsequent offense under this subsection or for a person with two or more prior convictions under this section, §61-8D-3 of this code, or a law of another state or the federal government with the same essential elements, the parent, guardian, or custodian is guilty of a Class 6 felony ~~and, upon conviction thereof, shall be fined not more than \$2,000 and imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned.~~

(e) The provisions of this section shall not apply if the neglect by the parent, guardian or custodian is due primarily to a lack of financial means on the part of such parent, guardian, or custodian.

(f) Any person convicted of a misdemeanor offense under this section:

(1) May be required to complete parenting classes, substance abuse counseling, anger management counseling, or other appropriate services, or any combination thereof, as determined by Department of Health and Human Resources, Bureau for Children

and Families through its services assessment evaluation, which shall be submitted to the court of conviction upon written request;

(2) Shall not be required to register pursuant to the requirements of §15-13-1, *et seq.* of this code; and

(3) Shall not, solely by virtue of the conviction, have their custody, visitation or parental rights automatically restricted.

§61-8D-4a. Child neglect resulting in death; medical treatment; recognized method of religious healing; criminal penalties.

(a) If Any parent, guardian, or custodian ~~shall neglect who neglects~~ a child under his or her care, custody, or control and by such neglect cause the death of said child, then such parent, guardian or custodian ~~shall be is~~ guilty of a Class 4 felony ~~and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or committed to the custody of the Division of Corrections for not less than three nor more than fifteen years, or both such fine and imprisonment.~~

(b) No child who in lieu of medical treatment was under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing with a reasonable proven record of success ~~shall~~ may, for that reason alone, be considered to have been neglected within the provisions of this section. Without in any manner excluding any other method of establishing a recognized method of religious healing, if the fees and expenses incurred in connection with treatment are deductible pursuant to the regulations or rules promulgated by the United States Internal Revenue Service, such treatment shall be presumed to constitute a recognized method of religious healing. A method of religious healing shall be presumed to be a recognized method of religious healing if fees and expenses incurred in connection with such treatment are permitted to be deducted from taxable income as ‘medical expenses’ pursuant to regulations or rules promulgated by the United States Internal Revenue Service.

(c) A child whose parent, guardian or legal custodian has inhibited or interfered with the provision of medical treatment in accordance with a court order may be considered to have been neglected for the purposes of this section.

§61-8D-5. Sexual abuse by a parent, guardian, custodian or person in a position of trust to a child; parent, guardian, custodian or person in a position of trust allowing sexual abuse to be inflicted upon a child; displaying of sex organs by a parent, guardian, or custodian; penalties.

(a) In addition to any other offenses set forth in this code, the Legislature hereby declares a separate and distinct offense under this subsection, as follows: If any parent, guardian or custodian of or other person in a position of trust in relation to a child under his or her care, custody or control, shall engage in or attempt to engage in sexual exploitation of, or in sexual intercourse, sexual intrusion or sexual contact with, a child under his or her care, custody or control, notwithstanding the fact that the child may have willingly participated in such conduct, or the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust ~~shall be~~ is guilty of a Class 2 felony and, upon conviction thereof, ~~shall be imprisoned in a correctional facility not less than ten nor more than twenty years, or fined not less than \$500 nor more than \$5,000 and imprisoned in a correctional facility not less than ten years nor more than twenty years.~~

(b) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is less than 16 years of age, notwithstanding the fact that the child may have willingly participated in such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury

as a result of such conduct, such parent, guardian, custodian or person in a position of trust ~~shall be guilty of a Class 3 felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than five years nor more than fifteen years, or fined not less than \$1,000 nor more than \$10,000 and imprisoned in a correctional facility not less than five years nor more than fifteen years.~~

(c) (1) Any parent, guardian, custodian or other person in a position of trust in relation to the child who knowingly procures, authorizes, or induces another person to engage in or attempt to engage in sexual exploitation of, or sexual intercourse, sexual intrusion or sexual contact with, a child under the care, custody or control of such parent, guardian, custodian or person in a position of trust when such child is 16 years of age or older, notwithstanding the fact that the child may have consented to such conduct or the fact that the child may have suffered no apparent physical injury or mental or emotional injury as a result of such conduct, then such parent, guardian, custodian or person in a position of trust ~~shall be guilty of a Class 6 felony and, upon conviction thereof, shall be imprisoned in a correctional facility not less than one year nor more than five years.~~

(2) If any parent, legal guardian, person in a position of trust, or any person with knowledge, sends or causes to be sent, or distributes, exhibits, possesses, displays, or transports, any material visually portraying a child under his or her care, custody or control engaged in any sexually explicit conduct the court may impose up to an additional two years of confinement to a sentence under this subsection.

(d) The provisions of this section shall not apply to a custodian or person in a position of trust whose age exceeds the age of the child by less than four years.

§61-8D-5a. Verbal abuse of noncommunicative child; penalties.

(a) Any person, 18 years of age or older, who has supervisory responsibility over a noncommunicative minor child, who

repeatedly engages in verbal conduct toward the child in an insulting, demeaning or threatening manner, is guilty of a Class 2 misdemeanor ~~and, upon conviction thereof, shall be fined not less than \$500 nor more than \$2,500 or confined in jail not more than six months, or both fined and confined.~~

(b) As used in section (a) of this section:

‘Noncommunicative child’ means a child who, due to physical or developmental disabilities is unable to communicate verbally, in writing, or through a recognized sign language;

‘Repeatedly’ means on two or more occasions;

‘Supervisory responsibility’ means any situation where an adult has direct supervisory decision-making, oversight, instructive, academic, evaluative, or advisory responsibilities regarding the child. Supervisory responsibility can occur in a residence, in or out of a school setting, institutional setting, and in curricular, co-curricular, or extra-curricular settings.

§61-8D-6. Sending, distributing, exhibiting, possessing, displaying or transporting material by a parent, guardian or custodian, depicting a child engaged in sexually explicit conduct; penalty.

[Repealed]

§61-8D-7. Presentation of false information regarding child’s injuries; penalty.

Any person who knowingly presents false information concerning acts or conduct which would constitute an offense under the provisions of this article to attending medical personnel ~~shall be is~~ guilty of a Class 1 misdemeanor, ~~and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, and shall be confined in the county jail not more than one year.~~

§61-8D-8. Spousal testimony; spousal privilege. Testimony of husband and wife.

Husband and wife are competent witnesses in any proceeding under this article and cannot refuse to testify on the grounds of their

marital relationship or the privileged nature of their communications.

§61-8D-10. Contributing to delinquency of a child; penalties; payment of medical costs; proof; court discretion; other payments; suspended sentence; maintenance and care; temporary custody.

(a) Any person 18 years of age or older who knowingly contributes to or encourages the delinquency of a child is guilty of a Class 1 misdemeanor ~~and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined for a period not exceeding one year or both.~~

(b) As used in this section, 'delinquency' means the violation or attempted violation of any federal or state statute, county or municipal ordinance, or a court order, or the habitual or continual refusal to comply, without just cause, with the lawful supervision or direction of a parent, guardian, or custodian.

(c) In addition to any penalty provided under this section and any restitution which may be ordered by the court pursuant to §61-11A-5 of this code, the court may order any person convicted of a violation of subsection (a) of this section to pay all or any portion of the cost of medical, psychological, or psychiatric treatment provided the child resulting from the acts for which the person is convicted.

(d) This section does not apply to any parent, guardian or custodian who fails or refuses, or allows another person to fail or refuse, to supply a child under the care, custody, or control of the parent, guardian, or custodian with necessary medical care, when medical care conflicts with the tenets and practices of a recognized religious denomination or order of which parent, guardian or custodian is an adherent or member.

(e) It is not an essential element of the offense created by this section that the minor actually be delinquent.

(f) Upon conviction, the court may suspend the sentence of a person found guilty under this section. A suspended sentence may be subjected to the following terms and conditions:

(1) That offender pay for ~~any and~~ all treatment, support, and maintenance while the child is in the custody of the state or person that the court determines reasonable and necessary for the welfare of the child; and,

~~(2) That the offender post a sufficient bond to secure the payment for all sums ordered to be paid under this section, as long as the bond does not exceed \$5,000; and~~

(2) That the offender participate in any program or training that will assist the child in correcting the delinquent behavior or, in the case of neglect, that will assist the offender in correcting his or her behavior that led to violation of this section.

~~(g)(1) The penalty of a bond given upon suspension of a sentence which becomes forfeited is recoverable without a separate suit. The court may cause a citation or a summons to issue to the principal and surety, requiring that they appear at a time named by the court, not less than ten days, from the issuance of the summons, and show cause why a judgment should not be entered for the penalty of the bond and execution issued against the property of the principal and the surety.~~

~~(2) Any money collected or paid upon an execution, or upon the bond, shall be deposited with the clerk of the court in which the bond was given. The money shall be applied first to the payment of all court costs and then to the treatment, care, or maintenance of the child who was at issue when the offender was convicted of this section.~~

~~(h)~~ (g) If the guilty person had custody of the child prior to conviction, the court or judge may, on suspending sentence, permit the child to remain in the custody of the person, and make it a condition of suspending sentence that the person provides whatever treatment and care may be required for the welfare of the

child, and shall do whatever may be calculated to secure obedience to the law or to remove the cause of the delinquency.

ARTICLE 8E. DISPLAY OF VIDEO RATINGS OR LACK THEREOF.

§61-8E-1. Legislative purpose.

[Repealed]

§61-8E-2. Definitions.

[Repealed]

§61-8E-3. Labeling of video movies designated for sale or rental; penalties

[Repealed]

ARTICLE 9 EQUITABLE REMEDIES IN AID OF CHASTITY, MORALITY AND DECENCY; NUISANCE.

§61-9-1. Definition of terms.

For the purposes of this article the following terms—‘place,’ ‘person,’ ‘nuisance’—are defined as follows:—‘Place’ shall include any building, structure, erection or place, or any separate part or portion thereof, or the ground itself; ‘person’ shall include any individual, corporation, association, partnership, trustee, lessee, agent or assignee; ‘nuisance’ shall mean any place as above defined in or upon which lewdness, assignation, or prostitution is conducted, permitted, continued or exists, and the personal property and contents used in conducting or maintaining any such place for any such purpose.

‘Place’ means any building, structure, premises, erection, or any separate part or portion thereof, including the ground itself, all fixtures, personal property and contents used in conducting or in any way maintaining such place;

‘Person’ means any individual, corporation, association, partnership, trustee, lessee, agent, or assignee; and,

‘Nuisance’ means any place used by, or kept for the purpose of:

(1) Delivery, possession, manufacture, or use of a controlled substance prohibited by § 60A -4-401, et seq. of this code;

(2) Gambling, gambling promotion, or communicating gambling information as prohibited by §61-10-1 to §61-10-11b of this code;

(3) Preparation, distribution, or exhibition of obscene matter to minors prohibited by §61-8A-1 to §61-8A-5 of this code;

(4) Committing a ‘qualifying offense’ during an ‘organized criminal enterprise’, as defined, and prohibited by §61-13-1 to §61-13- 6 of this code;

(5) Prostitution, as defined and prohibited in §61-8-5 to §61-8-8 of this code.

A person ‘maintains a nuisance’ if that place is where:

(1) Acts listed in §61-9-1(c) of this code are committed;

(2) The person is aware of those acts; and,

(3) The person fails to make reasonable efforts to abate those acts.

§61-9-2. Maintenance of nuisance.

~~Any person who shall use, occupy, establish or conduct a nuisance as defined in section one, or aid or abet therein, and the owner, agent, or lessee of any interest in any such nuisance, together with the person employed in or in control of any such nuisance, by any such owner, agent, or lessee, shall be guilty of maintaining a nuisance and shall be enjoined as hereinafter provided.~~

(a) The following are guilty of maintaining a nuisance as defined in §61-9-1 of this code and may be enjoined as provided in §61-9-3 of this code:

(1) Any person who uses, occupies, establishes, conducts, or assists in the nuisance;

(2) The owner, agent, or lessee of any interest in the place or the purpose of the nuisance;

(3) Any person in control of the nuisance; or

(4) Any person employed by any owner, agent, or lessee of any interest in the place or the purpose of the nuisance.

(b) For purposes of this article, the grantee or vendee of the last recorded deed or contract that describes the place, or any part of the place, where a nuisance exists is considered the owner of the premises.

§61-9-3. Suit to abate and enjoin a nuisance; by whom instituted.

~~Whenever a nuisance exists, the Attorney General of the state, the prosecuting attorney of the county wherein the same exists, or any person who is a citizen, resident or taxpayer of the county, may bring suit in equity in the name of the State of West Virginia, upon the relation of such Attorney General, prosecuting attorney, or any person, to abate such nuisance and to perpetually enjoin the person or persons maintaining the same from further maintenance thereof.~~

(a) The following individuals have standing to bring an action to abate the nuisance and perpetually enjoin the person or persons from further maintaining any such nuisance:

(1) The Attorney General;

(2) The prosecuting attorney of the county where the place is located;

(3) A commissioner of the county where the place is located;
or,

(4) Any person who is a citizen, resident or taxpayer of the county where the place is located.

(b) Any injunction granted under this section is binding on the defendant throughout the State of West Virginia.

§61-9-4. Venue; procedure; temporary injunction; order closing place; redemption; vacation of orders; bond.

~~Such suit shall be brought in the circuit court of the county in which the property is located, or in any other court of the county having equity jurisdiction. The bill of complaint and other pleadings, and all proceedings in the case, shall conform to the law of the state with respect to equity procedure and to the rules and principles governing courts of equity, except so far as otherwise herein provided.~~

~~At the time of the commencement of the suit, or at any time during the pendency thereof, the plaintiff or his attorney may file in the office of the clerk of the county court of the county in which such property is located a memorandum or notice setting forth the title of the case, the court in which it is pending, the general object of the suit, a brief description of the property to be affected thereby, and the name of the person or persons whose estate is intended to be affected by such suit. Such notice shall immediately be recorded by the clerk of the county court in the deed book, and he shall index the same in the name of all the parties whose interest in such property is to be affected; and such notice shall, from and after its recordation, be notice to all purchasers of such property of the pendency of such suit.~~

~~Upon the application for an injunction in such suit, the court or judge may, in his discretion, enjoin the defendants and all other persons from removing or in any manner interfering with the personal property and contents of the place where such nuisance is alleged to exist, until the final decision of the case. A copy of such injunction order may be posted in a conspicuous place upon the premises proceeded against, and any person thereafter removing or interfering with such property shall be guilty of a violation of such injunction, and any person removing or mutilating such copy of the order so posted, while the same remains in force, shall be guilty of contempt of court, provided such posted notice or order contains thereon or therein a notice to that effect. The officer serving such~~

~~injunction order shall forthwith make and return into court an inventory of the personal property and contents situated in the building or place proceeded against and used in conducting or maintaining such nuisance.~~

~~If, at the time of granting a temporary injunction, the same shall appear proper, the court or judge granting the same may order the place proceeded against to be closed and not used for any purpose until the final decision of the case: *Provided, however,* That the owner of any property so closed or restrained may appear at any time before final hearing and decision, and upon payment of all the costs incurred, and upon the filing of a bond, with sureties to be approved by the clerk, in the amount of the full value of the property, to be ascertained by the court or judge, conditioned that such owner will immediately abate the nuisance and prevent the same from being established or kept until final decision of the case, then and in that case the court or judge, if satisfied of the good faith of the owner of the real or personal property and of his innocence of any knowledge of the use of such property as a nuisance, and that with reasonable care and diligence such owner could not have known thereof, may deliver such property to the owner thereof and vacate any order theretofore made for the closing of such real property, or restraining the removal or interference with such personal property. The release of any real or personal property under the provisions of this section, however, shall not release it from any judgment, lien, penalty or liability to which it may be subject by law.~~

(a) Any suit to enjoin shall be brought in the circuit court of the county where the place is located.

(b) At the time of the commencement of the suit, or at any time during the pendency thereof, the plaintiff or his attorney may file notice of lis pendens in accordance with § 55-11-1, et seq. of this code.

(c) In an action under this article:

(1) Evidence of the general reputation of the place, is admissible for the purpose of proving the existence of the nuisance;

(2) Proof of knowledge of the existence of the nuisance on the part of one or more of the defendants is not required;

(3) It is not necessary for the court to find the place involved was being used as and for a nuisance at the time of the hearing, or for the plaintiff to prove that the nuisance was continuing at the time the complaint was filed, if the complaint is filed within 90 days after any act, any violation, or the existence of a condition described in §61-9-1(c) of this code, as a nuisance.

(d) The court may enjoin the defendants and all other persons from removing or in any manner interfering with the personal property and contents of the place until the final decision of the case. A copy of the injunction order may be posted in a conspicuous location at the place. Anyone who removes or mutilates a copy of the posted injunction order is guilty of contempt, if the posted order contains notice to that effect. Any person thereafter removing or interfering with the place or any property therein, is guilty of a violation of the injunction.

(e) The officer serving such injunction order shall immediately make and return to the court an inventory of the personal property and contents situated in the place proceeded against and used in conducting or maintaining such nuisance.

(f) Any time before final decision the court may order a temporary injunction, to close the place for any use: *Provided*, That until the final decision of the court, the owner of the place may appear at any time to redeem and recover the property after compliance with the following:

(1) Full payment of all related costs incurred;

(2) Filing a bond, with appropriate sureties in the amount of the full value of the property ascertained by the court or judge, and,

(3) Sworn written assurances that the owner will immediately abate the nuisance and prevent the same from being established again.

(g) If the court is satisfied of (1) the good faith of the place's owner; (2) the owner's innocence of any knowledge of the use of the place as a nuisance; and, (3) that with reasonable care and diligence the owner could not have known or ascertained the use of the place as a nuisance, the court may deliver the place to the owner and vacate any order to close the place or restrict, remove or interfere with personal property.

(h) The release of any real or personal property under the provisions of this section, however, may not release the owner from any judgment, lien, penalty, or liability to which it may otherwise be subject by law.

§61-9-5. Prima facie evidence of nuisance; prosecution of complaint; dismissal; costs; permanent injunction.

~~In such suit evidence of the general reputation of the place, or an admission or finding of guilt of any person under the criminal laws against prostitution, lewdness or assignation at any such place, shall be admissible for the purpose of proving the existence of such nuisance, and shall be prima facie evidence of such nuisance and of knowledge thereof and acquiescence and participation therein on the part of the person or persons charged with maintaining such nuisance as herein defined. If the complaint is filed by a person who is a citizen, resident or taxpayer of the county, it shall not be dismissed except upon a sworn statement by the complainant and his or its attorney, setting forth the reasons why the action should be dismissed and the dismissal approved by the prosecuting attorney in writing or in open court. If the court or judge is of opinion that the action ought not to be dismissed, he may direct the prosecuting attorney to prosecute such action to judgment at the expense of the county, and if any such action is continued more than one term of court, any person who is a citizen, resident or taxpayer of the county, or the Attorney General, or the prosecuting attorney, may be substituted for the complainant and prosecute such suit to final decree. If the suit is brought by any person who is a citizen, resident or taxpayer of the county and the court finds and enters of record in the case that there were no reasonable grounds or cause for such suit, the costs may be taxed to such person. If the existence of the nuisance be established upon~~

~~the trial, a decree shall be entered which shall perpetually enjoin the defendants and any other person or persons from further maintaining the nuisance at the place complained of and the defendants from maintaining such nuisance elsewhere within the county.~~

(a) Evidence of the general reputation of the place, or an admission or finding of guilt of any person for offenses identified in §61-9-1(c) of this code, are admissible prima facie to prove knowledge, acquiescence, and participation in the nuisance.

(b) If the complaint is filed by a citizen, resident or taxpayer of the county, it may not be dismissed except upon a filed sworn statement by the complainant and his or its attorney, setting forth the satisfactory reasons why the action should be dismissed. Any dismissal shall be approved by the prosecuting attorney, either in writing, or in open court.

(c) If the court determines the action may not be dismissed, he may direct the prosecuting attorney to prosecute such action to judgment at the expense of the county.

(d) If the court finds no reasonable grounds or cause for the suit, costs may be awarded to the prevailing party.

(e) If the existence of the nuisance is established in an action under this article the court shall enter an order to:

(1) Permanently enjoin the defendants and any other person or persons from further maintaining the nuisance at the place; and,

(2) Permanently enjoin the defendants from maintaining any nuisance elsewhere within the court's jurisdiction.

§61-9-6. Order of abatement; sale of personal property; renewal of bond or continuance of closing order; release of property; breaking in or entering closed property; sheriff's fees.

~~If the existence of such nuisance be admitted or established in a suit as provided in this article, an order of abatement shall be~~

~~entered as part of the decree in the case, which order shall direct the removal from the place of all personal property and contents used in conducting the nuisance, and not already released by and under the authority of the court as provided in section four of this article, and shall direct the sale of such thereof as belongs to the defendants notified or appearing in the manner provided for the sale of personal property under execution. Such order shall also require the renewal for one year of any bond furnished by the owner of the real property as provided in section four, or, if not so furnished, shall continue for one year any closing order issued at the time of granting the temporary injunction, or, if no such closing order was then issued, shall include an order directing the effectual closing of the place against its use for any purpose, and so keeping it closed for a period of one year unless sooner released. *Provided, however,* That the owner of any place so closed and not released under bond as hereinbefore provided may then or thereafter appear and obtain such release in the manner and upon fulfilling the requirements as hereinbefore provided. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty, or liability, to which it may be subject by law. Owners of unsold personal property and contents so seized shall appear and claim the same within ten days after such order of abatement is made, and if it has not been proved to the satisfaction of the court that such owner had knowledge of such use thereof, or, that with reasonable care and diligence, he could not have known thereof, such unsold personal property and contents shall be delivered to the owner, otherwise it shall be sold as hereinbefore provided. If any person shall break and enter or use any place so directed to be closed, he shall be punished as for contempt as provided hereinafter, in addition to any other penalties imposed by law. For removing and selling personal property and contents, the sheriff shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution; and for closing the place and keeping it closed, a reasonable sum shall be allowed by the court.~~

(a) If the existence of the nuisance is established in an action under this article, the court shall, in addition to the terms of §61-9-5(e) of this code, enter an order of abatement as a part of the

judgment in the action. The order of abatement may order any or all of the following:

(1) The removal from the building or place of all furniture, fixtures, and contents;

(2) The sale of the furniture, fixtures, and contents in the manner provided for the sale of goods under execution;

(3) The effectual closing of the building or place for any purpose, and so keeping it closed for a period of one year, unless sooner released as provided in this article;

(4) Execution of a bond or renewal of any bond ordered under §61-9-4 of this code; and,

(5) Any other equitable relief the court considers necessary.

(b) Any vehicle, boat, or aircraft found by the court to be a nuisance under this article is subject to the same order and judgment as any furniture, fixtures, and contents under subsection (1) of this section.

§61-9-6a. Removal and sale of property; fees; loss of property exemptions; liability of officers.

(a) For removing and selling the movable property, the sheriff is entitled to charge and receive the same fees as he would for levying upon and selling like property upon execution.

(b) For closing the building or place and keeping it closed, a reasonable sum shall be allowed the sheriff by the court.

(c) Any officer taking and disposing of any property of the defendant or defendants by virtue of court order or judgment is not liable either civilly or criminally therefor, if a proper accounting for such property is made to the court within 10 days after the order or judgment is executed.

§61-9-7. Nuisance disclosed in criminal proceedings; proceeds from sale of personal property.

~~In case the existence of such nuisance is established in a criminal proceeding in a court not having equitable jurisdiction, it~~

~~shall be the duty of the prosecuting attorney to proceed promptly under this article to enforce the provisions and penalties thereof, and the finding of the defendant guilty in such criminal proceedings of any offense herein declared to be a nuisance, unless reversed or set aside, shall be conclusive as against such defendant as to the existence of the nuisance. The proceeds of the sale of the personal property, as provided in the preceding section of this article, shall be applied in payment of the costs of the suit and abatement, including the complainant's costs, or so much of the proceeds as may be necessary, except as hereinafter provided.~~

(a) A guilty finding for any offense declared to be a nuisance, unless reversed or set aside, is conclusive evidence of the existence of the nuisance. Where the existence of a nuisance is established the prosecuting attorney shall, as appropriate, proceed promptly to enforce the provisions and penalties of this article.

(b) Unless the court provides otherwise the sale of any personal property, including but not limited to, furniture, fixtures, contents, vehicle, boat, or aircraft as provided in this section, the officer executing the order of the court shall:

(1) Deduct the expenses of keeping the property and the costs of the sale;

(2) Pay all secured interests and liens according to their priorities as established at court hearing or in other proceedings addressing the rights of a bona fide secured party or lien holder who did not have knowledge or notice that the property was being used or was to be used for the maintenance of a nuisance;

(3) Pay any other costs incurred in the prosecution of the action, including reasonable attorney fees for necessary services as determined by the court. Any remaining balance shall be paid to the persons entitled to them as ordered by the court or, if applicable, under §61-9-6 of this code.

(4) Unsold personal property and contents may be delivered to the owner at the court's discretion.

§61-9-8. Violation of injunction or closing order; trial; penalty.

~~In case of the violation of any injunction or closing order granted under the provisions of this article, or the commission of any contempt of court in proceedings under this article, the court, or a judge thereof in vacation, may summarily try and punish the offender. The proceedings shall conform to the practice in other suits in equity for violations of injunctions, and proceedings for contempt of court. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. A party found guilty of contempt under the provisions of this article shall be punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county jail not more than six months, or by both such fine and imprisonment.~~

If any person violates any injunction or order granted under the provisions of this article or commits any contempt of court in proceedings under this article, the court may try and punish the offender for contempt. Any person found guilty of contempt under the provisions of this article is guilty of a Class 2 misdemeanor.

§61-9-9. Permanent injunction; tax imposed on property.

[Repealed]

§61-9-10. Notice to collect tax.

[Repealed]

§61-9-11. Effect of holding any part of article unconstitutional.

[Repealed]

**ARTICLE 10 CRIMES AGAINST PUBLIC POLICY;
GAMING AND GAMBLING.****~~§61-10-1. Keeping or exhibiting gaming table, machine, or device; penalty; seizure of table, machine, or device; forfeiture of money used in such gaming. Definitions.~~**

~~Any person who shall keep or exhibit a gaming table, commonly called A.B.C. or E.O. table, or faro bank, or keno table,~~

~~or any slot machine, multiple coin console machine, multiple coin console slot machine or device in the nature of a slot machine, or any other gaming table or device of like kind, under any denomination, or which has no name, whether the game, table, bank, machine or device be played with cards, dice or otherwise, or shall be a partner, or concerned in interest, in keeping or exhibiting such table, bank, machine or gaming device of any character, shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not less than two nor more than twelve months and be fined not less than \$100 nor more than \$1,000. Any such table, faro bank, machine or gaming device, and all money staked or exhibited to allure persons to bet at such table, or upon such gaming device, may be seized by order of a court, or under the warrant of a justice, and the money so seized shall be forfeited to the county and paid into the treasury of the county in which such seizure is made, and the table, faro bank, machine or gaming device shall be completely destroyed. *Provided, however,* That the provisions of this section shall not extend to coin operated nonpayout machines with free play feature or to automatic weighing, measuring, musical and vending machines which are so constructed as to give a certain uniform and fair return in value or services for each coin deposited therein and in which there is no element of chance.~~

For purposes of this article the following terms mean:

'Wager' is a sum of money, or other thing of value or consideration risked on an uncertain event; a bet, or gamble.

(1) A wager does not include:

(A) Any charity game conducted pursuant to the provisions of law;

(B) Offers of purses, prizes or compensation to the actual participants in public and semipublic events, such as: rodeos, animal shows, hunting, fishing or shooting competitions, expositions, fairs, athletic events, tournaments and other shows and contests where the participants qualify for a monetary prize or other recognition;

(C) An offer of a prize, award, or compensation to the actual contestants in a bona fide contest for the determination of skill, speed, strength, or endurance or to the owners of animals, vehicles, watercraft, or aircraft entered in a contest; or

(D) An offer of merchandise, with a value not greater than \$25, made by the proprietor of a bona fide carnival contest if the person to receive the merchandise from the proprietor is the person who performs the carnival contest.

'Gambling device' is:

(1) A contrivance designed primarily for gambling purposes which for consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance;

(2) Gambling device includes any table games, roulette wheels, wheels of fortune, video lottery terminals, slot machines, cards, dice, chips, tokens, markers, paper, receipt or other document which evidences, purports to evidence, or is designed to evidence participation in a lottery or the making of a wager, including any electronic, electromechanical, or mechanical contrivance that for consideration affords the player an opportunity to obtain anything of value, the award of which is determined solely or partially by chance, even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance.

(3) Gambling device also includes, but is not limited to versions of bingo, keno, blackjack, lottery, roulette, video poker, or similar electronic, electromechanical, or mechanical games, including facsimiles, that operate by chance;

(4) For the purposes of this article 'gambling device' does not include:

(A) Any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a

wholesale value available from a single play of the game or device of not more than \$5;

(B) Any gambling device permitted, used, and authorized for gambling under the laws of the State of West Virginia;

(C) A device 25 years or older that is not used for gambling purposes;

(D) A device used solely for the purpose of teaching machine repair; or,

(E) Any gaming systems, games or any tangible evidence of participation in on-line gambling, games or gaming systems authorized under the laws of the State of West Virginia.

(5) The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

'Gambling premises' is any real estate, place, room, building, boat, tent, vehicle or other property, which is used for making and settling wagers, bookmaking, receiving, holding, recording or forwarding bets or offers to wager; conducting unauthorized lotteries; or playing gambling devices. Evidence that the place has a general reputation as gambling premises, was frequently visited by persons known to be gamblers or known as frequenters of gambling premises is admissible on the issue of whether it is a gambling premises. Gambling premises does not include any place, room, building, or location permitted, used and authorized for gambling under the laws of the State of West Virginia.

'Person' means any natural person or corporation, limited liability company, trust, association, partnership, joint venture, subsidiary, or other business entity.

'Commercial gambling' includes:

(1) Operating or receiving all or part of the earnings of gambling premises;

(2) Receiving, recording, or forwarding wagers or offers to wager or, with intent to receive, record or forward wagers or offers to wager, possessing facilities to do so;

(3) Becoming a custodian of anything of value wagered or offered to be wagered;

(4) Conducting wagering, or with intent to conduct wagering or a lottery, possessing facilities to do so;

(5) Setting up for use or collecting the proceeds of any gambling device; or,

(6) Alone or with others, owning, controlling, managing, or financing a gambling premises, gambling machine, or other activity involving unlawful wagers.

(f) For the purposes of this article, commercial gambling does not include any gambling activities authorized under the laws of the State of West Virginia.

§61-10-1a. Keeping or exhibiting gaming table, machine, or device; penalty; seizure of table, machine, or device; forfeiture of money used in such gaming.

(a) Any person who:

(1) Knowingly possesses, keeps, or exhibits an unlicensed gambling device;

(2) Knows or has reason to know these unlicensed gambling devices will be used in making or settling commercial gambling transactions; or,

(3) Deals in unlicensed gambling devices with the intent to facilitate commercial gambling transactions, is guilty of a Class 1 misdemeanor.

(b) Any gambling device and all money staked or exhibited to allure persons to engage in gambling to wager upon a gambling device, may be seized by order of a court. All money so seized shall be forfeited to the county in which such seizure is made. Upon

completion of any criminal or civil proceedings related to a gambling device, said device shall be destroyed.

(c) The provisions of this section do not extend to coin-operated non-payout machines with free play feature, or to automatic weighing, measuring, musical and vending machines designed, intended, and constructed to provide uniform and fair return in value or services for each coin deposited therein with no element of chance.

§61-10-2. Permitting gaming table or device on premises; penalty.

~~If any~~ Any person who knowingly permits a gaming table, bank or device, ~~such as is mentioned in the preceding section, a gambling device~~ to be kept or exhibited on any premises in his ~~occupation ownership, leasehold, occupation, or possession~~ he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year, and be fined not less than \$100 nor more than \$1,000. is guilty of a Class 1 misdemeanor.

§61-10-3. Unlawful to act as doorkeeper, guard or watch for keeper of ~~gaming table or device~~ gambling premises; interfere in lawful arrest or seizure; penalty.

If any person ~~shall act:~~

(1) ~~Acts as doorkeeper, guard or watch, for gambling premises, or employs another person to act as such, for a keeper or exhibitor of any such gaming table, bank or device, or shall resist, or by any means or device, prevent, hinder or delay the lawful arrest of such keeper or exhibitor, or the seizure of the table, bank or device, or money exhibited or staked thereat, or shall unlawfully take the same from the person seizing it, he shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not more than one year and be fined not exceeding \$1,000 or~~

(2) Resists, prevents, hinders or delays the lawful arrest of a gambling premise's owner, manager, employees, or patrons; or

(3) Resists, prevents, hinders or delays the seizure of a gambling device, or money exhibited or staked at the gambling premises; or

(4) Unlawfully takes or secures any gambling device, slot machine, money or other evidence from those lawfully arresting individuals;

(5) That person is guilty of a Class 1 misdemeanor.

§61-10-4. Playing or betting at gaming tables and devices; playing or betting on games or events; at ~~hotels~~, public places; penalty.

~~If any person bet or play at any such gaming table, bank or device as is mentioned in the first section of this article, or if, at any hotel or tavern, or other public place, or place of public resort, he play at any game except bowls, chess or backgammon, draughts or a licensed game, or bet on the sides of those who play at any game, whether the game be permitted or licensed or not, he shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than five nor more than \$100, and shall, if required by the court, give security for his good behavior for one year, or, in default thereof, may be imprisoned in the county jail not more than three months.~~

(a) A person commits an offense if he or she:

(1) Makes a wager on the partial or final result of a game or contest or on the performance of a participant in a game, a contest, or an uncertain event;

(2) Makes a wager on the result of any political nomination, appointment, or election or on the degree of success of any nominee, appointee, or candidate; or,

(3) Plays and wagers for money or other thing of value at any game played with cards, dice, balls, or any other gambling device.

(b) It is a defense to prosecution under this section that:

(1) The actor engaged in gambling in a private place;

(2) No person received any economic benefit other than personal winnings; and

(3) Except for the advantage of skill or luck, the risks of losing and the chances of winning were the same for all participants.

(c) It is a defense to prosecution under this section that a person played for something of value other than money using an electronic, electromechanical, or mechanical contrivance excluded from the definition of 'gambling device'.

(d) Any person who wagers or plays at any prohibited games, or who wagers or plays at any games, whether cards, dice or any other device which may be adapted to or used in playing any game of chance, or in which chance is a material element, for money, property, checks, credits or other representatives of value is guilty of a Class 1 misdemeanor.

§61-10-5. Betting on games of chance; furnishing money or thing of value therefor; penalty.

(a) If ~~any~~ Any person who wagers at any place, public or private, where gambling activities are not authorized under the laws of the State of West Virginia, by betting or wagering money or other thing of value on any game of chance, or shall who knowingly furnish furnishes any money or other thing of value to any other person to bet or wager on any such game, he shall be guilty of a petty offense, misdemeanor, and, upon conviction, shall be fined not less than five nor more than three hundred dollars, and shall, if required by the court, give security for his good behavior for one year, and in default of the payment of such fine and the costs and the execution of such bond, if such bond be required, shall be imprisoned in the county jail not less than ten nor more than thirty days.

§61-10-6. Permitting gaming at hotels; premises used for commercial gambling; penalty.

(a) ~~the~~ The keeper of an establishment, such as a hotel or tavern, who:

(1) Permits unlawful gaming at his house, or at any outhouse, booth, arbor, commercial gambling on the premises or other place appurtenant thereto; thereto or held therewith, allows the use or continued use of that place as gambling premises; hires or permits another to set up a gambling device; or permits commercial gambling for use in a place under the keeper's control, he shall be is guilty of a Class 3 misdemeanor and, upon conviction, be fined not less than \$20 nor more than \$100, and shall forfeit his license, and shall give security for his good behavior for one year, or, in default of such security, be imprisoned in the county jail not more than four months.

(b) In a prosecution under this section, it shall be presumed commercial gambling was permitted by the keeper of the hotel, unless it appears the hotelkeeper or tavernkeeper did not:

(1) Know of or suspect commercial gambling, or

(2) That the keeper endeavored to prevent it, or

(3) Gave information of the gambling, with the names of the players, to law enforcement officials, or to the prosecuting attorney.

(c) Any person found guilty of a second offense under this section is guilty of a Class 1 misdemeanor. Any person found guilty of any subsequent offense under this section is guilty of a Class 6 felony.

§61-10-7. Presumption against hotelkeeper.

[Repealed]

§61-10-8. Gaming at outhouse of hotel; penalty.

[Repealed]

§61-10-9. Cheating at gaming; penalty.

~~If any~~ Any person playing at any game, or gambling device, or making a wager, or having a share in any stake or wager, or betting on the hands or sides of others playing at any game, gambling

~~device, or making a wager, shall cheat who cheats, or by fraudulent means win or acquire for himself, or another, money or other valuable thing, he shall be is guilty of a Class 1 misdemeanor, and, upon conviction, shall be confined in jail not more than one year and fined not less than five times the value of the money or thing won or acquired.~~

§61-10-9a. Dealing in gambling devices; penalty.

Dealing in gambling devices is manufacturing, transferring, or possessing with intent to transfer any unauthorized gambling device, subassembly, or essential part thereof. Unless duly authorized by law, any person dealing in gambling devices is guilty of a Class 6 felony.

§61-10-9b. Permitting gambling devices on premises; penalty.

Every person who permits any gaming device prohibited by this article, to be set up or used for the purpose of gambling in any house, building, shed, shelter, booth, lot or other premises belonging to or occupied by him, of which he has, at the time, possession or control, is guilty of a Class 3 misdemeanor. Any subsequent offense is a Class 6 felony.

§61-10-10. Poolroom defined; Selling tickets and chances in lottery; penalty.

~~The word 'poolroom,' wherever the same is used in this section, shall be held and construed to mean any room where any pool ticket, chance voucher or certificate is sold entitling or purporting to entitle the holder or promisee thereof, or any other person, to money or other thing of value, contingent upon the result of any horse race, prizefight, game of chance, game of skill or science, or other sport or contest.~~

(a) Any person who shall set up or promote, or be sets up or is connected with or interested in the management or operation of any poolroom place where a chance voucher or certificate is sold entitling, or purporting to entitle, the holder, promisee thereof, or any other person, to money or other thing of value, contingent upon the result of any horse race, prizefight, game of chance, game of

~~skill or science, or other sport or contest, his agents, servants or employees, they, and each of them, shall be is guilty of a Class 1 misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 for each offense, and may, in the discretion of the court, be confined in jail not to exceed one year.~~

(b) ~~The buying, selling, or transferring of tickets or chances in any lottery shall be and the same is hereby prohibited.~~

§61-10-10a. Gambling premises; nuisance; abatement.

Premises used for commercial gambling are hereby declared a public nuisance, and the same may be abated in the manner provided under §61-9-1 et seq. of this code.

§61-10-11. Lotteries or raffles; penalty.

~~If any person shall set up or promote or be concerned in managing or drawing a lottery or raffle, for money or other thing of value, or knowingly permit such lottery in any house under his control, or knowingly permit money or other property to be raffled for in such house, or to be won therein, by throwing or using dice, or by any other game of chance, or knowingly permit the sale in such house of any chance or ticket, or share of a ticket, in a lottery, or any writing, certificate, bill, token or other device purporting or intended to guarantee or assure to any person, or to entitle him to a prize, or a share of, or interest in, a prize to be drawn in a lottery, or shall, for himself or any other person, buy, sell, or transfer, or have in his possession for the purpose of sale, or with intent to exchange, negotiate, or transfer, or shall aid in selling, exchanging, negotiating, or transferring a chance or ticket, or a share of a ticket, in a lottery, or any such writing, certificate, bill, token or device, he shall be guilty of a misdemeanor, and, upon conviction, shall, in the discretion of the court, be confined in jail not more than one year or be fined not exceeding \$1,000, or both: *Provided, however,* That this section shall not be deemed to apply to that certain type or form of lottery or raffle designated and familiarly known as ‘policy’ or ‘numbers.’~~

(a) As used in this section:

‘Lottery’ is a scheme for the distribution of prizes by chance. For the purposes of this section, the essential elements of a lottery are consideration, prize and chance;

‘Raffle’ does not include a ‘charitable raffle’ as addressed in §47-21-1, et seq., of this code.

(b) Any person who knowingly: (1) sets up, promotes, permits, uses, has a concern in, or manages a lottery or raffle for any form of compensation; (2) permits a lottery in any premises under their control; or (3) permits money or other property to be raffled for or won in premises under his control or to be won therein by any related scheme or device purporting or intended to assure any person a prize, or interest in a prize to be drawn in a lottery, is guilty of a Class 1 misdemeanor.

§61-10-11a. ‘Policy’ or ‘numbers’; possession of ‘policy’ or ‘numbers’ slips unlawful; penalty.

~~Any person who keeps, occupies or uses, or permits to be kept, occupied or used, a place, building, room, table, establishment or apparatus for ‘policy’ or ‘numbers’ playing or for the sale of what are commonly called ‘lottery policies,’ or who delivers or receives money or other valuable consideration in playing ‘policy’ or ‘numbers,’ or in aiding in the playing thereof, or for what is commonly called a ‘lottery policy,’ or for any writing, or document in the nature of a bet, wager, or insurance upon the drawing or selection, or the drawn or selected numbers of any ‘policy’ or ‘numbers’ lottery; or who shall have in his possession, knowingly, any writing, paper or document, representing or being a record of any chance, share or interest in numbers sold, drawn or selected, or to be drawn or selected in what is commonly called ‘policy’ or ‘numbers,’ or in the nature of a bet, wager or insurance, upon the drawing or selection, or the drawn or selected numbers of any ‘policy’ or ‘numbers’ lottery; or any paper, print, writing, number, device, policy slip, or article of any kind such as is commonly used in carrying on, promoting or playing the game commonly called ‘policy’ or ‘numbers’; or who is the owner, agent, superintendent, janitor or caretaker of any place, building, or room where ‘policy’ or ‘numbers’ playing or the sale of what are commonly called~~

~~'lottery policies' is carried on with his knowledge or after notification that the premises are so used, permits such use to be continued, or who aids, assists, or abets in any manner, in any of the offenses, acts or matters herein named, shall be guilty of a felony and, upon conviction, shall, in the discretion of the court, either be confined in the penitentiary not less than one year nor more than five years, or be confined in jail not less than six nor more than twelve months and fined not less than \$200 nor more than \$1,000. Upon commission of a second or subsequent offense under this section, he shall be guilty of a felony and, upon conviction shall be confined in the penitentiary of this state for a period of not less than two years nor more than ten years.~~

Any person who knowingly:

(a) Keeps, occupies or uses, or permits to be kept, occupied or used, a place, building, room, table, establishment or apparatus for 'policy' or 'numbers' playing or for the sale of what are commonly called 'lottery policies,' or

(b) Delivers or receives money or other valuable consideration in playing 'policy' or 'numbers,' or

(c) In any way aids the playing of what is commonly called a 'lottery policy,' or for any writing, or document in the nature of a bet, wager, or insurance upon the drawing or selection, or the drawn or selected numbers of any 'policy' or 'numbers' lottery, or,

(d) Possesses:

(1) Any writing, paper or document, representing or being a record of what is commonly called 'policy' or 'numbers,' or in the nature of a bet, wager or insurance, upon the drawing or selection, or the drawn or selected numbers of any 'policy' or 'numbers' lottery; or,

(2) Any paper, print, writing, number, device, policy slip, or article of any kind such as is commonly used in carrying on, promoting or playing the game commonly called 'policy' or 'numbers'; or,

(3) Any chance, share or interest in numbers sold, drawn or selected; or

(e) Is the owner, agent, superintendent, janitor or caretaker of any place, building, or room where 'policy' or 'numbers' playing or the sale of what are commonly called 'lottery policies' is carried on:

(1) With knowledge of the owner, or after notification that the premises are so used; or,

(2) Permits such use to be continued, or,

(3) Who aids, assists, or abets in any manner, in any of the offenses, acts or matters herein named;

(f) Is guilty of a Class 3 misdemeanor. Commission of a second or subsequent offense under this section, is a Class 6 felony.

§61-10-11b. Possession of 'policy' or 'numbers' slips unlawful Seizure of gambling devices and equipment.

~~The possession, by any person other than a public officer acting in his official capacity, of any writing, paper, or document representing or being a record of any chance, share or interest in numbers, sold, given away, drawn, or selected, or to be drawn or selected, in what is commonly called 'policy' or 'numbers,' or in the nature of a bet, wager or insurance upon the drawing or selection, or the drawn or selected numbers of any 'policy' or 'numbers' lottery, or any paper, print, writing, numbers of device, policy slip, or article of any kind, such as is commonly used in carrying on, promoting or playing the game commonly called 'policy' or 'numbers,' is presumptive evidence of possession thereof knowingly and in violation of the provisions of section eleven a of this article.~~

Every person who is authorized or enjoined to arrest any person for a violation of the provisions of this article, is equally authorized and enjoined to seize any table, cards, dice, or other articles or apparatus suitable to be used for gambling purposes found in the possession or under the control of the person so arrested, and to

deliver the same to the judicial officer or magistrate before whom the person so arrested is required to be taken.

§61-10-13. Associations and companies trading as bank without authority of law.

[Repealed.]

§61-10-14. Laws on gaming, lotteries and uncharted banks remedial.

[Repealed.]

§61-10-15. Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.

(a) It is unlawful for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control: *Provided*, That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or prevents or makes unlawful the employment by any joint county and circuit clerk of his or her spouse.

(b) Any person who violates the provisions of subsection (a) of this section is guilty of a Class 1 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.~~

(c) Any person convicted of violating the provisions of subsection (a) of this section shall also be removed from his or her office and the certificate or certificates of any teacher, principal, supervisor or superintendent so convicted shall, upon conviction thereof, be immediately revoked: *Provided*, That no person may be removed from office and no certificate may be revoked for a violation of the provisions of this section unless the person has first been convicted of the violation.

(d) Any person, firm or corporation that offers or gives any compensation or thing of value or who forebears to perform an act to any of the persons named in subsection (a) of this section or to or for any other person with the intent to secure the influence, support or vote of the person for any contract, service, award or other matter as to which any county or school district becomes or may become the paymaster is guilty of a Class 1 misdemeanor, ~~and, upon conviction thereof, shall be fined not less than \$500 nor more than \$2,500 and, in the court's discretion, the person or any member of the firm or, if it is a corporation, any agent or officer of the corporation offering or giving any compensation or other thing of value may, in addition to a fine, be confined in jail for a period not to exceed one year.~~

(e) The provisions of subsection (a) of this section do not apply to any person who is a salaried employee of a vendor or supplier under a contract subject to the provisions of said subsection if the employee, his or her spouse or child:

(1) Is not a party to the contract;

(2) Is not an owner, a shareholder, a director, or an officer of a private entity under the contract;

(3) Receives no commission, bonus or other direct remuneration or thing of value by virtue of the contract;

(4) Does not participate in the deliberations or awarding of the contract; and

(5) Does not approve or otherwise authorize the payment for any services performed or supplies furnished under the contract.

(f) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a bank within the county serving or under consideration to serve as a depository of funds for the county or Board of Education, as the case may be, if the person does not participate in the deliberations or any ultimate determination of the depository of the funds.

(g) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a public utility which is subject to regulation by the Public Service Commission of this state.

(h) Where the provisions of subsection (a) of this section would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship or other substantial interference with the operation of a governmental body or agency, the affected governmental body or agency may make written application to the West Virginia Ethics Commission pursuant to §6B-2-5 (d) of this code for an exemption from subsection (a) of this section.

(i) The provisions of this section do not apply to publications in newspapers required by law to be made.

(j) No school employee or school official subject to the provisions of subsection (a) of this section has an interest in the sale, proceeds or profits in any book or other thing used or to be used in the free school system of this state, as proscribed in section nine, article XII of the Constitution of West Virginia, if they qualify for the exceptions set forth in subsection (e), (f),(g) or (h) of this section.

(k) The provisions of subsection (a) of this section do not prevent or make unlawful the employment of the spouse of any member of a county commission as a licensed health care provider at government-owned hospitals or other government agencies who provide health care services: *Provided*, That the member of a county commission whose spouse is employed or to be employed may not:

(1) Serve on the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed;

(2) Vote on the appointment of members to the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed; or

(3) Seek to influence the hiring or promotion of his or her spouse by the government-owned hospital or other government agency who provides health care services.

(1) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official: *Provided*, That the elected county official may not:

(1) Directly supervise the spouse employee; or

(2) Set the salary of the spouse employee: *Provided*, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.

§61-10-16. Picture or theatrical act reflecting upon any race or class of citizens; penalty.

It ~~shall be~~ is unlawful for any person, corporation or company to advertise, exhibit, display or show any picture or theatrical act in any theater or other place of public amusement or entertainment within this state, which shall in any manner injuriously reflect upon the proper and rightful progress, status, attainment or endeavor of any race or class of citizens, calculated to result in arousing the prejudice, ire or feelings of one race or class of citizens against any other race or class of citizens. Any person, corporation or company violating any of the provisions of this section ~~shall be~~ is guilty of a Class 3 misdemeanor, ~~and, upon conviction, shall be fined not less than \$100 nor more than \$1,000, and may, in the discretion of the court, be confined in jail not more than thirty days.~~

§61-10-17. Lobbying on floor of Legislature; ejection of lobbyist; penalty; jurisdiction.

It ~~shall be~~ is unlawful for any person to lobby for or against any measure on the floor of either house of the Legislature while the same is in session. If any person be found so lobbying in violation of this section, it shall be the duty of the sergeant at arms to eject such person from the floor of either house of the Legislature, upon his own knowledge, or upon the complaint of any member. Any person violating the provisions of this section ~~shall be~~ is guilty of a Class 3 misdemeanor, ~~and, upon conviction thereof, shall be fined not less than \$50 nor more than \$200, and in addition thereto he shall be imprisoned in the county jail of the county where such conviction is had, for not less than ten days nor more than six months.~~ Any of the circuit courts, or magistrate courts ~~criminal courts, or justices of the peace~~ within the county of Kanawha are hereby given jurisdiction of the offense herein set forth, and the proceedings hereunder shall be conducted as for other offenses.

§61-10-19. Cornering market on food or other necessities of life; penalty.

[Repealed.]

§61-10-20. Failure of employers to provide certain benefits for employees.

(a) In addition to any other penalty or punishment otherwise prescribed by law, any employer who is party to an agreement to pay or provide benefits or wage supplements and who without reasonable justification willfully fails or refuses to pay the amount or amounts necessary to provide the benefits or furnish the supplements within 30 days after the payments are required to be made, is guilty of a petty offense. ~~misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500.~~ When the employer is a corporation, the president, secretary, treasurer, or officer exercising responsibility for the nonpayment is guilty of the offense prohibited by this section.

(b) Any person who is responsible for ensuring that an entity complies with the requirements of a retirement plan administered by the Consolidated Public Retirement Board pursuant to §5-10D-1, *et seq.* of this code, who knowingly and willfully fails to make employee or employer contributions to the retirement plan for a period of 60 days after the payment is due is guilty of a Class 2 misdemeanor ~~and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500 or shall be confined in jail for not more than six months, or both fined and confined.~~

(c) Conviction of a violation of subsection (b) of this section is prima facie evidence of official misconduct.

§61-10-21. Unlawful use of prefix ‘Doctor’ or ‘Dr.’ penalty.

It ~~shall be~~ is unlawful for any person to use the prefix ‘Doctor’ or ‘Dr.’ in connection with ~~his~~ their name in any letter, business card, advertisement, sign or public display of any nature whatsoever, without affixing thereto suitable words or letters designating the accredited degree which they hold. Any person who ~~shall violate~~ violates the provisions of this section ~~shall be~~ is guilty of a Class 1 misdemeanor ~~and, upon conviction thereof shall be fined for each such offense not less than \$10 nor more than \$500, or imprisoned in the county jail not more than twelve months, or both fined and imprisoned, in the discretion of the court.~~

§61-10-22. Bribery of participants in professional or amateur games and horse racing; penalty.

(a) Whoever gives, promises or offers a bribe or any valuable thing to any professional or amateur ~~baseball, football, basketball, hockey player or boxer or any player who participates in any professional or amateur game or sport~~ athlete, player, manager, coach, referee, umpire, or any other participant or official of any athletic contest, or to any jockey, driver, groom or any person participating in any horse race, including owners of racetracks and their employees, stewards, trainers, judges, starters, special policemen, any valuable thing, with intent to influence him or her to:

(1) Lose, try to lose, cause a loss, or try to limit the margin of victory or defeat in any horse race or athletic contest, or to aid or abet or assist in any manner whatsoever in any such bribe; or, lose or try to lose or cause to be lost a baseball, football, basketball or hockey game, boxing match or a horse race or any professional or amateur sport, or game, in which such player or participant or jockey or driver is taking part or expects to take part, or has any duty or connection therewith, or who, being either a professional or amateur baseball, football, basketball, hockey player, boxer, or jockey, driver, or groom or participant in any sport or game whoever

(2) Solicits or accepts a bribe or any valuable thing to influence him or her to lose, try to lose, cause a loss, or try to limit the margin of victory or defeat in any horse race or athletic contest; or,

(3) Aids, abets, or assists in any manner whatsoever in any such bribe. lose or cause to be lost a baseball, football, basketball, hockey or boxing match, or horse race or any professional or amateur game or any professional or amateur sport in which he is taking part, or expects to take part, or has any duty or connection therewith; shall be guilty of a felony and, punishable by imprisonment for not less than one year, nor more than three years, or by a fine of not more than one thousand dollars, or by both fine and imprisonment.

(b) Any person who violates any provision of this section is guilty of a Class 6 felony.

§61-10-23. Debt pooling; definition; offenses; penalty; jurisdiction; pleading and proof.

(a) ‘Debt pooling’ shall mean means providing the rendering in any manner of advice or services of any and every kind in the establishment or operation of a plan pursuant to which for a debtor would deposit or does to deposit funds for the purpose of distributing such funds among his creditors.

(b) It shall be is unlawful:

~~(1) for any person to solicit in any manner a debt pooling~~ To solicit a debt pooling in any manner;

~~(2)It shall further be unlawful~~ For any person, except licensed attorneys, to make any charge for a debt pooling by way of fee, reimbursement of costs, or otherwise;

~~(3) For any charge for a debt pooling service or advice to exceed in excess of~~ an amount equal to two percent of the total amount of money actually deposited pursuant to a debt pooling; ~~Provided, That~~

~~(c)~~ Any nonprofit firm, corporation or voluntary association may make an additional charge not to exceed exceeding five percent of the total amount of money actually deposited pursuant to a debt pooling, to defray costs of counseling services furnished for the benefit of its clientele of debtors generally with respect to personal money management.

~~(d)~~ Any person, whether acting as agent or otherwise, who violates any provision of this section ~~shall be~~ is guilty of a Class 3 misdemeanor, ~~and, upon conviction, shall be fined not less than \$100 nor more than \$250 or confined in jail not less than thirty nor more than sixty days or both. Justices of the peace and other competent courts shall have concurrent jurisdiction of offenses under this section It shall not be necessary in any warrant issued or indictment returned under this section to allege exceptions or provisos contained in this section but in the trial of an offense subject thereto it shall be the duty of the state to negative such exceptions and provisos.~~

§61-10-30. Open water wells prohibited.

It ~~shall be~~ is unlawful for any person to keep, maintain or allow any abandoned or currently used water well upon any land in which such person has any right to possession as owner, tenant or otherwise, which does not have affixed thereto a cover of sufficient strength to prevent any person from accidentally falling into such well. Any person who violates this section is guilty of a Class 3 misdemeanor.

§61-10-31. Conspiracy; construction of section; penalties.

(a) It ~~shall be~~ is unlawful for two or more persons to conspire (1) to:

(1) Commit any offense against the state; or (2) to

(2) Defraud the state, the state or any county board of education, or any county or municipality of the state, if, in either case, one or more of such persons does any act to effect the object of the conspiracy.

(b) Nothing in this section ~~shall~~ may be construed to supersede, limit, repeal or affect the provisions of §3-9-8; §5-1-2; §5A-3-38; §20-7-7; §60-6-16; ~~§§61-6-7, 8, 9 and 10~~; or §62-8-1, all of this code. It ~~shall not be~~ is not a defense to any prosecution under this section ~~thirty-one~~ that the conduct charged or proven is also a crime under any other provision or provisions of this code or the common law.

(c) Any person who violates the provisions of this section by conspiring to commit an offense against the state which is a felony, ~~or by conspiring to defraud the state, the state or any county board of education, or any county or municipality of the state,~~ shall be guilty of a felony, and, upon conviction thereof, shall be is guilty of a Class 6 felony, punished by imprisonment in the penitentiary for not less than one nor more than five years or by a fine of not more than \$10,000, or, in the discretion of the court, by both such imprisonment and fine.

(d) Any person who violates the provisions of this section by conspiring to commit an offense against the state which is a misdemeanor ~~shall be~~ is guilty of a Class 1 misdemeanor, and, upon conviction thereof, shall be punished by confinement in the county jail for not more than one year or by a fine of not more than \$1,000, or, in the discretion of the court, by both such confinement and fine.

§61-10-32. Unlawful contact with a Division of Corrections employee or member of the parole board; penalty.

(a) It ~~shall be~~ is unlawful for a former inmate of the Division of Corrections to make a telephone call to a Division of Corrections

employee or member of the parole board when the employee has requested in writing to that former inmate that he or she not call and the former inmate has actually been served with a copy of the written request.

(b) It ~~shall be~~ is unlawful for a former inmate of the Division of Corrections to willfully and repeatedly follow a Division of Corrections employee or member of the parole board with whom he or she seeks to establish a personal or social relationship when the Division of Corrections employee or member of the parole board has expressed to the former inmate that he or she wishes not to have contact with the former inmate.

(c) It ~~shall be~~ is unlawful for a former inmate of the Division of Corrections to harass or make credible threats against a Division of Corrections employee or member of the parole board.

(d) Any offense committed under subsection (a) may be deemed to have occurred at the place at which the telephone call was made, or the place at which the telephone call was received.

(e) Any person who violates any provision of this section ~~shall be is~~ guilty of a petty offense, misdemeanor and, upon conviction thereof, shall, for a first offense, be fined not more than five hundred dollars. Any person violating this section for a second offense ~~shall be is~~ guilty of a Class 2 misdemeanor, imprisoned not less than ten days nor more than six months, or both fined and imprisoned.

(f) For purposes of this section:

‘Harass’ means willful conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress;

‘Credible threat’ means a threat of bodily injury made with apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat would be carried out;

‘Bodily injury’ means substantial physical pain, illness or any impairment of physical condition;

‘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.

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 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.

(h) 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.

§61-10-33. Prohibition against selling a pure caffeine product.

(a) ‘Pure caffeine product’ means a product that is comprised of 90 percent or more caffeine and is manufactured into a crystalline, liquid, or powdered form. ‘Pure caffeine product’ does not include any of the following that contains caffeine and is formulated, manufactured, and labeled in accordance with the laws and regulations enforced by the United States Food and Drug Administration:

(1) Coffee, tea, soft drink, energy drink, or any other caffeine-containing beverage;

(2) Any energy product.

(b) Except as provided in subsection (c), no person shall knowingly possess, sell, or offer for sale a pure caffeine product.

(c) Subsection (b) does not prohibit a person from possessing, selling, or offering for sale any product manufactured in a unit-dose

form such as a pill, tablet, or caplet, but only if each unit dose of the product contains not more than 250 milligrams of caffeine.

(d) Nothing in this section prohibits either of the following:

(1) Possession of a product described in subsection (c);

(2) Possession of a pure caffeine product by any of the following:

(A) A food processing establishment;

(B) A manufacturer of a drug that is available without a prescription;

(C) A laboratory that is licensed by the Board of Pharmacy;

(D) A laboratory of any agency or department of this state that performs testing, analysis, and other laboratory services on behalf of the state; and

(E) A postal or delivery service that transports or delivers a pure caffeine product to an entity specified in subsections (A) to (D) of this section.

(e) A person who violates subsection (b) of this section is guilty of a petty offense-misdemeanor and, upon conviction thereof, shall be fined not more than \$100.

§61-10-34. Critical Infrastructure Protection Act; prohibiting certain acts, including trespass and conspiracy to trespass against property designated a Critical Infrastructure facility; criminal penalties; and civil action.

[Repealed]

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES

§61-11-1. Classification of crimes.

[Repealed]

§61-11-1a. Sentence of female felons.

Upon conviction of a female for a felony and, subsequent sentence of confinement, the trial court shall sentence her to the custody of the ~~state department of corrections~~ West Virginia Division of Corrections and Rehabilitation.

§61-11-3. Punishment for common law offense.

[Repealed]

§61-11-6. Punishment of principals in the second degree and accessories before and after the fact.

(a) In the case of every felony, every principal in the second degree and every accessory before the fact shall be punishable as if he or she were the principal in the first degree; and every accessory after the fact, upon conviction, is guilty of a Class 1 misdemeanor; ~~shall be confined in jail not more than one year and fined not exceeding \$500.~~

(b) ~~But no~~ No person in the relation of husband and wife, parent or grandparent, child or grandchild, brother, or sister, by consanguinity or affinity, or servant to the offender, who, after the commission of a felony, ~~shall aid or assist~~ aids or assists a principal felon, or accessory before the fact, to avoid or escape from prosecution or punishment may be ~~deemed~~ determined an accessory after the fact.

~~(b)~~ (c) Notwithstanding the provisions of subsection (a) of this section, any person who knowingly harbors, conceals, maintains or assists the principal felon after the commission of the underlying offense violating the felony provisions of §61-2-1, §61-2-4 or §61-2-9 of this code, or gives ~~such~~ the offender aid knowing that he or she has committed such felony, with the intent that the offender avoid or escape detention, arrest, trial or punishment, shall be considered an accessory after the fact and, upon conviction, be is guilty of a Class 6 felony and, ~~confined in a state correctional facility for a period not to exceed five years, or a period of not more than one half of the maximum penalty for the underlying felony offense, whichever is the lesser maximum term of confinement.~~

(d) ~~But no~~ no person related to the offender who is a person in the relation of husband and wife, parent, grandparent, child, grandchild, brother, or sister, whether by consanguinity or affinity, or servant to the offender ~~shall~~ may be considered an accessory after the fact.

§61-11-8. Attempts; classification and penalties therefor.

Every person who attempts to commit an offense, but fails to commit or is prevented from committing it, shall, where it is not otherwise provided, be punished as follows:

(1) If the offense attempted ~~be~~ is punishable with life imprisonment, the person making such attempt ~~shall be~~ is guilty of a Class 4 felony ~~and, upon conviction, shall be imprisoned in the penitentiary not less than three nor more than fifteen years.~~

(2) If the offense attempted ~~be~~ punishable by imprisonment in the penitentiary for a term less than life, such person ~~shall be~~ is guilty of a Class 6 felony ~~and, upon conviction, shall, in the discretion of the court, either be imprisoned in the penitentiary for not less than one nor more than three years, or be confined in jail not less than six nor more than twelve months, and fined not exceeding \$500.~~

(3) If the offense attempted ~~be~~ punishable by confinement in jail, such person ~~shall be~~ is guilty of a Class 2 misdemeanor ~~and, upon conviction, shall be confined in jail not more than six months, or fined not exceeding \$100.~~

§61-11-8a. Solicitation to commit certain felonies; classification; defenses.

(a) Any person who solicits another to commit a violation of the law which constitutes a felony crime of violence against the person is guilty of a Class 4 felony. If the offense solicited is punishable for a term of less than life imprisonment, a person so convicted may be determined guilty of a Class 1 misdemeanor.

~~(1) Confined in a state correctional facility for not less than three nor more than fifteen years if the offense solicited is punishable by life imprisonment;~~

~~(2) Imprisoned in the state correctional facility for not less than one nor more three years or fined not more than \$5,000, or both, if the offense solicited is punishable by incarceration in the state correctional facility for a term of less than life imprisonment. In the circuit court's discretion a person so convicted may be ordered confined in jail for a term not to exceed one year in lieu of incarceration in a state correctional facility;~~

(b)(1) As used in this section, 'solicitation' means the willful and knowing instigation or inducement of another to commit a felony crime of violence against the person of a third person; and

(2) As used in this section, 'felony crime of violence against the person' means the felony offense set forth in §61-2-1, §61-2-9, §61-2-10b, and §61-2-12 of this code.

(c) In a prosecution under the provisions of this section, it is not a defense:

(1) That the defendant belongs to a class of persons who by definition are legally incapable in an individual capacity of committing the crime that is the object of the solicitation; or

(2) That a person whom the defendant solicits could not be guilty of a crime that is the object of the solicitation.

(d) It is an affirmative and complete defense to a prosecution under the provisions of this section that the defendant under circumstances manifesting a voluntary and complete renunciation of the defendant's criminal intent, after soliciting another person to engage in conduct constituting a felony, prevented the commission of the crime.

ARTICLE 11A. VICTIM PROTECTION ACT OF 1984.

§61-11A-7. Severability.

[Repealed.]

ARTICLE 12. POSTMORTEM EXAMINATION.**§61-12-8. Certain deaths to be reported to medical examiners; failure to report deaths; investigations and reports; authority of medical examiners to administer oaths, etc., fees.**

(a) When any person dies in this state from violence, or by apparent suicide, or suddenly when in apparent good health, or when unattended by a physician, or when an inmate of a public institution, or from some disease which might constitute a threat to public health, or in any suspicious, unusual or unnatural manner, the chief medical examiner, or his or her designee or the county medical examiner, or the coroner of the county in which death occurs shall be immediately notified by the physician in attendance, or if no physician is in attendance, by any law-enforcement officer having knowledge of the death, or by the funeral director, or by any other person present or having knowledge. Any physician or law-enforcement officer, funeral director or embalmer who willfully fails to comply with this notification requirement is guilty of a petty offense, ~~misdemeanor~~ and, ~~upon conviction, shall be fined not less than \$100 nor more than \$500.~~

(b) Upon notice of a death under this section, the chief medical examiner, or his or her designee or the county medical examiner, shall take charge of the body and any objects or articles which, in his or her opinion, may be useful in establishing the cause or manner of death, and deliver them to the law-enforcement agency having jurisdiction in the case. In the course of an investigation of a death required to be reported by this section, the chief medical examiner shall, upon written request to any law-enforcement agency or any state or regional correctional facility, be provided with all records of the investigation of decedent's death and all records of decedent's incarceration. Where a decedent received therapeutic, corrective or medical treatment prior to death, the chief medical examiner may request in writing that any person or other entity which rendered the treatment promptly provide all records within its possession or control pertaining to the decedent and the treatment rendered. *Provided, That* nothing contained in this

section may be construed as precluding the chief medical examiner from directly inspecting or obtaining investigation records, incarceration records or medical records related to the case. Where records of a decedent become part of the chief medical examiner's file, they are not subject to subpoena or a request for production directed to the chief medical examiner.

(b) (c) A county medical examiner, or his or her assistant, shall make inquiries regarding the cause and manner of death, reduce his or her findings to writing, and promptly make a full report thereof to the chief medical examiner on forms prescribed by the chief medical examiner, retaining one copy of the report for his or her own office records and providing one copy to the prosecuting attorney of the county in which the death occurred.

(e) (d) A county medical examiner or assistant medical examiner shall receive a fee for each investigation performed under the provisions of this article, including the making of required reports, which fee shall be determined by the chief medical examiner and paid out of funds appropriated therefor.

§61-12-9. Permits required for cremation; fee.

(a) It is the duty of any person cremating, or causing or requesting the cremation of, the body of any dead person who died in this state, to secure a permit for the cremation from the Chief Medical Examiner, the county medical examiner or county coroner of the county wherein the death occurred. Any person who willfully fails to secure a permit for a cremation, is guilty of a petty offense, misdemeanor and, upon conviction thereof, shall be fined ~~not less than \$200~~. A permit for cremation shall be acted upon by the Chief Medical Examiner, the county medical examiner or the county coroner after review of the circumstances surrounding the death, as indicated by the death certificate. The person requesting issuance of a permit for cremation shall pay a reasonable fee, as determined by the Chief Medical Examiner, to the county medical examiner or coroner or to the Office of the Chief Medical Examiner, as appropriate, for issuance of the permit.

(b) Any person operating a crematory who does not perform a cremation pursuant to the terms of a cremation contract, or pursuant to the order of a court of competent jurisdiction, within the time contractually agreed upon, or, if the cremation contract does not specify a time period, within 21 days of receipt of the deceased person's remains by the crematory, whichever time is less, is guilty of a Class 2 misdemeanor.

(c) Any person operating a crematory who fails to deliver the cremated remains of a deceased person, pursuant to the terms of a cremation contract, or pursuant to the order of a court of competent jurisdiction, within the time contractually agreed upon, or, if the cremation contract does not specify a time period, within 35 days of receipt of the deceased person's remains by the crematory, whichever time is less, is guilty of a Class 2 misdemeanor.

~~(d) Any person convicted of a violation of the provisions of subsection (b) or (c) of this section shall be fined not less than \$1,000 nor more than \$5,000 or confined in jail for a period not to exceed six months, or both.~~

~~(e)~~ (d) In any criminal proceeding alleging that a person violated the time requirements of this section, it is a defense to the charge that a delay beyond the time periods provided for in this section were caused by circumstances wholly outside the control of the defendant.

~~(f)~~ (e) For purposes of this section, 'cremation contract' means an agreement to perform a cremation, as a 'cremation' is defined in §30-6-3(g) of this code. A cremation contract is an agreement between a crematory and any authorized person or entity, including, but not limited to, the following persons in order of precedence:

(1) The deceased, who has expressed his or her wishes regarding the disposal of their remains through a last will and testament, an advance directive or preneed funeral contract, as defined in §45-14-2 of this code;

(2) The surviving spouse of the deceased, unless a petition to dissolve the marriage was pending at the time of decedent's death;

(3) An individual previously designated by the deceased as the person with the right to control disposition of the deceased's remains in a writing signed and notarized by the deceased: *Provided*, That no person may be designated to serve in such capacity for more than one nonrelative at any one time;

(4) The deceased person's next of kin;

(5) A public official charged with arranging the final disposition of an indigent deceased person or an unclaimed corpse;

(6) A representative of an institution who is charged with arranging the final disposition of a deceased who donated his or her body to science;

(7) A public officer required by statute to arrange the final disposition of a deceased person;

(8) Another funeral establishment; or

(9) An executor, administrator, or other personal representative of the deceased.

§61-12-13. Reports and records received as evidence; copies.

(a) Reports of investigations and autopsies, and the records thereof, on file in the office of the chief medical examiner or in the office of any county medical examiner, ~~shall~~ may be received as evidence in any court or other proceeding, and where:

(1) The performing medical examiner, pathologist, or other employee of the Chief Medical Examiner or office of any county medical examiner, is unavailable to testify at trial; and,

(2) An accused has had prior opportunity to cross-examine the performing medical examiner, pathologist, or other employee of the Chief Medical Examiner or office of any county medical examiner.

(b) Copies of records, photographs, laboratory findings and records on file in the office of the chief medical examiner or in the office of any county medical examiner, when duly attested by the chief medical examiner or by the county medical examiner, assistant county medical examiner or coroner in whose office the same are filed, ~~shall~~ may be received as evidence in any court or other proceeding for any purpose for which the original could be received without any proof of the official character of the person whose name is signed thereto unless objected to by counsel. ~~Provided, That statements~~

~~(c) Admissibility of witnesses or other persons and conclusions upon evidence regarding extraneous matters is not affected by this section. are not hereby made admissible.~~

ARTICLE 13. ANTI-ORGANIZED CRIMINAL ENTERPRISE ACT

§61-13-3. Offenses.

(a) Any person who knowingly and willfully becomes a member of an organized criminal enterprise and who knowingly promotes, furthers, or assists in the commission of any qualifying offense himself or herself or in combination with another member of an organized criminal enterprise ~~shall be~~ is guilty of a Class 5 felony ~~and, upon conviction, shall be confined in a state correctional facility for not more than ten years or fined not more than \$25,000, or both.~~ The offense set forth in this subsection is separate and distinct from that of any qualifying offense and may be punished separately.

(b) Any person who knowingly solicits, invites, recruits, encourages, or causes another to become a member of an organized criminal enterprise or to assist members of an organized criminal enterprise to aid or assist in the commission of a qualifying offense by one or more members of an organized criminal enterprise ~~shall be~~ is guilty of a Class 6 felony ~~and, upon conviction, shall be confined in a state correctional facility for not more than five years or fined not more than \$10,000, or both.~~

(c) Any person who shall, by threats, menaces, or otherwise, intimidate, or attempt to intimidate, a witness for the state in any prosecution under the provisions of this article, for the purpose of preventing the attendance of such witness at the trial of such case or to change testimony, or shall in any way or manner prevent, or attempt to prevent, the attendance of any such witness at such trial, ~~shall be is guilty of a Class 5 felony, and, upon conviction, shall be confined not more than ten years.~~

ARTICLE 14. HUMAN TRAFFICKING.

§61-14-2. Human trafficking of an individual; penalties.

(a) Any person who knowingly and willfully traffics an adult is guilty of a Class 4 felony ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$200,000, or both imprisoned and fined.~~

(b) Any person who knowingly and willfully traffics a minor is guilty of a Class 3 felony ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than five nor more than twenty years, fined not more than \$300,000, or both imprisoned and fined.~~

§61-14-3. Use of forced labor; penalties.

(a) Any person who knowingly uses an adult in forced labor is guilty of a Class 3 felony ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years, fined not more than \$100,000, or both imprisoned and fined.~~

(b) Any person who knowingly uses a minor in forced labor is guilty of a Class 2 felony ~~and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$300,000, or both imprisoned and fined.~~

§61-14-4. Use of persons in debt bondage; penalties.

(a) Any person who knowingly uses an adult in debt bondage is guilty of a Class 4 felony ~~and, upon conviction thereof, shall be~~

~~imprisoned in a state correctional facility for not less than one nor more than five years, fined not more than \$100,000, or both imprisoned and fined.~~

(b) Any person who knowingly uses a minor in debt bondage is guilty of a Class 3 felony and, ~~upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$300,000, or both imprisoned and fined.~~

§61-14-5. Sexual servitude; penalties.

(a) Any person who knowingly uses coercion to compel an adult to engage in commercial sexual activity is guilty of a Class 2 felony and, ~~upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$200,000, or both imprisoned and fined.~~

(b) Any person who knowingly maintains or makes available a minor for the purpose of engaging the minor in commercial sexual activity is guilty of a Class 1 felony and, ~~upon conviction thereof, shall be imprisoned in a state correctional facility for not less than ten nor more than twenty years, fined not more than \$300,000, or both imprisoned and fined.~~

(c) It is not a defense in a prosecution under subsection (b) of this section that the minor consented to engage in commercial sexual activity, or that the defendant believed the minor was an adult.

§61-14-6. Patronizing a victim of sexual servitude; penalties.

(a) Any person who knowingly patronizes another in commercial sexual activity and who knows that such person patronized is a victim of sexual servitude, is guilty of a Class 5 felony and, ~~upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one nor more than five years, fined not more than \$100,000, or both imprisoned and fined.~~

(b) Notwithstanding the provisions of subsection (a) of this section, any person who knowingly patronizes a minor to engage

in commercial sexual activity and who knows or has reason to know that said minor is a victim of sexual servitude, is guilty of a Class 3 felony and, ~~upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$300,000, or both imprisoned and fined.~~

§61-14-7. General provisions and other penalties.

(a) Separate violations. — For purposes of this article, each adult or minor victim constitutes a separate offense.

(b) Aggravating circumstance. —

(1) Notwithstanding any provision of this code to the contrary, if an individual is convicted of an offense under this article and the trier of fact makes a finding that the offense involved an aggravating circumstance, the individual shall not be eligible for parole before serving three years one-third of the individual's sentence in a state correctional facility.

(2) Notwithstanding any provision of this code to the contrary, if an individual is convicted of an offense under this article and is sentenced to life without mercy, that individual is not eligible for parole.

(3) ~~(2)~~ For purposes of this subsection, 'aggravating circumstance' means the individual recruited, enticed, or obtained the victim of the offense from a shelter or facility that serves runaway youths, children in foster care, the homeless or victims of human trafficking, domestic violence, or sexual assault.

(c) Restitution. —

(1) The court shall order a person convicted of an offense under this article to pay restitution to the victim of the offense.

(2) A judgment order for restitution may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action in accordance with

§61-11A-4 of this code, including filing a lien against the person, firm, or corporation against whom restitution is ordered.

(3) The court shall order restitution under subdivision (1) of this subsection even if the victim is unavailable to accept payment of restitution.

(4) If the victim does not claim restitution ordered under subdivision (1) of this subsection within five years of the entry of the order, the restitution shall be paid to the Crime Victims Compensation Fund created under §14-2A-4 of this code.

(d) Eligibility for Compensation Fund. — Notwithstanding the definition of victim in §14-2A-3 of this code, a victim of any offense under this article is a victim for all purposes of article two-a, chapter fourteen of this code: *Provided*, That for purposes of §14-2A-14(b) of this code, if otherwise qualified, a victim of any offense under this article may not be denied eligibility solely for the failure to report to law enforcement within the designated time frame.

(e) Law Enforcement Notification. — ~~Should~~ If a law-enforcement officer ~~encounter~~ encounters a child who reasonably appears to be a victim of an offense under this article, the officer shall notify the Department of Health and Human Resources. If available, the Department of Health and Human Resources may notify the Domestic Violence Program serving the area where the child is found.

(f) Forfeiture; Debarment. —

(1) The following are declared to be contraband and no person ~~shall~~ may have a property interest in them:

(A) All property which is directly or indirectly used or intended for use in any manner to facilitate a violation of this article; and

(B) Any property constituting or derived from gross profits or other proceeds obtained from a violation of this article.

(2) In any action under this section, the court may enter such restraining orders or take other appropriate action, including acceptance of performance bonds, in connection with any interest that is subject to forfeiture.

(3) Forfeiture actions under this section shall use the procedure set forth in §60A-7-1 *et seq.* of this code.

(4) Any person or business entity convicted of a violation of this article shall be debarred from state or local government contracts.

§61-14-8. Immunity for minor victim of sex trafficking.

(a) In a prosecution or a juvenile proceeding ~~prosecution~~ for an offense of prostitution in violation of §61-8-5(b) of this code, a minor shall not be held criminally liable if the Court determines that the minor is a victim of an offense under this article: *Provided*, That subject to proof, a minor so charged shall be rebuttably presumed to be a victim under the provisions of this article.

(b) This section does not apply in a prosecution or a juvenile proceeding for any of the other offenses under §61-8-5(b) of this code, including specifically soliciting, inducing, enticing, or procuring another to commit an act or offense of prostitution, unless it is determined by the court that the minor was coerced into the criminal behavior.

(c) A minor who, under subsection (a) or (b) of this section, is not subject to criminal liability or adjudication as a juvenile delinquent is presumed to be an abused child, as defined in §49-1-201 of this code, and may be eligible for services under Chapter 49 of this code including, but not limited to, appropriate child welfare services.

ARTICLE 15. MONEY LAUNDERING.

§61-15-2. Laundering through financial transactions.

(a) It is unlawful for any person to conduct or attempt to conduct a financial transaction involving the proceeds of criminal

activity knowing that the property involved in the financial transaction represents the proceeds of, or is derived directly or indirectly from the proceeds of, criminal activity:

(1) With the intent to promote the carrying on of the criminal activity; or

(2) Knowing that the transaction is designed in whole or part:

(i) To conceal or disguise the nature, location, source, ownership, or control of the proceeds of the criminal activity; or

(ii) To avoid any transaction reporting requirement imposed by law.

(b) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction is less than ~~\$1,000~~ \$2,500 is guilty of a Class 1 misdemeanor ~~and, upon conviction, shall be confined in jail for not more than one year or fined not more than \$1,000, or both confined and fined.~~

(c) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction is not less than ~~\$1,000~~ \$2,500 nor more than ~~\$20,000~~ \$25,000 is guilty of a Class 6 felony ~~and, upon conviction, shall be imprisoned in a state correctional facility for not less than one nor more than five years, or fined not less than \$1,000 nor more than \$10,000, or both imprisoned and fined.~~

(d) Any person violating the provisions of subsection (a) of this section where the amount involved in the transaction in excess of ~~\$20,000~~ exceeds \$25,000 is guilty of a Class 5 felony ~~and, upon conviction, shall be imprisoned in a state correctional facility for not less than two nor more than ten years, or fined not less than \$5,000 nor more than \$25,000, or both imprisoned and fined.~~

ARTICLE 16. USE OF UNMANNED AIRCRAFT SYSTEMS.

§61-16-2. Prohibited use of an unmanned aircraft system; criminal penalties.

(a) Except as authorized by the provisions of this article, a person may not operate an unmanned aircraft system:

(1) To knowingly and intentionally capture or take photographs, images, video, or audio of another person or the private property of another, without the other person's permission, in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, capturing, or recording through a window;

(2) To knowingly and intentionally view, follow, or contact another person or the private property of another without the other person's permission in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, viewing, following, or contacting through a window;

(3) To knowingly and intentionally harass another person;

(4) To violate a restraining order or similar judicial order;

(5) To act with a willful wanton disregard for the safety of persons or property; or

(6) To knowingly and intentionally operate an unmanned aircraft system in a manner that interferes with the official duties of law enforcement personnel or emergency medical personnel.

(b) Any person violating the provisions of subsection (a) of this section is guilty of a Class 1 misdemeanor ~~and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in jail for not more than one year, or both fined and confined.~~

(c) Any person who equips an unmanned aircraft system with any deadly weapon or operates any unmanned aircraft system equipped with any deadly weapon, other than for military in an official capacity, is guilty of a Class 6 felony ~~and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.~~

(d) Any person who operates an unmanned aircraft system with the intent to cause damage to or disrupt in any way the flight of a manned aircraft is guilty of a Class 6 felony ~~and, upon conviction~~

~~thereof, shall be fined not less than \$1,000 nor more than \$5,000 imprisoned for not less than one nor more than five years, or both fined and imprisoned.~~

(e) A person that is authorized by the Federal Aviation Administration to operate unmanned aircraft systems for commercial purposes may operate an unmanned aircraft system in this state for such purposes if the unmanned aircraft system is operated in a manner consistent with federal law.

ARTICLE 17. CLASSIFICATIONS OF OFFENSES AND AUTHORIZED DISPOSITIONS OF OFFENDERS

§61-17-1. Classification of felonies and misdemeanors.

(a) Felonies are classified, for the purpose of sentencing, into the following six categories:

(1) Class 1 felonies.

(2) Class 2 felonies.

(3) Class 3 felonies.

(4) Class 4 felonies.

(5) Class 5 felonies.

(6) Class 6 felonies.

(b) Misdemeanors are classified, for the purpose of sentencing, into the following three categories:

(1) Class 1 misdemeanors.

(2) Class 2 misdemeanors.

(3) Class 3 misdemeanors.

(c) Petty offenses are not classified.

§61-17-2. Designation of offenses.

(a) The classification of each felony defined in this chapter is expressly designated in the section or chapter defining it. Any

offense defined outside this title which is declared by law to be a felony without either specification of the classification or of the penalty is a Class 5 felony.

(b) The classification of each misdemeanor defined in this chapter is expressly designated in the section or chapter defining it. Any offense defined outside this chapter which is declared by law to be a misdemeanor without either specification of the classification or of the penalty is a Class 2 misdemeanor.

(c) Every petty offense in this chapter is expressly designated as such. Any offense defined outside this chapter without either designation as a felony or misdemeanor or specification of the classification or the penalty is a petty offense.

(d) Any offense which is declared by law to be a felony, misdemeanor, or petty offense without specification of the classification of such offense is punishable according to the penalty prescribed for such offense.

(e) Any offense defined within or outside this chapter without designation as a felony, misdemeanor or petty offense is punishable according to the penalty prescribed for such offense.

(f) Any offense defined outside this chapter with a specification of the classification of such offense is punishable according to the provisions of this chapter.

§61-17-3. Sentence of imprisonment for felony; presentence report; aggravating and mitigating factors; consecutive terms of imprisonment; definition.

(a) A sentence of imprisonment for a felony shall be a definite term of years and the person sentenced, unless otherwise provided by law, shall be committed to the custody of the state department of corrections.

(b) No prisoner may be transferred to the custody of the state department of corrections without a certified copy of the judgment and sentence, signed by the court, and a copy of a recent

presentence investigation report unless the court has waived preparation of the report.

(c) The term of imprisonment sentence shall be for a determinate period, which may be stated in a term of months, within the range prescribed under this subsection. The terms are as follows:

<u>Felony</u>	<u>Minimum</u>	<u>Maximum</u>
<u>Class 1</u>	<u>Life w/ Mercy</u>	<u>Life w/o Mercy</u>
<u>Class 2</u>	<u>15 years</u>	<u>60 years</u>
<u>Class 3</u>	<u>5 years</u>	<u>30 years</u>
<u>Class 4</u>	<u>3 years</u>	<u>15 years</u>
<u>Class 5</u>	<u>2 years</u>	<u>10 years</u>
<u>Class 6</u>	<u>1 years</u>	<u>5 years</u>

§61-17-4. Misdemeanors; sentencing.

(a) A sentence of imprisonment for a misdemeanor shall be for a definite term to be served other than a place within custody of the state department of corrections. The court shall fix the term of imprisonment within the following maximum limitations:

- (1) For a Class 1 misdemeanor, One year.
- (2) For a Class 2 misdemeanor, Six Months.
- (3) For a Class 3 misdemeanor, 90 days.

§61-17-5. Class 6 felony; designation.

(a) Notwithstanding any other provision of this chapter, if a person is convicted of any Class 6 felony not involving a dangerous offense and if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that it would be unduly harsh to sentence the defendant for a felony, the court may enter judgment

of conviction for a Class 1 misdemeanor and make disposition accordingly or may place the defendant on probation in accordance with the law and refrain from designating the offense as a felony or misdemeanor until the probation is terminated. The offense shall be treated as a felony for all purposes until such time as the court may enter an order designating the offense a misdemeanor. This subsection does not apply to any person who stands convicted of a Class 6 felony and who has previously been convicted of two or more felonies.

(b) If a crime is punishable in the discretion of the court by a sentence as a Class 6 felony or a Class 1 misdemeanor, the offense shall be deemed a misdemeanor if the prosecuting attorney files an information in circuit court designating the offense as a misdemeanor.

§61-17-6. Determination of Sentence by Court.

The Court shall impose a sentence within the range of minimum and maximum terms based upon aggravating and mitigating circumstances the Court finds relevant based upon the pre-sentence investigation report.

§61-17-7. Offenses near Schools; offenses against children near schools; offenses against children generally; increased penalties.

(a) For all crimes committed within one thousand feet of a school, the Court may consider relevant circumstances and impose an increase of the potential sentence of one year for such crime: *Provided*, That such increase is permitted to result in a sentence which exceeds the specified maximum sentence limitation.

(b) If a child is the victim of such offense, the court may consider relevant circumstances and impose an increase of two years of the potential sentence for such crime: *Provided*, That such increase is permitted to result in a sentence which exceeds the specified maximum sentence limitation.

(c) If a child is the victim of any offense not committed within one thousand feet of a school, the court may consider relevant

circumstances and impose an increase of two years of the potential sentence for such crime: *Provided*, That such increase is permitted to result in a sentence which exceeds the specified maximum sentence limitation.

ARTICLE 18. RESTITUTION AND FINES

§61-18-1. Fines for felonies.

(a) Unless provided otherwise, a fine for a felony shall be a sentence to pay an amount fixed by the court at not more five hundred thousand dollars.

(b) A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien against the defendant in like manner as a judgment for money rendered in a civil action.

(c) This section does not apply to an enterprise.

§61-18-2. Fines for misdemeanors.

Unless provided otherwise:

(a) A sentence to pay a fine for a Class 1 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than two thousand five hundred dollars.

(b) A sentence to pay a fine for a Class 2 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than seven hundred fifty dollars.

(c) A sentence to pay a fine for a Class 3 misdemeanor shall be a sentence to pay an amount, fixed by the court, not more than five hundred dollars.

(d) A sentence to pay a fine for a petty offense shall be a sentence to pay an amount, fixed by the court, of not more than three hundred dollars.

(e) A judgment that the defendant shall pay a fine, with or without the alternative of imprisonment, shall constitute a lien in like manner as a judgment for money rendered in a civil action.

(f) This section does not apply to an enterprise.

§61-18-3. Fines against enterprises.

(a) 'Enterprise' is any entity other than an individual person.

(b) Except as provided, a sentence to pay a fine that is imposed on an enterprise for an offense defined in this chapter or for an offense defined outside this chapter for which no special enterprise fine is specified shall be a sentence to pay an amount, fixed by the court, of not more than:

(1) For a Class 1 felony, ten million dollars.

(2) For a Class 2 felony, five million dollars.

(3) For a Class 3, 4, 5, or 6 felony, one million dollars.

(4) For a Class 1 misdemeanor, one hundred thousand dollars.

(5) For a Class 2 misdemeanor, fifty thousand dollars.

(6) For a Class 3 misdemeanor, ten thousand dollars.

(7) For a petty offense, five thousand dollars.

(c) A judgment that the enterprise shall pay a fine shall constitute a lien in like manner as a judgment for money rendered in a civil action.

(d) The court shall base its decision on any evidence or information that was introduced or submitted to it before sentencing or on any evidence that was previously heard at trial and shall consider the following factors, if relevant:

(1) The income and assets of the enterprise and the economic impact of the penalty on the enterprise.

(2) Any prior criminal, civil or regulatory misconduct by the enterprise.

(3) The degree of harm resulting from the offense.

(4) Whether the offense resulted in pecuniary gain.

(5) Whether the enterprise made good faith efforts to comply with any applicable requirements.

(6) The duration of the offense.

(7) The role of the directors, officers, or principals of the enterprise in the offense.

(8) Whether the offense involved an unusually vulnerable victim due to age, physical or mental condition or any other factor that would make the victim particularly susceptible to criminal conduct.

(9) Whether the offense involved a threat to a market.

(10) Whether the enterprise breached a fiduciary duty in committing the offense.

(11) The obligation of the enterprise to pay restitution.

(12) Any other factors that the court deems to be appropriate.

§61-18-4. Reimbursement of incarceration costs; misdemeanors

(a) The court shall order a person who is convicted of a misdemeanor offense and who is sentenced to a term of incarceration to reimburse the political subdivision that is responsible for the costs of the person's incarceration for the incarceration costs.

(b) The court may determine the amount of incarceration costs to be paid based on the following factors:

(1) The per diem per person cost of incarceration incurred by the political subdivision that incarcerates the person.

(2) The person's ability to pay all or part of the incarceration costs."

Delegate Garcia moved to amend the amendment, on page 386, section 3, line 1, by striking out the words "definite term" and inserting in lieu thereof, the words "indeterminate period".

On page 386, section 3, line 7, by striking out the word "determinate" and inserting in lieu thereof, the word "indeterminate".

On page 386, section 3 lines 7,8 and 9 by striking out the words "which may be stated in a term of months, within the range prescribed under this subsection. The terms are".

And,

On page 388, following the period at the end of line 13, by striking out Section 6 in its entirety and renumbering Section 7 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. 343**), and there were—yeas 24, nays 74, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Bates, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Nestor, Pethtel, Pritt, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Boggs and L. Pack.

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

An amendment to the amendment, offered by Delegate Pushkin, was reported by the Clerk, on page 17, immediately following the Article 4 Heading, by inserting the following:

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

(ii) Any other controlled substance classified in Schedule I, II, or III is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than five years, or fined not more than \$15,000, or both fined and imprisoned: Provided, That there is no criminal penalty under this subsection for one ounce or less of marijuana for persons 21 years old or older: Provided, however, That any person 18 to 20 years old, for more than 15 grams up to one ounce of marijuana is guilty of a misdemeanor, and is subject to a fine not to exceed \$500.00;

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

(iv) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, 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 fined and confined: *Provided*, That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, 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) A counterfeit substance classified in Schedule I or II, which is a narcotic drug, or methamphetamine, is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than 15 years, or fined not more than \$25,000, or both fined and imprisoned;

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

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

(iv) A counterfeit substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, 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 fined and confined: *Provided*, That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, 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 or her 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 thereof,

the 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 fined and confined: *Provided*, That notwithstanding any other provision of this act to the contrary, any first offense for possession of synthetic cannabinoids as defined by §60A-1-101(d)(32) of this code; 3,4-methylenedioxypropylvalerone (MPVD) and 3,4-methylenedioxypropylvalerone and/or mephedrone as defined in §60A-1-101(f) of this code; ~~or less than 15 grams of marijuana~~, shall be disposed of under §60A-4-407 of this code: *Provided, however, That there is no criminal penalty under this subsection for marijuana for persons 21 years old or older: Provided, further, That for any person 18 to 20 years old who possesses less than 15 grams of marijuana is guilty of a misdemeanor and is subject to a fine not to exceed \$100.00.*

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

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

(2) To create, possess, sell, or otherwise transfer any equipment with the intent that the 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 thereof, 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 fined and confined. Any person 18 years old or more who violates subdivision (1) of this subsection and distributes or delivers an imitation controlled substance to a minor child who is at least three years younger than that person is guilty of a felony and, upon conviction thereof, may be imprisoned in a state correctional facility for not less than one year nor more than three years, or fined not more than \$10,000, or both fined and imprisoned.

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

Whereupon,

Delegate Pushkin asked and obtained unanimous consent that the amendment be reformed on line thirteen, by striking out the word “misdemeanor, and is subject to a fine not to exceed \$500.00” and inserting the words “petty offense”.

Delegate Pushkin later asked unanimous consent that the amendment be further reformed on page 3 line 55, by striking out the word “misdemeanor and is subject to a fine not to exceed \$100.00” and inserting the words “petty offense”, which consent was not obtained, objection being heard.

Delegate Pushkin then so moved, which question was put and prevailed.

On the adoption of the amendment, as reformed, 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. 344**), and there were—yeas 46, nays 53, absent and not voting 1, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Barrett, Bates, Booth, Bridges, Brown, Capito, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Forsht, Garcia, Griffith, Hamrick, Hansen, Hardy, Higginbotham, Hornbuckle, Horst, J. Jeffries, Kimble, Linville, Lovejoy, Martin, Maynard, McGeehan, Nestor, Paynter, Pritt, Pushkin, Reed, Reynolds, Riley, Rowe, Skaff, Smith, Steele, Thompson, Walker, Wamsley, Williams, Young and Zukoff.

Absent and Not Voting: L. Pack.

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

Delegates Fluharty, Young and Fleischauer moved to amend the amendment, on page 19, following section 3 on line 31, after the period, by inserting the following section:

“§61-1-4. Invasion or insurrection; upholding thereof; penalty.

Any person who commits an invasion or insurrection against the state is guilty of a Class 1 felony. Any person who upholds an invasion or insurrection against the state is of guilty of a Class 5 felony.”

The question now being on the adoption of the amendment offered by Delegates Fluharty, Young and Fleischauer, the same was put and rejected.

On motion of Delegates Young and Fleischauer, the amendment was amended, on page 35, section 15, line 28, following the word “confines”, by inserting a comma and the word “transports”.

On page 35, section 15, line 30, following the words “the intent”, by inserting the word “to:”.

On page 35, section 15, lines 31 through 33, by striking out the following:

“(1) To hold another person for ransom, reward, or concession;
(2) To transport another person with the intent to inflict bodily injury or to terrorize the victim or another person; or”

And, inserting in lieu thereof, the following:

“(1) Hold another person for ransom, reward, or concession;
(2) Inflict bodily injury;
(3) Terrorize-the victim or another person; or”

And,

On page on page 35, section 15, line 34, by renumbering the number “(3)” to “(4)”.

The question now being on the adoption of the amendment offered by Delegate Capito, as amended, the same was put and prevailed.

There being no further amendments, the bill was ordered to engrossment and third reading.

At 3:17 p.m., on motion of Delegate Summers, the House of Delegates recessed until 3:50 p.m.

Second Reading

- continued -

Com. Sub. for H. B. 2095, Providing increased protections for the welfare of domestic animals; 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 right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 2224, Relating to complaints against public agencies to obtain records through the Freedom of Information Act; 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 the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 2370, Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Howell, the bill was amended on page 1, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 13A. PUBLIC SERVICE DISTRICTS.

§16-13A-9b. Exemptions for Swimming Pools.

(a) There shall be an exemption in sewer charges for those who own swimming pools for pool water if that pool water is not discharged into the sewer system.

(b) In order for the owner of the pool to qualify, the individual must provide the dimensions of the pool that is being filled with water to the waste water utilities that are political subdivisions of the state within 30 days of filling the pool.

(c) The waste water utility shall calculate the volume of the pool and shall allow an individual to use the amount of water necessary to fill their pool, without being charged for the corresponding sewer charges that would normally be associated for that amount of use.

(d) The waste water utility shall have the opportunity to inspect the pool of the individual applying for the exemption as to verify the dimensions of the pool to ensure accuracy.

(e) This section only applies to privately owned swimming pools.”

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 2488, Relating to an occupational limited license; 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. 2592, Require Counties and Municipalities to hold all local elections during statewide elections; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Statler, the bill was amended on page 5, section 17, line 10, immediately following the word “however”, by striking out the remainder of the subsection and inserting in lieu thereof the following:

“That, notwithstanding any other provision of this Code, a local levying body, by a vote authorizing the action, may, prior to January 1, 2022, hold a special election for the purpose of synchronizing the renewal of an existing or expiring levy with a future primary or general election.”

On page 8, section 2, line 19, immediately following the word “provided”, by striking out the remainder of the subsection and inserting in lieu thereof the following:

“That, notwithstanding any other provision of this Code, a Board of Education, by a vote authorizing the action, may, prior to January 1, 2022, hold a special election for the purpose of synchronizing the renewal of an existing or expiring levy with a future primary or general election.”

And,

On page 8, section 2a, line 4, immediately following the word “provided,” by striking out the word “however.”

On motion of Delegate Statler, the bill was amended on page 2, section 16, line 9, immediately following the word “exceed”, by striking out the word “five” and inserting in lieu thereof “six”.

The bill was then ordered to engrossment and third reading.

H. B. 2730, Relating to persons filing federal bankruptcy petition to exempt certain property of the estate; 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. 2751, Modernize the process for dissolution of municipal corporations in this 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. 2876, Modify the five-year waiting period and 100-person minimum for an association health plan, and to allow new flexibility granted under federal rules; 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. 2884, To make changes to the FOIA law to protect public utility customer databases from disclosure, with exceptions; 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 the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

H. B. 2908, Relating to disclosure of information by online marketplaces to inform consumers; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2918, Relating to Family Drug Treatment Court; 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. 2927, Adding Caregiving expenses to campaign finance expense; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2997, Adding a defense to the civil penalty imposed for a result of delivery of fuel to a state other than the destination state printed on the shipping document for fuel; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3030, Relating to gross weight limitations and road restrictions in Greenbrier and Pocahontas Counties; 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. 3036, Sunsetting the Board of Sanitarians; 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. 3072, Sunset the Board of Forestry; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Steele and Foster, the bill was amended on page 1, section 7, line 5, after the words “any college or university”, by inserting “or a combination of a two-year associate degree or equivalent in a forestry technician or related program and relevant required work experience.”

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 3074, Relating to information on organ and tissue donations; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3089, Make utility workers essential employees during a state of emergency; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3286, Making a supplementary appropriation to the Division of Human Services – Child Care and Development; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3287, Making a supplementary appropriation to the Department of Homeland Security; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3288, Supplementing and amending appropriations by decreasing and increasing existing items of appropriation in the DHHR; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3289, Supplementary appropriation to the Department of Commerce, Geological and Economic Survey; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3291, Making a supplementary appropriation to the Department of Homeland Security, Division of Administrative Services; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3292, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health; 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. 3295, Making a supplemental appropriation to Division of Human Services and Division of Health Central Office; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3297, Making a supplemental appropriation to the Department of Veterans' Assistance - Veterans Home; 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. 3307, Social Media Integrity and Anti-Corruption in Elections Act; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Linville, the bill was amended on page 4, section 12a, line 62, immediately following the word “user”, by inserting “; and, which is subject to the provisions of 47 U.S. Code § 230: *Provided*, That ‘Social media platform’: (i) does not include entities deriving a majority of annual revenue as an Internet service provider, electronic mail service, or any online news, sports, or entertainment service, website, or application not subject to the legal protections provided in the provisions of 47 U.S. Code § 230, and, (ii) for which any chat, comment or interactive functionality”

is incidental to or dependent upon on the provision of such content published by that service, application, or website.”

And,

On page 14, section 32, line 30, immediately following the word “party.”, by inserting the following new paragraph: “(D) And, is subject to the provisions of 47 U.S. Code § 230, provided that”.

The bill was then ordered to engrossment and third reading.

H. B. 3308, Relating to increasing number of limited video lottery terminals ; on second reading, coming up in regular order, was read a second time.

Delegates Barrett and Householder moved to amend the bill on page two, section one thousand one hundred one, line nineteen, by striking out subsection (d) in its entirety and inserting subsection (d) and a new subsection (e) to read as follows:

“(d) Pursuant to the increase of the number of video lottery terminals authorized in subsection (c) of this section, effective ~~2017 July 1, 2021~~, the commission shall conduct a bidding process no later than ~~September 1, 2017~~ October 1, 2021, for permits for additional terminals. Any permits for which a successful bid is made shall expire ~~June 30, 2021~~ June 30, 2031. The bidding process is open to current permit holders only and ~~which~~ shall be conducted in accordance with ~~sections one thousand one hundred six §29-22B-1106, one thousand one hundred seven §29-22B-1107 and one thousand one hundred nine §29-22B-1109~~ of this article.

(e) The amendments to this section enacted in 2021 shall be effective on and after July 1, 2021.”

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. 345**), and there were—yeas 75, nays 21, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Bruce, Burkhammer, Conley, Fast, Hanna, D. Jeffries, Jennings, Keaton, J. Kelly, Kimble, Kimes, Linville, Longanacre, Mandt, J. Pack, Paynter, Phillips, Pinson, Toney and G. Ward.

Absent and Not Voting: Ellington, L. Pack, Skaff and Worrell.

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

The bill was then ordered to engrossment and third reading.

H. B. 3310, Relating to the jurisdiction of the Public Service Commission; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Capito, the bill was amended on page 9, section 1, line 186, after the word “commission”, by striking out the word “has” and inserting in lieu thereof the words “does not have”.

And,

By further amending the bill on page 10, section 1, line 191, after the word “commission”, by striking out the word “has” and inserting in lieu thereof the words “does not have”.

On motion of Delegate Capito, the bill was then amended on page 2, section 2, line 7, by striking out the words “(1) that is leased to such retail electric customer; or (2)” and inserting in lieu thereof a comma; and

By further amending the bill on page 3, section 1, line 13, by striking the words “(1) that is leased to the retail electric customer; or (2)” and inserting in lieu thereof a comma; and

By further amending the bill on page 3, section 1, line 15, after the word “all” by striking the word “leasing,”; and

By further amending the bill on page 3, section 1, line 16, after the word “PPAs” by striking the comma the word “leasing,”; and

By further amending the bill on page 3, section 1, line 21, by striking the words “or leases”; and

By further amending the bill on page 3, section 1, line 26, after the word “for” by striking the word “these”; and

By further amending the bill on page 3, section 1, line 26, after the word “PPAs” by striking the words “and leasing arrangements”.

The bill was then ordered to engrossment and third reading.

H. B. 3311, Relating to the cost of medical records; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3312, Establishing a memorial to child labor and child workers who died in the course of employment in this state; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Miscellaneous Business

At 4:14 p.m., the House of Delegates adjourned until 10:00 a.m., Wednesday, March 31, 2021.

Wednesday, March 31, 2021

FIFTIETH DAY

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

The House of Delegates met at 10:00 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, March 30, 2021, 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 H. B. 2224, on Third reading, Special Calendar, had been transferred to the House Calendar; and S. C. R. 20, on Unfinished Business, House Calendar, had been transferred to the Special Calendar; Com. Sub. for S. B. 439, on Second reading, House Calendar, had been transferred to the Special Calendar; and Com. Sub. for H. B. 2017, on Third reading, Special Calendar, had been placed at the foot of all bills on Third reading, Special Calendar.

Committee Reports

Delegate J. Pack, 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. 53, Encouraging certain facilities improve palliative care programs,

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 bill (S. C. R. 53) was referred to the Committee on Rules.

Delegate J. Pack, 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. 437, Extending contingent increase of tax rate on certain eligible acute care hospitals,

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

Delegate D. Jeffries, 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 30th day of March, 2021, 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. 2797, Declaring certain claims to be moral obligations of the State,

H. B. 2854, Relating to the West Virginia Municipal Police Officers and Firefighters Retirement System,

Com. Sub. for H. B. 2855, Relating to the Natural Resources Police Officers Retirement System,

And,

H. B. 2905, Relating to repealing the prohibition against the use of certain words.

Delegate D. Jeffries, 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 30th day of March, 2021, 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. 2621, Mandating certification for certain members of fire departments, require certain types of training, allow specialized personnel who are not firefighters to be members of a department, and require the postings of fire department evaluations.

Delegate J. Pack, 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. 644, Exempting certain persons pursuing degree in speech pathology and audiology from license requirements,

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

Delegate J. Pack, 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. 551, Revising forms of living will, medical power of attorney, and combined medical power of attorney and living will,

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. 551) was referred to the Committee on the Judiciary.

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

Your Committee on the Judiciary has had under consideration:

S. B. 78, Relating to rehabilitative spousal support,

S. B. 359, Informing landowners when fencing that may contain livestock is damaged due to accident,

Com. Sub. for S. B. 377, Relating to extension for boil water advisories by water utility or public service district,

Com. Sub. for S. B. 514, Providing criteria for Natural Resource Commission appointment and compensation,

And,

Com. Sub. for S. B. 518, Relating to grounds for administrative dissolution of certain companies, corporations, and partnerships,

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

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented communications from His Excellency, the Governor, advising that on March 30, 2021, he approved **Com. Sub. for S. B. 469**, **Com. Sub. for H. B. 2009**, **Com. Sub. for H. B. 2372**, **Com. Sub. for H. B. 2616**, **Com. Sub. for H. B. 2682**, **H. B. 2709** and **H. B. 2764**.

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 to the amendment of the Senate, and the passage, as amended, of

Com. Sub. for H. B. 2024, Expand use of telemedicine to all medical personnel.

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. 2026, Relating to the modernization of the collection of income taxes by adopting uniform provisions relating to the mobile workforce.

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. 2260, Relating to procurement of child placing services.

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the report of the Committee of Conference on and the passage, as amended by said report, of

Com. Sub. for H. B. 2263, Update the regulation of pharmacy benefit managers.

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. 67, Relating to authority of Emergency Medical Services Advisory Council.

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. 307 - "A Bill to amend and reenact §18B-10-1a of the Code of West Virginia, 1931, as amended, relating generally to in-

state residency tuition rates; providing that nonresident members of a reserve unit in West Virginia qualify as residents for purposes of determining tuition rates; removing the requirement that members of the National Guard participate in the National Guard education services program; and providing that current members of the United States armed forces who reside in West Virginia qualify as residents for purposes of determining tuition rates”; 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. 360 - “A Bill to amend and reenact §3-1-30 and §3-1-44 of the Code of West Virginia, 1931, as amended, all relating to authorizing poll clerks to work and be compensated for both full and half days worked during an election”; which was referred to the Committee on Government Organization.

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. 390, Reorganizing Health Care Authority under DHHR and clarifying responsibilities for all-payer claims database.

A message from the Senate, by

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

Com. Sub. for S. B. 470 - “A Bill to amend and reenact §5A-8-21 and §5A-8-22 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5A-8-24, all relating to clarifying that disclosure of certain information such as home addresses are exempt and disclosure would constitute an unreasonable invasion of privacy; providing prohibition of disclosure of home address or unpublished

telephone number of certain public officials within the justice system; creating a cause of action for intentional or reckless disregard for disclosure of protected information of certain public officials within the justice system; providing a procedure for removal request of certain information for certain public officials within the justice system; and providing a cause of action for failure to comply with a removal request of certain information for certain public officials within the justice 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 and requested the concurrence of the House of Delegates in the passage, of

S. B. 486 - “A Bill to amend and reenact §5A-6-2, §5A-6-3, §5A-6-4, §5A-6-4b, §5A-6-4c, §5A-6-5, §5A-6-6, §5A-6-7, and §5A-6-8 of the Code of West Virginia, 1931, as amended, all relating to the Office of Technology; renaming the Chief Technology Officer; updating definitions; updating authority of the Chief Technology Officer; continuing special fund; providing an information technology governance structure for executive agencies; authorizing the Chief Technology Officer to provide training; authorizing the Project Management Office to review agency proposals for technology investment; providing criteria to evaluate proposals; authorizing the Project Management Office to maintain an enterprise technology portfolio; authorizing the Project Management Office to collect necessary data to develop a technology portfolio; authorizing the Chief Technology Officer to establish an advisory committee; and authorizing the Chief Technology Officer to request resources and support from the federal government for cybersecurity and technology initiatives”; 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. 492 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §22-32-1, §22-32-2, §22-32-3, §22-32-4, §22-32-5, §22-32-6, and §22-32-7, all relating generally to establishing and implementing a program to decommission and reclaim wind and solar electrical generation facilities upon closure; making legislative findings; stating legislative purpose; providing a short title; defining terms; requiring the owners of wind generation facilities and solar generation facilities to notify and provide certain information to the Department of Environmental Protection (DEP), including dates when operations began and plans with cost estimates for decommissioning facilities; establishing fees for new and modified applications; requiring DEP to determine and assess a reclamation bond based on a facility’s total disturbed acreage; establishing a minimum bond value; requiring the owners of said facilities to submit bonds payable to the state in a form and in a sum determined by the DEP, conditioned on the satisfactory decommissioning; providing that owners of said facilities may enter into alternative reclamation agreements after approval by the DEP; providing that the DEP may modify said plans after proper notification and appeals; providing exemptions from bond requirements for facilities with nameplate capacities of less than 0.5 megawatts and facilities operated by regulated public utilities who can successfully demonstrate to the Public Service Commission and DEP financial integrity and long-term stability; providing for administrative penalties for failure to submit decommissioning bonds; providing appellate rights to the Environmental Quality Board; providing transfer of ownership provisions; providing for amended plans for allowing reductions in bond amounts; providing that bond submission does not absolve owners from complying with other applicable regulations and requirements; establishing a Wind and Solar Decommissioning Account within the Office of the West Virginia Treasurer in to which assessed penalties and accrued interest must be paid and held; providing that the account may only be used by the DEP to implement this article and adopted rules; providing that DEP shall administer this act using existing resources and the account; requiring the DEP to maintain and hold bonds or other surety received; providing for the release of bonds after the DEP is

satisfied property has been properly decommissioned in accordance with the plan; providing for bond forfeiture when a facility is not properly decommissioned, if the deficiencies are not rectified; providing that the Office of Environmental Remediation or a private entity by contract may decommission facilities; providing that DEP may file suit to enforce permit and plan conditions and to recoup costs of reclamation; authorizing rulemaking; and providing effective dates”; which was referred to the Committee on Energy and Manufacturing.

A message from the Senate, by

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

Com. Sub. for S. B. 508 - “A Bill to amend and reenact §5A-8-15 of the Code of West Virginia, 1931, as amended, relating to public records management and preservation; and increasing available funds in the Public Records and Preservation Revenue Account for grants to counties for records management, access, and preservation purposes”; 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, 2021, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 530 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-12-5b, relating to specifying additional grounds for revocation, cancellation, or suspension of business registration certificates; directing means of notice and opportunity for cure; providing procedures therefor; and specifying 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, to take effect July 1, 2021, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 543 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §10-3-3, relating to establishing a medal of excellence in honor of Chuck Yeager, known as the Chuck Yeager Mountain State Medal of Excellence; providing a process by which to annually provide this award to a West Virginian who demonstrates exceptional leadership or innovation; and establishing other related criteria”; 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, 2021, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 641 - “A Bill to amend and reenact §11-13A-6a of the Code of West Virginia, 1931, as amended, relating to coal severance tax; and providing for the use of severance funds for litter programs”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 655 - “A Bill to amend and reenact §24A-2-2b of the Code of West Virginia, 1931, as amended, relating to rescheduling a review of Public Service Commission rules regarding recovering, hauling, and storing wrecked or disabled vehicles; and changing a sunset requirement on those rules”; 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. 657 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,

designated §18B-20-1, §18B-20-2, §18B-20-3, §18B-20-4, §18B-20-5, §18B-20-6, §18B-20-7, §18B-20-8, and §18B-20-9, all relating to free expression on state institution of higher education campuses; providing for definitions; defining protected expressive activities; defining public forums and prohibiting ‘free speech zones’; permitting expressive activity on campus under certain conditions; allowing state institutions of higher education to maintain and enforce reasonable time, place, and manner restrictions under certain parameters; requiring state institutions of higher education to treat student organizations which are open to all students equally; encouraging state institutions of higher education to develop materials to educate the campus community on its policies relating to protected speech and expression activities; requiring posting of policies on website; allowing a person or student organization who believes a violation of this article has occurred to bring an action for relief against the state institution of higher education; establishing the relief available for a violation of the article and enacting a one-year statute of limitations for alleged violations under the article”; 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. 668 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §30-21A-1, §30-21A-2, §30-21A-3, §30-21A-4, §30-21A-5, §30-21A-6, §30-21A-7, §30-21A-8, §30-21A-9, §30-21A-10, §30-21A-11, §30-21A-12, and §30-21A-13, all relating to the Psychology Interjurisdictional Compact; providing for definitions; providing for increased public access to professional psychological services by permitted psychologists to practice across state lines; providing for temporary psychological services; providing for the state’s ability to protect the health and welfare of its citizens; providing for the cooperation and exchange of information in compact states; providing for cooperation of compact states in licensure and regulation; providing for adverse actions; providing

for enforcement mechanisms for compliance with the compact; providing for coordinated efforts between compact states of holding psychologists accountable to the compact; providing for effective dates of rules upon induction to the compact; providing for duties and authority of the commission; providing for election procedures for commission members; providing for alternative dispute resolution methods; providing for venue for legal action taken against the commission; providing for withdrawal from the compact; and providing for construction and severability of the terms of the compact”; 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. 671 - “A Bill to amend and reenact §16-4C-4 of the Code of West Virginia, 1931, as amended, relating to providing for the appointment of a Director of the Office of Emergency Medical Services; and requiring that the Office of Emergency Medical Services director be appointed by the Secretary of the Department of Health and Human Resources”; 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. 674 - “A Bill to amend and reenact §8-10-2a and §8-10-2b of the Code of West Virginia, 1931, as amended; to amend and reenact §50-3-2a of said code; and to amend and reenact §62-4-17 of said code, all relating generally to court-ordered costs, fines, forfeitures, restitution, and penalties; clarifying that unpaid restitution need not preclude a person from obtaining a valid driver’s license; establishing procedures to obtain a lien against a person who owes restitution; and providing procedures for

removing a lien”; 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. 684 - “A Bill to amend and reenact §10-1-12 of the Code of West Virginia, 1931, as amended, relating to the State Library Commission; adding the Curator of the West Virginia Division of Arts, Culture, and History as an ex officio voting member; and updating other language”; 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. 714 - “A Bill to repeal §30-3E-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-9, §30-3E-10a, §30-3E-11, §30-3E-12, §30-3E-13, and §30-3E-17 of said code, all relating to Physician Assistants Practice Act; defining terms; limiting rule-making authority; revising licensure requirements; revising practice requirements; eliminating practice agreement requirement; revising practice notification requirement; revising collaboration requirements; expanding scope of practice for physician’s assistant; and revising complaint process”; 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. 715 - “A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-33-1, §29-33-2, §29-33-3, §29-33-4, all relating to

the Recovery and Hope Act; creating the State Recovery and Hope Office, and providing powers thereof; providing for the appointment of the State Recovery and Hope Officer; and authorizing the State Recovery and Hope Officer to act”; which was referred to the Committee on Health and Human Resources.

Resolutions Introduced

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

H. C. R. 83 - “Requesting the Division of Highways name bridge number 04-019/00-027.48 (04A061) locally known as the Bulltown Bridge, carrying US Route 19 over Little Kanawha River in Braxton County, the ‘John Calvin “J.C.” Baker Memorial Bridge’.”

Whereas, J.C. Baker was born on July 29, 1903, near Gassaway, in Braxton County, West Virginia, and in his lifetime was a small farmer, coal miner, wildcat driller for natural gas and oil, Texaco Distributor for fuel and lubricants, car dealer and hotel owner; and

Whereas, J.C. quit school in the 5th grade and started riding a horse throughout Braxton and surrounding counties buying and shipping cattle by steam train to Baltimore, Maryland; and

Whereas, J.C. had several coal mines on Little Otter mined, and then hauled coal to almost every home and business in Gassaway by horse and wagon, and started drilling for natural gas and oil in 1962; his company, J.C. Baker and Sons, Inc. holds the state record for drilling a natural gas well for over 50 continuous years; and

Whereas, While drilling a gas well on Little Otter several years ago, J.C. discovered a sand that was not named, and when given the opportunity to name it by the state of West Virginia, he named it “Braxton”; and

Whereas, J.C. Baker owned numerous farms, businesses, and car dealerships in his lifetime, continuing to support and give back

to the communities in the state that he so dearly loved, including Webster Springs where owned and operated three gas stations; and

Whereas, Another of J.C.'s examples of philanthropy, the Baker's Island Recreation area, is made available to the town of Webster Springs through a lease agreement of \$1 per year; and

Whereas, John Calvin Baker passed away at the age of 95, surrounded by his loved ones, on August 28, 1998; and

Whereas, It is fitting that an enduring memorial be established to John Calvin 'J.C.' Baker 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 04-019/00-027.48 (04A061) locally known as the Bulltown Bridge, carrying US Route 19 over Little Kanawha River in Braxton County, the "John Calvin 'J.C.' Baker 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 "John Calvin 'J.C.' Baker 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 Skaff
[By Request of the Executive]:**

H. B. 3313 - "A Bill supplementing, amending and increasing items of existing appropriation from the State Road Fund to the Department of Transportation, Division of Motor Vehicles, fund

9007, fiscal year 2021, organization 0802, for the fiscal year ending June 30, 2021”; to the Committee on Finance.

By Delegates Hanshaw (Mr. Speaker) and Skaff

[By Request of the Executive]:

H. B. 3314 - “A Bill supplementing and amending Chapter eleven, Acts of the Legislature, Regular Session, 2020, known as the budget bill, in Title II from the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Department of Homeland Security, West Virginia State Police, fund 0453, fiscal year 2021, organization 0612, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021 by adding new language; therefore”; to the Committee on Finance.

And,

By Delegates Hanshaw (Mr. Speaker) and Skaff

[By Request of the Executive]:

H. B. 3315 - “A Bill making a supplementary appropriation of public monies out of the Treasury from the balance of monies remaining unappropriated for the fiscal year ending June 30, 2021, to the Department of Environmental Protection, Division of Environmental Protection - Oil and Gas Reclamation Fund, fund 3322, fiscal year 2021, organization 0313, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021”; to the Committee on Finance.

Special Calendar

Unfinished Business

S. C. R. 20, Supporting and celebrating centennial anniversary of Jones Act; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

H. C. R. 21, SP4 Dennis Harvey Roberts Bridge, McDowell County; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

Com. Sub. for H. C. R. 55, Studying the viability of creating a veterinary school in West Virginia; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

H. C. R. 78, Requesting an examination of juvenile proceedings; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

Third Reading

Com. Sub. for H. J. R. 3, Property Tax Modernization Amendment; on third reading, coming up in regular order, was read a third time.

On the adoption of the resolution, the yeas and nays were taken (**Roll No. 346**), and there were—yeas 84, nays 16, absent and not voting none, with the yeas, nays, and absent and not voting being as follows:

Yeas: Anderson, Barach, Barnhart, Barrett, Bates, Boggs, Booth, Bridges, Bruce, Burkhammer, Capito, Clark, Conley, Cooper, Criss, Dean, Ellington, Espinosa, Fast, Ferrell, Fluharty, Forsht, Foster, Gearheart, Graves, Hamrick, Hanna, Hardy, Haynes, Higginbotham, Holstein, Horst, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Kimes, Linville, Longanacre, Mallow, Mandt, Martin, Maynard, Mazzocchi, McGeehan, Miller, J. Pack, L. Pack, Paynter, Pethtel, Phillips, Pinson, Pritt, Queen, Reed, Reynolds, Riley, Rohrbach, Rowan, Rowe, Skaff, Smith, Statler, Steele,

Storch, Summers, Sypolt, Toney, Tully, Wamsley, B. Ward, G. Ward, Westfall, Worrell, Young, Zatezalo and Hanshaw (Mr. Speaker).

Nays: Brown, Diserio, Doyle, Evans, Fleischauer, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Nestor, Pushkin, Thompson, Walker, Williams and Zukoff.

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 resolution (Com. Sub. for H. J. R. 3) adopted, as follows:

Com. Sub. for H. J. R. 3 – “Proposing an amendment to the Constitution of the State of West Virginia amending section one, article X thereof, relating to authorizing the Legislature to exempt tangible machinery and equipment personal property directly used in business activity and tangible inventory personal property directly used in business activity from ad valorem property taxation by general law; providing that the question of ratification or rejection of the amendment be submitted to the voters of the state at the next general election to be held in the year 2022; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.”

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in 2022, which proposed amendment is that Section 1 article X thereof be amended to read as follows:

ARTICLE X.

§1. Taxation and finance.

Subject to the exceptions in this section contained, taxation shall be equal and uniform throughout the state, and all property,

both real and personal, shall be taxed in proportion to its value to be ascertained as directed by law. No one species of property from which a tax may be collected shall be taxed higher than any other species of property of equal value; except that the aggregate of taxes assessed in any one year upon personal property employed exclusively in agriculture, including horticulture and grazing, products of agriculture as above defined, including livestock, while owned by the producer, and money, notes, bonds, bills and accounts receivable, stocks and other similar intangible personal property shall not exceed fifty cents on each one hundred dollars of value thereon and upon all property owned, used and occupied by the owner thereof exclusively for residential purposes and upon farms occupied and cultivated by their owners or bona fide tenants, one dollar; and upon all other property situated outside of municipalities, one dollar and fifty cents; and upon all other property situated within municipalities, two dollars; and the Legislature shall further provide by general law for increasing the maximum rates, authorized to be fixed, by the different levying bodies upon all classes of property, by submitting the question to the voters of the taxing units affected, but no increase shall be effective unless at least sixty percent of the qualified voters shall favor such increase, and such increase shall not continue for a longer period than three years at any one time, and shall never exceed by more than fifty percent the maximum rate herein provided and prescribed by law; and the revenue derived from this source shall be apportioned by the Legislature among the levying units of the state in proportion to the levy laid in said units upon real and other personal property; but property used for educational, literary, scientific, religious or charitable purposes, all cemeteries, public property, tangible machinery and equipment personal property directly used in business activity, tangible inventory personal property directly used in business activity, personal property tax on motor vehicles, the personal property, including livestock, employed exclusively in agriculture as above defined and the products of agriculture as so defined while owned by the producers may by law be exempted from taxation; household goods to the value of two hundred dollars shall be exempted from taxation. The Legislature shall have authority to tax privileges, franchises, and incomes of persons and corporations and to classify and graduate the tax on all incomes according to the amount thereof

and to exempt from taxation incomes below a minimum to be fixed from time to time, and such revenues as may be derived from such tax may be appropriated as the Legislature may provide. After the year nineteen hundred thirty-three, the rate of the state tax upon property shall not exceed one cent upon the hundred dollars valuation, except to pay the principal and interest of bonded indebtedness of the state now existing.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered “Amendment No. 1” and designated as the “Property Tax Modernization Amendment” and the purpose of the proposed amendment is summarized as follows: “To amend the State Constitution by providing the Legislature with authority to exempt tangible machinery and equipment personal property directly used in business activity and tangible inventory personal property directly used in business activity and personal property tax on motor vehicles from ad valorem property taxation by general law.”

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

Com. Sub. for H. J. R. 3 - “Proposing an amendment to the Constitution of the State of West Virginia amending section one, article X thereof, relating to authorizing the Legislature to exempt tangible machinery and equipment personal property directly used in business activity and personal property tax on motor vehicles and tangible inventory personal property directly used in business activity from ad valorem property taxation by general law; providing that the question of ratification or rejection of the amendment be submitted to the voters of the state at the next general election to be held in the year 2022; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.”

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. 2095, Providing increased protections for the welfare of domestic animals; on third reading, coming up in regular order, with amendments pending and the right to amend, was reported by the Clerk.

On motion of Delegate Graves, the bill was amended on page 24, section 19, line 14, by inserting a new paragraph (H) to read as follows:

“(H) Allow the use of cocaine, fentanyl, heroin, methadone, methamphetamine, morphine, oxycodone, oxymorphone, or any anabolic steroid on any animal participating in any contest;”

And,

By renumbering the remaining paragraphs accordingly.

On motion of Delegates Zukoff, Kessinger and Griffith, the bill was amended on page 26, section 19d, line 3, following the words “reasonable length”, by inserting the words “or not attached to a collar that is designed to reduce the risk of harm to the animal”.

On motion of Delegate Graves, the bill was amended on page 27, section 61-8-19d, line 14, by inserting a comma after the word “provided”, and adding the following language: “based on the breed, age, general health of the dog and its ability to handle the environment”.

And,

On page 21, section 19-20-27(3), line 24, after “...dog in an amount not to exceed”, by striking out 150 and adding “100”.

There being no further amendments, and 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. 347**), and there were—yeas 91, nays 9, absent and not voting none, with the nays being as follows:

Nays: Foster, Horst, J. Jeffries, Maynard, McGeehan, Miller, Paynter, Phillips and Zatezalo.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2095) 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. 2370, Provide that Public Service Districts cannot charge sewer rates for filling a swimming pool; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 348**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2370) passed.

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

On this question, the yeas and nays were taken (**Roll No. 349**), 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 H. B. 2370) 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. 2488, Relating to an occupational limited 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. 350**), and there were—yeas 96, nays 3, absent

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

Nays: Burkhammer, Fast and Martin.

Absent and Not Voting: Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2488) 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. 2592, Require Counties and Municipalities to hold all local elections during statewide elections; on third reading, coming up in 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 75, nays 25, absent and not voting none, with the nays being as follows:

Nays: Barach, Boggs, Brown, Capito, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Griffith, Hansen, Hornbuckle, Kessinger, Lovejoy, Paynter, Pethtel, Rowe, Skaff, Thompson, Toney, Walker, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2592) 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. 2730, Relating to persons filing federal bankruptcy petition to exempt certain property of the 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. 352**), 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: Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2730) 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. 2751, Modernize the process for dissolution of municipal corporations in this State; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 353**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Kimes.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2751) 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. 2876, Modify the five-year waiting period and 100-person minimum for an association health plan, and to allow new flexibility granted under federal rules; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Rohrbach asked and obtained unanimous consent to amend the bill on third reading and the rule was suspended to permit the offering and consideration of such.

On motion of Delegate Rohrbach, the bill was amended on page 2, section 1a, line 27, by striking out, “25” and inserting “26” and striking out the remainder of the sentence.

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

Delegate Pushkin 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 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 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2876) 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. 2884, To make changes to the FOIA law to protect public utility customer databases from disclosure, with exceptions; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

There being no amendments, and 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. 355**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Pushkin and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2884) 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. 2908, Relating to disclosure of information by online marketplaces to inform consumers; on third reading, coming up in regular order, was read a third time.

Delegates G. Ward, J. Kelly, Hamrick and Steele 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 and directed the Members to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 356**), and there were—yeas 75, nays 25, absent and not voting none, with the nays being as follows:

Nays: Barach, Boggs, Bridges, Fluharty, Gearheart, Hardy, Howell, J. Jeffries, J. Kelly, Kimble, Kimes, Mandt, McGeehan, Miller, J. Pack, Paynter, Pushkin, Steele, Thompson, Toney, Walker, Wamsley, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2908) 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. 2918, Relating to Family Drug Treatment 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. 357**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2918) passed.

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 Clerk of the Senate requests the return of

Com. Sub. for H. B. 2260, Relating to procurement of child placing services.

There being no objection, the House acceded to the request.

Special Calendar

Third Reading

- continued -

Com. Sub. for H. B. 2927, Adding Caregiving expenses to campaign finance expense; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 358**), and there were—yeas 80, nays 16, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Foster, Gearheart, Hardy, Horst, Jennings, J. Kelly, Kimes, Longanacre, J. Pack, Reynolds, Smith, Steele, Storch, Wamsley and Westfall.

Absent and Not Voting: Barrett, Burkhammer, Higginbotham and L. Pack.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2927) 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. 2997, Adding a defense to the civil penalty imposed for a result of delivery of fuel to a state other than the destination state printed on the shipping document for fuel; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 359**), and there were—yeas 91, nays 7, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Ferrell, Fluharty, Hardy, Reynolds, Storch, Thompson and Wamsley.

Absent and Not Voting: Linville and L. Pack.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2997) 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. 3030, Relating to gross weight limitations and road restrictions in Greenbrier and Pocahontas Counties; on third reading, coming up in 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 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3030) 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. 3036, Sunsetting the Board of Sanitarians; on third reading, coming up in 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 71, nays 29, absent and not voting none, with the nays being as follows:

Nays: Barach, Barrett, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kimble, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Summers, Sypolt, Thompson, Walker, G. Ward, Westfall, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3036) 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. 3072, Sunset the Board of Forestry; on third reading, coming up in 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 56, nays 44, absent and not voting none, with the nays being as follows:

Nays: Barach, Barrett, Bates, Boggs, Brown, Burkhammer, Criss, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hanna, Hansen, Hornbuckle, D. Kelly, J. Kelly, Kimble, Longanacre, Lovejoy, Nestor, L. Pack, Paynter, Pethtel, Pinson, Pushkin, Queen, Reynolds, Rowe, Skaff, Statler, Thompson, Toney, Walker, Wamsley, G. Ward, Westfall, Williams, Young, Zatezalo and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3072) 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. 3074, Relating to information on organ and tissue donations; on third reading, coming up in 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 94, nays 6, absent and not voting none, with the nays being as follows:

Nays: Fast, Gearheart, Jennings, Longanacre, Paynter and Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3074) 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. 3089, Make utility workers essential employees during a 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. 364**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3089) 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. 3286, Making a supplementary appropriation to the Division of Human Services – Child Care and Development; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 365**), 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: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3286) passed.

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

On this question, the yeas and nays were taken (**Roll No. 366**), 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: Queen.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3286) takes effect from its passage.

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

H. B. 3287, Making a supplementary appropriation to the Department of Homeland Security; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 367**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Dean and Linville.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3287) passed.

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

On this question, the yeas and nays were taken (**Roll No. 368**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Dean and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3287) takes effect from its passage.

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

H. B. 3288, Supplementing and amending appropriations by decreasing and increasing existing items of appropriation in the DHHR; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 369**), 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. 3288) passed.

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

On this question, the yeas and nays were taken (**Roll No. 370**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3288) takes effect from its passage.

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

H. B. 3289, Supplementary appropriation to the Department of Commerce, Geological and Economic Survey; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 371**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: McGeehan and Paynter.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3289) passed.

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

On this question, the yeas and nays were taken (**Roll No. 372**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: McGeehan and Paynter.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3289) takes effect from its passage.

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

H. B. 3291, Making a supplementary appropriation to the Department of Homeland Security, Division of Administrative Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 373**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: McGeehan and Paynter.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3291) 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 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: McGeehan and Paynter.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3291) takes effect from its passage.

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

H. B. 3292, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 375**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3292) passed.

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

On this question, the yeas and nays were taken (**Roll No. 376**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3292) 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.

Delegate Maynard arose to inquire regarding Rule 49 in relation to the previous bill.

The Speaker replied that it would have been the ruling of the Chair that the Gentleman belongs to a class similarly situated and therefore would have been directed to vote on the bill.

Com. Sub. for H. B. 3295, Making a supplemental appropriation to Division of Human Services and Division of Health Central Office; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 377**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3295) passed.

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

On this question, 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: Hardy.

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. 3295) 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. 3297, Making a supplemental appropriation to the Department of Veterans' Assistance - Veterans Home; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 379**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3297) passed.

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

On this question, the yeas and nays were taken (**Roll No. 380**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hardy.

So, 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. 3297) 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. 3307, Social Media Integrity and Anti-Corruption in Elections 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. 381**), and there were—yeas 72, nays 28, absent and not voting none, with the nays being as follows:

Nays: Barach, Barrett, Bates, Boggs, Brown, Capito, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen,

Hornbuckle, Kessinger, Lovejoy, Pethtel, Pritt, Pushkin, Rowe, Skaff, Thompson, Walker, Westfall, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3307) 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. 3308, Relating to increasing number of limited video lottery terminals; on third reading, coming up in regular order, was read a third time.

Delegate 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 and directed the Member to vote.

Delegate Worrell arose to inquire and ask a ruling of the Chair regarding committee jurisdictions and the origination of the bill in the Committee on Finance.

The Speaker replied, indicating that a motion to refer would be in order.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 382**), and there were—yeas 65, nays 33, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barnhart, Bruce, Burkhammer, Conley, Fast, Griffith, Hanna, Haynes, Holstein, D. Jeffries, Jennings, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Kimes, Longanacre, Mandt, Mazzocchi, L. Pack, Phillips, Pinson, Rohrbach, Rowan, Sypolt, Toney, Wamsley, B. Ward, G. Ward, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Linville and Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3308) passed.

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

H. B. 3308 - “A Bill to amend and reenact §29-22B-1101 of the Code of West Virginia, 1931, as amended; relating to increasing number of limited video lottery terminals allowed at certain licensed limited video lottery retailer locations; providing a bidding process for permits for additional terminals; and establishing an effective date.”

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

H. B. 3310, Relating to the jurisdiction of the Public Service 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. 383**), and there were—yeas 83, nays 16, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Brown, Burkhammer, Conley, Dean, Fast, J. Jeffries, Jennings, Martin, Maynard, Miller, Paynter, Phillips, Pinson, Reynolds and Zatezalo.

Absent and Not Voting: Linville.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3310) passed.

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

H. B. 3310 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-1-1c; to amend and reenact §24-1-2 of said code; and to amend and

reenact §24-2-1 of said code; all generally relating to jurisdiction of the Public Service Commission; making legislative findings; modifying definition of public utility; providing limits to the jurisdiction of the Public Service Commission; and providing for 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. 3311, Relating to the cost of medical 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. 384**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Gearheart.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3311) 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. 3312, Establishing a memorial to child labor and child workers who died in the course of employment in this state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 385**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Kimes.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3312) 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. 2017, Rewriting the Criminal Code; on third read reading, was reported by the Clerk.

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

On motion of Delegates Linville and Steele, the bill was amended on page 197, section 7, line 1, by striking out the word “cryptocurrency”.

On page 197, section 7, line 6, by striking out the word “cryptocurrency”.

And,

On lines 10 and 11, by striking subsection (b) in its entirety.

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

Delegate Summers moved that debate on the bill be limited to thirty minutes, which question prevailed.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 386**), and there were—yeas 76, nays 22, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Nays: Barach, Boggs, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hanna, Hansen, Hornbuckle, Lovejoy, McGeehan, Pethtel, Pritt, Pushkin, Rowe, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Bates and Nestor.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2017) passed.

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

Com. Sub. for H. B. 2017 – “A Bill to repeal the following sections: §55-9-1, §55-9-2, §55-9-3, §61-1-4, §61-1-5, §61-1-7, §61-1-8, §61-1-9, §61-2-5a, §61-2-9a, §61-2-9b, §61-2-9c, §61-2-9d, §61-2-10, §61-2-10a, §61-2-10b, §61-2-14a, §61-2-14b, §61-2-14c, §61-2-14d, §61-2-14e, §61-2-14f, §61-2-14g, §61-2-14h, §61-2-15a, §61-2-16a, §61-2-26, §61-2-27, §61-2-27a, §61-2-28, §61-2-29, §61-2-29a, §61-2-29b, §61-2-30, §61-3-20a, §61-3-22a, §61-3-24a, §61-3-24b, §61-3-24c, §61-3-24d, §61-3-24e, §61-3-24f, §61-3-24g, §61-3-24h, §61-3-39, §61-3-39a, §61-3-39b, §61-3-39c, §61-3-39d, §61-3-39e, §61-3-39f, §61-3-39g, §61-3-39h, §61-3-39i, §61-3-39j, §61-3-39k, §61-3-39m, §61-3-39n, §61-3-39o, §61-3-39p, §61-3-39q, §61-3-40, §61-3-41, §61-3-42, §61-3-43, §61-3-44, §61-3-45, §61-3-45a, §61-3-46, §61-3-47, §61-3-48, §61-3-48a, §61-3-49, §61-3-49a, §61-3-49b, §61-3-50, §61-3-51, §61-3-52, §61-3-53, §61-3-54, §61-3-55, §61-3-56, §61-3-57, §61-3-58, §61-3-59, §61-3A-4a, §61-3C-14a, §61-3C-14b, §61-3C-14c, §61-3E-13, §61-5-12a, §61-5-12b, §61-5-25a, §61-5-27a, §61-5-28, §61-5-29, §61-6-1a, §61-6-1b, §61-6-14a, §61-6-18, §61-6-19, §61-6-20, §61-6-21, §61-6-22, §61-6-23, §61-6-24, §61-6-25; §61-7-9, §61-8-2, §61-8-9a, §61-8-10, §61-8-20, §61-8-25, §61-8-26, §61-8B-18, §61-8D-6, §61-8E-1, §61-8E-2, §61-8E-3, §61-9-9, §61-9-10, §61-9-11, §61-10-7, §61-10-8, §61-10-13, §61-10-14, §61-10-19, §61-10-34, §61-11-1, §61-11-3, and §61-11A-7 of the code of West Virginia, 1931, as amended; to amend and reenact §15-12-8 of said code; to amend and reenact §19-1A-3b of said code; to amend and reenact §61-1-1, §61-1-2, §61-1-3 said code; to amend and reenact §61-2-1, §61-2-2, §61-2-3, §61-2-4, §61-2-5, §61-2-6, §61-2-7, §61-2-8, §61-2-9, §61-2-11, §61-2-12, §61-2-13, §61-2-14, §61-2-15, and §61-2-16 said code; to amend and reenact §61-3-1, §61-3-2, §61-3-3, §61-3-4, §61-3-5, §61-3-6, §61-3-7, §61-3-8, §61-3-11, §61-3-12, §61-3-13, §61-3-14, §61-3-15, §61-3-16, §61-3-18, §61-3-19, §61-3-20, §61-3-21, §61-3-22, §61-3-23, §61-3-24, §61-3-25, §61-3-26, §61-3-27, §61-3-28, §61-3-29, §61-3-30, §61-3-31, §61-3-32, §61-3-33, §61-3-34, §61-3-35, §61-3-36, §61-3-37, and §61-3-38 said code; to amend and reenact §61-3A-3 and §61-3A-7 said code; to amend and reenact §61-3B-2, §61-3B-3, §61-3B-4, §61-3B-5, §61-3B-6, and §61-3B-7 said code; to amend and reenact §61-3C-2, §61-3C-3, §61-3C-4, §61-3C-5, §61-3C-6, §61-3C-7, §61-3C-8, §61-3C-9, §61-3C-10,

§61-3C-11, §61-3C-12, §61-3C-13, §61-3C-14, §61-3C-15, §61-3C-16, §61-3C-17, §61-3C-18, §61-3C-19, §61-3C-20, §61-3C-21; to amend and reenact §61-3D-2 and §61-3D-3 said code; to amend and reenact §61-3E-1, §61-3E-3, §61-3E-4, §61-3E-5, §61-3E-6, §61-3E-7, §61-3E-8, §61-3E-9, §61-3E-10, and §61-3E-12 said code; to amend and reenact §61-4-1, §61-4-2, §61-4-3, §61-4-4, §61-4-5, §61-4-6, §61-4-7, §61-4-8, and §61-4-9 said code; to amend and reenact §61-5-1, §61-5-2, §61-5-3, §61-5-4, §61-5-5, §61-5-6, §61-5-7, §61-5-8, §61-5-9, §61-5-10, §61-5-11, §61-5-12, §61-5-13, §61-5-14, §61-5-15, §61-5-16, §61-5-17, §61-5-18, §61-5-19, §61-5-20, §61-5-21, §61-5-22, §61-5-23, §61-5-24, §61-5-25, §61-5-26, and §61-5-27 said code; to amend and reenact §61-5A-9 said code; to amend and reenact §61-6-2, §61-6-3, §61-6-6, §61-6-7, §61-6-11, §61-6-12, §61-6-13, §61-6-14, §61-6-15, §61-6-16, and §61-6-17; §61-6-1, §61-6-1a, and §61-6-1b of said code; to amend and reenact §61-7-3, §61-7-4, §61-7-4a, §61-7-7, §61-7-10, §61-7-11, §61-7-11a, §61-7-12, §61-7-14, §61-7-15, and §61-7-15a said code; to amend and reenact §61-8-1, §61-8-5, §61-8-6, §61-8-7, §61-8-8, §61-8-9, §61-8-11, §61-8-12, §61-8-14, §61-8-15, §61-8-16, §61-8-19, §61-8-19a, §61-8-19b, §61-8-19c, §61-8-21, §61-8-22, §61-8-23, §61-8-27, §61-8-27a, §61-8-28, §61-8-28a, §61-8-29, §61-8-30, and §61-8-31 said code; to amend and reenact §61-8A-1, §61-8A-2, §61-8A-4, and §61-8A-5 said code; to amend and reenact §61-8B-3, §61-8B-4, §61-8B-5, §61-8B-7, §61-8B-8, §61-8B-9, §61-8B-9b, §61-8B-10 and §61-8B-12 of said code; to amend and reenact §61-8C-1, §61-8C-2, §61-8C-3, §61-8C-3a, and §61-8C-3b said code; to amend and reenact §61-8D-1, §61-8D-2, §61-8D-2a, §61-8D-3, §61-8D-3a, §61-8D-4, §61-8D-4a, §61-8D-5, §61-8D-5a, §61-8D-7, §61-8D-8, and §61-8D-10 said code; to amend and reenact §61-9-1, §61-9-2, §61-9-3, §61-9-4, §61-9-5, §61-9-6, §61-9-7, and §61-9-8 said code; to amend and reenact §61-10-1, §61-10-2, §61-10-3, §61-10-4, §61-10-5, §61-10-6, §61-10-9, §61-10-10, §61-10-11, §61-10-11a, §61-10-11b, §61-10-15, §61-10-16, §61-10-17, §61-10-20, §61-10-21, §61-10-22, §61-10-23, §61-10-30, §61-10-31, §61-10-32, and §61-10-33, said code; to amend and reenact §61-11-1a, §61-11-6, §61-11-8, and §61-11-8a of said code; to amend and reenact §61-12-8, §61-12-9, and §61-12-13 of said code; to amend and reenact §61-13-3 of said code; to amend and reenact §61-14-2,

§61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, and §61-14-8 of said code; to amend and reenact §61-15-2 and §61-16-2 of said code; to amend said code by adding thereto a new article designated as §23-5B-1, §23-5B-2, §23-5B-3, and §23-5B-4; to amend said code by adding thereto a new section, designated §30-29-9a; to amend said code by adding thereto two new sections, designated §30-1-27 and §30-1-28; to amend said code by adding a new section, designated §55-2-23; to amend said code by adding a new section, designated §60A-4-418; to amend said code by adding thereto nine new sections, designated §61-2-17, §61-2-18, §61-2-19, §61-2-20, §61-2-21, §61-2-22, §61-2-23, §61-2-24, and §61-2-25; to amend said code by adding thereto two new sections, §61-3-9, §61-3-10, and §61-3-17; to amend said code by adding thereto three new sections, designated §61-3B-8, §61-3B-9, and §61-3B-10; to amend said code by adding thereto two new sections, §61-3C-22 and §61-3C-23; to amend said code by adding thereto a new article, designated §61-3F-1, §61-3F-2, §61-3F-3, §61-3F-4, §61-3F-5, §61-3F-6, §61-3F-7, §61-3F-8, §61-3F-9, §61-3F-10, §61-3F-11, §61-3F-12, §61-3F-13, §61-3F-14, §61-3F-15, §61-3F-16, and §61-3F-17; to amend said code by adding thereto a new section designated §61-4-10; to amend said code by adding thereto following five new sections, designated §61-8-5a, §61-8-6a, §61-8-8a, and §61-8-8b, to amend said code by adding thereto six new sections, designated §61-8B-4a, §61-9-6a, §61-10-1a, §61-10-9a, §61-10-9b, and §61-10-10a; to amend said code by adding thereto a new article designated §61-17-1, §61-17-2, §61-17-3, §61-17-4, §61-17-5, and §61-17-6; and to amend said code by adding a new article designated §61-18-1, §61-18-2, §61-18-3, and §61-18-4; all relating to revising the criminal code generally; relating to the failure of a sex offender to register or provide notice of registration changes and the penalty for the same; timber theft, investigations thereof, and the criminal and civil penalties for the same; crimes against the worker's compensation system generally; the crime of omission to subscribe for workers' compensation insurance; the crime of failure to file a premium tax report or pay premium taxes; crimes relating to false testimony or statements concerning such; the crime of failure to file reports; criminal penalties for such actions or inactions; provisions for asset forfeiture; venue for trial of such crimes; the crime of wrongfully

seeking workers' compensation; criminalizing false testimony or statements given in support of the same; criminal penalties for these offenses; venue for the trial of such crimes; workers' compensation health care offenses; fraud; theft or embezzlement; false statements; criminal penalties for the above offenses; notice requirements; prohibition against providing future services; penalties for the same; provisions for asset forfeiture; venue for the trial of such crimes; defining the crime of providing false documentation to workers' compensation, to the Insurance Commissioner or a private carrier of workers' compensation insurance; criminalizing altering documents or certificates from workers' compensation; criminal penalties for such offenses; venue for the trial of such crimes; the required reporting of gunshot and other wounds; the required reporting of burns; penalty for aiding and abetting; railroad employees being conservators of the peace; special railroad policemen; and the powers and duties of the same; relating to shooting ranges, limitations on nuisance actions, and noise ordinances; relating generally to criminal activity and the punishment thereof; wanton endangerment involving the use of fire, and the criminal penalty for the same; relating to crimes against the government; defining treason, the crime of treason, and penalties therefor, the crime of failure to give information of treason and its penalty; the crime of desecration of the flag, and its penalty; relating to crimes against the person, first and second degree murder defined, and punishment for the same; delineating provisions for allegations in indictment for homicide; defining voluntary manslaughter and the penalty thereof; defining involuntary manslaughter, and specifying the penalty for the same; defining concealment of a deceased human body, and specifying the penalty for the same; clarifying that Homicide is punishable within the state if injury occurs within and death without, or vice versa; defining an attempt to kill or injure by poison, and specifying the penalty for the same; defining the crime of abortion and the penalty for the same; defining malicious or unlawful assault, assault, and battery, and specifying the penalties for each and aggravated factors and enhanced penalties; explaining provisions of sentencing for such acts committed by incarcerated persons; defining assault during the commission of or attempt to commit a felony, and specifying the penalty for the same; delineating that for

violent crimes against the elderly a sentence is not subject to suspension or probation; defining harassment, and providing penalties, and certain definitions for the same; defining strangulation, suffocation, and asphyxiation and providing definitions and penalties for the same; defining robbery or attempted robbery and specifying the penalties for the same; defining extortion, and attempted extortion by threat, and specifying the penalty for these; defining kidnapping and specifying penalties for the same; defining concealment or removal of a minor child from custodian or from person entitled to visitation; and setting forth penalties and defenses for the same; providing that one aiding or abetting in kidnapping or in concealing or removing a minor child is guilty as a principal, and explaining venue for those offenses; defining unlawful restraint and providing penalties for the same; prohibiting the purchase or sale of a child, setting the criminal penalty for the same, and providing definitions and exceptions; the failure to remove doors from abandoned refrigerators, freezers and other appliances, and providing penalties for the same; providing definitions for various forms of domestic violence and criminal penalties; providing definitions and criminal penalties for the abuse or neglect of an incapacitated adult; providing criminal penalties for the death of an incapacitated adult by a caregiver; defining and providing criminal penalties for the financial exploitation of an elderly person, protected person or incapacitated adult; recognizing an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person; relating to crimes against property; arson; the degrees of arson, and definitions and criminal penalties for the same; burning, or attempting to burn, insured property and the criminal penalty for the same; causing injuries during an arson-related crime, and the criminal penalties for the same; recovery of costs incurred in fighting fires caused by arson; defining burglary, the entry of dwelling house or outbuilding, and providing criminal penalties for the same; defining entry of a house, building, vehicle, or enclosed property, the criminal penalties for the same, and specifying counts in indictment for the same; manufacture or possession of burglary tools, and the criminal penalties for the same; setting forth criminal offenses involving theft detection shielding devices, their criminal penalties and providing for detention of persons suspected of this

offense; grand larceny, aggravated grand larceny, and petit larceny distinguished, setting forth the criminal penalties for each, defining larceny of bank notes, checks, writings of value and book accounts, and delineating the determination of value in larceny; explaining receiving or transferring stolen goods and providing a criminal penalty; providing a criminal penalty for bringing into this state, receiving or disposing of property stolen in another state; embezzlement, and the criminal penalties for the same; falsifying accounts, and the criminal penalties for the same; Possession or use of automated sales suppression devices, and the criminal penalties for the same; the offenses of destroying or concealing a will, and embezzlement by fiduciary, and the criminal penalties for the same; obtaining money, property and services by false pretenses, disposing of property to defraud creditors, and the criminal penalties for each of these; the offenses of attempted or fraudulent use, forgery, traffic of credit cards, possession and transfer of credit cards and credit card making equipment, the false or fraudulent use of telephonic services, and the criminal penalties for these offenses; intercepting or monitoring customer telephone calls, and the criminal penalties for the same; requirements for finding fraudulent schemes and provisions for the cumulation of amounts where a common scheme exists, and the criminal penalties for the same; the casting away, destroying, or interfering with floating craft or material, and the criminal penalties for the same; interference with or destruction of buoys, signal lights or other aids to navigation, and the criminal penalties for the same; the offense of malicious killing of animals by poison or otherwise, and the criminal penalties for the same; the removal out of a county of property securing a claim, and the criminal penalties for such offense; the fraudulent disposition of personal property in possession by virtue of lease, notice to return, failure to return, and penalties where such property is not returned; noting a right to immediate possession in such instances; making a false statement as to financial condition of person, firm or corporation, and the criminal penalty for the same; publication of false advertisements, and the criminal penalty for the same; fraudulently obtaining food or lodging, and the criminal penalty for the same; intoxication of a person in charge of locomotive engine or car, and the criminal penalty for the same; the offenses of jumping on or off car or train in motion; driving

vehicle upon track or bridge except at crossings, and the criminal penalty for the same; procuring gas, water or electricity, by device, with intent to defraud, and the criminal penalty for the same; placing a dam or obstructions in watercourses, and the criminal penalty for the same; setting forth requirements for the purchase of scrap metal by scrap metal purchasing businesses, salvage yards, or recycling facilities; requiring certificates, records, and reports of such purchases; providing criminal penalties for violations of these provisions; setting forth requirements for the purchase of items by precious metals and gem dealers, records to be kept by them, and delineating prohibited acts, and the criminal penalty for the same; criminalizing the unauthorized use of dumpsters and setting forth penalties; defining the offense of identity theft and providing a penalty; criminalizing the failure to pay for gasoline and providing a penalty; the offense of scanning device or re-encoder fraud, delineating when it is a felony; providing definitions; and setting forth criminal penalties for the same; the offense of possession of bogus receipts or universal product codes with intent to defraud, and the criminal penalties for the same; the offense of misrepresentation of past or present military status or military awards to obtain anything of value, and delineating criminal penalties for the same; relating to shoplifting; prescribing penalties; defining the crime of organized retail theft, and providing penalties for that offence, all relating to trespass; trespass in a structure or conveyance and penalties for the same; trespass on property other than a structure or conveyance, removal, injury to or destruction of property, monuments designating land boundaries and of certain no trespassing signs and penalties for the same; trespass on student residence premises or student facility premises of an institution of higher education and penalties for the same; trespass on state government property; aiding and abetting; penalties for each of those offenses; defining the offense of mine trespass, and penalties for the same; defining animal or crop facilities trespass; providing penalties for the same; allowing for injunctive relief in such instances; offenses involving damage to shrubbery, flowers, trees and timber; providing for a limitation of application of the relevant subsection, and providing penalties; prohibiting cutting, damaging, or carrying away without written permission, any timber, trees, growing plants or the products

thereof; treble damages provided for the same; creating the Critical Infrastructure Protection Act; defining terms relevant to the same; prohibiting certain acts, including trespass and conspiracy to trespass against property designated a critical infrastructure facility; providing criminal penalties; and, allowing for certain forms of civil action in such instances; relating to the West Virginia Computer Crime And Abuse Act, defining terms; computer fraud; access to legislative or state-owned computer; criminal penalties for the same; unauthorized access to computer services and criminal penalties for the same; unauthorized possession of computer data or programs and criminal penalties for the same; unauthorized possession of computer data or programs and criminal penalties for the same; alteration, destruction, etc., of computer equipment, and criminal penalties for the same; unauthorized possession of computer information, and criminal penalties for the same; disclosure of computer security information and criminal penalties for the same; computer invasion of privacy and criminal penalties for the same; fraud and related activity in connection with access devices, and criminal penalties for the same; endangering public safety, and criminal penalties for the same; obscene, anonymous, harassing and threatening communications by computer, cell phones and electronic communication devices, and criminal penalties for the same; soliciting, etc. a minor via computer; soliciting a minor and traveling to engage the minor in prohibited sexual activity; cyberbullying or specific acts of electronic harassment of minors; definitions; criminal penalties for the same; exceptions; use of a computer as an instrument of forgery; civil relief and damages available; defenses to criminal prosecution; venue; prosecution under other criminal statutes not prohibited; personal jurisdiction; and, severability; relating to the theft of cable television services, the acquisition of cable television services, and penalties for wrongfully acquitting the same; sale or transfer of a device or plan intended for acquisition or diversion, and criminal penalties for the same; Illegal possession of destructive devices, explosive materials or incendiary devices; and the criminal penalty for the same; criminal use of destructive device, explosive material or incendiary device; and the criminal penalty for the same; causing accidental or intentional death or injury; penalties; causing death or injury to

an explosives detection animal; and the penalty for the same; manufacture, purchase, sale, advertising for sale, transporting or possession or use of a hoax bomb; possession or use in commission of a felony; and the penalty for the same; theft of explosive material from storage magazines or buildings; and the penalty for the same; receipt, possession, storage, sale or transportation of stolen explosive material; and the criminal penalty; wanton endangerment involving destructive devices, explosive materials or incendiary devices; and the criminal penalty; contraband, seizure, forfeiture of explosive devices; relating to crimes involving worthless checks; obtaining property in return for worthless check, and the criminal penalties for the same; making, issuing, etc., worthless checks on a preexisting debt, and the criminal penalties for the same; payment as a defense to such offenses; requiring making a statement for the reason for dishonor a duty of the drawee; defining what constitutes prima facie evidence of knowledge, setting forth requirements for identity, and providing a criminal penalty for providing false information; requiring a notice of dishonor by payee, and providing for a service charge; prescribing manner of filing complaint for warrant and the form thereof; providing guidance for a complaint, what constitutes notice of complaint, and the issuance of a warrant; delineating payment procedures, and imposing costs; providing for the payment of costs in worthless check cases, and the disposition of certain costs; requiring the preparation of a list of worthless check warrants; the use of that worthless check list upon receipt of complaint for warrant; delineating the duties of a prosecuting attorney upon receipt of notice of multiple worthless check warrants; requiring the magistrate court clerk to advise complainant; providing for the creation and operation of a program for worthless check offenders, and requirements for acceptance of a person in that program; requiring certain notice to persons accepted to the worthless check restitution program; agreement to suspend prosecution of a person accepted into the restitution program; providing for fees for participation in the worthless check restitution program; and, providing that statements by individuals referred to or participating in the worthless check restitution program are criminally inadmissible; relating to forgery, crimes against the currency, the forgery of public records, certificates, returns or attestation of a court or officer; and the criminal penalty

for the same; forgery of official seals; keeping or concealing instrument for forging same; and the criminal penalty for the same; counterfeiting, and the criminal penalty for the same; making plates, etc., for forgery; possession of same; and the criminal penalty for that offense; forging or uttering other writing and the criminal penalty for the same; creation of unauthorized demand draft; possession of counterfeit currency with intent to utter; and the criminal penalty for the same; unauthorized currency, and the criminal penalty for the same; passing or receiving unauthorized currency knowingly, and the criminal penalty for the same; and, the unauthorized use, transfer, acquisition, alteration or possession of certain benefits and the criminal penalty for the same; payment cards and falsely making or lading the same, and the criminal penalty therefore; relating to crimes against public justice generally; perjury and subornation of perjury defined; false swearing defined, and the criminal penalties for perjury, subornation of perjury, and false swearing; aiding escape and other offenses relating to adults and juveniles in custody or confinement; and criminal penalties for the same; permitting escape; refusal of custody of prisoner; and criminal penalties for the same; persons in custody of institutions or officers; escapes and aiding in escapes; and criminal penalties for the same; terms of confinement in addition to previous sentence; escapes from, and other offenses relating to, state benevolent and correctional institution, or private prison or mental health facilities and criminal penalties for the same; escape from custody of the commissioner of corrections and criminal penalties for the same; escape from custody of the director of juvenile services; refusal of officer to make, or delay in making, arrest; and criminal penalties for the same; refusal of person to aid officer and criminal penalties for the same; refusal of officer to execute act or process of legislature or order of governor; and criminal penalty for the same; obstructing officer; fleeing from officer; making false statements to officer; interfering with emergency communications; criminal penalties for the same; definition; officer not liable for act done under statute or executive order afterward declared unconstitutional; compounding offenses and misprision and criminal penalties for the same; exacting excessive fees and criminal penalties for the same; issuing fraudulent fee bills and criminal penalties for the same; alteration,

concealment or destruction of public record by officer and criminal penalty for the same; larceny, concealment or destruction of public record by person not officer; and criminal penalty for the same; corrupt summoning of jurors to find biased verdict; and criminal penalty for the same; procuring the summoning of biased juror by party other than officer; and criminal penalty for the same; discrimination against employee summoned for jury duty; and criminal penalty for the same; contempt of court; what constitutes contempt; jury trial; presence of defendant; criminal penalty for the same; fraudulent official proceedings; causing a public employee or official to file a fraudulent legal process and criminal penalty for the same; impersonation of a public official, employee or tribunal; and criminal penalties for the same; impersonation of a public official or tribunal; impersonation of a law-enforcement officer; and criminal penalties for the same; subsequent offense; failure to perform official duties and criminal penalty for the same; the failure to meet an obligation to pay support to a minor and criminal penalties for the same; relating to bribery and corrupt practices, and the criminal penalties for such offenses; relating to crimes against the peace generally; mobs and lynching, and the criminal penalties for the same; liability of county or city in such instances; disturbance of religious worship and the criminal penalty for the same; disturbance of schools, societies, and other assemblies and the criminal penalty for the same; loitering on school property and the criminal penalty for the same; exceptions; camping upon governmental grounds or lawns and the criminal penalty for the same; public nuisance; false reports concerning bombs or other explosive devices and the criminal penalty for the same; falsely reporting an emergency incident and the criminal penalty for the same. willful disruption of governmental processes; offenses occurring at State Capitol Complex; and the criminal penalties for the same; threats of terrorist acts, conveying false information concerning terrorist acts and committing terrorist hoaxes prohibited, and the criminal penalties for the same; prohibiting violations of an individual's civil rights; and the criminal penalties for the same; wearing masks, hoods or face coverings and the criminal penalty for the same; falsely reporting child abuse and the criminal penalty for the same; classifying criminal penalties for failing to register as a sex offender, failure to provide information

change, and providing false information to the sex offender registry; deleting requirement that a person be deemed a rioter if they failed to provide required assistance at a riot; classify the penalty for crime of failure to obey an order given at a riot or unlawful assembly; providing that the crime of disorderly conduct is a petty offense; defining the crime of bigamy; providing a misdemeanor penalty for bigamy; providing definitions related to the crimes of pimping, prostitution and pandering; defining the crime of prostitution; providing the penalty for prostitution; providing that a medical report certifying no sexually transmitted disease reduces penalty for prostitution; providing criminal penalty for solicitation of prostitute; providing enhanced criminal penalty for solicitation of an individual for prostitution who is less than 18 years of age, mentally defective or incapacitated; providing fines for soliciting prostitution be paid to the Crime Victims Compensation Fund in designated circumstances; clarifying the crime pandering; providing that a second offense of pandering, recruitment involving coercion or force, and recruitment of persons under the age of 18 are felony offenses; establishing that parents consenting to using a minor or mentally defective person for prostitution is guilty of a felony; establishing that causing a person to engage in prostitution because of debt or to receive value is subject to misdemeanor penalty; establishing that a person who forces, intimidates or threatens a spouse to engage in prostitution commits a felony offense; providing respective criminal penalties; establishing the criminal offense of abducting, enticing or harboring a child for prostitution; providing a criminal penalty; establishing the crime of promoting and advancing prostitution; defining a house of prostitution in context of promoting prostitution; permitting character evidence; providing criminal penalty, including additional fine; establishing the offense of sexual solicitation; providing a criminal penalty including additional fine; providing an affirmative defense to sexual solicitation for victims of trafficking; providing affirmative defenses to prostitution relating to human trafficking, abduction and mental defect or incapacitation; establishing aggravating circumstances, restitution and eligibility for Compensation Award to Victims of Crimes; providing that law enforcement notify DHHR of child victims; providing that any property used for or

derived from prostitution is subject to forfeiture; providing that persons convicted be debarred from state or local contracts; clarifying that criminal indecent exposure cannot occur if victim grants permission; classifying criminal penalties for indecent exposure; classifying criminal penalties for inhaling or drinking certain intoxicating compounds; defines 'step-relative' in context of the crime of incest; establishing that intercourse between two consenting adult step-relatives is not incest; classifying criminal penalty for incest; defining desecration and classifies criminal penalties for unlawful disinterment, desecration, injury to a grave marker or damage to cemetery; prohibiting certain demonstrations at a funeral; classifying criminal penalty for prohibited funeral demonstrations; classifying criminal penalty for obscene, anonymous and threatening phone calls; classifying criminal penalties for cruelty to animals; classifies criminal penalty for animal fighting; classifying criminal penalty for attending an animal fighting venture; classifying criminal penalty for wagering at an animal fighting venture; establishing circumstances, sufficiency and application of a search warrant related to animal cruelty; extending search warrant authority for birds or animals kept for fighting to natural resources police; clarifying extent of searches without a warrant for fighting animals or birds; classifying criminal penalty for unlawful admission of children to places injurious to health or morals; classifying criminal penalty for under age false identification; classifying criminal penalty for criminal invasion of privacy; classifying criminal penalty for nonconsensual public disclosure of private intimate images; classifying criminal penalty for criminal loitering within certain distances of minor victims of sexually violent offenses or offenses; classifying penalties for disclosing or making photographs of accident or emergent situations public; classifying penalties for therapeutic deception; classifying penalties for therapeutic deception; expanding definition of computer applied to obscene matter and minors; classifying criminal penalties for distribution and display to minor of obscene matter; classifying criminal penalties for use of obscene matter with intent to seduce minor; classifying criminal penalties for use of minor to produce obscene matter or assist in doing sexually explicit conduct; classifying criminal penalties for sexual assault in the first degree; classifying criminal penalties for

sexual assault in the second degree; providing definitions of terms related to the criminal offense of sexual extortion; establishing the elements of the crime of sexual extortion; classifying criminal penalties for sexual assault in the third degree; classifying criminal penalties for sexual abuse in the first degree; classifying criminal penalties for sexual abuse in the second degree; classifying criminal penalties for sexual abuse in the third degree; classifying criminal penalties for imposition of sexual acts on persons incarcerated or under supervision; providing a definitions of 'coerce' and 'visually portray' in the context of the crime of filming sexually explicit conduct of minors; classifying criminal penalty for producing a visual portrayal of a minor in sexually explicit conduct; providing for enhanced penalty when parent distributes material displaying a child under their care in sexually explicit conduct; classifying penalties when any person distributes or exhibits material displaying a minor in sexually explicit conduct; classifying penalties for production, display or distribution of visual portrayals of partially clothed minors; defining 'visual portrayal' in context of prohibited possession, manufacture or distribution of inappropriate sexual portrayals by a minor; clarifying the definition of 'parent' in context of child abuse to include step or foster parent; classifying criminal penalties for murder of custodial child for failure or refusal to supply necessities; clarifying definition of 'recognized method of religious healing' in context of murder of custodial child for failure or refusal to supply necessities; classifying criminal penalties for death of a child by child abuse; classifying criminal penalties for child abuse causing or creating a risk of injury; classifying the criminal penalty for female genital mutilation; classifying the criminal penalty for child neglect resulting in death; in context of the crime of child neglect resulting in death, clarifying that care through recognized method of religious healing in lieu of medical treatment may not constitute neglect; defining recognized method of religious healing; classifying the criminal penalty for sexual abuse by a parent, guardian, custodian or person in a position of trust to a child; classifying the criminal penalty for procuring, authorizing or inducing another to engage in sexual acts with a child under their care or custody; sexual abuse by a parent, guardian, custodian or person in a position of trust to a child; parent, guardian, custodian,

or person in a position of trust procuring, authorizing, inducing a to a child sixteen or older; definition of terms related to nuisances; designated elements for maintaining a nuisance; providing standing to bring an action to abate a nuisance; venue for a nuisance action; evidence and proof related to an action to abate nuisance; provisions and procedures related to an action to enjoin a nuisance; prima facie evidence of a nuisance; prosecution of a nuisance complaint; provisions for dismissal of a nuisance action; award of costs related to a nuisance action; when existence of nuisance established permanent injunction required; order of abatement for a nuisance; elements of a nuisance abatement order; removal and sale of movable property from a nuisance; liability of officers disposing of property from a nuisance proceeding; criminal offense of contempt related to nuisance proceedings; definitions related to gaming and gambling; criminal offense for possessing or dealing in unlicensed gaming devices; seizure of unlicensed gaming or gambling devices; criminal offense for permitting a gambling device on premises under unauthorized ownership, leasehold, occupation or possession; criminal offense of acting as a guard or interfering with lawful intervention for gambling premises; criminal offense of unauthorized wagering on outcomes of uncertain events or prohibited games; criminal offense for a unauthorized commercial gambling at a hotel or tavern; criminal offense for cheating at gambling; criminal offense of unauthorized dealing in gambling device; criminal offense of unauthorized installation of a gaming device; criminal offense for unauthorized sale of a voucher or certificate for gambling on outcome of sporting events, games of skill or other sport or contest; declaring premises for unauthorized commercial gambling a nuisance; defining lottery and raffle; criminal offense for unauthorized operation of a lottery or raffle; criminal offense of keeping policy or numbers slips; seizure of designated gambling devices and equipment; providing seizure authority for gambling articles or apparatuses; classifying criminal penalties for crime of certain public officials with pecuniary interest in certain public contracts; classifying the criminal offense of unlawful showing of pictures, advertisement or theatrical productions calculated to arouse prejudicial ire or feelings; classifying the criminal offense of lobbying on the floor of the legislature; classifying the crime of employers who fail or

refuse to pay contracted employment benefits or contributions; classifying the crime of unlawful use of the prefix of Doctor; classifying the criminal penalty for bribery; clarifying the elements of the crime of bribery; classifying the criminal penalty for debt pooling; clarifying the elements of the crime of debt pooling; classifying the criminal penalty for failure to maintain and affix a cover for a water well; classify the penalty for the crime of conspiracy; classify the penalty for the crime of unlawful contact with a corrections employee or a member of the parole board; classifying the penalty for prohibited sale of certain caffeine products; classifying the criminal penalties in the Critical Infrastructure Protection Act; classifying the criminal penalties for punishment of principals in the second degree and designated accessories; classifying the criminal penalties for attempted crimes; classifying the criminal penalties for solicitation to commit certain crimes; classifying the criminal penalties for crimes related to post mortem examinations; classifying the criminal penalties for failing to secure a cremation permit; clarifying evidentiary admissibility of autopsy reports an investigations; classifying the penalties for organized criminal enterprise offenses; classifying the criminal penalties for the offense of human trafficking; classify the criminal penalties for the offense of forced labor; classifying the criminal penalties for the offense of using adults or minors in debt bondage; classifying the criminal penalties for the offense of coercing or compelling an individual to engage in commercial sexual; classifying the criminal penalties for the offense of patronizing a victim of sexual servitude; establishing that an individual convicted of a human trafficking offense who is sentenced to life without mercy is not eligible for parole; classifying the criminal penalty for money laundering; classifying the criminal penalty for prohibited use of unmanned aircraft systems; classifying criminal offenses and respective sentencing dispositions; establishing that felonies are classified into six categories and misdemeanors are classified into three categories; providing that petty offenses are not classified; establishing that criminal classification is derived from the defining criminal section or chapter; establishing that petty offenses are specifically designated to include any crime without specified designation or classification; providing that offenses noted outside Chapter 61

which are not designated as a felony, misdemeanor or petty offense, are punished under the prescribed statutory penalty; unless provided otherwise felony imprisonment sentence is a term of definite years; establishing respective range of felony terms of imprisonment into six classifications; establishing respective range of misdemeanor terms of imprisonment within three classifications; providing discretion to the sentencing court to treat a Class 6 felony as a Class 1 misdemeanor with noted exceptions; providing the trial court impose its sentence within designated range of maximum and minimum terms; requiring the court to consider aggravating and mitigating circumstances as well as the pre-sentence report; providing potential increased sentence for crimes near a school which may exceed maximum sentencing limits; provides that a felony sentence must be a definite term of years served in the state department of corrections; establishing requirements for transfer of custody; providing a range of imprisonment term for all six felony classes; providing that misdemeanor sentences are for a definite term to be served at somewhere other than the state department of corrections; establishing respective limitations of imprisonment for the three classes of misdemeanors; providing discretion to the court, in certain circumstances, to treat a Class 6 felony as a Class 1 misdemeanor; providing for reimbursement of incarceration costs for misdemeanor offenses; providing court with discretion to increase sentence by one year for offenses near a school; establishing that school vicinity sentence enhancement may exceed statutory limit; further providing that if the victim offense is a child but is not within the designated range of a school the court may consider relevant circumstances and increase the sentence two years; establishing fines for felony offenses; establishing fines for misdemeanor offenses; for purposes of sentencing, defining an 'enterprise' as any entity other than a person; providing graduated penalty of fines imposed upon enterprise for criminal offenses; establishing that a judgment of fine against an enterprise constitutes a lien; establishing relevant factors for the court to consider when sentencing an enterprise for criminal conduct; requiring the court to order a person incarcerated for a criminal offense to pay incarceration costs; and, establishing factors for the court to consider when assessing payment of incarceration costs.”

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. 439, Allowing use or nonuse of safety belt as admissible evidence in civil actions; 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 the amendment pending and right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

First Reading

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

Com. Sub. for S. B. 80, Allowing for administration of certain small estates by affidavit and without appointment of personal representative,

Com. Sub. for S. B. 81, Relating generally to WV Uniform Trust Code,

Com. Sub. for S. B. 346, Authorizing DMV use electronic means when providing notice for licensees and vehicle owners,

S. B. 374, Increasing threshold for bid requirement to \$10,000 to be consistent with other state agencies,

Com. Sub. for S. B. 375, Relating to county boards of education policies for open enrollment,

Com. Sub. for S. B. 389, Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency,

Com. Sub. for S. B. 421, Authorizing Workforce West Virginia to hire at-will employees,

Com. Sub. for S. B. 429, Exempting Division of Emergency Management from Purchasing Division requirements for certain contracts,

S. B. 463, Consolidating position of Inspector General of former Workers' Compensation Fraud and Abuse Unit and position of Director of Insurance Fraud Unit,

Com. Sub. for S. B. 472, Updating criteria for regulating certain occupations and professions,

Com. Sub. for S. B. 587, Making contract consummation with state more efficient,

And,

Com. Sub. for H. B. 2022, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2003, Relating to the authority and obligations of the Governor and Legislature when in declared states of preparedness and emergency.

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 5. DIVISION OF HOMELAND SECURITY AND
EMERGENCY MANAGEMENT.**

§15-5-2. Definitions.

As used in this article:

(1) ‘Board’ means the West Virginia Disaster Recovery Board created by this article;

(2) ‘Code’ means the Code of West Virginia, 1931, as amended;

(3) ‘Community facilities’ means a specific work, or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

(4) ‘Disaster’ means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, ~~or~~ terrorist or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation, or other public calamity requiring emergency action;

(5) ‘Disaster recovery activities’ means activities undertaken prior to, during, or following a disaster to provide, or to participate in the provision of, emergency services, temporary housing, residential housing, essential business activities, and community facilities;

(6) ‘Emergency services’ means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond, and recover, to prevent, detect, deter, and mitigate, to minimize and repair injury and damage resulting from disasters or other event caused by flooding, terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions include, without limitation, firefighting services, police services, medical

and health services, communications, emergency telecommunications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to the health, safety, and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat;

(7) ‘Essential business activities’ means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or service determined by the authority to be necessary for recovery from a disaster;

(8) ‘Local organization for emergency services’ means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function;

(9) ‘Mobile support unit’ means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;

(10) ‘Person’ means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

(11) ‘Political subdivision’ means any county or municipal corporation in this state;

(12) ‘Recovery fund’ means the West Virginia Disaster Recovery Trust Fund created by this article;

(13) ‘Residential housing’ means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and any other nonhousing facilities that are incidental or appurtenant thereto;

(14) ‘State of emergency’ means the duly proclaimed existence of conditions of disaster or other serious threat to the health or safety of persons and property within West Virginia, or a specific geographic area thereof, including but not limited to an attack upon the state or the United States, a natural or man-made disaster of major proportions, a pandemic, or other large-scale threat beyond the capacity of local control.

(15) ‘State of preparedness’ means the duly proclaimed authorization for:

(A) Specialized planning and preparation activities intended to minimize any anticipated impact of conditions of a state of emergency, as defined in this section, which, in the judgment of the Governor, are expected to commence within the next 30 days, or within a period of longer than 30 days if necessary to obtain funding or maintain compliance with federal or interjurisdictional requirements; *Provided*, That a state of preparedness which is duly proclaimed under such circumstances shall be referred to as a ‘Class I state of preparedness’; or

(B) Specialized planning and preparation activities intended to minimize, by use of any available and appropriate federal or state governmental resources, any anticipated impact of or anticipated threats with respect to a planned or anticipated event of such large size or scope or both that it is beyond the capacity of local control, and which is scheduled to commence within the next 30 days, or longer if necessary to obtain funding or maintain compliance with federal or interjurisdictional requirements: *Provided*, That a state of preparedness which is duly proclaimed under such circumstances shall be referred to as a ‘Class II state of preparedness’.

(16) ‘Secretary’ means the Secretary of the West Virginia Department of ~~Military Affairs and Public Safety~~ Homeland Security; and

(17) ‘Temporary housing’ means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction, or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster and such other nonhousing facilities that are incidental or appurtenant thereto.

§15-5-6. Emergency powers of Proclamation of a state of emergency or state of preparedness by the Governor and or the Legislature; additional powers of the Governor during a state of emergency or state of preparedness.

(a) The Legislature finds that:

(1) The global coronavirus (COVID-19) pandemic of 2020, which is continuing at the time of the enactment of the amendments to this article in the regular session of the Legislature in 2021, has presented unprecedented challenges for the citizens of West Virginia, which have required response of the government of the State of West Virginia;

(2) Exercising the authority and power provided by the Act, the Governor of West Virginia has marshalled the resources of the state and the full authority and response of the government of West Virginia to address the COVID-19 pandemic;

(3) West Virginia has been recognized nationally for its success in many aspects of its response, including vaccination rates and lower infection rates than exist in many other states; and

(4) It is the intent of the Legislature to codify some of the decisions that have been made by the Governor of West Virginia during the current COVID-19 pandemic, protecting individual liberties of the citizens of West Virginia, so that they have application to future states of preparedness or states of emergency in the State of West Virginia or any part thereof.

(b) The provisions of this section, and any executive order issued pursuant to the provisions of this section, are operative only during the existence of a state of emergency or state of preparedness: *Provided*, That nothing in this section may be construed to suspend or supersede any provision of the Constitution.

(c) The existence of a state of emergency ~~or state of preparedness~~ may be proclaimed by the Governor by executive order or by concurrent resolution of the Legislature if the Governor in the proclamation, or the Legislature in the resolution, finds that ~~an attack upon the United States has occurred or is anticipated in the immediate future, or that a natural or man made disaster of major proportions has actually occurred or is imminent within the state, or that an emergency exists or may be imminent due to a large scale threat beyond local control~~ conditions warranting the proclamation of a state of emergency, as defined in this article, exist, and that the health, safety, and welfare of the inhabitants of this state require an invocation of the provisions of this section: *Provided*, That a gubernatorially proclaimed state of emergency expires after 60 days from issuance of the executive order, unless prior to the 60th day the Governor provides written notice to the President of the Senate, the Speaker of the House of Delegates and the Joint Committee on Government and Finance that in his or her opinion it is necessary to extend the state of emergency. If the Governor extends the state of emergency beyond 60 days, he or she shall thereafter, no less frequently than every 30 days, provide the President of the Senate, the Speaker of the House of Delegates and the Joint Committee on Government and Finance with a written statement of his or her reasons to believe that the conditions warrant any continuation of the state of emergency. The Governor shall provide a timely written response to any written inquiry from the President of the Senate, the Speaker of the House of Delegates or the Joint Committee on Government and Finance regarding the need for continuing the state of emergency and the facts supporting the continuation. A state of emergency, whether proclaimed by the Governor or by the Legislature, terminates upon the issuance of a proclamation of termination by the Governor, or the passage by the

Legislature of a concurrent resolution terminating the state of emergency.

~~(b) Any state of emergency or state of preparedness, whether proclaimed by the Governor or by the Legislature, terminates upon the proclamation of the termination by the Governor, or the passage by the Legislature of a concurrent resolution terminating the state of emergency or state of preparedness: *Provided*, That in no case shall a state of preparedness last longer than thirty days.~~

(d) The existence of a state of preparedness may be proclaimed by the Governor by executive order or by concurrent resolution of the Legislature, if the Governor in the proclamation or the Legislature in the resolution, finds that conditions warranting the proclamation of a state of preparedness, as defined in this article, exist, and that the health, safety, and welfare of the inhabitants of this state require the invocation of the provisions of this section: *Provided*, That the Governor or the Legislature shall proclaim a state of preparedness as a ‘Class I state of preparedness’ or a ‘Class II state of preparedness’, as defined in this article by law: *Provided however*, That a gubernatorially proclaimed declared state of preparedness expires after 30 days unless, prior to the 30th day, following the issuance of the executive order the Governor provides written notice to the President of the Senate, the Speaker of the House of Delegates and the Joint Committee on Government and Finance that, in his or her opinion, it is necessary to extend the state of preparedness. If the Governor extends the state of preparedness beyond 30 days he or she shall thereafter, no less frequently than every 30 days, provide the President of the Senate, the Speaker of the House of Delegates and the Joint Committee on Government and Finance with a written statement of his or her reasons to believe that the conditions warrant any continuation of the state of preparedness. The Governor shall provide a timely written response to any written inquiry from the President of the Senate, the Speaker of the House of Delegates or the Joint Committee on Government and Finance regarding the need for continuing the state of preparedness and the circumstances and facts supporting the continuation. A state of preparedness, whether proclaimed by the Governor or by the Legislature, terminates upon

the issuance of a proclamation of termination by the Governor, or the passage by the Legislature of a concurrent resolution terminating the state of preparedness.

(e) When a state of emergency follows a state of preparedness involving the same or substantially similar circumstances, the total time allotted for the duration of the two combined shall be no more than 90 days, unless the Governor follows the requirements for extending the state of emergency under subsection (c) of this section.

(f) Any proclamation or resolution issued under this section must include, in general terms:

(1) A description of the facts and circumstances warranting the proclamation or resolution; and

(2) A designation of the geographic area threatened:

Provided, That any proclamation or resolution shall be disseminated as soon as practicable to the media and any other means which are calculated to bring its contents to the attention of the general public: *Provided however*, That for a gubernatorial proclamation of a state of emergency or state of preparedness, the Governor shall provide a copy of the executive order to the President of the Senate, the Speaker of the House of Delegates and the Joint Committee on Government and Finance.

~~(e) (g) So long as a~~ Under a duly proclaimed state of emergency or state of preparedness ~~exists~~, the Governor ~~has and may exercise~~ ~~has~~ the following additional ~~emergency~~ powers which are intended to be construed to authorize actions which are consistent with constitutional or statutory law, or with final orders of those courts of competent jurisdiction to which the Governor is subject:

(1) To enforce all laws and rules relating to the provision of emergency services and to assume direct operational control of any or all emergency service forces and helpers in the state;

(2) To sell, lend, lease, give, or transfer property, to make purchases, or deliver materials or perform functions relating to

emergency services on terms and conditions he or she prescribes and without regard to the limitations of any existing law and to account to the State Treasurer for any funds received for the property;

(3) To procure materials and facilities for emergency services by purchase, condemnation under the provisions of §54-1-1 *et seq.* of this code, or seizure pending institution of condemnation proceedings within 30 days from the seizing thereof and to construct, lease, transport, store, maintain, renovate, or distribute the materials and facilities. Compensation for the procured property ~~so procured~~ shall be made in the manner provided in §54-1-1 *et seq.* of this code;

(4) To obtain the services of necessary personnel, required during the emergency or to prepare for the emergency, and to compensate them for their services from his or her contingent funds or other funds available to him or her;

(5) To provide and compel the evacuation of all or part of the population from any stricken or threatened area within the state and to take steps that are necessary for the receipt and care of the evacuees;

(6) To control ingress and egress ~~to and from~~ into or out of a disaster area or ~~an area where large scale threat exists~~, other area subject to a state of emergency or state of preparedness, as well as the movement of persons ~~within the area~~ and the occupancy of premises ~~therein~~ within the area;

(7) To suspend the provisions of any ~~regulatory~~ statute prescribing the procedures for the conduct of state business or the orders, or rules of any state agency, if strict compliance therewith would in any way prevent, hinder, or delay necessary action in coping with the emergency;

(8) To use available resources of the state and of its political subdivisions that are reasonably necessary to cope with the emergency or to prepare for the emergency;

(9) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles: Provided, That explosives and combustibles do not include firearms, ammunition, components of ammunition, or ammunition-reloading equipment and supplies;

(10) To make provision for the availability and use of temporary emergency housing; and

(11) To perform and exercise other functions, powers and duties that are necessary to promote and secure the safety and protection of the civilian population.

~~(d)~~ (e) The declaration of a state of preparedness has the same effect as a declaration of a state of emergency for the purposes of the Emergency Management Assistance Compact established in §15-5-22 of this code, and the Statewide Mutual Aid Systems set forth in §15-5-28 of this code.

~~(e)~~ (h) The powers granted under this section do not authorize any action that would violate the prohibitions of §15-5-19a of this code.

(i) During any state of preparedness or state of emergency proclaimed at any time, an executive order of the Governor may not:

(1) Close churches or other houses of worship or prevent their operation in any manner that is more restrictive than the least restrictive rules in place for the operation of the most essential facilities of government or private enterprise;

(2) Suspend or limit the sale, lawful transfer, or transportation of firearms, ammunition, components of ammunition, or ammunition-reloading equipment and supplies; or

(3) Interfere with or impair the operation of the news media.

(j) Unless expressly authorized by an executive order of the Governor, a municipal, county, or state health officer shall not take any enforcement action which is not authorized by statute under

color of a duly proclaimed state of emergency or state of preparedness.

(k) Any suit filed challenging an executive order issued relating to a state of preparedness or emergency pursuant to the authority granted in this section shall be limited to a petition for prohibition or mandamus pursuant to Rule 16 of the Rules of the West Virginia Supreme Court of Appeals. The provisions of §55-17-3 of this code are not applicable to any suit filed challenging an executive order issued pursuant to this section.

(l) The amendments to this section and §15-5-2 of this code enacted during the 2021 regular session of the legislature are applicable to circumstances constituting a state of emergency or state of preparedness initially proclaimed after the effective date of the amendments. It is the express intention of the Legislature not to interfere with the executive branch's handling of the COVID-19 caused state of emergency originally proclaimed on March 16, 2020, and executive orders entered under the proclamation. *Provided, That nothing in this subsection may be construed to limit the authority of the Governor as to the state of emergency caused by COVID-19 in effect as of April 1, 2021.*"

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. 2014, Relating to role of the Legislature in appropriating federal funds.

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 4. THE LEGISLATURE.**ARTICLE 11. LEGISLATIVE APPROPRIATION OF FEDERAL FUNDS.****§4-11-1. Legislative findings and purpose.**

The Legislature finds and declares that in order to carry out its responsibility for the enactment of all appropriations needed for the operation of state government, the Legislature needs continuous and accurate accounts of the amounts and purposes of all federal funds being requested, received or expended by the various agencies and departments of the state. The Legislature further finds and declares that the increased availability of and reliance on federal financial assistance has a substantial impact upon the programs, priorities and fiscal affairs of the state. “It is the purpose of this article to clarify and specify the role of the Legislature in appropriating federal funds received by the state in all events, including public emergencies, and in prescribing, by general law, the required form and detail of the itemization and classification of proposed appropriations to assure that state purposes are served and legislative priorities are adhered to by the acceptance and use of such funds.

§4-11-2. Definitions.

As used in this article:

(1) ‘Federal funds’ means any financial assistance made to a spending unit by the United States government, whether a loan, grant, block grant, subsidy, augmentation, reimbursement or any other form of such assistance, including ‘federal-matching funds’;

(2) ‘Federal-matching funds’ means federal funds of a specified amount or proportion for which a specified outlay of state contributions, including funds, property or services, are required as a condition for receipt or expenditure;

(3) ‘Spending unit’ means the State of West Virginia and all agencies, offices, departments, divisions, boards, commissions, councils, committees or other entities of the state government for

which an appropriation is requested or to which an appropriation is made by the Legislature. 'Spending unit' does not mean any county, city, township, public service district or other political subdivision of the state; and

(4) 'State-matching funds' means state contributions, including funds, property or services that are required by the federal government, by law or regulation, as a condition for receipt or expenditure of federal funds.

§4-11-3. Receipt of federal funds and required deposit in state treasury.

Unless contrary to federal law, all federal funds received by a spending unit shall be deposited in and credited to special fund accounts as provided by ~~section two, article two, chapter twelve~~ §12-2-2 of this code and shall be available for appropriation by the Legislature as part of the state budget in accordance with Article X of the Constitution of this state.

§4-11-4. Inclusion of federal funds in state budget and the budget bill.

Pursuant to article ~~one a, chapter five~~ §5-1A-1 *et seq.*, and ~~chapter five a~~ §11B-2-1 *et seq.* of this code, the Governor shall itemize in the state budget and in the budget bill, on a line-item basis, separately, for each spending unit, the amount and purpose of all federal funds received or anticipated for expenditure, with a reference to the account number, line item and amount of any state funds required for such purpose: *Provided*, That all federal ~~revenue sharing~~ block grant funds shall be so itemized in a separate section of the state budget and the budget bill devoted exclusively to proposed appropriations from the ~~revenue sharing trust fund~~ block grant funds.

§4-11-5. Legislative appropriation authority.

(a) No spending unit may make expenditures of any federal funds, whether such funds are advanced prior to expenditure or as reimbursement, unless such expenditures are made pursuant to

specific appropriations by the Legislature, except as may be hereinafter provided.

(b) To the extent not precluded by the terms and conditions under which federal funds are made available to the spending unit by the United States government, the spending unit shall use federal funds in accordance with any purposes, policies or priorities the Legislature may have established for the activity being assisted or for the use of state, federal and other fiscal resources in a particular fiscal year.

(c) If the federal funds received by a spending unit for a specific purpose are greater than the amount of such funds contained in the appropriation by the Legislature for such purpose, the total appropriation of federal funds and any state matching funds for such purpose shall remain at the level appropriated, except as hereinafter provided.

(d) If federal funds become available to the spending unit for expenditure while the Legislature is not in session and the availability of such funds could not reasonably have been anticipated and included in the budget approved by the Legislature for the next fiscal year, the treasurer may accept such funds on behalf of the spending unit and the Governor may authorize, in writing, the expenditure of such funds by the spending unit during that fiscal year as authorized by federal law and pursuant to the provisions of ~~article two, chapter five a of the code §11B-2-1 et seq. of this code and, which permits expenditure of amounts in excess of the appropriation~~ upon the filing of a proper expenditure schedule: *Provided*, That the Governor may not authorize the expenditure of such funds received for the creation of a new program or for a significant alteration of an existing program. For purposes of this article, a mere new source of funding of federal moneys for a program which has been prior approved by legislative appropriation ~~will not be deemed to be~~ is not a 'new program' or a 'significant alteration of an existing program' and the Governor may authorize the expenditure of such funds as herein provided, subject to the limitations under subsection (e) of this section. Should a question arise concerning whether such expenditures would constitute a new program or significant alteration of an

existing program, while the Legislature is not in session, the Governor shall seek the recommendation of the council of finance and administration, as created and existing pursuant to the provisions of ~~section three, article one, chapter five a of the code §5A-1-4 of this code~~. Upon application to the federal government for such funds and upon receipt of such funds, the Governor shall submit to the Legislative Auditor two copies of a statement:

(1) Describing the proposed expenditure of such funds in the same manner as it would be described in the state budget; and

(2) Explaining why the availability of such federal funds and why the necessity of their expenditure could not have been anticipated in time for such expenditures to have been approved as part of the adopted budget for that particular fiscal year.

(e) Notwithstanding the provisions of subsection (d) of this section, no amount of such unanticipated federal funds for an existing program, for a significant alteration of an existing program, or for the creation of a new program made available to the state for costs and damages resulting from an emergency including, but not limited to, flooding, forest fires, earthquakes, storms or similar natural disasters, civil disobedience, human-caused disasters, infectious disease outbreaks, or similar public health or safety emergencies that occur and are received while the Legislature is not in session and that are declared by the Governor as a state of emergency in excess of \$150 million for any part or the whole of the declared emergency may be expended without appropriation by the Legislature enacted following receipt of the funds. No provision of this code or any appropriations act in effect upon the receipt of unanticipated federal funds made available to the state for costs and damages resulting from an emergency including, but not limited to, flooding, forest fires, earthquakes, storms or similar natural disasters, civil disobedience, human-caused disasters, infectious disease outbreaks, or similar public health or safety emergencies that occur and are received while the Legislature is not in session and that are declared by the Governor as a state of emergency may be construed to authorize the appropriation of those funds, except as provided in this subsection.

(f)(1) If federal funds become available to a spending unit and the funds were not included in the budget approved by the Legislature for the next fiscal year but are authorized to be expended while the Legislature is not in session under subsection (d) of this section, the Governor shall submit reports in writing to the President of the Senate, the Speaker of the House of Delegates, the chairs of the respective committees on finance of the two houses of the Legislature, and the Legislative Auditor as follows:

(A) On or before the first day of each month following the receipt of the funds until the funds are expended in their entirety, the reports shall include the following:

(i) The purposes for which funds were made available, the identification of any federal and state laws governing the expenditure of the funds and a general itemization of the Governor's plan of expenditure for the whole of the funds;

(ii) A detailed schedule setting forth the Governor's proposed expenditures of the funds for the month, including, but not limited to, as to each proposed expenditure, the amount and purpose of the expenditure; the spending unit responsible for making the expenditure; and the anticipated recipient or recipients of the expenditure; and

(iii) An explanation of any changes made from the prior month's general itemization of the Governor's plan of expenditure for the whole of the funds and of any changes the prior month's schedule of proposed expenditures made by the actual expenditures made during that month;

(B) On or before the 15th day of the month following month in which the funds were expended in their entirety, the report shall set forth a complete itemized report of each expenditure of the funds; and

(C) The Governor shall also include in each report such additional information as may be requested the Legislative Auditor.

(2) The Legislative Auditor shall provide a copy of each report to the Joint Committee on Government and Finance.

§4-11-6. Exclusions.

The following are excluded from the provisions of this article:

(1) Federal funds received by state institutions of higher education or by students or faculty members of such institutions for instructional or research purposes and federal funds received for student scholarships or grants-in-aid;

(2) Federal nondiscretionary pass-through funds which are earmarked in specified amounts or proportions for transmittal to local political subdivisions or to designated classes of organizations and individuals which do not require state-matching funds and do not permit discretion in their distribution by the receiving state spending unit;

~~(3) Federal funds made available to the state for costs and damages resulting from natural disasters, civil disobedience or other occurrences declared by the Governor as a state of emergency; and~~

~~(4)~~(3) All federal funds received by the West Virginia department of highways or the West Virginia commissioner of highways.

§4-11-7. Conflict with other statutory provisions.

If there is any conflict between the provisions of this article and any other provision of law, including this code, relating to receiving or expending federal funds, the provisions of this article shall govern and control.

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 1A. ITEMIZATION OF PROPOSED
APPROPRIATIONS IN BUDGET BILL SUBMITTED
BY GOVERNOR TO LEGISLATURE.**

§5-1A-1. Legislative findings and purposes.

The Legislature finds and declares that section fifty-one, article six of the Constitution, known as the ‘modern budget amendment’, authorizes the Legislature to prescribe by law the form and detail of the itemization and classification of the proposed appropriations of the budget bill submitted to it by the Governor, and that said section further authorizes the Legislature to enact such laws, not inconsistent with said section, as may be necessary and proper to carry out its provisions. The Legislature further finds and declares that said section makes the Legislature solely responsible for enacting all appropriations needed for the operation of state government, and that in carrying out such responsibility, the Legislature requires a continuous and timely flow of accurate information relative to the financial condition of the state, the needs and operations of the various agencies and departments of the state, and the amounts and purposes of all funds, including federal funds, being requested, received or expended by such agencies and departments from sources other than the revenues of the state.

Therefore, it is the purpose of this article to implement the aforementioned provisions of the Constitution, to enable the Legislature to carry out its Constitutional responsibility by prescribing the form and detail of the itemization and classification of the proposed appropriations of the budget bill submitted to the Legislature by the Governor, and in conjunction with ~~the provisions of this act amending certain sections of articles one and two, chapter five a, §5-1A-1 et seq. and §11B-2-1 et seq. of this code and section three, article four, chapter twelve §12-4-3 of this code,~~ to ensure that the Legislature will be furnished the information needed to discharge such responsibility.

CHAPTER 11B. DEPARTMENT OF REVENUE.**ARTICLE 1. DEPARTMENT OF REVENUE.****§11B-1-1. ~~Department of tax and revenue renamed Department of Revenue; office of secretary of tax and revenue renamed Office of Secretary of Revenue; Director of Budget; federal funds.~~**

(a) ~~The Department of Tax and Revenue and the office of secretary of tax and revenue are hereby renamed, respectively, the~~ The Department of Revenue and the office of secretary of revenue ~~and are~~ are continued in the executive branch of state government. Wherever in this code the words ‘office of secretary of tax and revenue’ or ‘secretary of tax and revenue’ are used, such words shall ~~now~~ mean the office of secretary of revenue or the secretary of revenue. Wherever in this code the words ‘department of tax and revenue’ are used, such words shall mean the Department of Revenue.

(b) The secretary of revenue shall be the chief executive officer of the department and director of the budget. The secretary shall be appointed by the Governor, by and with the advice and consent of the Senate, for a term not exceeding the term of the Governor.

(c) The Department of Revenue is hereby authorized to receive federal funds for deposit in compliance with §12-2-2 of this code and for expenditure only upon appropriation by the Legislature of this state and in accordance with §4-11-1 et seq. of this code.

(d) The secretary shall serve at the will and pleasure of the Governor. The annual compensation of the secretary shall be as specified in ~~section two a, article seven, chapter six~~ §6-7-2a of this code.

§11B-1-4. Reports by secretary.

The secretary shall make an annual report to the Governor concerning the conduct of the department and the administration of the budget. The secretary shall also make other reports as the Governor may require. Copies of any such reports shall be

submitted to the Legislature in the manner required by §5-1-20 of this code.

ARTICLE 2. STATE BUDGET OFFICE.

§11B-2-11. Estimates of revenue; reports on revenue collections; withholding department funds on noncompliance.

(a) Prior to the beginning of each fiscal year, the secretary shall estimate the revenue to be collected month by month by each classification of tax for that fiscal year as it relates to the official estimate of revenue for each tax for that fiscal year and the secretary shall certify this estimate to the Governor and the Legislative Auditor and the West Virginia Investment Management Board by July 1, for that fiscal year.

(1) The secretary shall ascertain the collection of the revenue of the state and shall determine for each month of the fiscal year the proportion which the amount actually collected during a month bears to the collection estimated by him or her for that month. The secretary shall certify to the Governor, the Legislative Auditor and the Investment Management Board, as soon as possible after the close of each month, and not later than the 15th day of each month, and at other times as the Governor, the Legislative Auditor or the Investment Management Board may request, the condition of the state revenues and of the several funds of the state and the proportion which the amount actually collected during the preceding month bears to the collection estimated by him or her for that month. The secretary shall include in this certification the same information previously certified for prior months in each fiscal year. The certification for the final month of a fiscal year shall also include the proportion which the amount actually collected during the preceding fiscal year bears to the appropriations made for that year. For the purposes of this section, the secretary shall have the authority to require all necessary estimates and reports from any spending unit of the state government.

(2) If the secretary fails to certify to the Governor, the Legislative Auditor and the Investment Management Board the

information required by this subsection within the time specified herein, the Legislative Auditor shall notify the Auditor and Treasurer of the failure and thereafter no funds appropriated to the Department of Revenue may be expended until the secretary has certified the information required by this subsection.

(b) Prior to July 1, of each fiscal year, the secretary shall estimate daily revenue flows for the General Revenue Fund for the next fiscal year as it relates to the official estimate of revenue. Subsequent to the end of each fiscal year, the secretary shall compare the projected daily revenue flows with the actual daily revenue flows from the previous year. The secretary may for any month or months, at his or her discretion, revise the annual projections of the daily revenue flows. The secretary shall certify to the Governor, the Legislative Auditor and the Investment Management Board, as soon as possible after the close of each month and not later than the 15th day of each month, and at other times as the Governor, the Legislative Auditor or the Investment Management Board may request, the condition of the General Revenue Fund and the comparison of the projected daily revenue flows with the actual daily revenue flows. If the secretary fails to certify to the Governor, the Legislative Auditor and the Investment Management Board the information required by this subsection within the time specified herein, the Legislative Auditor shall notify the Auditor and treasurer of the failure and thereafter no funds appropriated to the Department of Revenue may be expended until the secretary has certified the information required by this subsection.

§11B-2-21. Reduction of appropriations — Reduction of appropriations from general revenue.

If the Governor determines that the amounts, or parts thereof, appropriated from the general revenue cannot be expended without creating an overdraft or deficit in the General Fund, he or she may, before the end of the fiscal year, instruct the secretary to reduce all appropriations out of general revenue in a degree as necessary to prevent an overdraft or a deficit in the General Fund. No reduction of appropriations may be made after June 30 of the fiscal year.

§11B-2-23. Approval of secretary of requests for changes and receipt and expenditure of federal funds by state agencies; copies or sufficient summary information to be furnished to secretary; ~~and~~ consolidated report of federal funds; central agency for receipt of federal funds; unlawful acts.

(a) Every agency of the state government when making requests or preparing budgets to be submitted to the federal government for funds, equipment, material or services, the grant or allocation of which is conditioned upon the use of state matching funds, shall have the request or budget approved in writing by the secretary before submitting it to the proper federal authority. When the federal authority has approved the request or budget, the agency of the state government shall resubmit it to the secretary for recording before any allotment or encumbrance of the federal funds can be made. Whenever any agency of the state government receives from any agency of the federal government a grant or allocation of funds which do not require state matching, the state agency shall report to the secretary the amount of the federal funds granted or allocated.

(b) Unless contrary to federal law, any agency of state government, when making requests or preparing budgets to be submitted to the federal government for funds for personal services, shall include in the request or budget the amount of funds necessary to pay for the costs of any fringe benefits related to the personal service. For the purposes of this section, 'fringe benefits' means any employment benefit granted by the state which involves state funds, including, but not limited to, contributions to insurance, retirement and social security and which does not affect the basic rate of pay of an employee.

(c) In addition to the other requirements of this section, the secretary shall, as soon as possible after the end of each fiscal year but no later than December 31, of each year, submit to the Governor a consolidated report which shall contain a detailed itemization of all federal funds received by the state during the preceding and current fiscal years, as well as those scheduled or anticipated to be received during the remainder of the current fiscal year and the next ensuing fiscal year. The itemization shall show:

(1) Each spending unit which has received or is scheduled or expected to receive federal funds in either of the fiscal years;

(2) The amount of each separate grant or distribution received or to be received; and

(3) A brief description of the purpose of every grant or other distribution, with the name of the federal agency, bureau or department making the grant or distribution: *Provided*, That it is not necessary to include in the report an itemization of federal revenue sharing funds deposited in and appropriated from the revenue sharing trust fund block grants, or federal funds received for the benefit of the Division of Highways of the Department of Transportation.

(d) The secretary may obtain from the spending units any and all information necessary to prepare a report.

(e) Notwithstanding the other provisions of this section and in supplementation of the provisions of this section, the Legislature hereby determines that the Department of Revenue and its secretary need to be the single and central agency for receipt of information and documents in respect of applications for, and changes, receipt and expenditure of, federal funds by state agencies. Every agency of state government, when making application for federal funds in the nature of a grant, allocation or otherwise; when amending the applications or requests; when in receipt of federal funds; or when undertaking any expenditure of federal funds, in all respective instances, shall provide to the secretary of revenue document copies or sufficient summary information in respect of the federal funds to enable the secretary to provide approval in writing for any activity in respect to the federal funds.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 2. PAYMENT AND DEPOSIT OF TAXES AND OTHER AMOUNTS DUE THE STATE OR ANY POLITICAL SUBDIVISION.

§12-2-2. Itemized record of moneys received for deposit; regulations governing deposits; credit to state fund; exceptions.

(a) All officials and employees of the state authorized by statute to accept moneys on behalf of the State of West Virginia shall keep a daily itemized record of moneys received for deposit in the State Treasury and shall deposit within one business day with the State Treasurer all moneys received or collected by them for or on behalf of the state for any purpose whatsoever. The State Treasurer may grant an exception to the one business day rule when circumstances make compliance difficult or expensive. The State Treasurer may review the procedures and methods used by officials and employees authorized to accept moneys due the state and change the procedures and methods if he or she determines it is in the best interest of the state: *Provided*, That the State Treasurer may not review or amend the procedures by which the Department of Revenue accepts moneys due the state. The State Treasurer shall propose rules for legislative approval, in accordance with the provisions of ~~article three, chapter twenty nine~~ a §29A-3-1 et seq. of this code governing the procedure for deposits. The official or employee making deposits with the State Treasurer shall prepare deposit lists in the manner and upon report forms prescribed by the State Treasurer in the state accounting system. The State Treasurer shall review the deposits in the state accounting system and forward the information to the State Auditor and to the Secretary of Revenue.

(b) All moneys received by the state from appropriations made by the Congress of the United States shall be recorded in special fund accounts, in the State Treasury apart from the general revenues of the state, and shall be expended only upon appropriation of the Legislature in accordance with the provisions of ~~article eleven, chapter four~~ §4-11-1 et seq. of this code. All moneys, other than federal funds, defined in ~~section two, article eleven, chapter four~~ §4-11-2 of this code, shall be credited to the state fund and treated by the State Auditor and State Treasurer as part of the general revenue of the state except the following funds which shall be recorded in separate accounts:

(1) All funds excluded by the provisions of ~~section six, article eleven, chapter four~~ §4-11-6 of this code;

(2) All funds derived from the sale of farm and dairy products from farms operated by any spending unit of the state;

(3) All endowment funds, bequests, donations, executive emergency funds and death and disability funds;

(4) All fees and funds collected at state educational institutions for student activities;

(5) All funds derived from collections from dormitories, boardinghouses, cafeterias and road camps;

(6) All moneys received from counties by institutions for the deaf and blind on account of clothing for indigent pupils;

(7) All insurance collected on account of losses by fire and refunds;

(8) All funds derived from bookstores and sales of blank paper and stationery, and collections by the chief inspector of public offices;

(9) All moneys collected and belonging to the capitol building fund, state road fund, state road sinking fund, general school fund, school fund, state fund (moneys belonging to counties, districts and municipalities), state interest and sinking funds, state compensation funds, the fund maintained by the Public Service Commission for the investigation and supervision of applications and all fees, money, interest or funds arising from the sales of all permits and licenses to hunt, trap, fish or otherwise hold or capture fish and wildlife resources and money reimbursed and granted by the federal government for fish and wildlife conservation; and

(10) All moneys collected or received under any act of the Legislature providing that funds collected or received under the act shall be used for specific purposes.

(c) All moneys, except as provided in subdivisions (1) through (9), inclusive, subsection (b) of this section, shall be paid into the State Treasury in the same manner as collections not excepted and recorded in separate accounts for receipt and expenditure for the purposes for which the moneys are authorized to be collected by law: *Provided*, That amounts collected pursuant to subdivisions (1) through (10), subsection (b) of this section, which are found, from time to time, to exceed funds needed for the purposes set forth in

general law may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. The gross amount collected in all cases shall be paid into the State Treasury. Commissions, costs and expenses, including, without limitation, amounts charged for use of bank, charge, credit or debit cards, incurred in the collection process shall be paid from the gross amount collected in the same manner as other payments are made from the State Treasury.

(d) The State Treasurer may establish an imprest fund or funds in the office of any state spending unit upon receipt of a proper application. To implement this authority, the State Treasurer shall propose rules for legislative approval in accordance with the provisions of ~~article three, chapter twenty nine~~ a §29A-3-1 et seq. of this code. The State Treasurer or his or her designee shall annually audit all imprest funds and prepare a list of the funds showing the location and amount as of fiscal year end, retaining the list as a permanent record of the State Treasurer until the Legislative Auditor has completed an audit of the imprest funds of all agencies and institutions involved.

(e) The State Treasurer may develop and implement a centralized receipts processing center. The State Treasurer may request the transfer of equipment and personnel from appropriate state agencies to the centralized receipts processing center in order to implement the provisions of this section: *Provided*, That the Governor or appropriate constitutional officer has authority to authorize the transfer of equipment or personnel to the centralized receipts processing center from the respective agency.

ARTICLE 3. APPROPRIATIONS, EXPENDITURES AND DEDUCTIONS.

§12-3-12. Expiration of unexpended appropriations; reappropriations.

(a) ~~Every~~ Except as provided in subsection (b) of this section, every appropriation ~~which~~ that is payable out of the general revenue, or so much thereof as may remain undrawn at the end of the year for which made, shall be deemed to have expired at the end of the year for which it is made, and no warrant shall thereafter be issued upon it: *Provided*, That warrants may be drawn through

the 31st day of July after the end of the year for which the appropriation is made if the warrants are in payment of bills for such year and have been encumbered by the budget office prior to July first: ~~but appropriations for buildings and land or capital outlay shall remain in effect, and shall not be deemed to have expired until the end of three years after the passage of the act by which such appropriations are made~~ *Provided, however,* That if such 31st day of July is on Saturday, then warrants may only be drawn through the Friday immediately preceding such Saturday, but if such 31st day of July is on Sunday, the warrants may be drawn through the Monday immediately following such Sunday.

(b) Notwithstanding any provision of subsection (a) of this section to the contrary:

(1) Appropriations that are payable out of the general revenue, or so much thereof as may remain undrawn at the end of the year for which made, for buildings and land or capital outlay shall remain in effect, and shall not be deemed to have expired until the end of three years after the passage of the act by which such appropriations are made; and

(2) Appropriations that are payable out of the general revenue, or so much thereof as may remain undrawn at the end of the fiscal year for which made, that are reappropriated by the budget act for the ensuing fiscal year shall not be deemed to have expired unless, at the end of the fiscal year just ended, the total general revenue collections for the fiscal year just ended did not equal or exceed total general revenue appropriations for that fiscal year. If the total general revenue collections for the fiscal year just ended did not equal or exceed total general revenue appropriations for that fiscal year, all such reappropriations shall be deemed to have expired at the end of the fiscal year as provided in subsection (a) of this section.

(c) The Legislature may expire or provide for the expiration of any appropriation prior to the end of the fiscal year for which it is made.

§12-3-17. Liabilities incurred by state boards, commissions, officers or employees which cannot be paid out of current appropriations.

Except as provided in this section, it shall be unlawful for any state board, commission, officer or employee: (1) To incur any liability during any fiscal year which cannot be paid out of the then current appropriation for such year or out of funds received from an emergency appropriation; or (2) to authorize or to pay any account or bill incurred during any fiscal year out of the appropriation for the following year: *Provided*, That nothing contained herein shall prohibit entering into a contract or lease for buildings, land and space, the cost of which exceeds the current year's appropriation, even though the amount is not available during the then current year, if the aggregate cost does not exceed the amount then authorized by the Legislature. Nothing contained herein shall ~~repeat~~ abrogate the provisions of the general law relating to the expiration of appropriations for buildings and land.

Any member of a state board or commission or any officer or employee violating any provision of this section shall be personally liable for any debt unlawfully incurred or for any payment unlawfully made.

ARTICLE 4. ACCOUNTS, REPORTS AND GENERAL PROVISIONS.

§12-4-2. Accounts of Treasurer and Auditor; Auditor to certify condition of revenues and funds of the state.

The Treasurer shall keep in his or her office separate accounts with each depository, and also a summary account for the state, and when money is paid into the treasury, it shall be charged to the proper depository and credited to a summary account. The Auditor shall keep in his or her office separate accounts of the particular heads or sources of revenue, and a summary account with the Treasurer, beside such individual accounts with officers and persons as may be necessary, and shall charge every sum of money received for the state as aforesaid to the Treasurer's account, and credit it under the particular head of revenue to which it properly

belongs, distinguishing especially in distinct accounts the receipts on account of the capital of the school fund and those on account of the income of said fund subject to annual distribution. The Auditor shall certify annually to the ~~commissioner of finance and administration~~ Secretary of Revenue the condition of the state revenues and the several funds of the state. The certification shall be used by the ~~commissioner~~ Secretary in the preparation of a tentative state budget as required of him ~~or her~~ by ~~article two, chapter five a~~ §5-1A-1 et seq., and §11B-2-1 et seq. of this code.

§12-4-3. Accounts of appropriations.

The Auditor and Secretary of ~~administration~~ Revenue shall each keep an account of every appropriation made by law, and of the several sums drawn thereon, so that the accounts may show at all times the balance undrawn on each appropriation. The account so kept shall be compared every month and errors, if any, corrected.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2014 – “A Bill to amend and reenact §4-11-1, §4-11-2, §4-11-3, §4-11-4, §4-11-5, §4-11-6, and §4-11-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §5-1A-1 of said code; to amend and reenact §11B-1-1 and §11B-1-4 of said code; to amend and reenact §11B-2-11, §11B-2-21, and §11B-2-23 of said code; to amend and reenact §12-2-2 of said code; to amend and reenact §12-3-12 and §12-3-17 of said code; and to amend and reenact §12-4-2 and §12-4-3 of said code, all relating to disposition of moneys received by the state generally; specifying the role of the Legislature in appropriating federal funds; updating references to types of federal funds; providing for appropriation of federal funds in accordance with the state constitution; updating and clarifying statutory cross-references; limiting gubernatorial authority to spend federal funds without appropriation of the Legislature; continuing and limiting spending of certain emergency funds for certain emergencies without additional enactment; requiring reports to the Legislature on

proposed and actual spending of those funds; removing certain emergency federal fund exclusion language from the provisions governing appropriations of federal funds; establishing controlling provisions in case of conflict of law; clarifying statutes applicable to preparation of state budget; clarifying meaning of certain terms; conditioning the Secretary of Revenue's receipt and expenditure of federal funds; providing copy of certain reports to the Legislature; enlarging matters to be reported to the Legislature regarding revenue estimates, collections and appropriations; requiring any budget reductions be made before end of fiscal year; enlarging matters to be reported in the annual Consolidated Federal Funds report; authorizing funds to be reappropriated from one fiscal year to the next, and providing circumstances under which those funds expire to the general revenue fund instead of being reappropriated; modifying certain terms; and updating references to public officers."

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 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: Bates.

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. 2014) passed.

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

On this question, 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: Bates.

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. 2014) 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, reconsideration of the effective date and requested concurrence of the House, in the changed effective date, to take effect from passage, of

Com. Sub. for H. B. 2260, Relating to procurement of child placing services.

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: Bates.

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. 2260) takes effect from its passage.

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

Miscellaneous Business

Delegate Hornbuckle asked and obtained unanimous consent to be added as a cosponsor of Com. Sub. for H. B. 3074.

Delegate Fluharty asked that the remarks of Delegate Longanacre regarding Com. Sub. for H. B. 3307 be printed in the Appendix to the Journal, which consent was not granted, objection being heard.

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegates Capito and Boggs regarding Com. Sub. for H. J. R. 3

- Delegate Barnhart regarding the death of Ritchie County Coach Kenny Wright

Delegate Howell noted to the Clerk that he be recorded in the Journal as having voted “Nay” on S. C. R. 20.

At 2:17 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, April 1, 2021.

Thursday, April 1, 2021

FIFTY-FIRST 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 Wednesday, March 31, 2021, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

On motion for leave, a resolution was introduced (Originating in the Committee on Veterans' Affairs and Homeland Security 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 Cooper and Fleischauer:

H. C. R. 84 – “Requesting That the Joint Committee on Government and Finance study the declining population of military service veterans in West Virginia, and the policies, programs and other factors present in states with increasing populations of military service members and veterans that could potentially be emulated in West Virginia.”

Whereas, the Legislature finds that the military service veterans of West Virginia are an asset to the body politic and have repeatedly shown themselves to be civic, business and governmental leaders of exemplary value to their communities; and

Whereas, the Legislature finds that the military service members and veterans of West Virginia exemplify the virtues of duty, honor, and self-sacrifice in the furtherance and preservation

of the Constitution of the United States and the Constitution of the State of West Virginia and all the fundamental rights and inviolable freedoms preserved to the people therein; and

Whereas, the Legislature finds that veterans not only bring hard skills from their military occupation; they also bring soft skills that most employers are unwilling to or can't train, often have in demand security clearances, are flexible, adaptable, and highly trainable, are entrepreneurs and approximately 13,000 veteran owned businesses in WV; and

Whereas, the Legislature finds that America's veteran population has declined 33% since 2000 and projected to decline another 33% by 2040; and

Whereas, Legislature finds that The U.S. Veterans Administration (hereafter "VA") projects West Virginia's veteran population to decline from its 2019 estimate of 141,341 veterans to 114,000 in 2030, and 92,000 in 2040; and

Whereas, the Legislature finds that VA's estimated West Virginia rate of decline is higher than the national rate of decline at 35% over the next 20 years; and

Whereas, the Legislature finds that the Bureau of Labor and Statics (hereafter "BLS") estimated veteran population numbers are not as optimistic as those of the VA; and

Whereas, the Legislature finds that VA and BLS both indicate that approximately 50% of WV veterans are over 65 years old; and

Whereas, the Legislature finds that VA and BLS both indicate West Virginia's 18-34 year old veteran population is significantly less that the national average; and

Whereas, the Legislature finds that VA estimates do not consider loss of West Virginia youth to military service that do not return to West Virginia after completing their service obligation; and

Whereas, the Legislature finds that In 2019, 339 active duty Army Soldiers separated from service that entered the Army from West Virginia but Only 75 of the 339 (22%) indicated they were returning to West Virginia; and

Whereas, the Legislature finds that 113 separating non-West Virginia natives indicated West Virginia as their destination state, totaling 188; and

Whereas, the Legislature finds that West Virginia's 188 separating soldiers represented just.3% of the 56,263 separating active duty soldiers in 2019; and

Whereas, the Legislature finds that In 2017, West Virginia ranked 43d in the nation for all separating service members with less than 1% choosing West Virginia as the state of separation; and

Whereas, the Legislature finds that other states in the United States have vibrant and growing military service member and veteran populations, whose policies, programs and other factors West Virginia should seek to emulate wherever possible; and

Whereas, the Legislature finds that it is important in any effort to improve the lives of veterans in our state, we should endeavor to consider how active service members and their families might be affected; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the declining population of military service veterans in West Virginia, and the policies, programs and other factors present in states with increasing populations of military service members and veterans that could potentially be emulated in West Virginia; and, be it

Further Resolved, That the study include reporting on all findings concerning the declining population of military service members and veterans in West Virginia, and the policies, programs and other factors present in states with increasing populations of

military service members and veterans that could potentially be emulated in West Virginia; and be it

Further Resolved, That all measures considered by the committee include evaluation of how any legislative action taken might improve the lives of not just veterans, but also active military members and their families; and, be it

Further Resolved, That the study include all necessary information on the policies, programs and other factors present in states with increasing populations of military service members and veterans that could potentially be emulated in West Virginia by act of the West Virginia Legislature; and, be it

Further Resolved, That the Joint Committee on Government and Finance contract with the Center for Veteran, Military and Family Programs at West Virginia University or other appropriate entity, at a cost not to exceed \$25,000, to prepare a report to the Legislature; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, not later than sixty days prior to the first day of the regular session, 2022, 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 resolution to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 263, Permitting online raffles to benefit charitable and public service organizations,

Com. Sub. for S. B. 361, Extending supervision for conviction of soliciting minor and using obscene matter with intent to seduce minor,

Com. Sub. for S. B. 483, Allowing oaths be taken before any person authorized to administer oaths,

And,

Com. Sub. for S. B. 673, Relating to venue for bringing civil action or arbitration proceedings under construction contracts,

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. 294, Relating generally to savings and investment programs offered by state,

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. 494, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund,

And,

S. B. 693, Updating certain definitions and terms used in WV Personal Income Tax Act,

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. 297, Relating generally to modernizing Board of Treasury Investments,

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. 460, Relating to Deputy Sheriff Retirement System Act,

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

Note: The Speaker subsequently announced that there was an amendment from the Committee. This is in addition to the title amendment but was omitted from the wording of the report.

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

Your Committee on Technology and Infrastructure has had under consideration:

H. C. R. 4, Private First Class Herman Harold Lucas Memorial Bridge,

H. C. R. 10, James “Big Jim” Shaffer Memorial Bridge,

H. C. R. 11, Thomas Brothers Memorial Bridge,

H. C. R. 18, Daniel Okey Cunningham Memorial Bridge,

H. C. R. 28, Paul J. Hofe Memorial Bridge,

H. C. R. 40, Guy Maywood Edwards Memorial Bridge,

H. C. R. 41, Halstead Brothers WWII Veterans Memorial Bridge,

H. C. R. 44, Timothy Wayne Farley Memorial Bridge,

H. C. R. 45, Guy Maywood Edwards Memorial Bridge,

H. C. R. 46, U. S. Navy BM1 Farris Burton Memorial Bridge,

H. C. R. 47, SP5 Terry Lee McClanahan Memorial Bridge,

H. C. R. 51, U.S. Army Private Elmo Davis Memorial Road,

H. C. R. 53, President Donald J. Trump Highway,

H. C. R. 58, Kohlton Red Haney Memorial Bridge,

H. C. R. 60, Cpl. Billy F. Mann Memorial Bridge,

H. C. R. 66, Officer Cassie Johnson - Fallen Heroes Memorial Bridge,

H. C. R. 67, Roy E. Givens Memorial Road,

H. C. R. 71, Doctor Enrique and Mrs. Sallie H. Aguilar Memorial Bridge,

H. C. R. 75, U.S. Army Corporal Charles William "Bill" Knight Memorial Bridge,

H. C. R. 76, U.S. Navy Seaman 1st Class Byrne Lee Singleton Memorial Bridge,

H. C. R. 77, Elmer Galford Memorial Road,

And,

S. C. R. 16, USMC Corporal Roger Lee Boothe Memorial Road,

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. 4, H. C. R. 10, H. C. R. 11, H. C. R. 18, H. C. R. 28, H. C. R. 40, H. C. R. 41, H. C. R. 44, H. C. R. 45, H. C. R. 46, H. C. R. 47, H. C. R. 51, H. C. R. 53, H. C. R. 58, H. C. R. 60, H. C. R. 66, H. C. R. 67, H. C. R. 71, H. C. R. 75, H. C. R. 76, H. C. R. 77 and S. C. R. 16) were each referred to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration:

S. J. R. 4, Incorporation of Churches or Religious Denominations Amendment,

And reports the same back, with amendment, with the recommendation that it be adopted, as amended.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on March 31, 2021, he approved **Com. Sub. for S. B. 156**, **Com. Sub. for S. B. 160** and **Com. Sub. for S. B. 182**.

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. 2094, Relating to the juvenile restorative justice programs.

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 49. CHILD WELFARE.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§49-1-206. Definitions related, but not limited to, child advocacy, care, residential, and treatment programs.

When used in this chapter, the following terms have the following meanings, unless the context clearly indicates otherwise:

‘Child Advocacy Center (CAC)’ means a community-based organization that is a member, in good standing, of the West Virginia Child Advocacy Network, Inc., as set forth in §49-3-101 of this code.

‘Child care’ means responsibilities assumed and services performed in relation to a child’s physical, emotional, psychological, social, and personal needs and the consideration of the child’s rights and entitlements, but does not include secure detention or incarceration under the jurisdiction of the Division of Corrections and Rehabilitation pursuant to §49-2-901 *et seq.* of this code. It includes the provision of child care services or residential services.

‘Child care center’ means a facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, for the care of 13 or more children for child care services in any setting, if the facility is open for more than 30 days per year per child.

‘Child care services’ means direct care and protection of children during a portion of a 24-hour day outside of the child’s own home which provides experiences to children that foster their healthy development and education.

‘Child placing agency’ means a child welfare agency organized for the purpose of placing children in private family homes for

foster care or for adoption. The function of a child placing agency may include the investigation and certification of foster family homes and foster family group homes as provided in this chapter. The function of a child placing agency may also include the supervision of children who are 16 or 17 years of age and living in unlicensed residences.

‘Child welfare agency’ means any agency or facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, to receive children for care and maintenance or for placement in residential care facilities, including, without limitation, private homes or any facility that provides care for unmarried mothers and their children. A child welfare agency does not include juvenile detention facilities or juvenile correctional facilities operated by or under contract with the Division of Corrections and Rehabilitation, pursuant to §49-2-901 *et seq.* of this code, nor any other facility operated by that division for the secure housing or holding of juveniles committed to its custody.

‘Community based’ means a facility, program, or service located near the child’s home or family and involving community participation in planning, operation, and evaluation and which may include, but is not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, substance abuse, and any other treatment or rehabilitation services.

‘Community-based juvenile probation sanctions’ means any of a continuum of nonresidential accountability measures, programs, and sanctions in response to a technical violation of probation, as part of a system of community-based juvenile probation sanctions and incentives, that may include, but are not limited to:

- (A) Electronic monitoring;
- (B) Drug and alcohol screening, testing, or monitoring;
- (C) Youth reporting centers;

(D) Reporting and supervision requirements;

(E) Community service; and

(F) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment.

‘Community services’ means nonresidential prevention or intervention services or programs that are intended to reduce delinquency and future court involvement.

‘Evidence-based practices’ means policies, procedures, programs, and practices demonstrated by research to reliably produce reductions in the likelihood of reoffending.

‘Facility’ means a place or residence, including personnel, structures, grounds, and equipment used for the care of a child or children on a residential or other basis for any number of hours a day in any shelter or structure maintained for that purpose. Facility does not include any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody.

‘Family child care facility’ means any facility which is used to provide nonresidential child care services for compensation for seven to 12 children, including children who are living in the household, who are under six years of age. A facility may be in a provider’s residence or a separate building.

‘Family child care home’ means a facility which is used to provide nonresidential child care services for compensation in a provider’s residence. The provider may care for four to six children at one time, including children who are living in the household, who are under six years of age.

‘Family resource network’ means:

(A) A local community organization charged with service coordination, needs and resource assessment, planning, community

mobilization, and evaluation, and which has met the following criteria:

(i) Has agreed to a single governing entity;

(ii) Has agreed to engage in activities to improve service systems for children and families within the community;

(iii) Addresses a geographic area of a county or two or more contiguous counties;

(iv) Has, as the majority of the members of the governing body, nonproviders, which includes family representatives and other members who are not employees of publicly funded agencies, with family representatives as the majority of those members who are nonproviders;

(v) Has members of the governing body who are representatives of local service agencies, including, but not limited to, the public health department, the behavioral health center, the local health and human resources agency, and the county school district; and

(vi) Adheres to principles consistent with the cabinet's mission as part of its philosophy.

(B) A family resource network may not provide direct services, which means to provide programs or services directly to children and families.

'Family support', for the purposes of §49-2-601 *et seq.* of this code, means goods and services needed by families to care for their family members with developmental disabilities and to enjoy a quality of life comparable to other community members.

'Family support program' means a coordinated system of family support services administered by the Department of Health and Human Resources through contracts with behavioral health agencies throughout the state.

‘Fictive kin’ means an adult of at least 21 years of age, who is not a relative of the child, as defined herein, but who has an established, substantial relationship with the child, including but not limited to, teachers, coaches, ministers, and parents, or family members of the child’s friends.

‘Foster family home’ means a private residence which is used for the care on a residential basis of no more than six children who are unrelated, by blood, marriage, or adoption, to any adult member of the household.

‘Foster parent’ means a person with whom the department has placed a child and who has been certified by the department, a child placing agency, or another agent of the department to provide foster care.

‘Health care and treatment’ means:

(A) Developmental screening;

(B) Mental health screening;

(C) Mental health treatment;

(D) Ordinary and necessary medical and dental examination and treatment;

(E) Preventive care including ordinary immunizations, tuberculin testing, and well-child care; and

(F) Nonemergency diagnosis and treatment. However, nonemergency diagnosis and treatment does not include an abortion.

‘Home-based family preservation services’ means services dispensed by the Department of Health and Human Resources or by another person, association, or group who has contracted with that division to dispense services when those services are intended to stabilize and maintain the natural or surrogate family in order to prevent the placement of children in substitute care. There are two

types of home-based family preservation services and they are as follows:

(A) Intensive, short-term intervention of four to six weeks; and

(B) Home-based, longer-term after care following intensive intervention.

‘Informal family child care’ means a home that is used to provide nonresidential child care services for compensation for three or fewer children, including children who are living in the household who are under six years of age. Care is given in the provider’s own home to at least one child who is not related to the caregiver.

‘Kinship parent’ means a person with whom the department has placed a child to provide a kinship placement.

‘Kinship placement’ means the placement of the child with a relative of the child, as defined herein, or a placement of a child with a fictive kin, as defined herein.

‘Needs Assessment’ means an evidence-informed assessment which identifies the needs a child or family has, which, if left unaddressed, will likely increase the chance of reoccurring.

‘Nonsecure facility’ means any public or private residential facility not characterized by construction fixtures designed to physically restrict the movements and activities of individuals held in lawful custody in that facility and which provides its residents access to the surrounding community with supervision.

‘Nonviolent misdemeanor offense’ means a misdemeanor offense that does not include any of the following:

(A) An act resulting in bodily injury or death;

(B) The use of firearm or other deadly weapon in the commission of the offense;

(C) A domestic abuse offense involving a significant or likely risk of harm to a family member or household member;

(D) A criminal sexual conduct offense; or

(E) Any offense for driving under the influence of alcohol or drugs.

‘Out-of-home placement’ means a post-adjudication placement in a foster family home, kinship parent home, group home, nonsecure facility, emergency shelter, hospital, psychiatric residential treatment facility, staff secure facility, hardware secure facility, detention facility, or other residential placement other than placement in the home of a parent, custodian, or guardian.

‘Out-of-school time’ means a child care service which offers activities to children before and after school, on school holidays, when school is closed due to emergencies, and on school calendar days set aside for teacher activities.

‘Placement’ means any temporary or permanent placement of a child who is in the custody of the state in any foster home, kinship parent home, group home, or other facility or residence.

‘Pre-adjudicatory community supervision’ means supervision provided to a youth prior to adjudication, for a period of supervision up to one year for an alleged status or delinquency offense.

‘Regional family support council’ means the council established by the regional family support agency to carry out the responsibilities specified in §49-2-601 *et seq.* of this code.

‘Relative family child care’ means a home that provides nonresidential child care services only to children related to the caregiver. The caregiver is a grandparent, great-grandparent, aunt, uncle, great-aunt, great-uncle, or adult sibling of the child or children receiving care. Care is given in the provider’s home.

‘Relative of the child’ means an adult of at least 21 years of age who is related to the child, by blood or marriage, within at least three degrees.

‘Residential services’ means child care which includes the provision of nighttime shelter and the personal discipline and supervision of a child by guardians, custodians, or other persons or entities on a continuing or temporary basis. It may include care or treatment, or both, for transitioning adults. Residential services does not include or apply to any juvenile detention facility or juvenile correctional facility operated by the Division of Corrections and Rehabilitation, created pursuant to this chapter, for the secure housing or holding of juveniles committed to its custody.

‘Restorative justice program’ means a voluntary, community based program which utilizes evidence-based practices that provide an opportunity for a juvenile to accept responsibility for and participate in setting consequences to repair harm caused by the juvenile against the victim and the community by means of facilitated communication including, but not limited to, mediation, dialogues, or family group conferencing, attended voluntarily by the victim, the juvenile, a facilitator, a victim advocate, community members, or supporters of the victim or the juvenile.

‘Risk and needs assessment’ means a validated, standardized actuarial tool which identifies specific risk factors that increase the likelihood of reoffending and the factors that, when properly addressed, can reduce the likelihood of reoffending.

‘Scattered-site living arrangement’ means a living arrangement where youth, 17 to 26 years of age, live in a setting that allows staff to be available as needed, depending on the youth’s level of autonomy. Sites for such living arrangements shall be in community environments to allow the youth full access to services and resources in order to fully develop independent living skills.

‘Secure facility’ means any public or private residential facility which includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.

‘Staff secure facility’ means any public or private residential facility characterized by staff restrictions of the movements and activities of individuals held in lawful custody in such facility, and

which limits its residents' access to the surrounding community, but is not characterized by construction fixtures designed to physically restrict the movements and activities of residents.

'Standardized screener' means a brief, validated nondiagnostic inventory or questionnaire designed to identify juveniles in need of further assessment for medical, substance abuse, emotional, psychological, behavioral, or educational issues, or other conditions.

'State family support council' means the council established by the Department of Health and Human Resources pursuant to §49-2-601 *et seq.* of this code to carry out the responsibilities specified in §49-2-101 *et seq.* of this code.

'Supervised group setting' means a setting where youth, 16 to 21 years of age, live with staff onsite or are available 24 hours per day and seven days per week. In this setting, staff provide face to face daily contact with youth.

'Time-limited reunification services' means individual, group, and family counseling, inpatient, residential, or outpatient substance abuse treatment services, mental health services, assistance to address domestic violence, services designed to provide temporary child care, and therapeutic services for families, including crisis nurseries and transportation to or from those services, provided during 15 of the most recent 22 months a child or juvenile has been in foster or in a kinship placement, as determined by the earlier date of the first judicial finding that the child is subjected to abuse or neglect, or the date which is 60 days after the child or juvenile is removed from home.

'Technical violation' means an act that violates the terms or conditions of probation or a court order that does not constitute a new delinquent offense.

'Truancy diversion specialist' means a school-based probation officer or truancy social worker within a school or schools who, among other responsibilities, identifies truants and the causes of

the truant behavior, and assists in developing a plan to reduce the truant behavior prior to court involvement.

ARTICLE 4. COURT ACTIONS.

§49-4-725. Restorative justice programs.

(a) ~~The court or prosecuting attorney may divert offer a juvenile, referred to the court for a status offense or for a nonviolent misdemeanor offense, to~~ against whom a petition has been filed alleging that the juvenile has committed any of the offenses set forth in subsection (b) of this section, the opportunity to participate in a voluntary restorative justice program, where available, at any time prior to adjudication disposition of the case.

(b) A juvenile is eligible to participate in a restorative justice program if the offense that the juvenile is alleged to have committed is:

(1) A status offense;

(2) An offense that would constitute a nonviolent offense if committed by an adult;

(3) An offense that would constitute misdemeanor assault pursuant to §61-2-9(b) of this code if committed by an adult; or

(4) An offense that would constitute misdemeanor battery pursuant to §61-2-9(c) of this code if committed by an adult.

(c) The juvenile or the victim or both may decline and shall not be required to participate in a restorative justice program: Provided, That any declination by the juvenile or the victim or both shall not preclude future participation in a restorative justice program during the current proceeding or any subsequent proceeding under this article.

(d) A restorative justice program shall:

(1) Emphasize repairing the harm against the victim and the community caused by the juvenile;

~~(2) Include victim-offender dialogues or family group conferencing, attended voluntarily by the victim, the juvenile offender, a facilitator, a victim advocate, community members, or supporters of the victim or the juvenile offender that provide an opportunity for the offender to accept responsibility for the harm caused to those affected by the crime and to participate in setting consequences to repair the harm; and~~

~~(3) Implement sanctions for the juvenile~~ implement measures agreed to by the victim and the juvenile which are designed to provide redress to the victim and community, including, but not limited to, restitution to the victim, restitution to the community, services for the victim ~~or~~, services for the community, or any other ~~sanction~~ reasonable measure intended to provide restitution or services to the victim or the community.

~~(e)~~ (e) If a juvenile is referred to, and successfully completes, a restorative justice program, including all agreed-to measures pursuant to subsection (d) of this section, the petition against the juvenile shall be dismissed.

~~(d)~~ (f) No self-incriminating information obtained from the juvenile as the result of a restorative justice program is admissible as evidence against him or her in a subsequent proceeding under this article.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2094 – “A Bill to amend and reenact §49-1-206 of the Code of West Virginia, 1931, as amended; and to amend and reenact §49-4-725 of said code, all relating to the juvenile restorative justice programs; defining the term ‘restorative justice program’; authorizing a court or prosecuting attorney to offer a juvenile, against whom a petition has been filed alleging that the juvenile has committed certain offenses, the opportunity to participate in a voluntary restorative justice program, where available, at any time prior to disposition of the case; listing offenses alleged to have been committed by a juvenile eligible for

participation in a restorative justice program; authorizing the juvenile or victim or both to decline participation in a restorative justice program; providing for future participation in a restorative justice program after any declination by a juvenile or victim or both; requiring certain measures agreed to by the victim and juvenile to be included in a restorative justice program to provide redress to the victim and community; requiring dismissal of a petition against a juvenile upon successful completion of a restorative justice program including all agreed-to measures; clarifying information which is inadmissible against a juvenile in a subsequent proceeding.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 390**), 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 (Com. Sub. for H. B. 2094) 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. 2400, Authorizing the Department of Transportation 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 8. AUTHORIZATION FOR DEPARTMENT OF
TRANSPORTATION TO PROMULGATE
LEGISLATIVE RULES.**

§64-8-1. Division of Highways.

The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §17-2A-8 of this code, relating to the Division of Highways (traffic and safety rules, 157 CSR 05), is authorized.

§64-8-2. Division of Motor Vehicles.

(a) The legislative rule filed in the State Register on August 11, 2020, authorized under the authority of §17B-2-15 of this code, modified by the Division of Motor Vehicles to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2020, relating to the Division of Motor Vehicles (examination and issuance of driver’s license, 91 CSR 04), is authorized with the following amendment:

On page 4, after subdivision 3.11.e., by adding a new subdivision 3.11.f. to read as follows:

3.11.f. In the Commissioner’s discretion, the Division may accept a social security number provided by any applicant for a driver’s license or identification card without a document presented as proof of social security number when the United States Social Security Administration verifies the social security number electronically, except for license types where a social security card or document submission is mandated by federal law or regulation.

(b) The legislative rule filed in the State Register on August 19, 2020, authorized under the authority of §17A-2-9 of this code, relating to the Division of Motor Vehicles (denial, suspension, revocation, disqualification, restriction, non-renewal, cancellation, administrative appeals and reinstatement of driving privileges, 91 CSR 05), is authorized.

(c) The legislative rule filed in the State Register on August 28, 2020, authorized under the authority of §17A-2-9 of this code, modified by the Division of Motor Vehicles to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2020, relating to the Division of Motor Vehicles (compulsory motor vehicle liability insurance, 91 CSR 13), is authorized.

(d) The legislative rule filed in the State Register on August 7, 2020, authorized under the authority of §17A-13-1(m) of this code, modified by the Division of Motor Vehicles to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 17, 2020, relating to the Division of Motor Vehicles (special purpose vehicles, 91 CSR 25), is authorized.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2400 – “A Bill to amend and reenact §64-8-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Transportation to promulgate legislative rules; authorizing the rules as filed and as modified by the Legislative Rule-Making Review Committee and as amended by the Legislature; authorizing the Division of Highways to promulgate a legislative rule relating to traffic and safety rules; relating to authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to examination and issuance of driver’s license; relating to authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to denial, suspension, revocation, disqualification, restriction, non-renewal, cancellation, administrative appeals and reinstatement of driving privileges; relating to authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to compulsory motor vehicle liability insurance, and relating to authorizing the Division of Motor Vehicles to promulgate a legislative rule relating to special purpose vehicles.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 391**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: 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 (Com. Sub. for H. B. 2400) passed.

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

On this question, the yeas and nays were taken (**Roll No. 392**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Paynter.

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 (Com. Sub. for H. B. 2400) 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:

Com. Sub. for H. B. 2495, Relating to the filing of asbestos and silica claims.

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. 2499, Tax reduction for arms and ammo manufacturing.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page twelve, section two, line six, after the word “meaning”, by inserting the word “of”;

And,

On page twelve, section two, line eight, after the words ‘section 1504 of’ by inserting the word “the”.

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 393**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Doyle, Fleischauer 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 (Com. Sub. for H. B. 2499) 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. 2808, Remove salt from list and definition of ‘mineral’ for severance tax purposes.

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. 2852, Relating to distribution of the allowance for increased enrollment.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section fifteen, lines twenty-nine through thirty-five, by striking out the words “Nothing in this subsection prohibits, however, the state superintendent, at the request of a school district, before the actual increase in net enrollment is available, from advancing a partial distribution to the school district of up to 60 percent of its estimated share based on its projected increased enrollment: *Provided*, That if the amount of the advanced partial distribution to a school district is greater than the total amount to which a district is entitled to receive for the year, the district shall refund the difference to the Department of Education prior to June 30 of the fiscal year in which the excess distribution is made.”

And,

Inserting in lieu thereof the following:

“Nothing in this subsection prohibits, however, the state superintendent, at the request of a school district, before the actual increase in net enrollment is available, from advancing a partial distribution to the school district of up to 60 percent of its estimated share based on its projected increased enrollment, subject to the following:

(A) If the amount of the advanced partial distribution to a school district is greater than the total amount to which a district is entitled to receive for the year, the district shall refund the

difference to the Department of Education prior to June 30 of the fiscal year in which the excess distribution is made; and

(B) The Department of Education shall notify the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability whenever an advanced partial distribution is made.”

And,

By amending the title of the bill to read as follows:

H. B. 2852 – “A Bill to amend and reenact §18-9A-15 of the Code of West Virginia, 1931, as amended, relating to distribution of the allowance for increased enrollment; removing mandated distribution of 60 percent of allowance based on projected increased enrollment prior to September 1; authorizing advance at district request prior to availability of actual increased enrollment of partial distribution of up to 60 percent of school districts estimated share; providing for refund of excess distribution; and requiring notification of the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability whenever an advanced partial distribution is made.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 394**), 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. 2852) 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:

H. B. 2898, Making a supplementary appropriation to WorkForce West Virginia – Workforce Investment Act.

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:

“That the total appropriation for the fiscal year ending June 30, 2021, to fund 8749, fiscal year 2021, organization 0323, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Sec. 7. Appropriations from federal block grants.

376 – WorkForce West Virginia–

Workforce Investment Act

Fund 8749 FY 2021 Org 0323

	Appro-	Federal
	priation	Funds
3 Current Expenses	13000	\$ 6,800,000”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 395**), 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. 2898) 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 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

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. 2898) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 2941, Supplementary appropriation decreasing an existing item and adding a new item of appropriation to the Department of Revenue, Insurance Commissioner.

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:

“That the total appropriation for the fiscal year ending June 30, 2021, to fund 8883, fiscal year 2021, organization 0704, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.**Sec. 6. Appropriations of federal funds.****DEPARTMENT OF REVENUE***362 – Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2021 Org 0704

	Appro- piation		Federal Funds
2 Current Expenses	13000	\$	83,000

And, that the total appropriation for the fiscal year ending June 30, 2021, to fund 8883, fiscal year 2021, organization 0704, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.**Sec. 6. Appropriations of federal funds.****DEPARTMENT OF REVENUE***362 – Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2021 Org 0704

	Appro- piation		Federal Funds
1a Personal Services and Employee Benefits.....	00100	\$	83,000”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 397**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: McGeehan 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. 2941) 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 97, nays 2, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: McGeehan and Paynter.

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. 2941) 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. 3010, To extend the special valuation method for cellular towers to towers owned by persons not subject to regulation by the Board of Public Works.

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. 13, TEC 5 U. S. Army Donald “Tiny” Lucas Memorial Bridge.

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. 231 – “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 said code by adding thereto a new section, designated §16A-4-6; 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-9-1 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; increasing medical conditions which constitute a serious medical condition; modifying and expanding allowable forms of medical cannabis; 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; clarifying the duties of practitioners; declaring practitioners immune from civil and criminal liability if acting in compliance with chapter; requiring

employees of medical cannabis organizations 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; 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; 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 and medical schools to be eligible to engage in approved medical cannabis research; increasing the number of clinical registrants; clarifying that the governing body of an academic clinical research center must approve the institution's participation in a medical cannabis research project; 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 Health and Human Resources then the Judiciary.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2021, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 335 – “A Bill to amend and reenact §18C-9-4 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Invests Grant Program; modifying the eligible costs for which the grants may be used; providing that program fees must

be approved by Council for Community and Technical College Education; and providing that mandatory drug tests may be given at the beginning of the academic year or initial academic period”; 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 January 1, 2022, and requested the concurrence of the House of Delegates in the passage, of

S. B. 424 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13KK-1, §11-13KK-2, §11-13KK-3, and §11-13KK-4, all relating to creating a fixed income credit for low-income senior citizens; establishing procedures for claiming credit; 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

Com. Sub. for S. B. 464 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §22-15-24, relating to composting; clarifying that the composting of all organic materials, including food waste, is permissible; and requiring compost products sold to comply with the West Virginia Fertilizer Law”; 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. 485 – “A Bill to amend and reenact §61-7-15a of the Code of West Virginia, 1931, as amended, relating to use or presentation of a firearm during the commission of a felony; creating the offense of possessing a firearm on one’s person during the commission of certain qualifying felony offenses; and defining

‘qualifying felony’”; 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. 542 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-1-1c; and to amend said code by adding thereto two new sections, designated §24-2-1q and §24-2-21, all relating to the Public Service Commission; making legislative findings; requiring that all public electric utilities maintain a contract for a 30-day aggregate fuel supply for the remainder of the life of existing coal-fired plants; and requiring that public electric utilities provide advance notice of retirement, shutdown, or sale of electricity-generating units”; which was referred to the Committee on Energy and Manufacturing.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect July 1, 2021, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 550 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-28-1 and §7-28-2; and to amend and reenact §11-10-11c of said code, all relating generally to the authorization and administration of county sales and use taxes; setting forth legislative intent; providing counties with authority to impose a county sales and use tax of one percent under certain circumstances; clarifying that a county sales and use tax does not apply to incorporated areas of the county; requiring counties imposing a county sales tax to use the services of the Tax Commissioner to administer the tax; and setting forth administrative procedures for the collection and administration of such taxes”; 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, 2021, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 613 – “A Bill to amend and reenact §15-2-5 and §15-2-7 of the Code of West Virginia, 1931, as amended, all relating to adding the classification and base salaries of certain civilian employees of the West Virginia State Police Forensic Laboratory as Evidence Custodians I-IV, Forensic Technicians I-III, Forensic Scientists I-VI, and Forensic Scientist Supervisors I-IV; and authorizing the inclusion of certain exempt civilian employees in supplemental pay option”; 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, 2021, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 622 – “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, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 635 – “A Bill to amend and reenact §15A-11-5 of the Code of West Virginia, 1931, as amended, relating to requiring the State Fire Commission to propose rules regarding specifically to sprinkler protection and fire protection requirements; requiring sprinkler systems and compliance with fire protection requirements for basements exceeding 2,500 square feet in buildings constructed after certain date; requiring sprinkler systems throughout buildings constructed after certain date housing emergency fire, rescue, or ambulance services; and exempting emergency services buildings that house only

equipment and do not have sleeping areas or quarters within them”; 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. 642 – “A Bill to amend and reenact §59-3-2 of the Code of West Virginia, 1931, as amended, relating to publication of legal notices of the state and its agencies; requiring State Auditor to establish public notice database on website centralizing access to all state and state agency postings of legal advertisements required by law; mandating state and its agencies publish all required legal advertisements on database in addition to newspaper publication after certain date; requiring State Auditor propose rules and emergency rules relating to database; and mandating State Auditor annually report to Joint Committee on Government and Finance”; 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, 2021, and requested the concurrence of the House of Delegates in the passage, of

S. B. 661 – “A Bill to repeal §11-9-7 of the Code of West Virginia, 1931, as amended; 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

Com. Sub. for S. B. 663 – “A Bill to amend and reenact §50-3-2 of the Code of West Virginia, 1931, as amended, relating to providing for a fee for the processing of criminal bonds and the bail piece; and requiring all collected fees to be deposited in the Courthouse Facilities Improvement Fund”; 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. 677 – “A Bill to amend and reenact §22A-1-2 and §22A-1-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §22A-2-33, §22A-2-40, §22A-2-46, and §22A-2-70 of said code; and to amend and reenact §22A-9-1 of said code, all relating to miners’ safety, health, and training standards; updating language regarding capacitors used for power correction, electrical work performed on low, medium, or high voltage circuits or equipment, and the use of gas-detecting devices; making technical corrections; authorizing the director to terminate tenured mine inspectors; providing for a hearing process related to a mine inspector’s termination; and clarifying the hearing process related to a mine inspector’s suspension”; 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. 695 – “A Bill to amend and reenact §8-6-4a and §8-6-5 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-7-2 of said code, all relating to counties and municipalities; and providing procedures for decreasing corporate limits or increasing corporate limits by annexation and annexation by minor boundary adjustments”; 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. 702 – “A Bill to repeal §27-6A-12 of the Code of West Virginia, 1931, as amended; to amend and reenact §27-6A-1, §27-6A-2, §27-6A-3, §27-6A-4, §27-6A-5, §27-6A-6, §27-6A-8, and §27-6A-10 of said code; and to amend said code by adding thereto a new section, designated §27-6A-13, all relating generally to criminal competency and criminal responsibility of persons charged with, or found not guilty of, a crime by reason of mental illness; defining terms; allowing initial forensic evaluation of a defendant at a state mental health facility or state hospital under certain circumstances; adding criteria for evaluation or report by a qualified forensic evaluator; use of outpatient competency restoration services or inpatient management to attain competency; providing for records to be made available to chief medical officer; modifying the time for the completion of proceedings; updating outdated language in the code; creating criteria for competency restoration treatment; establishing maximum time periods for competency restoration treatment of persons charged with crimes involving nonviolent misdemeanors, nonviolent felonies, and violent misdemeanors and violent felonies; providing procedure for a court to review commitment status of persons committed to an inpatient mental health facility or state hospital prior to effective date of current amendments; providing for evaluation and disposition of a person found not guilty by reason of mental illness; providing for conditional release; providing procedures relating to an acquittee who violates terms of conditional release; repealing section requiring study and reporting; requiring Department of Health and Human Resources to pay for competency restoration in certain circumstances; establishing the Dangerousness Assessment Review Board; specifying membership and duties of board; establishing internal effective dates; and authorizing the West Virginia Department of Health and Human Resources to propose legislative rules and emergency rules”; 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. 711 – “A Bill to amend and reenact §18-9A-2 of the Code of West Virginia, 1931, as amended, relating to the school aid formula; and changing the minimum enrollment to 1,200 students in each county”; 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. 717 – “A Bill supplementing and amending appropriations of public moneys out of the Treasury in the State Fund, General Revenue, by decreasing an existing item of appropriation and increasing an existing item of appropriation to West Virginia Council for Community and Technical College Education, West Virginia Council for Community and Technical College Education - Control Account, fund 0596, fiscal year 2021, organization 0420, by supplementing and amending appropriations for the fiscal year ending June 30, 2021”; 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. 718 – “A Bill to amend and reenact §11-13EE-2, §11-13EE-3, §11-13EE-5, and §11-13EE-16 the Code of West Virginia, 1931, as amended, all relating generally to the Coal Severance Tax Rebate; defining terms; providing for rebate of severance tax when capital investment made in new machinery and equipment directly used in severance of coal, or in coal preparation and processing plants; providing rules and procedures for claiming rebate and transfer to successors; and providing that changes

clarifying application of rebate are to be applied retroactive to capital investments placed into service after the original effective date of this article”; 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 Rules:

S. C. R. 30 - “Requesting the Division of Highways name bridge number 11492, marker 19.01, locally known as Twin Bridges on U.S. Rt. 35 near Buffalo, Putnam County, the ‘William Gregory ‘Greg’ White, P.E., Memorial Bridge’.”

Whereas, William Gregory “Greg” White, P.E., was born February 21, 1959, in Charleston, the son of Maralu White Craven and William Clifford White; and

Whereas, William Gregory “Greg” White, P.E., was a 1977 graduate of Parkersburg South High School and continued his education at West Virginia Tech, where he received a bachelor’s degree in civil engineering; and

Whereas, William Gregory “Greg” White, P.E., loved his work as a licensed professional civil engineer and owned his own business, White Brothers Consulting, a partnership he shared with his brother Tim; and

Whereas, Some of the projects William Gregory “Greg” White, P.E., was involved in as a structural engineer for the design and detail of various bridges include, but are not limited to: The Wolfe Valley Girder Bridge in Mason County; the East Fork Beam Span Bridge in Mingo County; the Buzzard Creek Bridge in Putnam County; the Capehart Bridge in Mason County; the Central Station Bridge in Doddridge County; the Monongahela River Bridge and Approaches in Marion County; the I-40 Widening Project in North Little Rock, Arkansas; the Sam Houston Tollway Widening in Houston, Texas; the Witcher Creek Bridge in Kanawha County;

the Virginia Hybrid Energy Center in Virginia City, Virginia; two of the West Virginia Turnpike bridges over U.S. Rt. 60 in Kanawha County; the Upper Sleith Fork Bridge in Braxton County; the South Branch Potomac Bridge in Hardy County; and the Gypsy Bridge in Harrison County; and

Whereas, William Gregory “Greg” White, P.E., was an avid supporter of local youth soccer leagues and the Ripley High School marching band; and

Whereas, William Gregory “Greg” White, P.E., was also an ordained deacon at Witcher Baptist Church in Belle, West Virginia, and a member of the West Ripley Baptist Church; and

Whereas, Sadly, William Gregory “Greg” White, P.E., passed away on Sunday, December 16, 2018; and

Whereas, The bridge being named in honor of William Gregory “Greg” White, P.E., was the last one that he designed and stamped with his license before he passed away; and

Whereas, It is fitting that an enduring memorial be established to commemorate William Gregory “Greg” White, P.E., 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 11492, marker 19.01, locally known as Twin Bridges on U.S. Rt. 35 near Buffalo, Putnam County, the “William Gregory ‘Greg’ White, P.E., 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 “William Gregory “Greg” White, P.E, 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 35-43-0.01 (35A054), 40.04402, -80.55134, locally known as Middle Creek School Bridge, carrying CR 43 over Middle Wheeling Creek in Ohio County, the ‘Firefighter Marvin Layton Hughes Memorial Bridge’.”

Whereas, Marvin Layton Hughes was born on October 12, 1924, in Dallas, Marshall County, West Virginia; and

Whereas, Marvin Layton Hughes took a job at the railroad during World War II to do his part getting coal to the steel mills for the war effort. He later worked for years as a security guard at the Division of Highways in Triadelphia, West Virginia; and

Whereas, Mr. Hughes was known in Dallas, West Virginia as the “unofficial mayor” and served as a member of the Dallas Volunteer Fire Department for 44 years prior to his death on July 27, 1998; and

Whereas, Mr. Hughes loved serving his community and walked the roads picking up trash in no official capacity just to better serve his community; and

Whereas, He raised two daughters who followed his example of community service and are part of the Dallas Volunteer Fire Department; and

Whereas, It is fitting that an enduring memorial be established to commemorate Marvin Layton Hughes 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 35-43-0.01 (35A054), locally known as Middle

Creek School Bridge, carrying CR 43 over Middle Wheeling Creek in Ohio County, the “Firefighter Marvin Layton Hughes 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 “Firefighter Marvin Layton Hughes Memorial Bridge”; and, be it

Further Resolved, That the Clerk of the Senate 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. 43 - “Requesting the Division of Highways name the bridge at coordinates 37.501667, -81.336111, carrying WV 10 over Noseman Branch in Wyoming County, the ‘U.S. Army PFC Joseph Stanley McKinney Memorial Bridge’.”

Whereas, Joseph Stanley McKinney was born July 20, 1947, in Herndon, Wyoming County, West Virginia; and

Whereas, Joseph Stanley McKinney graduated from Herndon High School in 1966; and

Whereas, Joseph Stanley McKinney entered the U.S. Army during the Vietnam War as a member of the 4th Infantry Division, 3rd Battalion, 12th Infantry, C Company; and

Whereas, PFC Joseph Stanley McKinney began his tour on November 8, 1967, with a Light Weapons Infantry specialty; and

Whereas, PFC Joseph Stanley McKinney was killed due to hostile action on January 23, 1968, in the Kontum Province of Vietnam during the Tet Offensive; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army PFC Joseph Stanley McKinney and his ultimate 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 the bridge at coordinates 37.501667, -81.336111, carrying WV 10 over Noseman Branch in Wyoming County, the “U.S. Army PFC Joseph Stanley McKinney 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 PFC Joseph Stanley McKinney 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. 46 - “Requesting the Division of Highways name bridge number 16-020/01-000.18 (16A044), locally known as Stanley See Bridge, carrying CR 20/1 over Lost River in Hardy County, the ‘Stanley W. and Evelyn C. See Memorial Bridge’.”

Whereas, Stanley W. See, a native of Hardy County, West Virginia, was born on April 18, 1919, and died on June 24, 1986; and

Whereas, Evelyn C. See, his wife, was born on June 8, 1920, and died February 15, 2014; and

Whereas, In 1953, Mr. Stanley W. See and Mrs. Evelyn C. See, honorably served the Hardy County community in the

development of a telephone service known as the Hardy County Phone Company, now known as Hardy Communications; and

Whereas, Mr. Stanley W. See and Mrs. Evelyn C. See were compassionate people, devoted to the development and operation of an Exxon Service Station in the Mathias area, and were instrumental in the promotion of automobile travel between Baker, West Virginia, and Harrisonburg, Virginia; and

Whereas, Stanley W. See was a highly respected role model in the community, which included being an active member of the Mathias Volunteer Fire Company; and

Whereas, Evelyn C. See was also a well-known and highly respectable member of the community, and her contributions to the community included teaching life skills to young girls; and

Whereas, It is fitting that an enduring memorial be established to commemorate Mr. Stanley W. See and Mrs. Evelyn C. See and their contributions to our state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 16-020/01-000.18 (16A044), locally known as Stanley See Bridge, carrying CR 20/1 over Lost River in Hardy County, the “Stanley W. and Evelyn C. See 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 “Stanley W. and Evelyn C. See 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. 50 - "Requesting the Division of Highways name bridge number 49-033/00-015.38 (EB-WB) (49A122-49A123), locally known as MIDDLE FK CON I BM, carrying APD 33 over Middle Fk Rv. & CR 10/10 in Upshur County, the 'U.S.M.C. SGT MAJ Herman H. Brawner Memorial Bridge'."

Whereas, Herman H. Brawner was enlisted in the United States Marine Corps at the age of 17 during WWII, fighting in the Pacific Theater for the duration of the war; and

Whereas, He went on to have a 30-year military career. SGT MAJ Herman H. Brawner fought in combat in three wars: WWII, Korea, and Vietnam, serving two tours in Vietnam; and

Whereas, During the Korean War, SGT MAJ Herman H. Brawner and his fellow Marines dug in for an extremely bloody battle on the shore of the Chosin Reservoir with Red Chinese soldiers, in temperatures that dropped as low as 35 degrees below zero, using sandbags and frozen bodies for protection because it was too cold to dig foxholes, for which he and his fellow troops were dubbed the "Frozen Chosin"; and

Whereas, One of SGT MAJ Herman H. Brawner's tours in Vietnam included an urban battle in the City of Hue, where he led out-numbered Marines into the besieged city, but still managed to kill nearly three times as many Communist North Vietnamese, and helped raise an American flag on Hue's provincial headquarters. Brawner's notebook showed that the Marine battalion, which he led, suffered some 250 casualties in battle with many more wounded in what is considered by many the bloodiest battle of the Vietnam War; and

Whereas, During his career, SGT MAJ Herman H. Brawner was wounded multiple times, earning numerous service awards including a Purple Heart with two gold stars, an Asiatic-Pacific Campaign Medal with two stars, an American Campaign Medal, a

Combat Action Ribbon with a Bronze Star and “V” for Valor, a Republic of Korea Presidential Unit Citation with two stars, a United Nations Service Medal, two Republic of Vietnam Gallantry Cross Medals, one with a Silver Star and one with a Palm Ribbon, a Vietnam Campaign Medal with 1960 Device, plus a good conduct medal with many other citations and awards; and

Whereas, SGT MAJ Herman H. Brawner also received recognition with a special Navy Commendation Medal including a combat “V” for Valor during WWII; and

Whereas, SGT MAJ Herman H. Brawner retired as the head Noncom Military Police Marine in South East Asia overseeing U.S. Embassy security in five countries and, upon his retirement, finished his work career with Louisiana Pacific Lumber; and

Whereas, SGT MAJ Herman H. Brawner and his wife, Fayma, chose West Virginia following his retirement, where he spent the remainder of his life on his farm in Upshur County, providing counsel and help to all who knew him; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S.M.C SGT MAJ Herman H. Brawner for his service 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 49-033/00-015.38 (EB-WB) (49A122-49A123), locally known as MIDDLE FK CON I BM, carrying APD 33 over Middle Fk Rv. & CR 10/10 in Upshur County, the “U.S.M.C. SGT MAJ Herman H. Brawner 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.M.C. SGT MAJ Herman H. Brawner 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 SGT MAJ Herman H. Brawner's widow, Fayma Brawner.

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 joint resolution, which was read by its title and referred to the Committee on the Judiciary as follows:

Com. Sub. for S. J. R. 1 - "Proposing an amendment to the Constitution of the State of West Virginia, amending section 22, article III thereof, relating to the right to keep and bear arms; prohibiting county or municipal governments from enacting ordinances, acts, resolutions, or rules that are contrary to, or more restrictive than, state law governing the sale, transfer, possession, use, storage, taxation, registration, licensing, or carrying of firearms, ammunition, or firearm accessories; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment."

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 joint resolution, which was read by its title and referred to the Committee on the Judiciary as follows:

Com. Sub. for S. J. R. 9 - "Proposing an amendment to the Constitution of the State of West Virginia, amending section one-b, article X thereof, relating to authorizing the Legislature by general law to exempt veterans who are awarded 100 percent service-connected disability from paying all or part of the ad valorem real property taxes on the property comprising their residences; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment."

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 joint resolution, which was read by its title and referred to the Committee on the Judiciary as follows:

Com. Sub. for S. J. R. 10 - “Proposing an amendment to the Constitution of the State of West Virginia, amending section three, article VI thereof, relating generally to limiting the number of terms delegates and senators may serve; limiting delegates to six consecutive terms; limiting senators to three consecutive terms; establishing beginning date of limitation; declaring partial terms count as full terms; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.”

Resolutions Introduced

Delegate Mallow offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 85 – “Requesting the Division of Highways name bridge number 25-001/00-010.40 (25A004), (39.53091, - 80.34410) locally known as Mannington Arch, carrying CR 1 over Pyles Fork in Marion County, the ‘WW II Veterans Toothman Brothers Memorial Bridge’.”

Whereas, The Toothman family of Mannington, West Virginia, had five brothers who served in the military during World War II; and

Whereas, Osborne Dale Toothman, age 95, died on October 14, 2016, at his home in Charlottesville, Virginia. Born on March 5, 1921, he was one of nine sons born to Charles and Mae Toothman in Mannington, West Virginia. He served in World War II as a Marine from 1938 to 1946; and

Whereas, Rupert Clyde Toothman served in the U. S. Army. He was seriously injured in Germany and discharged in 1945. He died in Page, Arizona in 1986; and

Whereas, Harold Herman Toothman served in the U. S. Army, discharged in 1945. He died in Mesa, Arizona in 1987; and

Whereas, Lawrence Reid Toothman was a U. S. Army Air Force B-24 pilot. He was shot down over Linz, Austria during his eighth mission, parachuted from the plane and captured by the Germans. He was freed from a POW hospital by Russians. He was discharged in 1946. He died in Orlando, Florida in 1984; and

Whereas, Hubert Earl Toothman Served in the U. S. Army, was wounded in France near the Germany border. He was discharged in 1945 and died in Waycross, Georgia in 1972; and

Whereas, It is fitting that an enduring memorial be established to commemorate the Toothman 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: 25-001/00-010.40 (25A004), (39.53091, -80.34410) locally known as Mannington Arch, carrying CR 1 over Pyles Fork in Marion County, the ‘WW II Veterans Toothman Brothers 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 ‘WW II Veterans Toothman Brothers 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 D. Jeffries, L. Pack, Pinson, Tully, Reynolds and Howell offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 86 – “Requesting the Joint Committee on Government and Finance study recruitment and retention of health care workers and the causes of shortages of certain health care workers in West Virginia.”

Whereas, Access to competent and adequate health care is an important component of the quality of life in a community; and

Whereas, In the past ten years West Virginia has seen a decrease in employment in health care professions and trades in the majority of the state's counties; and

Whereas, Skilled healthcare workers are increasingly migrating toward the state's population centers and to other states; therefore, be it

Resolved by the Legislature of West Virginia:

That the Committee on Government and Finance is hereby requested to study recruitment and retention of health care workers and the causes of shortages of certain health care workers in West Virginia; and be it

Further Resolved, That this study may include an examination of staff/patient ratios for various categories of health care personnel; a comparison of pay rates for those categories in this state and neighboring states; a comparison of the adequacy of staffing in relation to various types of health care facilities; an investigation of the adequacy of opportunities for training in health care fields; an examination of workplace environment issues; and an analysis of worker retention, turnover, and recruiting; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, 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.

Delegate Howell offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 87 – “Requesting the Joint Committee on Government and Finance study empowering the West Virginia Courtesy Patrol to submit billing reimbursement for the cost of their services to automobile insurance carriers who provide roadside assistance.”

Whereas, The West Virginia Courtesy Patrol provides 24/7 patrol and assistance to motorists on the West Virginia parkways where they provide assistance to stranded motorists with flat tires, jump starts, low oil, low water, contacting wrecker services, minor engine problems, and maintaining traffic control during motorist assists and accidents; and

Whereas, The Courtesy Patrol receives approximately 120,000 calls for assistance in an average year; and

Whereas, Many auto insurance carriers provide insureds with roadside assistance as an optional coverage where they facilitate assistance to insureds with similar concerns, such as flat tires, jump starts, and contacting wrecker services, at no additional out-of-pocket costs; and

Whereas, West Virginia’s Courtesy Patrol would financially benefit from reimbursement from auto insurance carriers providing coverage for roadside assistance for services rendered within the State of West Virginia where applicable coverage is available; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance undertake a study of the legality and logistics of obtaining pertinent motorist information for subrogation from insurers providing applicable roadside assistance coverage for services rendered by the West Virginia Courtesy Patrol; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

Special Calendar

Third Reading

Com. Sub. for S. B. 439, Allowing use or nonuse of safety belt as admissible evidence in civil actions; on third reading, coming up in regular order, with the amendment pending and right to amend, was reported by the Clerk.

An amended offered by Delegate Steele, was reported by the Clerk, on page 6, section 49a, line 69, by striking out the period and replacing it with a comma and inserting “or if the at fault driver is found to be liable under §55-7-9 of this code.”

Whereupon,

Delegate Steele obtained unanimous consent that the amendment be withdrawn.

Delegate Steele then moved to amend the bill on page 6, section 49a, line 69, by striking out the period and replacing it with a comma and inserting “or if the driver is found to have concurrently violated any statute in Chapter 61 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. 399**), and there were—yeas 53, nays 46, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barnhart, Burkhammer, Capito, Clark, Conley, Criss, Espinosa, Ferrell, Forsht, Graves, Hamrick, Hanna, Hardy, Haynes, Higginbotham, Holstein, Horst, Hott, Householder, Howell, D. Jeffries, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Linville, Longanacre, Mallow, Martin,

Maynard, Miller, J. Pack, L. Pack, Pinson, Queen, Reed, Rohrbach, Rowan, Storch, Summers, B. Ward, Westfall, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Worrell.

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

There being no further amendments, the bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 400**), and there were—yeas 60, nays 40, absent and not voting none, with the nays being as follows:

Nays: Barach, Barrett, Bates, Boggs, Bridges, Brown, Bruce, Dean, Diserio, Doyle, Evans, Fast, Fleischauer, Fluharty, Garcia, Gearheart, Griffith, Hansen, Hornbuckle, Horst, Howell, J. Kelly, Lovejoy, McGeehan, Miller, Nestor, Paynter, Pethtel, Phillips, Pushkin, Rowe, Skaff, Sypolt, Thompson, Toney, Walker, G. Ward, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 439) 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. 80, Allowing for administration of certain small estates by affidavit and without appointment of personal representative; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 81, Relating generally to WV Uniform Trust Code; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 346, Authorizing DMV use electronic means when providing notice for licensees and vehicle owners; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 374, Increasing threshold for bid requirement to \$10,000 to be consistent with other state agencies; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 375, Relating to county boards of education policies for open enrollment; 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 §18-5-16, following line 34, by inserting a new paragraph (F) to read as follows:

“(F) The county board to which the student wishes to be transferred may not refuse a transfer by virtue of the student transferring from a private, parochial, church or religious school holding an exemption approved pursuant to §18-8-1(k) of this code.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 389, Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 421, Authorizing Workforce West Virginia to hire at-will employees; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 429, Exempting Division of Emergency Management from Purchasing Division requirements for certain contracts; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 463, Consolidating position of Inspector General of former Workers' Compensation Fraud and Abuse Unit and position of Director of Insurance Fraud Unit; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 472, Updating criteria for regulating certain occupations and professions; on second reading, coming up in regular order, was read a second time.

On motion of Delegates Bates and Steele, the bill was amended on page 9, section 3, line 66, by striking out the period, inserting a comma and "a professional who works in the profession, a board member who regulates the profession, and any other interested party."

And,

On page 11, section 4, line 4 after the word "regulation", by inserting "a professional who works in the field, a board member who regulates the profession.".

Delegate Young moved to amend the bill on page 3, section 1, line 25, by striking out subdivision (2) in its entirety and renumbering the subsequent subdivisions accordingly.

The question being on the adoption of the amendment offered by Delegate Young, the same was put and rejected.

The bill was then ordered to third reading.

Com. Sub. for S. B. 587, Making contract consummation with state more efficient; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for H. B. 2022, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on second reading, coming up in regular order, was read a second time.

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

First Reading

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

S. B. 78, Relating to rehabilitative spousal support,

S. B. 359, Informing landowners when fencing that may contain livestock is damaged due to accident,

Com. Sub. for S. B. 377, Relating to extension for boil water advisories by water utility or public service district,

S. B. 437, Extending contingent increase of tax rate on certain eligible acute care hospitals,

Com. Sub. for S. B. 514, Providing criteria for Natural Resource Commission appointment and compensation,

Com. Sub. for S. B. 518, Relating to grounds for administrative dissolution of certain companies, corporations, and partnerships,

And,

S. B. 644, Exempting certain persons pursuing degree in speech pathology and audiology from license requirements.

At 12:30 p.m., on motion of Delegate Summers, the House of Delegates recessed until 6:00 p.m.

* * * * *

Evening Session

* * * * *

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

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, as follows:

STATE OF WEST VIRGINIA
Jim Justice
Governor of West Virginia

March 29, 2021

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

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

Dear President Blair and Speaker Hanshaw:

After submission of my recommended FY 2022 Executive Budget on February 10, 2021, there are areas that require adjustment.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2022 Budget Bill for the following sections:

TITLE I - GENERAL PROVISIONS

Section 3. Classification of Appropriations.

In the language describing terms of agency transfer authority beginning on line 65, page 4 that reads "... no funds from other appropriations shall be transferred to the "personal services and employee benefits" or the "unclassified" appropriation..." "add the following:

“... except that during Fiscal Year 2022, and upon approval from the State Budget Office, agencies with the appropriation “Salary and Benefits of Cabinet Secretary and Agency Heads” may transfer between this appropriation and the appropriation “Personal Services and Employee Benefits” an amount to cover annualized salaries and employee benefits for the fiscal year ending June 30, 2022, as provided by W.V. Code §6-7-2a”

TITLE II-APPROPRIATIONS

Amend the ORDER OF SECTIONS after “SECTION 8. Awards for claims against the state.” as follows:

SECTION 9. Appropriations from state excess lottery revenue surplus accrued.

SECTION 10. Special revenue appropriations.

SECTION 11. State improvement fund appropriations.

SECTION 12. Specific funds and collection accounts.

SECTION 13: Appropriations for refunding erroneous payment.

SECTION 14. Sinking fund deficiencies.

SECTION 15. Appropriations for local governments.

SECTION 16. Total appropriations.

SECTION 17. General school fund.

Section 1. Appropriations from general revenue.

Executive

Governor’s Office, Fund 0101, Fiscal Year 2022, Org 0100

(To adjust funding to reflect anticipated expenditures.)

- Add “Equipment” Appropriation 07000 for \$100.
- Add “Unclassified” Appropriation 09900 for \$63,129.

- Decrease “Current Expenses” Appropriation 13000 by \$63,229.
(To add reappropriation language.)
- Add an “(R)” to indicate reappropriation on the line item “Office of Resiliency”.
- Insert into the reappropriation language after Current Expenses (fund 0101, appropriation 13000), “.. , and Office of Resiliency (fund 0101, appropriation 18600),...”

Governor’s Office - Civil Contingent Fund, Fund 0105, Fiscal Year 2022, Org 0100

- (To add reappropriation language.)
- Add an “(R)” to indicate reappropriation on the line item “Public Health Emergency Response Fund”.
 - Insert into the reappropriation language after 2012 Natural Disasters -Surplus (fund 0105, appropriation 13500), “... Public Health Emergency Response Fund (fund 0105, appropriation 21201),...”
- (To add reappropriation language.)
- Insert into the reappropriation language after Milton Flood Wall (fund 0105, appropriation 75701), “... Milton Flood Wall - Surplus (fund 0105, appropriation 75799),...”

Department of Commerce

Department of Commerce - Office of the Secretary, Fund 0606, Fiscal Year 2022, Org 0327

- (To realign funding to reflect departmental reorganization.)
- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$685,792.
 - Increase “Current Expenses” Appropriation 13000 by \$121,300.

Department of Economic Development

*Department of Economic Development - Office of the Secretary,
Fund 0256, Fiscal Year 2022, Org 0307*

(To realign funding to reflect departmental reorganization.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$685,792.
- Decrease “Current Expenses” Appropriation 13000 by \$121,300.

(To remove onetime funding and directive language from Current Expenses lines 22 and 24.)

- Decrease “Current Expenses” Appropriation 13000 by \$1,800,000.
- Remove the language “\$1,800,000 shall be used for the Eastern West Virginia Regional Airport;”.
 - Remove the language “, and \$100,000 shall be used for Advantage Valley”.
 - (To add funding and directive language for the High Technology Foundation.)
- Increase “Current Expenses” Appropriation 13000 by \$250,000.
- Insert into directive language after “ .. \$100,00 shall be used for Techconnect West Virginia,” and \$250,000 shall be used for the High Technology Foundation.”

Department of Education

*State Board of Education - State Department of Education,
Fund 0313, Fiscal Year 2022, Org 0402*

(To add reappropriation language.)

- Add an “(R)” to indicate reappropriation on the line item “Attendance Incentive Bonus”.
- Insert into the reappropriation language after Center for Professional Development (fund 0313, appropriation 11500),”... Attendance Incentive Bonus (fund 0313, appropriation 15001),...”

*State Board of Education - State Aid to Schools, Fund 0317,
Fiscal Year 2022, Org 0402*

(To adjust School Aid Formula based on final state aid to schools calculations.)

- Decrease “Other Current Expenses” Appropriation 02200 by \$1,575.
- Decrease “Professional Educators” Appropriation 15100 by \$63,000.
- Decrease “Fixed Charges” Appropriation 15300 by \$5,248.
- Decrease “Transportation” Appropriation 15400 by \$155,514.
- Decrease “Improved Instructional Programs” Appropriation 15600 by \$673,026.
- Decrease “21st Century Strategic Technology Learning Growth” Appropriation 93600 by \$1,346,052.
- Decrease “Teacher and Leader Induction” Appropriation 93601 by \$1,346,052.
- Increase “Less Local Share” line by \$6,730,258 from (\$482,991,001) to (\$476,260,743).
- Decrease “Adjustments “line by \$510,365 from (\$2,744,479) to (\$3,254,844).

Department of Arts, Culture, and History

*Educational Broadcasting Authority, Fund 0300, Fiscal Year
2022, Org 0439*

(To comply with W.V. Code §6-7-2a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$120,106.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$120,106.

Department of Health and Human Resources

*Division of Health - Central Office, Fund 0407, Fiscal Year
2022, Org 0506*

(To remove directive language for Current Expenses line 51.)

- Remove the language, “\$50,000 is for Hospital Hospitality House of Huntington;”

Division of Human Services, Fund 0403, Fiscal Year 2022, Org 0511

(To realign funding for the Medicaid program.)

- Increase “Medical Services” Appropriation 18900 by \$278,574.

Department of Homeland Security

Department of Homeland Security- Office of the Secretary, Fund 0430, Fiscal Year 2022, Org 0601

(To comply with W.V. Code §6-7-2a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$168,000.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$168,000.

Division of Corrections and Rehabilitation - West Virginia Parole Board, Fund 0440, Fiscal Year 2022, Org 0608

(To add language to allow for transfers between Personal Services and Employee Benefits and Salaries of Members of West Virginia Parole Board.)

- Add the following language after line 9, “The Director of the State Budget Office shall have the authority to approve transfers between Personal Services and Employee Benefits (fund 0440, appropriation 00100) and Salaries of Members of West Virginia Parole Board (fund 0440, appropriation 22700) as provided by W.V. Code §6-7-2a.”

Division of Corrections and Rehabilitation - Central Office, Fund 0446, Fiscal Year 2022, Org 0608

(To transfer positions to Division of Administrative Services under correct organization.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$200,000.

Division of Corrections and Rehabilitation - Correctional Units, Fund 0450, Fiscal Year 2022, Org 0608

(To transfer positions to Division of Administrative Services under correct organization.)

- Decrease “Huttonsville Correctional Center” Appropriation 51400 by \$222,972.
- Decrease “Northern Correctional Center” Appropriation 53400 by \$118,720.
- Decrease “Pruntytown Correctional Center” Appropriation 54300 by \$35,206.
- Decrease “Parole Services” Appropriation 68600 by \$75,000.
- Decrease “Special Services” Appropriation 68700 by \$783,009.
- Decrease “Salem Correctional Center” Appropriation 77400 by \$150,000.
- Decrease “Mt. Olive Correctional Complex” Appropriation 88800 by \$60,206.

(To revise language to allow for transfers.)

- Strike language on lines 41 through 44 on page 57 and replace with the following:
 “The Commissioner of Corrections and Rehabilitation shall have the authority to transfer between appropriations.”

Division of Corrections and Rehabilitation - Bureau of Juvenile Services, Fund 0570, Fiscal Year 2022, Org 0608

(To transfer positions to Division of Administrative Services under correct organization.)

- Decrease “Statewide Reporting Centers” Appropriation 26200 by \$600,000.
- Decrease “Central Office” Appropriation 70100 by \$454,029.
- Decrease “Gene Spadaro Juvenile Center” Appropriation 79300 by \$33,515.
- Decrease “Kenneth Honey Rubenstein Juvenile Center” Appropriation 98000 by \$90,811.

West Virginia State Police, Fund 0453, Fiscal Year 2022, Org 0612

(To comply with W.V. Code §6-7-2a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$139,300.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$139,300.
(To adjust the Trooper Retirement Fund appropriation based on the actuarial requirement from the West Virginia Consolidated Public Retirement Board.)
- Decrease “Retirement Systems - Unfunded Liability” Appropriation 77500 by \$1,358,000.

Division of Justice and Community Services, Fund 0546, Fiscal Year 2022, Org 0623

(To add reappropriation language.)

- Add an “(R)” to indicate reappropriation on the line item “Justice Reinvestment Initiative”
- Insert into the reappropriation language after “Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200), “... Justice Reinvestment Initiative (fund 0546, appropriation 89501)...”

(To remove reappropriation language.)

- Remove reappropriation language after Justice Reinvestment Initiative (fund 0546, appropriation 89501), “... Law Enforcement Training - Surplus (fund 0546, appropriation 83899)...”

Division of Administrative Services, Fund 0619, Fiscal Year 2022, Org 0623

(To transfer positions to Division of Administrative Services under correct organization.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$2,523,468.
- Increase “Current Expenses” Appropriation 13000 by \$300,000.

Department of Revenue

Office of the Secretary, Fund 0465, Fiscal Year 2022, Org 0701

(To comply with W.V. Code §6-7-2a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$168,000.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$168,000.

Section 2. Appropriations from state road fund.

Department of Transportation

Division of Motor Vehicles, Fund 9007, Fiscal Year 2022, Org 0802

(To comply with W.V. Code §6-7-2a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$129,500.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$129,500.

(To add a new DMV Regional Office in the Eastern Panhandle.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$1,000,000.
- Increase “Current Expenses” Appropriation 13000 by \$400,000.

(To add spending authority for new E-Title system.)

- Increase “Other Assets” Appropriation 69000 by \$5,554,000.

Division of Highways, Fund 9017, Fiscal Year 2022, Org 0803

(To comply with W.V. Code §6-7-2a.)

- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$200,000.
- Decrease “General Operations” Appropriation 27700 by \$200,000.

(Realign state road spending authority.)

- Increase “Debt Service” Appropriation 04000 by \$35,000,000.
- Decrease “Maintenance” Appropriation 23700 by \$25,567,146.
- Decrease “Equipment Revolving” Appropriation 27600 by \$2,000,000.
- Decrease “General Operations” Appropriation 27700 by \$4,500,000.

- Decrease “Interstate Const ruction “Appropriation 27800 by \$25,000,000.
- Increase “Other Federal Aid Programs” Appropriation 27900 by \$25,000,000.

(To add language to allow for transfers between “Salary and Benefits of Cabinet Secretary and Agency Heads” and “General Operations”.)

- Add the following language after line 27, “The Director of the State Budget Office shall have the authority to approve transfers between Salary and Benefits of Cabinet Secretary and Agency Heads (fund 9017, appropriation 00201) and General Operations (fund 9017, appropriation 27700) as provided by W.V. Code §6-7-2a.”

Section 3. Appropriations from other funds.

Department of Administration

Department of Administration - Office of the Secretary - Employee Pension and Health Care Benefit Fund, Fund 2044, Fiscal Year 2022, Org 0201

(To adjust spending authority to match the appropriation on Teachers’ Retirement Realized Savings.)

- Increase “Current Expenses” Appropriation 13000 by \$1,719,000.

Department of Commerce

Department of Commerce - Office of Secretary - Marketing and Communications Operating Fund, Fund 3002, Fiscal Year 2022, Org 0327

(To reflect departmental reorganization by moving Marketing and Communications Operating Fund 3002 from the Department of Economic Development, Office of the Secretary and adding to the Department of Commerce, Office of the Secretary.)

xxx - Department of Commerce -

Office of the Secretary -

Marketing and Communications Operating Fund

(WV Code Chapter 5B)

Fund 3002 FY 2022 Org 0327

1 Personal Services and Employee Benefits.....00100	\$	2,069,353
2 Unclassified.....09900		30,000
3 Current Expenses13000		1,315,078
4 Equipment.....07000		<u>36 000</u>
5 Total	\$	3,450,431

Department of Economic Development

*Department of Economic Development - Office of Secretary -
Marketing and Communications Operating Fund, Fund
3002, Fiscal Year 2022, Org 0307*

(To reflect departmental reorganization by moving Marketing and Communications Operating Fund 3002 from the Department of Economic Development, Office of the Secretary and adding to the Department of Commerce, Office of the Secretary.)

- Delete fund 3002 in its entirety under the Department of Economic Development.

Department of Revenue

*Division of Financial Institutions, Fund 3041, Fiscal Year 2022,
Org 0303*

(To comply with W.V. Code §6-7-2a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$119,000.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$119,000.

*Insurance Commissioner - Insurance Commission Fund, Fund
7152, Fiscal Year 2022, Org 0704*

(To comply with W.V. Code §6-7-2a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$136,500.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$136,500.

Bureau of Senior Services

Bureau of Senior Services - Community Based Service Fund, Fund 5409, Fiscal Year 2022, Org 0508

(To comply with W.V. Code §6-7-2a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$11,900.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$11,900.

Section 4. Appropriations from lottery net profits.

Division of Culture and History- Lottery Education Fund, Fund 3534, Fiscal Year 2022, Org 0432

Beginning on page 150, line 21 to page 157, line 213.

- Remove all language in its entirety.

Bureau of Senior Services

Bureau of Senior Services -Lottery Senior Citizens Fund, Fund 5405, Fiscal Year 2022, Org 0508

(To comply with W.V. Code §6-7-2a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$65,450.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$65,450.

Section 6. Appropriations of federal funds.

Department of Revenue

Insurance Commissioner, Fund 8883, Fiscal Year 2022, Org 0704

(To adjust funding to accommodate the Federal Flood Program.)

- Add “Personal Services and Employee Benefits” Appropriation 00100 for \$145,000.
- Add “Equipment“ Appropriation 07000 for \$30,000.
- Decrease “Current Expenses” Appropriation 13000 by \$175,000.

Bureau of Senior Services

Bureau of Senior Services, Fund 8724, Fiscal Year 2022, Org 0508

(To comply with W.V. Code §6-7-2a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$5,950.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$5,950.

Section 7. Appropriations from federal block grants.

WorkForce West Virginia - WorkForce Investment Act, Fund 8749, Fiscal Year 2022, Org 0323

(To comply with W.V. Code §6-7- a.)

- Decrease “Personal Services and Employee Benefits” Appropriation 00100 by \$124,018.
- Add “Salary and Benefits of Cabinet Secretary and Agency Heads” Appropriation 00201 for \$124,018.

Section 9. Appropriations from general revenue fund surplus accrued.

Delete Section 9 in its entirety.

Section 10. Appropriations from lottery net profits surplus accrued.

Delete Section 10 in its entirety.

Section 11. Appropriations from state excess lottery revenue surplus accrued.

Amend Section 11 to be Section 9 and rename each subsequent section thereafter.

Division of Human Services, Fund 5365, Fiscal Year 2022, Org 0511

(To correct an error and remove line item of appropriation for Medical Services - Lottery Surplus.)

- Delete fund 5365 in its entirety under Appropriations from state excess lottery revenue surplus accrued.

Section 12. Special revenue appropriations.

Beginning on page 193, line 11 to page 194, line 8.

- Delete all lines in their entirety.

Thank you for your prompt attention of this matter. Your cooperation is always appreciated. Should you have any questions or require additional information, please call me at any time.

Sincerely,

Jim Justice,
Governor

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 392, Creating penalty for impersonating law-enforcement officer or official,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 562, Relating to juvenile competency proceedings,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 401, Relating to WV Consumer Credit and Protection Act,

Com. Sub. for S. B. 434, Requiring training for law-enforcement officers responsible for investigating crimes of sexual assault,

S. B. 496, Relating to punishment for second or third degree felony,

Com. Sub. for S. B. 634, Requiring training of certain officers for persons with autism spectrum disorder,

And,

S. B. 713, Relating generally to inmate good time,

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

Delegate D. Jeffries, 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 1st day of April, 2021, 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. 2382, Authorizing the Department of Environmental Protection to promulgate a legislative rule relating to ambient air quality standards,

Com. Sub. for H. B. 2896, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services,

H. B. 2901, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services,

H. B. 2903, Making a supplementary appropriation to the Department of Homeland Security, West Virginia State Police,

And,

H. B. 2940, Making a supplementary appropriation to the Department of Education, State Board of Education – State Department of Education.

Delegate D. Jeffries, 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 1st day of April, 2021, 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. 2290, Initiating a State Employment First Policy to facilitate integrated employment of disabled persons,

H. B. 2897, Expiring funds to the balance of the Department of Commerce,

H. B. 2899, Making a supplementary appropriation to the Department of Commerce,

And,

H. B. 2920, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – Laboratory Services Fund.

Delegate D. Jeffries, 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 1st day of April, 2021, 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. 2014, Relating to role of the Legislature in appropriating federal funds.

Delegate D. Jeffries, 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 1st day of April, 2021, 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. 356, Allowing for written part of drivers' exam given in high school drivers education course,

Com. Sub. for S. B. 431, Relating to school attendance notification requirements to DMV,

And,

Com. Sub. for S. B. 435, Requiring county superintendents to authorize certain school principals or administrators at nonpublic schools to issue work permits for enrolled students.

Delegate D. Jeffries, 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 1st day of April, 2021, 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:

S. B. 67, Relating to authority of Emergency Medical Services Advisory Council,

And,

S. B. 390, Reorganizing Health Care Authority under DHHR and clarifying responsibilities for all-payer claims database.

Delegate Steele, 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. 479, Relating to WV veterans service decoration and WV Service Cross,

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

Delegate Steele, 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. 343, Authorizing DMV to process online driver's license or identification card change of address,

S. B. 376, Removing obsolete provisions regarding DOH standards for studded tires and chains,

Com. Sub. for S. B. 466, Relating generally to appraisal management companies,

And,

S. B. 577, Exempting certain fire departments from licensure requirements for providing rapid response services,

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

Delegate Steele, 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. 626, Updating regulation for purchase of automobile catalytic converters,

And reports the same back, with a title amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on the Judiciary be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 626) to the Committee on the Judiciary was abrogated.

Delegate Steele, 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. 368, Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program,

And reports the same back, with a title amendment, with the recommendation that it do pass, as amended, and with the recommendation that second reference to the Committee on Finance be dispensed with.

In accordance with the former direction of the Speaker the bill (Com. Sub. for S. B. 368) was referred to the Committee on Finance.

Delegate Steele, 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. 318, Relating generally to public notice of unclaimed property held by State Treasurer,

And reports the same back, with a title amendment, with the recommendation that it do pass, as amended, and with the recommendation that the second reference to the Committee on Finance be dispensed with.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 318) to the Committee on Finance was abrogated.

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

Your Committee on Education has had under consideration:

H. C. R. 24, Urging Congress to extend federal tax incentives to participants in Jumpstart Savings programs that are similar to those that are currently provided to participants in College Savings plans, pursuant to 26 U.S.C. §529,

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. 24) was referred to the Committee on Rules.

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

Your Committee on Education has had under consideration:

S. B. 307, Relating generally to in-state tuition rates for certain persons,

Com. Sub. for S. B. 585, Requiring BOE create and provide course in family and consumer sciences in secondary schools,

And,

S. B. 680, Allowing State Superintendent of Schools define classroom teachers certified in special education,

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. 636, Requiring certain history and civics courses be taught in schools,

S. B. 651, Allowing county boards of education to publish financial statements on website,

And,

S. B. 710, Requiring impact statement in certain instances of school closing or consolidation,

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

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 Espinosa, Hornbuckle, Rowan, Maynard, Boggs, Toney, Statler, Ellington, Rohrbach, J. Pack and Hardy:

H. B. 3316 - “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, 2021, to the Department of Education, State Board of Education – State Department of Education, Fund 8712, fiscal year 2021, organization 0402, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021.”

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. 397, Relating to health care provider tax,

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:

H. B. 2895, Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance,

H. B. 2900, Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund,

H. B. 3313, Making supplemental appropriation to the Division of Motor Vehicles,

H. B. 3314, Making supplemental appropriation to West Virginia State Police,

And,

H. B. 3315, Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund,

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 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

Com. Sub. for H. B. 2003, Relating to the authority and obligations of the Governor and Legislature when in declared states of preparedness and emergency.

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 Summers, J. Pack and 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 the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 15, Rare Disease Day.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendments of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 275, Relating generally to WV Appellate Reorganization Act of 2021.

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:

H. C. R. 53: Delegate Riley

At 7:02 p.m., the House of Delegates adjourned until 9:00 a.m., Friday, April 2, 2021.

Friday, April 2, 2021

FIFTY-SECOND DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, April 1, 2021, 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 H. B. 2022, on Third reading, Special Calendar, had been placed at the foot of the Calendar.

Committee Reports

Delegate J. Pack, 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. 387, Relating to drug screening of applicants for cash assistance,

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

Delegate J. Pack, 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. 334, Establishing license application process for needle exchange programs,

And,

Com. Sub. for S. B. 509, Removing requirement that determination of medical stability be found prior to admission to mental health facility,

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

In accordance with the former direction of the Speaker, the bills (Com. Sub. for S. B. 334 and Com. Sub. for S. B. 509) were each referred to the Committee on the Judiciary.

Delegate Anderson, Chair of the Committee on Energy and Manufacturing, submitted the following report, which was received:

Your Committee on Energy and Manufacturing has had under consideration:

Com. Sub. for S. B. 492, Establishing program for bonding to reclaim abandoned wind and solar generation facilities,

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

Delegate J. Pack, 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. 668, Creating Psychology Interjurisdictional Compact,

And,

Com. Sub. for S. B. 671, Appointing Director of Office of Emergency Medical Services,

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

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 4, Private First Class Herman Harold Lucas Memorial Bridge,

H. C. R. 10, James “Big Jim” Shaffer Memorial Bridge,

H. C. R. 11, Thomas Brothers Memorial Bridge,

H. C. R. 18, Daniel Okey Cunningham Memorial Bridge,

H. C. R. 19, “U.S. Army Pvt. Dallis H. Johnson WWII Memorial Bridge.”,

H. C. R. 28, Paul J. Hofe Memorial Bridge,

H. C. R. 34, Declaring the “pepperoni roll” to be the official state food of West Virginia,

H. C. R. 40, Guy Maywood Edwards Memorial Bridge,

H. C. R. 41, Halstead Brothers WWII Veterans Memorial Bridge,

H. C. R. 44, Timothy Wayne Farley Memorial Bridge,

H. C. R. 46, U. S. Navy BM1 Farris Burton Memorial Bridge,

H. C. R. 47, SP5 Terry Lee McClanahan Memorial Bridge,

H. C. R. 51, U.S. Army Private Elmo Davis Memorial Road,

H. C. R. 52, World War II Veterans Toothman Brothers Memorial Bridge,

H. C. R. 58, Kohlton Red Haney Memorial Bridge,

H. C. R. 60, Cpl. Billy F. Mann Memorial Bridge,

H. C. R. 66, Officer Cassie Johnson - Fallen Heroes Memorial Bridge,

H. C. R. 67, Roy E. Givens Memorial Road,

H. C. R. 71, Doctor Enrique and Mrs. Sallie H. Aguilar Memorial Bridge,

H. C. R. 75, U.S. Army Corporal Charles William "Bill" Knight Memorial Bridge,

H. C. R. 76, U.S. Navy Seaman 1st Class Byrne Lee Singleton Memorial Bridge,

H. C. R. 77, Elmer Galford Memorial Road,

H. C. R. 85, World War II Veterans Toothman Brothers Memorial Bridge,

H. C. R. 86, Study the recruitment and retention of Health Care Workers in West Virginia,

H. C. R. 87, Study resolution regarding Courtesy Patrol submitting billing for reimbursement in certain instances,

And reports the same back with the recommendation that they each be adopted.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of concurrent resolutions of the House of Delegates as follows:

H. C. R. 8, U.S. Army SFC Guy Hively Memorial Bridge,

H. C. R. 16, PFC Franklin D. Frazier Memorial Road,

Com. Sub. for H. C. R. 22, Bill O’Dell Memorial Bridge,

H. C. R. 25, William Edward Friese Memorial Bridge,

H. C. R. 27, Harvey Lemasters Memorial Bridge,

H. C. R. 32, To name Gatewood Road in Fayette County as the “Senator Shirley Love Memorial Road”,

H. C. R. 33, Norman A. and Carrie G. Silver Memorial Bridge,
And,

Com. Sub. for H. C. R. 43, U. S. Army CSM Hugh H. ‘Smokey’ Stover 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 resolutions, which were read by their titles and referred to the Committee on Rules as follows:

S. C. R. 17 - “Requesting the Division of Highways name bridge number 23-017/09-000.06 (23A054), locally known as Clothier Box Beam, carrying CR 17/9 over Spruce Fork in Logan County, the ‘U.S.M.C. CAPT Dempsey Stowers Memorial Bridge’.”

Whereas, Dempsey Stowers, a native of Bulger, West Virginia, was born September 7, 1941, and died February 23, 2020; and

Whereas, Dempsey Stowers proudly joined the United States Marine Corps in 1960. He served for as a signal intelligence/electronic warfare officer; and

Whereas, Dempsey Stowers retired from the U.S. Marine Corps after 23 years, earning the rank of captain; and

Whereas, CAPT Dempsey Stowers obtained numerous medals for his exceptional service, including the National Defense Medal,

Armed Forces Expeditionary, Republic of Vietnam Campaign, Navy Union Citation, Navy Achievement Medal, Vietnam Service Medal with three stars, Meritorious Unit Commendation, Sea Service Deployment Ribbon, Navy Commendation Medal, Meritorious Service Medal, Republic of Vietnam Meritorious Unit Citation, and three letters of Commendations; and

Whereas, Upon retirement from his service, CAPT Dempsey Stowers returned home to West Virginia where he and his wife, Judy Stowers, raised their family, and

Whereas, CAPT Dempsey Stowers was active in his community and church, where he was widely known as a leader and exemplification of service; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S.M.C. CAPT Dempsey Stowers 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 23-017/09-000.06 (23A054), locally known as Clothier Box Beam, carrying CR 17/9 over Spruce Fork in Logan County, the “U.S.M.C. CAPT Dempsey Stowers Memorial Bridge”.

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the “U.S.M.C. CAPT Dempsey Stowers 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.

S. C. R. 18 - “Requesting the Division of Highways name bridge number 50-152-5.70 (50A112), locally known as Missouri Branch Beam Span, carrying West Virginia Route 152 over the West Fork of Twelvepole Creek in Wayne County, the ‘Curtis ‘Pap’ and Millie ‘Mammie’ Asbury Memorial Bridge’.”

Whereas, Curtis Asbury was born on September 24, 1917, in Wayne, West Virginia, and his devoted wife, Millie Ferguson, was born on April 24, 1924. They were married in 1939; and

Whereas, Curtis and Millie Asbury established, owned, and operated Asbury's Grocery, located at the entrance to Cabwaylingo Park Road for 52 years. The grocery store became a vital resource for community members. For five decades, the store not only provided necessary food and other goods but was also a meeting place for community members to gather and discuss everything from politics to family life. The bus stop was outside and when the school children would go inside the store they would be met with a smile, a hug, and a piece of fruit or candy; and

Whereas, Almost every person in the community of Dunlow, West Virginia, has been touched by Curtis and Millie's kindness and generosity. The love they both had for their community was displayed by their hardworking, gentle, and giving spirits. They were devoted to making their small community a better place to live by always extending a helping hand, providing jobs, caring for the elderly, and encouraging and guiding the youth. They helped develop and organize their area by creating local churches, directing Sunday school classes, and working to fulfill the needs of the entire community. They treated everyone as their own family and were lovingly referred to as everyone's "Mammie" and "Pap"; and

Whereas, It is fitting that an enduring memorial be established to commemorate Curtis and Millie Asbury and their contributions to their community and our state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 50-152-5.70 (50A112), locally known as Missouri Branch Beam Span, carrying West Virginia Route 152 over the West Fork of Twelvepole Creek, in Wayne County, the "Curtis 'Pap' and Mille 'Mammie' Asbury 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 “Curtis ‘Pap’ and Mille ‘Mammie’ Asbury 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.

S. C. R. 19 - “Requesting the Division of Highways name bridge number 20-060/00-028.94 (20A347), 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, U.S. Army SSG Elson Merrill Kuhn was born on September 28, 1921, in Bim, West Virginia, and attended Van High School. He served in the First Cavalry Division, U.S. Army, in the Pacific Theater, comprising 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 U.S. Army for four years, SSG Elson Merrill Kuhn returned to West Virginia to work for the coal industry and in an industrial baseball league, which was popular after the post-war era. He remained employed in the mining industry for a 40-year career as an electrician, after becoming licensed by the state and federal government; and

Whereas, Before U.S. Army, SSG Elson Merrill Kuhn contributed significantly to the building and upkeep of Kanawha State Forest through his membership in the Civilian Conservation Corps No. 2599 S76 Camp at Kanawha State Forest, assisting in building the recreation areas and other infrastructure, including the dam, roads, fire towers, bridges, restrooms, picnic shelters, and the log home of the superintendent. Throughout his life, he also participated in raising funds, building shelters, replacing dilapidated foot bridges, and holding reunions at Kanawha State Forest; and

Whereas, U. S. Army SSG Elson Merrill Kuhn died after a long illness on 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), 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 have made and be placed signs identifying the bridge as the “U. S. Army SSG Elson M. Kuhn 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.

S. C. R. 21 - “Requesting the Division of Highways name a portion of County Route 30/1, beginning at (38.239066), (-82.192876) and ending at (38.239066), (-82.200978), locally known as Sheridan Road, in Lincoln County, the ‘U.S. Army SGT Charles L. Toppings Memorial Road’.”

Whereas, Charles L. Toppings was born in Man, West Virginia, on October 13, 1930, the son of Sesco and Elva Toppings; and

Whereas, Charles L. Toppings was a graduate of Hamlin High School and entered the U.S. Army; and

Whereas, SGT Charles L. Toppings served in Company C, 72nd Tank Battalion, 2nd Infantry in Korea; and

Whereas, On May 18, 1951, SGT Charles L. Toppings distinguished himself by heroic achievement near Chaun-ni, Korea, while riding in a tank retriever attempting to run an enemy roadblock. The retriever crew saw several wounded soldiers exposed to enemy fire when SGT Charles L. Toppings, while being exposed to enemy fire, manned a machine gun and delivered heavy fire on the enemy. He then left the retriever and moved the wounded soldiers into the retriever; and

Whereas, SGT Charles L. Toppings, for his heroism on that day, was awarded the Bronze Star; and

Whereas, SGT Charles L. Toppings worked for the C&O Railroad in West Virginia for over 30 years; and

Whereas, SGT Charles L. Toppings passed away on April 5, 2017, survived by three sons: Charles Toppings and wife, Sheila; William (Bill) Toppings and wife, Vicki; and Steve Toppings and wife, Karen; and

Whereas, It is fitting that an enduring memorial be established to commemorate SGT Charles L. Toppings 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 a portion of County Route 30/, beginning at (38.239066), (-82.192876) and ending at (38.239066), (-82.200978), locally known as Sheridan Road, in Lincoln County, the “U.S. Army SGT Charles L. Toppings Memorial Road”; 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 “U.S. Army SGT Charles L. Toppings 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.

S. C. R. 27 - "Requesting the Division of Highways to name bridge number 20-079/00-019.22 (NB-SB) (20A514-20A515), locally known as I-79 CLENDENIN I/C NB, carrying I-79 over CR 53 in Kanawha County, the 'Walker Brothers Veteran Memorial Bridge'."

Whereas, All five of the Walker men volunteered for military service during the Vietnam War with three experiencing injuries while on active duty; and

Whereas, Albert J.L. Walker served as a civil engineer with the U.S. Air Force at the Eielson Air Force Base in Alaska when the Great Alaskan Earthquake struck in 1964. He was active in rescue efforts and recovery of the dead following the strongest earthquake in North American history; and

Whereas, Allie Melton Walker served with the U.S. Air Force at the Kaden Air Force Base, Okinawa, Japan, as an aircraft mechanic. He deployed to Vietnam for three months at a time as the crew chief on the C130 aircraft delivering cargo and picking up the wounded and the dead. He earned a Good Conduct Medal (AFGCM w/1BR OLC), Special Ops, and marksmanship; and

Whereas, Ray Milton Walker served in the U.S. Army at the Dong Tam Base Camp where he was a part of the ground recon team for the 1st Aviation Brigade and was awarded the Combat Infantryman Badge (CIB), Bronze Star, National Defense Service Medal with two bronze stars, and Marksman Badge with Rifle Bar; and

Whereas, Ray Milton Walker is now suffering from cancer and long-term health issues from his exposure to Agent Orange; and

Whereas, Roger Bill Walker served in the U.S. Air Force at Udorn Airbase, Thailand, as a radar operator and air traffic controller assisting with the bombing of North Vietnam, earning

the National Defense Service Medal, Vietnam Service Medal, Air Force Good Conduct, and Special Ops; and

Whereas, David Allen Walker joined the WV Army National Guard while he was still a senior in high school, serving as a Green Beret with the 19th S.F. Group Airborne as a combat engineer. He was injured during paratrooper trainer when his plane caught on fire and forced him to jump onto the tarmac wearing full combat gear, injuring both of his feet. He continued to serve in supply and transport. David Allen Walker also served the State of West Virginia as a WV Delegate from the 33rd District from 2009 to 2015; and

Whereas, It is fitting that an enduring memorial be established to commemorate the Walker 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 20-079/00-019.22 (NB-SB) (20A514-20A515), locally known as I-79 CLENDENIN I/C NB, carrying I-79 over CR 53 in Kanawha County, the “Walker Brothers 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 “Walker Brothers 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.

S. C. R. 31 - “Requesting the Division of Highways name bridge number 17-034/00-000.01 (17A296), locally known as Laurel Park Truss, carrying CR 34 over West Fork River in Harrison County, the ‘Frye Brothers Memorial Bridge’.”

Whereas, Three of the four Frye brothers served in World War II, with one brother killed in action; and

Whereas, Their father was killed in coal mining accident, forcing their mother to send them to group homes until she found a job and was able to support her four boys and two girls, all under the age of 12; and

Whereas, The oldest Frye brother, Thomas, was not allowed to enlist because he worked in the defense industry and would have been his widowed mother's sole source of support if his younger brothers were killed; and

Whereas, Kermit C. Frye was drafted in 1940 and served as U.S. Navy Seaman Second Class; and

Whereas, Kermit C. Frye was killed in action with his body "lost at sea" after the East Indian motor merchant ship was torpedoed and sunk off the Coast of South Africa on November 3, 1942; and

Whereas, Kermit C. Frye was awarded a posthumous Purple Heart and memorialized with a cross at the North Africa American Cemetery in Carthage, Tunisia; and

Whereas, Richard G. Frye was drafted in 1942 and served as U.S. Army Private First Class, fighting in both the Africa and Germany combat campaigns; and

Whereas, Harold Q. Frye, known as "Red", due to the color of his hair, was drafted in 1942 and served as a Private First Class cannoneer in the 119th Field Artillery Division of the 9th Army; and

Whereas, Harold Q. Frye jumped into the icy waters off Normandy, surrounded by the bodies of dead comrades, making it safely to shore despite carrying a 90-pound pack and having a severe asthma attack, while fellow soldier Dale Crim shouted, "Swim, Frye! Swim, damn it". Dale Crim later told Frye's daughter that the experience was so haunting that many soldiers never talked about it, but he wanted her to know how brave her father was and how they encouraged each other to survive; and

Whereas, Harold Q. Frye operated a “long Tom” gun during the Battle of the Bulge, with a commendation from the XIX Corps Artillery headquarters for helping to protect aircraft, armor, and infantry as they made their rapid run through Germany in pursuit of enemy troops; and

Whereas, Harold Q. Frye received an additional commendation from Lieutenant General W. H. Simpson for taking part in that six-week bloody battle where approximately 19,000 American troops were killed before the crushing defeat of the German Army was completed; and

Whereas, Harold Q. Frye returned to Clarksburg after the war and served as a nursing assistant at the Veterans Hospital for more than 20 years, where he was recognized for saving the life of a patient who became choked on a piece of meat; and

Whereas, Harold Q. Frye retired after he was injured during an attack by a patient in the VA Psychiatric Unit; and

Whereas, It is fitting that an enduring memorial be established to commemorate the Frye brothers for 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 17-034/00-000.01 (17A296), locally known as Laurel Park Truss, carrying CR 34 over West Fork River in Harrison County, the “Frye Brothers 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 “Frye Brothers 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.

S. C. R. 32 - “Requesting the Division of Highways name bridge number 2488 East/West (17A187, 17A189), locally known

as the Log Cabin Bridge in Harrison County, the ‘Cox Brothers Veteran Memorial Bridge’.”

Whereas, The Cox family demonstrated their utmost patriotism for the United States with 11 of 15 brothers, in a family of 21 children, serving in the U.S. military, including seven brothers who served during WWII; and

Whereas, Vaughn Cox was with the 101st Airborne, serving as a paratrooper on D-Day. After being shot several times before he hit the ground, Vaughn Cox was picked up by burial crews who discovered that he was still alive. He recovered and returned home with a glass eye, having earned three Purple Hearts; and

Whereas, Glenn Cox was stationed with the U.S. Navy on Ocracoke Island at a “top secret” amphibious training base. There, he operated from the “loop shack” to track Nazi U-Boats. At the end of the war, Glenn Cox had the honor of transcribing the radio code message announcing the end of WW II to his fellow sailors; and

Whereas, Edward Cox fought during the battles for Guadalcanal and the Southern Philippines during WW II. He reenlisted and served in the Korean War, garnering multiple honors including medals for the Asiatic-Pacific Theater Campaign with two-bronze stars, Philippine Liberation Ribbon with one-bronze star, and the Army of Occupation Medal, Korea; and

Whereas, Paul Loutrell Cox was a U.S. Marine, PFC-6, during WW II, serving in the Central Pacific; and

Whereas, Carlos Walter Cox was a Staff Sergeant in the U.S. Army and served in Northern France and the Rhineland during WW II, earning multiple service ribbons for valor and bravery; and

Whereas, Calvin Leco Cox served his country in the U.S. Army as Private First Class-Ordinance in Walla Walla, Washington; and

Whereas, A half-brother to the Cox brothers, Kenneth Bickerstaff, served in the U.S. Army, and was stationed in

Australia during WW II, helping to fight off the Japanese invasion in the Pacific; and

Whereas, All seven of the Cox brothers who served in WW II were listed on the Honor Memorial in Wolf Summit, West Virginia, dedicated in 1946, symbolizing their heroism and sacrifice for continued freedom of the United States and our democracy; and

Whereas, It is fitting that an enduring memorial be established to commemorate the Cox 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 bridge number 2488 East/West (17A187, 17A189), locally known as the Log Cabin Bridge in Harrison County, the “Cox Brothers Veteran 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 “Cox Brothers Veteran 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.

Com. Sub. for S. C. R. 34 - “Requesting the Division of Highways name bridge number 55-010/00-031.60 (55A035), locally known as Jesse Bridge, carrying WV 10 over Laurel Fork in Wyoming County, the ‘U.S. Air Force TSGT Franklin A. Bradford Bridge’.”

Whereas, Franklin Abb Bradford was born at the Stevens Hospital in Welch, West Virginia, on March 21, 1950. He was the son of a coal miner and grew up in a coal camp house where he graduated from Pineville High School in 1969. With the Vietnam War underway, Franklin A. Bradford voluntarily enlisted in the United States Air Force in the fall of 1969; and

Whereas, TSGT Franklin A. Bradford spent his basic training at Lackland Air Force Base in San Antonio, Texas. He served a first tour of duty in the Southeast Asian theater of conflict. TSGT Franklin A. Bradford served with the civil engineering unit called Prime Base Engineer Emergency Force (BEEF), where he served as a machine gunner. Prime BEEF was a rapidly deployable squadron of specialized civil engineering unit members who provided a full range of engineering support for command operations; and

Whereas, TSGT Franklin A. Bradford was stationed at Beale Air Force Base in California where he helped assemble the SR-71 Blackbird, an Air Force reconnaissance aircraft intended to operate at extreme velocities, altitudes, and temperatures that played a key role in gathering intelligence during the Cold War; and

Whereas, TSGT Franklin A. Bradford was stationed at the Ramstein Air Force Base in Germany and flew on international missions. After Shah Mohammad Reza Pahlavi was ousted from Iran on February 11, 1979, at the start of the Iranian Revolution, the Shah was welcomed into the United States for cancer treatments. In protest, Iranian students took over the U.S. Embassy in Tehran, holding Americans hostage for more than 440 days. TSGT Franklin A. Bradford took part in one of the airlift rescue missions for embassy members during what would become known as the Iranian hostage crisis; and

Whereas, TSGT Franklin A. Bradford transferred to Charleston Air Force Base in South Carolina where he served as a quality control specialist for the mechanical air command, and then he transferred to the strategic air command at Randolph Air Force Base in San Antonio, Texas. Following his service in Texas, TSGT Franklin A. Bradford was sent to Kunsan Air Force Base in South Korea to a combat readiness unit, the 8th Fighter Wing, known as The Wolf Pack. This was a strategic unit trained and prepared to execute immediate air combat against any aggressors threatening the United States or South Korea. His final duty station was at Maxwell Air Force Base in Alabama where he worked as a manpower management technician; and

Whereas, TSGT Franklin A. Bradford always made time to volunteer with local schools, the Special Olympics, and the Red Cross wherever he was stationed. While stationed in San Antonio, Pope John Paul II visited the city in September 1987 and conducted an outdoor mass with several thousand attendees, some of whom suffered the effects of the hot Texas sun. He served with the Red Cross during the event, brought water and refreshments to attendees, and helped many who succumbed to the heat to shelter for assistance. The heart of a West Virginian is one of servitude and TSGT Franklin A. Bradford displayed this quality whenever presented with the opportunity; and

Whereas, Upon retirement from the Air Force in 1991, TSGT Franklin A. Bradford went back to school at Bluefield State College and earned a bachelor's degree, which allowed him to begin a career with the United States Department of Defense as a contract specialist with the Naval Sea Command and NASA. His duty station was at the Wright Patterson Air Force Base in Ohio. When a transfer opportunity opened for the Department of Defense in Blacksburg, Virginia, TSGT Franklin A. Bradford seized the chance to return home and moved to Princeton, West Virginia. He eventually worked with the Veterans Administration Hospital in Beckley, West Virginia, as a contract specialist, and enjoyed his time serving the needs of fellow veterans; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Air force TSGT Franklin A. Bradford for his honorable service 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 55-010/00-031.60 (55A035), locally known as Jesse Bridge, carrying WV 10 over Laurel Fork in Wyoming County, the "U.S. Air Force TSGT Franklin A. Bradford 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 TSGT Franklin A. Bradford 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.

Com. Sub. for S. C. R. 37 - “Requesting the Division of Highways name, upon construction of the new bridges that will replace the Donald M. Legg Memorial Bridge, carrying WV 64 over the Kanawha River, locally known as the Nitro/St. Albans Bridge in Kanawha County, the new Eastbound Lane/Bridge, the ‘Nitro WW I Living Memorial Bridge’.”

Whereas, On August 29, 1916, the United States Congress authorized the building of the Naval Ordnance Plant between U.S. 60 and the railroad in South Charleston, West Virginia. The plant took two years to build, spanned 900,000 square feet, and began operating in May of 1918. According to the Secretary of the Navy, Josephus Daniels, this naval base was the first in U.S. history to be placed away from seawaters. The U.S. Navy was drawn to the location by West Virginia’s natural resources, as well as its “moral environment and splendid citizenship”. The plant manufactured military equipment such as armor plates, gun forgings, and projectiles for battleships and cruisers which were used by the U.S. Navy in World War I; and

Whereas, Nitro was a World War I boom town believed to be named after nitrocellulose, which was used to manufacture smokeless gunpowder and other explosive devices. The plant was one of three selected by the U.S. government under the Deficiency Appropriations Act to relieve a severe shortage of gunpowder. Nitro’s location, 14 miles from Charleston, was chosen because it was secure from coastal attacks and climatic conditions while having access to railroads, waterways, and raw materials. The ordnance plant complex was known as Explosive Plant C. It was built in just 11 months and thousands of workers, supplies, and materials arrived practically overnight; and

Whereas, During the 11 months that the Explosive Plant C was in operation, the town was 90 percent complete and housed 23,951 people associated with the plant. There was a high turnover of people coming and going from the plant, with workers from each state and representing 41 different nationalities. Some who arrived for work in 1918 suffered from Spanish influenza and army barracks and other buildings had to be converted into hospitals to care for the sick; and

Whereas, By the end of the war on November 11, 1918, Explosive Plant C had produced 350 tons of smokeless gun powder per day. On Armistice Day, Nitro celebrated with a parade of cars, military tanks, and a band. Within two weeks after the Armistice, 12,000 people left Nitro and there were not enough workers to sustain plant production. The director of the plant turned its operation over to the Ordnance Department on January 15, 1919, and the plant was declared surplus as the U.S. government prepared to liquidate the property. Workers were laid off in October of 1919 and, a month later, the facilities were sold at auction to the Charleston Industrial Corporation; and

Whereas, In November of 1919, a state charter was granted to the Charleston Industrial Corporation which was organized for the specific purpose of purchasing and redeveloping the surplus government property at Nitro. The Charleston Industrial Corporation launched a sales promotion campaign to attract new industries and businesses to the area, focusing on manufacturing and chemical industries. By 1921, the future of Nitro was beginning to take shape with many wartime holdovers calling it home and relying on their friends and neighbors for fellowship, common interests, and help in time of need. This early community spirit remains strong; and

Whereas, Remnants of Nitro's gunpowder production history can be seen throughout the town and many special events associated with both World War I and World War II are held each year. The town proudly celebrates its wartime history and being known as a "living memorial to World War I"; and

Whereas, It is fitting that an enduring memorial be established to commemorate Nitro's rich past and significance to our country during World War I; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name the new Eastbound Lane/Bridge, upon construction of the new bridges that will replace the Donald M. Legg Memorial Bridge, carrying WV 64 over the Kanawha River, locally known as the Nitro/St. Albans Bridge in Kanawha County, the "Nitro WW I Living Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the Eastbound lane or bridge as the "Nitro WW I Living 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.

Com. Sub. for S. C. R. 39 - "Requesting the Division of Highways erect signs at the Marion County borders on I-79 entering Marion County at (39°27'00.8'N) (80°10'33.8'W), and (39°30'27.6'N) (80°07'59.7'W), stating 'Birthplace of Alabama Coach Nick Saban'."

Whereas, Nicholas Lou Saban Jr., was born on October 31, 1951, in Fairmont, West Virginia, to Nicholas and Mary Saban; and

Whereas, Nicholas Lou Saban Jr., known throughout his life as "Nick", attended Monongah High School where he won the 1967 2A State Championship in football as a quarterback alongside United States Senator Joe Manchin; and

Whereas, Upon graduation from Monongah High School, Nick Saban would attend Kent State University on a football scholarship as a starting defensive back for the Golden Flashes from 1970 to 1973; and

Whereas, After completing his bachelor's degree in business, Nick Saban would go on to complete his master's degree in sports administration from Kent State, while working as an assistant coach for the Golden Flashes; and

Whereas, Upon graduation, Nick Saban would be hired as a graduate assistant for Kent State, later serving as an assistant coach at Syracuse in 1977, West Virginia from 1978 -1979, Ohio State from 1980 - 1981, Navy in 1982, Michigan State from 1983 to 1987, and the Houston Oilers of the National Football League (NFL) in 1988; and

Whereas, Nick Saban would be head coach job at Toledo in 1988, where he found quick success which would lead to an offer from the Cleveland Browns of the NFL to become a defensive coordinator for the 1990 season; and

Whereas, After four years in Cleveland, Michigan State would take Nick Saban as their head coach from 1990 to 1999; starting the 1999 season, Nick Saban would become the head coach of Louisiana State University where he would win his first National Championship in the 2003 season and two South Eastern Conference Championships; and

Whereas, in 2004, Nick Saban would leave Louisiana State University, to become the head coach of the Miami Dolphins for the 2005 season, and after a 15-17 record, Nick Saban would be released from Miami; and

Whereas, Nick Saban would be hired by the Alabama Crimson Tide on January 3, 2007, which would lead to six National Championships (2009, 2011, 2012, 2015, 2017, 2020) and seven Eastern Conference Championships (2009, 2012, 2014, 2015, 2016, 2018, 2020); and

Whereas, Nick Saban has a wife, Kristen Saban of 49 years who first saw Nick at a Pop Warner game in Fairmont, and two adopted children, Nicholas and Kristen Saban; and

Whereas, Nick Saban would call on Alabama high schools to help West Virginia schools affected by the 2016 West Virginia floods that took place on June 23-24; and

Whereas, Nick Saban's representation of West Virginia on a national stage should be commemorated by his birthplace being honored on signs on I-79 entering the county; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to erect signs at the Marion County borders on I-79 entering Marion County at (39°27'00.8"N) (80°10'33.8"W), and (39°30'27.6"N) (80°07'59.7"W), stating "Birthplace of Alabama Coach Nick Saban"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs at both ends identifying the portion of road as the "Birthplace of Alabama Coach Nick Saban"; 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.

S. C. R. 44 - "Requesting that the Division of Highways name bridge number 17A332 (17-098/00-003.27), locally known as the Veterans' Park Bridge, carrying State Route 98 over the West Fork River in Harrison County, the 'Harrison County Veterans Memorial Bridge'."

Whereas, Naming this bridge in honor of all the men and women who have served in the United States Armed Forces from Harrison County is a fitting and enduring memorial to commemorate their service to the Nation; and

Whereas, Harrison County citizens have long been known as the first to fight for their country, and Harrison County was the centerpiece of West Virginias' efforts to fight the Axis Powers during WWII with seeing more than one million recruits on their way to defend their country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 17A33 (17-098/00-003.27), locally known as the Veterans' Park Bridge, carrying County U.S. Route 19 over the West Fork River in Harrison County, the "Harrison County 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 "Harrison County 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.

And,

S. C. R. 48 - "Requesting the Division of Highways name bridge number 10-061/00-027.81 (10A161), locally known as Armstrong Creek Bridge, carrying West Virginia Route 61 over Armstrong Creek in Fayette County, the 'U. S. Army PFC Billy Keith Ford Memorial Bridge'."

Whereas, Billy Keith Ford was born on September 28, 1945, in Boomer, West Virginia, to Henry and Juanita Kilburn Ford, into a family of four boys and five girls; and

Whereas, As a boy, Billy spent his time helping in local gardens near the family home and when they were not in the gardens, the family enjoyed camping in West Virginia state parks; and

Whereas, Billy Keith Ford entered the U.S. Army in 1967, and was deployed to Vietnam on December 23, 1967, at the rank of Private First Class; and

Whereas, PFC Billy Keith Ford was originally assigned to the Fifth Battalion, Seventh Cavalry as a new battalion of the First Air Cavalry in 1966, and as part of this battalion he was stationed in Thua Thien Province, an area of exceptionally heavy fighting

during that time, with more U.S. casualties than in any other province of Vietnam; and

Whereas, PFC Billy Keith Ford and his unit participated in a massive offensive, Operation Pegasus, in April 1968, liberating ground troops who had been under siege for 78 days and seizing tons of enemy supplies and equipment; and

Whereas, PFC Billy Keith Ford and the “5/7 Cav” later interdicted enemy movements to the south and held a dominant position in the A Shau Valley, hindering the enemy’s efforts at retreat and reinforcement; and

Whereas, PFC Billy Keith Ford’s company came under fire on April 28, 1968, and he was killed in the engagement; and

Whereas, During his time in service, PFC Billy Keith Ford received the Army Combat Infantryman Badge, Marksmanship Badge, National Defense Service Medal, Vietnam Service Medal, Army Presidential Unit Citation, Vietnam Gallantry Cross, and the Purple Heart medal; and

Whereas, PFC Billy Keith Ford’s funeral service was held in the Mount Carbon Community Church on Sunday, May 12, 1968, and he was laid to rest in the Montgomery Memorial Park in London, West Virginia; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army PFC Billy Keith Ford and his 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 10-061/00-027.81 (10A161), locally known as Armstrong Creek Bridge, carrying West Virginia Route 61 over Armstrong Creek in Fayette County, the “U. S. Army PFC Billy Keith Ford 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 PFC Billy Keith Ford 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; which was referred to the Committee on Rules.

Resolutions Introduced

Delegate Hanshaw (Mr. Speaker) offered the following resolution, which was reported by the Clerk as follows:

H. R. 19 - “Amending House Rule 65, relating to the daily order of business.”

Resolved by the House of Delegates:

That House Rule 65 be amended to read as follows:

Daily

65. The daily order of business shall be as follows:

I. To read, correct, and approve the Journal.

II. Introduction of guests.

III. To receive and consider reports of standing committees.

IV. To receive and consider reports of select committees.

V. To receive and consider messages from the Executive, state officials, and other communications and remonstrances.

VI. To receive messages from the Senate, and consider amendments proposed by the Senate to bills passed by the House.

VII. To receive (a) resolutions, (b) petitions, (c) motions.

VIII. Bills introduced on motion for leave and referred to appropriate committees.

IX. To act on unfinished business of the preceding day, and resolutions lying over from previous day, but no resolution shall lose its place on the calendar by not being acted upon on the day following that on which it was offered.

X. House and Senate Bills on third reading.

XI. House and Senate Bills on second reading.

XII. House and Senate Bills on first reading.

XIII. To act upon leave of absence for members.

XIV. Remarks by members of the House.

Item XIV, Remarks by members of the House, shall ~~not be operative after the forty seventh day of the session: *Provided*, That for the duration of the 2021 Regular Session of the 85th Legislature, on each day the House meets in actual session prior to the forty seventh day of the session, be held on each Wednesday, unless otherwise directed by the Speaker, following the first day through the fifty-seventh day of session, and~~ the Speaker shall announce a time when the chamber of the House shall be available for remarks by members of the House if such a time is requested by a member of the House of Delegates. The House shall convene at such time to receive such remarks, and the Speaker or a designee of the Speaker shall preside. No quorum is necessary to proceed with the receipt of remarks by members of the House, and nothing herein shall prohibit committees from meeting when the House convenes solely for the purpose of remarks by members. Any member desiring to speak shall seek recognition, and upon recognition by the Presiding Officer, may speak for up to five minutes upon any topic of interest to the House. The Presiding Officer shall preserve order and decorum while the House is in session for the duration of remarks. During this designated time for receipt of remarks by members, no motion shall be in order save for a motion to adjourn remarks by members. Remarks made during the pendency of remarks by members may be entered into the appendix to the journal as provided for herein. The time allotted for remarks by members shall expire: (A) After all member

desiring to speak have exhausted their allotted time; or (B) after six hours; or (C) ten p.m., whichever occurs first.

XV. Introduction of guests.

XVI. Miscellaneous business. (HR10, Reg. Sess., 2001; HR3, Reg. Sess., 2002; HR1, Reg. Sess., 2019; HR1, Reg. Sess., 2021; HR19, Reg. Sess., 2021)

Effect of the 2001 amendment. Item II language is new, and original item II was moved to the end of the order, appearing as XIII.

Effect of the 2002 amendment. Item XIV language is new, and original item XIV was moved to the end of the order, appearing as XV. Also, after the forty-seventh day of a regular session, there will not be an order of business for remarks of members.

Effect of the 2019 amendment. Added another order of business, Item XV, introduction of guests.

Effect of the 2021 amendment. Language was added to facilitate a time for Members to make remarks if requested by a Member for the 2021 Regular Session.

Effect of the 2021 amendment. Specified that remarks by members be held on each Wednesday, unless otherwise directed by the Speaker, following the first day of session through the fifty-seventh day.

At the respective requests of Delegate Summers, and by unanimous consent, reference of the resolution (H. R. 19) to a committee was dispensed with, and it was taken up for immediate consideration and put upon its adoption.

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

The yeas and nays having been ordered, they were taken (**Roll No. 401**), and there were—yeas 52, nays 46, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barach, Bates, Boggs, Booth, Brown, Bruce, Conley, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Gearheart, Griffith, Hanna, Hansen, Holstein, Hornbuckle,

Horst, J. Kelly, Kimble, Longanacre, Lovejoy, McGeehan, Miller, Nestor, L. Pack, Pethtel, Pritt, Pushkin, Reed, Rowe, Skaff, Steele, Storch, Sypolt, Walker, Wamsley, G. Ward, Williams, Young, Zatezalo and Zukoff.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the resolution (H. R. 19) adopted.

Delegates D. Kelly, Howell, B. Ward, Pritt and Nestor offered the following resolution, which was read by its title and referred to the Committee on Finance then Rules:

H. C. R. 88 - “Requesting the Joint Committee on Government and Finance study the cost of housing prisoners in the State of West Virginia.”

Whereas, The State of West Virginia pays a higher rate than other states to house prisoners; and

Whereas, The State of West Virginia paid an average cost of \$84.56 a day per prisoner housed in West Virginia prisons in 2019, which equated to \$30,866 per prisoner for the fiscal year 2019; and

Whereas, Reports indicate this cost will continue to rise in the coming years; and

Whereas, Prisoners in the State of West Virginia completed 402,047 community service hours in 2019; and

Whereas, More than 52% of prisoners housed in West Virginia have not completed high school; and

Whereas, Prisoners in the State of West Virginia benefit from computer, life skills, substance abuse, college, and vocational classes as well as life skills and prerelease programs which fill in educational and skills gaps and assist in reintegration into civilian life; and

Whereas, Prisoners would continue to benefit from additional programs aimed at reshoring outsourced jobs within the state which

may utilize newly developed prisoner skills or assist in the development of new skills for volunteer prisoners; and

Whereas, Farm programs across the country have been a source for revenue and goodwill for prisons within their states and communities while also instructing prisoners in nutrition and agricultural skills; and

Whereas, West Virginia prisoners benefited from a cooperative project with the Division of Corrections and Department of Agriculture in 2014 which harvested 250,000 pounds of potatoes in Huttonsville, as well as 15,000 pounds of sweet potatoes, 6,000 pounds of cabbage, 300 bushels of beans, and 2,000 dozen ears of corn which were grown by prisoners across the state and were used to reduced food costs while giving prisoners access to fresh produce; and

Whereas, Prison agriculture and prison industries for outsourced jobs could assist in meeting the financial burden of prisons within the state by generating independent revenue; and

Whereas, Further intentional study into prisoner housing costs and this mutually beneficial expansion of prison programs will empower the Legislature to make an insightful advancement for corrections in the State of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance undertake a study of costs of housing prisoners in the State of West Virginia, including study of the expansion of voluntary prison labor programs; and, be it

Further Resolved, That the study analyze the costs and benefits of agricultural prison programs which may utilize volunteer prison labor to develop crops for purchase by outside entities, including schools within West Virginia, which may provide for revenue to the Department of Corrections; and, be it

Further Resolved, That the study include an examination of the costs and benefits of other potential prison industries which could

be used to reshore outsourced jobs within West Virginia, including identification of specific industries suitable for the program; and, be it

Further Resolved, That the study include not only the economic effects of the project, including the proposed revenue, but also the intangible benefit to prisons and prisoners; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

Delegates Storch, Booth, Ferrell, Reed and Smith offered the following resolution, which was read by its title and referred to the Committee on Government Organization then Rules:

H. C. R. 89 - "Requesting the Joint Committee on Government and Finance study the Convention and Visitors' Bureaus and tourism initiatives in the State of West Virginia."

Whereas, The Legislature recognizes the important role tourism plays in each of our communities; and

Whereas, The Legislature recognizes and appreciates the focus on tourism the Governor has displayed with his elevation of Chelsea Ruby to the position of Cabinet Secretary, who has performed exceptionally in this role promoting the State and its tourism opportunities; and

Whereas, The Legislature sees value in providing our support of the Department of Tourism's initiatives and looks forward to working with Secretary Ruby; and

Whereas, The Legislature also recognizes the role of our Convention and Visitors' Bureaus ("CVBs") as a valuable entity for the benefit of the promotion of tourism for our local areas; and

Whereas, Our local CVBs work in concert with our state tourism department. It is the desire of the Legislature to fully understand our CVB structure and to provide aid to assist them to be most effective; and

Whereas, The Legislature recognizes the beauty and value in our state parks. Over the last year during the COVID crisis, we had numerous residents and out of state visitors enjoying the camping we offer within our state parks; and

Whereas, The Legislature notes that revising or eliminating certain regulations and policies that hinder the Department of Natural Resources from expanding and repairing camping opportunities, in conjunction with Department of Natural Resources Director, Steve McDaniel, may open up greater opportunity for expanded tourism within our state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the Convention and Visitors' Bureaus and tourism initiatives in the State of West Virginia, identifying certain regulations and policies that hinder the Department of Natural Resources from expanding and repairing camping opportunities, in conjunction with Department of Natural Resources Director, Steve McDaniel; and

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

Delegates Storch, Cooper, Dean, Evans, Gearheart, Hamrick, Haynes, J. Jeffries, Maynard, Paynter, Pethtel and Phillips offered the following resolution, which was read by its title and referred to the Committee on Energy and Manufacturing then Rules:

H. C. R. 90 - “Requesting the Joint Committee on Government and Finance study the commercial discrimination of producers of coal, gas, oil, carbon-based energy, and other productions in the State of West Virginia.”

Whereas, The Legislature finds it is contrary to the interests of the State of West Virginia and the citizens of West Virginia for taxpayer dollars or retirement funds of public pensions to be invested in or at the direction of entities engaging in, providing incentives for, or directing strategies to divest from companies invested or assisting in the production of or the manufacturing of any of the following: (1) Natural gas, (2) oil, (3) coal, (4) petrochemicals, (5) forestry products, or (6) agriculture commodities; and

Whereas, The term “board” as used in this resolution hereby refers to the Board of Trustees of the West Virginia Public Employees Retirement System (“PERS”), under the Consolidated Public Retirement Board, as defined by §5-10-2(7) of this code; and

Whereas, The term “fund” as used in this resolution refers to the funds administered and invested by the board of the West Virginia Public Employees Retirement system (PERS); and

Whereas, As part of this study, the Joint Committee on Government and Finance shall study the effect of the board identifying all restricted businesses in which the Fund has direct or indirect holdings; the effect of the Board identifying the names of all restricted businesses into a restricted business list; and the effect of the Board updating the restricted business list at least on an annual basis; and

Whereas, As part of this study, the Joint Committee on Government and Finance shall study the effect of the Board sending to each restricted business that is identified under §5-10E-

3 of this code as a business in which a fund has direct or indirect holdings a written notice concerning the contents of this chapter and a statement indicating that the fund's holdings in the business may become subject to divestment by the system; and

Whereas, As part of this study, the Joint Committee on Government and Finance shall study the effect of the board dealing with the failure of certain businesses to comply with these requirements; and

Whereas, In relation to this study, these requirements would not apply to private equity funds; however, the board shall ensure that reasonable efforts are made during the due diligence process before an investment is made in a private equity partnership to determine whether any investments by the private equity general partner on behalf of the private equity partnership include a restricted business; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the commercial discrimination of producers of coal, gas, oil, carbon-based energy, and other productions in the State of West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

Special Calendar

Third Reading

Com. Sub. for S. B. 80, Allowing for administration of certain small estates by affidavit and without appointment of personal

representative; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 402**), and there were—yeas 83, nays 15, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Booth, Bridges, Burkhammer, Fast, Ferrell, Haynes, Holstein, J. Jeffries, Jennings, Longanacre, McGeehan, Pinson, Reynolds, Steele and Worrell.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 80) passed.

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

Com. Sub. for S. B. 81, Relating generally to WV Uniform Trust Code; on third reading, coming up in 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 85, nays 13, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Booth, Bridges, Cooper, Dean, Ferrell, Haynes, J. Jeffries, McGeehan, Paynter, Pinson, Steele, Wamsley and Worrell.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 81) 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 85, nays 13, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Booth, Bridges, Cooper, Dean, Ferrell, Haynes, J. Jeffries, McGeehan, Miller, Paynter, Pinson, Steele and Worrell.

Absent and Not Voting: Higginbotham and Thompson.

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. 81) 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. 346, Authorizing DMV use electronic means when providing notice for licensees and vehicle owners; on third reading, coming up in 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 92, nays 6, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Hanna, Longanacre, Miller, Pinson, Steele and Worrell.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 346) passed.

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

S. B. 374, Increasing threshold for bid requirement to \$10,000 to be consistent with other state agencies; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 406**), and there were—yeas 93, nays 5, absent

and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Bridges, Maynard, Steele, Toney and Worrell.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 374) passed.

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

Com. Sub. for S. B. 375, Relating to county boards of education policies for open enrollment; on third reading, coming up in 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 91, nays 7, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Booth, Brown, Dean, Miller, Paynter, Steele and Worrell.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 375) passed.

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

Com. Sub. for S. B. 375 – “A Bill to amend and reenact §18-5-16 of the Code of West Virginia, 1931, as amended, relating to county board of education open enrollment; amending provisions pertaining to the contents of county board of education policies for open enrollment; prohibiting transfer refusal by virtue of student transferring from approved exemption (k) school; setting forth reasons for which an open enrollment application may be denied

and the process for application denial; and amending provisions pertaining to funding in certain instances of a student transfer.”

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. 389, Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 408**), and there were—yeas 93, nays 5, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Booth, Bridges, McGeehan, Steele and Worrell.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 389) passed.

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

Com. Sub. for S. B. 389 – “A Bill to amend and reenact §29-31-2 of the Code of West Virginia, 1931, as amended, relating to clarifying that State Resiliency Office is responsible to plan for emergency and disaster response, recovery, and resiliency; clarifying that the State Resiliency Officer is a member of the State Resiliency Office Board; placing Secretary of the Department of Health and Human Resources on board; requiring that the President of the Senate appoint two nonvoting members, one from each party, to the board; requiring the Speaker of the House of Delegates appoint two nonvoting members, one from each party, to the board; requiring that State Resiliency Officer vote only in the event of a tie vote of board; requiring that board elect a vice chair from its

membership; establishing duties and responsibilities of the vice chair; and eliminating notice requirement for board meetings.”

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. 421, Authorizing Workforce West Virginia to hire at-will 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. 409**), and there were—yeas 69, nays 29, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barach, Bates, Boggs, Booth, Brown, Dean, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kimes, Lovejoy, Miller, Paynter, Pethtel, Pritt, Pushkin, Rowe, Steele, Toney, Walker, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 421) passed.

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

Com. Sub. for S. B. 429, Exempting Division of Emergency Management from Purchasing Division requirements for certain contracts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 410**), and there were—yeas 90, nays 8, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Gearheart, Kimes, McGeehan, Paynter, Pritt, Riley, Steele and Worrell.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 429) passed.

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

S. B. 463, Consolidating position of Inspector General of former Workers' Compensation Fraud and Abuse Unit and position of Director of Insurance Fraud Unit; on third reading, coming up in 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 93, nays 5, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Bruce, Miller, Paynter, Steele and Worrell.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 463) 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, Updating criteria for regulating certain occupations and professions; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 412**), and there were—yeas 67, nays 31, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Booth, Brown, Bruce, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Hansen, Hornbuckle, Kimble, Longanacre, Lovejoy, Miller, Paynter, Pethtel, Pushkin, Riley, Rohrbach, Rowe, Skaff, Steele, Toney, Walker, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Higginbotham and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 472) 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. 587, Making contract consummation with state more efficient; on third reading, coming up in 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 94, nays 3, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Bruce, Steele and Worrell.

Absent and Not Voting: Higginbotham, Thompson and Wamsley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 587) passed.

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

On this question, the yeas and nays were taken (**Roll No. 414**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Bruce, Fast, Steele and Worrell.

Absent and Not Voting: Higginbotham, Longanacre and Thompson.

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. 587) takes effect from its passage.

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

Second Reading

S. B. 78, Relating to rehabilitative spousal support; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 359, Informing landowners when fencing that may contain livestock is damaged due to accident; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 377, Relating to extension for boil water advisories by water utility or public service district; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 437, Extending contingent increase of tax rate on certain eligible acute care hospitals; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 514, Providing criteria for Natural Resource Commission appointment and compensation; on second reading, coming up in regular order, was read a second time.

Delegate Dean moved to amend the bill on page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-16. Natural resources commission — Generally.

(a) The natural resources commission, created and established by provisions of section three of this ~~article~~ code, shall be a public

benefit corporation and as such may sue and be sued, plead and be impleaded, contract and be contracted with, and have and use a common seal. It shall be a commission advisory to the director and to the ~~department~~ division of natural resources. ~~The commission shall be composed of seven members, known as commissioners, one from each congressional district and the remainder from the state at large, appointed by the Governor, by and with the advice and consent of the Senate. Their terms of office shall begin on July 1, and shall be for a period of seven years, except that the Governor in making the initial appointments shall designate and define their respective terms of office so that the term of one member of the commission will expire each year. As initial appointments expire, all subsequent appointments shall be for terms of seven years or for the unexpired term of a member who may have died, resigned or become disqualified.~~ In the interests of fair representation, the current size of the DNR commission will be increased by two. Because of this, the commission shall be composed of nine members, known as commissioners, one from each division of natural resources district and the remainder from the state at large, and shall be appointed to provide the broadest geographic distribution possible so that each commissioner shall attend the division sectional meetings established in §20-1-7(6) of this code within his or her respective district.

(b) In the interest of providing representation to all parts of the state, the Governor shall appoint two new members, that represent Districts 3 and 6. To return the commission to its current size, the appointments that expire on June 30, 2021 and June 30, 2022 will not be filled, so long as their district is still represented.

(c) The members of the commission shall be citizens and residents of the state, selected with special reference to their training and experience in relation to the principal activities required of the commission, and for their ability and fitness to perform their duties within the purposes of this chapter and shall be selected with special emphasis on his or her interest in the conservation of the natural resources of the state. No member of the commission shall be a candidate for or hold any public office other than that of member of the commission; nor shall he or she be a member of any committee of a political party. In case a member becomes a candidate for or accepts appointment to any

public office or political party committee, his or her office as member of the commission shall be immediately vacated. The director of the division of natural resources may submit recommendations to the Governor for the appointment of the commissioners: *Provided*, That the Governor shall not be limited to those recommendations.

(d) Commissioners are not entitled to compensation for services performed for the commission, but may be reimbursed by the division of natural resources for actual and necessary expenses incurred for each day in which he or she is engaged in the discharge of official duties, the actual expenses not to exceed the amount paid similar reimbursement to members of the Legislature.”

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. 415**), and there were—yeas 46, nays 51, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Barach, Bates, Boggs, Booth, Brown, Clark, Cooper, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Gearheart, Griffith, Hansen, Holstein, Hornbuckle, Horst, J. Jeffries, J. Kelly, Kimble, Kimes, Longanacre, Lovejoy, Maynard, McGeehan, Miller, Nestor, Paynter, Pethtel, Phillips, Pushkin, Rowe, Skaff, Smith, Toney, Tully, Walker, G. Ward, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Bridges, Higginbotham and Thompson.

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

The strike and insert amendment having been, in the absence of objection, considered first and rejected, the Clerk reported an amendment offered by Delegate Worrell on page 1, section 16, line 18, immediately following the words “July 1”, by striking out the word “2021” and inserting in lieu thereof the word “2024”.

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. 416**), and there were—yeas 36, nays 61, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Bates, Booth, Dean, Diserio, Doyle, Ferrell, Fleischauer, Fluharty, Gearheart, Griffith, Hornbuckle, Horst, J. Jeffries, J. Kelly, Kimble, Lovejoy, Maynard, McGeehan, Miller, Nestor, Paynter, Phillips, Pritt, Pushkin, Rowe, Skaff, Smith, Storch, Toney, Walker, G. Ward, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Bridges, Higginbotham and Thompson.

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

There being no further amendments, the bill was ordered to third reading.

Com. Sub. for S. B. 518, Relating to grounds for administrative dissolution of certain companies, corporations, and partnerships; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 644, Exempting certain persons pursuing degree in speech pathology and audiology from license requirements; 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 2, section 2, line 20, by striking out the words, “in speech-language pathology or”.

And,

On page 2, section 2, line 25, by striking out the words “speech-language pathology or”.

On motion of Delegate J. Pack, the bill was amended on page 1, section 2, line 1, by striking out the inserted word “and” and inserting the language “and (e)”.

The bill was then ordered to third reading.

First Reading

S. J. R. 4, Incorporation of Churches or Religious Denominations Amendment; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 263, Permitting online raffles to benefit charitable and public service organizations; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 294, Relating generally to savings and investment programs offered by state; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 297, Relating generally to modernizing Board of Treasury Investments; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 307, Relating generally to in-state tuition rates for certain persons; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 318, Relating generally to public notice of unclaimed property held by State Treasurer; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 343, Authorizing DMV to process online driver’s license or identification card change of address; on first

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

Com. Sub. for S. B. 361, Extending supervision for conviction of soliciting minor and using obscene matter with intent to seduce minor; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 376, Removing obsolete provisions regarding DOH standards for studded tires and chains; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 392, Creating penalty for impersonating law-enforcement officer or official; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 397, Relating to health care provider tax; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 401, Relating to WV Consumer Credit and Protection Act; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 434, Requiring training for law-enforcement officers responsible for investigating crimes of sexual assault; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 460, Relating to Deputy Sheriff Retirement System Act; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 466, Relating generally to appraisal management companies; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 479, Relating to WV veterans service decoration and WV Service Cross; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 483, Allowing oaths be taken before any person authorized to administer oaths; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 494, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 496, Relating to punishment for second or third degree felony; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 562, Relating to juvenile competency proceedings; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 577, Exempting certain fire departments from licensure requirements for providing rapid response services; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 585, Requiring BOE create and provide course in family and consumer sciences in secondary schools; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 626, Updating regulation for purchase of automobile catalytic converters; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 634, Requiring training of certain officers for persons with autism spectrum disorder; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 636, Requiring certain history and civics courses be taught in schools, coming up in regular order, was read a first time and ordered to second reading.

S. B. 651, Allowing county boards of education to publish financial statements on website; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 673, Relating to venue for bringing civil action or arbitration proceedings under construction contracts; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 680, Allowing State Superintendent of Schools define classroom teachers certified in special education; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 693, Updating certain definitions and terms used in WV Personal Income Tax Act, coming up in regular order, was read a first time and ordered to second 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. 417**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Higginbotham, Thompson, 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 second time and ordered to third reading.

The bill was read a third time and put upon its passage.

Delegate J. Jeffries 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 and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 418**), 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: Higginbotham, Thompson and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 693) passed.

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

On this question, the yeas and nays were taken (**Roll No. 419**), 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: Higginbotham, Thompson 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. 693) 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. 710, Requiring impact statement in certain instances of school closing or consolidation; on first reading, coming up in regular order, was read a first time and ordered to second reading.

S. B. 713, Relating generally to inmate good time; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 2895, Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 2900, Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 3313, Making supplemental appropriation to the Division of Motor Vehicles; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 3314, Making supplemental appropriation to West Virginia State Police; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 3315, Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund; on first reading, coming up in regular order, was read a first time and ordered to second reading.

H. B. 3316, Supplemental appropriation to the Department of Education, State Board of Education; on first reading, coming up in regular order, was read a first time and ordered to second reading.

At 11:02 a.m., on motion of Delegate Summers, the House of Delegates recessed until 11:20 a.m.

Third Reading

Com. Sub. for H. B. 2022, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on third reading with amendments pending, was reported by the Clerk.

An amendment offered by Delegates Steele, Foster and Householder, was reported by the Clerk, on page 7, Title 2 – Appropriations, section 1, line 4, by striking out 276,392 and replacing it with 274,389;

And,

To amend the bill page 7, Title 2 – Appropriations, section 1, line 11, by striking 5,952,206 and replacing it with 5,950,203.

Whereupon,

Delegate Steele obtained unanimous consent that the amendment be withdrawn.

Delegates Doyle, Skaff, Hornbuckle, Williams, Rowe, Zukoff, Walker, Hansen, Evans, Young, Garcia, Thompson and Fleischauer moved to amend the bill on page 50, under “61 – Division of Human Services” on line 7, by reducing appropriation 18900 by \$28,000,000 and reconciling line 36 on page 51 accordingly;

On page 72, under “96 – West Virginia University – General Administrative Fund” on line 1, by increasing appropriation 45900 by \$18,000,000 and reconciling line 7 on page 72 accordingly;

On page 73, under “98 – Marshall University – General Administration Fund” on line 1, by increasing appropriation 44800 by \$10,000,000 and reconciling line 7 on page 73 accordingly;

And,

On page 193, Section 9, by striking out items 390 and 391 and inserting in lieu thereof the following:

“61 – Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2022 Org 0511

Medical Services..... 18900 \$28,000,000.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 420**), and there were—yeas 20, nays 77, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Pethtel, Pushkin, Rowe, Skaff, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Higginbotham, Thompson and Westfall.

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

Delegates Fleischauer, Zukoff, Hansen, Walker, Pethtel and Garcia moved to amend the bill on page 193, section 9, after the second line 1 which provides “West Virginia University – Surplus……. ##### \$18,000,000”, by inserting a new appropriation as follows:

“57 – Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2022 Org 0506

State Aid for Local and Basic

Public Health Services..... 18400 \$2,487,838.00”;

And,

On page 193, section 9, on the second line 2, by reconciling “Total TITLE II, Section 9 – Surplus Accrued” 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. 421**), and there were—yeas 23, nays 74, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle,

Lovejoy, Mandt, Pethtel, Pushkin, Rowe, Skaff, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Higginbotham, Thompson and Westfall.

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

An amendment offered by Delegates Rowe, Lovejoy, Walker, Barach, Hansen, Pushkin, Young, Evans, Thompson and Doyle, was reported by the Clerk, on page 193, section 9, after the second line 1 which provides “West Virginia University – Surplus..... ##### \$18,000,000” by inserting a new appropriation as follows:

“97 – Marshall University –

School of Medicine

(WV Code Chapter 18B)

Fund 0347 FY 2022 Org 0471

Minority Health Institute..... XXXX \$190,000”;

And,

On page 193, section 9, on the second line 2, by reconciling “Total TITLE II, Section 9 – Surplus Accrued” accordingly.

Whereupon,

Delegate Rowe obtained consent to reform the amendment as follows:

Delegates Rowe, Lovejoy, Walker, Barach, Hansen, Hornbuckle, Pushkin, Young, Evans, Thompson and Doyle moved to amend the bill on page 193, section 9, after the first line 1 which provides “Marshall University – Surplus..... ##### \$10,000,000”, by inserting a new appropriation as follows:

Minority Health Institute..... XXXX \$190,000”;

And,

On page 193, section 9, on the second line 2, by reconciling “Total TITLE II, Section 9 – Surplus Accrued” 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. 422**), and there were—yeas 23, nays 74, absent and not voting 3, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Paynter, Pethtel, Pushkin, Rowe, Skaff, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Higginbotham, Thompson and Westfall.

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

Delegates Pushkin, Fleischauer, Fluharty, Young, Diserio, Walker, Hansen, Barach, Griffith, Pethtel, Lovejoy and Thompson moved to amend the bill on page 193, section 9, after the second line 1 which provides “West Virginia University – Surplus..... ##### \$18,000,000”, by inserting a new appropriation as follows:

“48 – State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2022 Org 0402

Jobs & Hope..... 14902 \$3,100,000”;

And,

On page 193, Section 9, on the second line 2 by reconciling “Total TITLE II, Section 9 – Surplus Accrued” 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. 423**), and there were—yeas 22, nays 73, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Bates, Boggs, Brown, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Bridges, Higginbotham, Thompson, Wamsley and Westfall.

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

There being no further amendments, and having been engrossed, the bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 424**), and there were—yeas 83, nays 14, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barach, Diserio, Doyle, Fleischauer, Fluharty, Griffith, Hansen, Hornbuckle, Kimes, Lovejoy, Pushkin, Walker, Williams and Young.

Absent and Not Voting: Higginbotham, Thompson and Westfall.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2022) passed.

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

On this question, the yeas and nays were taken (**Roll No. 425**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Hansen, Kimes and Walker.

Absent and Not Voting: Higginbotham, Thompson and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2022) 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 the request of Delegate Summers, and by unanimous consent, leaves of absence for the day were granted Delegates Higginbotham and Thompson.

Miscellaneous Business

At 1:06 a.m., the House of Delegates adjourned until 11:00 a.m., Monday, April 5, 2021.

Monday, April 5, 2021

FIFTY-FIFTH DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, April 2, 2021, 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 H. C. R. 34, H. C. R. 86 and H. C. R. 87, had been moved to the top of Unfinished Business; Com. Sub. for S. B. 585, Com. Sub. for S. B. 634 and Com. Sub. for S. B. 636, on Second reading, Special Calendar, had been transferred to the House Calendar; and S. B. 671, on First reading, Special Calendar, had been transferred to the House Calendar.

Committee Reports

Delegate D. Jeffries, 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 April, 2021, 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. 2499, Tax reduction for arms and ammo manufacturing.

Delegate D. Jeffries, 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 April, 2021, 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 S. B. 275, Relating generally to WV Appellate Reorganization Act of 2021.

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 24, Urging Congress to extend federal tax incentives to participants in Jumpstart Savings programs that are similar to those that are currently provided to participants in College Savings plans, pursuant to 26 U.S.C. §529,

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

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented communications from His Excellency, the Governor, advising that on April 1, 2021, he approved **H. B. 2701, H. B. 2788, Com. Sub. for H. B. 2789, Com. Sub. for H. B. 2802, Com. Sub. for H. B. 2803 and H. B. 2804**; and on April 2, 2021, he approved **Com. Sub. for S. B. 9, S. B. 10, S. B. 305 and Com. Sub. for S. B. 517**.

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
OFFICE OF THE GOVERNOR
CHARLESTON

February 24, 2020

Veto Message

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

Re: Enrolled Committee Substitute for Senate Bill 89

Dear President Blair:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 89, but welcome a bill correcting the deficiencies identified below. This bill exempts from licensure requirements certain education programs, including, among others, certain school programs operated under 42 USC S 9801 *et seq.*, the federal Head Start Program.

Although under the current form of the bill the Head Start programs are required to perform initial background checks on employees, the exemption will make access and use of a criminal background check with a rap back system impracticable. A rap back system is a system that continuously checks employees' existing records against incoming arrest or conviction information. Without being regulated, the State is unable to provide Head Start programs access to the rap back system. Without that system, an employee may pass an initial background check but later commit a crime: and the employer would not be made aware. This is a vital part of background checks for programs such as Head Start, which serves thousands of children for long periods of time on an ongoing basis.

For this reason, I disapprove and return Enrolled Committee Substitute for Senate Bill 89, but welcome a bill that would not exempt the Head Start program, thereby retaining the ability to utilize the rap back system for employees of the Head Start program.

Sincerely,

Jim Justice,
Governor.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that, upon reconsideration the Senate had amended and again passed, in an effort to meet the objections of the Governor, and requested the concurrence of the House of Delegates in the same, as to

Enr. S. B. 89, Exempting certain kindergarten and preschool programs offered by private schools from registration requirements.

The House of Delegates proceeded to reconsider the bill and, on motion of Delegate Summers, concurred in the following amendment of the bill by the Senate, in an effort to meet the objections of the Governor:

“ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-113. Residential child-care centers; licensure, certification, approval and registration; requirements.

(a) Any person, corporation, or child welfare agency, other than a state agency, which operates a residential child-care center shall obtain a license from the department.

(b) Any residential child-care facility, day-care center, or any child-placing agency operated by the state shall obtain approval of its operations from the secretary.

(c) Any family day-care facility which operates in this state, including family day-care facilities approved by the department for receipt of funding, shall obtain a statement of certification from the department.

(d) Every family day-care home which operates in this state, including family day-care homes approved by the department for receipt of funding, shall obtain a certificate of registration from the department. The facilities and placing agencies shall maintain the

same standards of care applicable to licensed facilities, centers, or placing agencies of the same category.

(e) This section does not apply to:

(1) A kindergarten, preschool, or school education program which is operated by a public school or which is accredited by the West Virginia Department of Education or any other kindergarten, preschool, or school programs which operate with sessions not exceeding four hours per day for any child;

(2) An individual or facility which offers occasional care of children for brief periods while parents are shopping, engaging in recreational activities, attending religious services, or engaging in other business or personal affairs;

(3) Summer recreation camps operated for children attending sessions for periods not exceeding 30 days;

(4) Hospitals or other medical facilities which are primarily used for temporary residential care of children for treatment, convalescence, or testing;

(5) Persons providing family day care solely for children related to them;

(6) Any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody;

(7) Any out-of-school time program that has been awarded a grant by the West Virginia Department of Education to provide out-of-school time programs to kindergarten through 12th grade students when the program is monitored by the West Virginia Department of Education;

(8) Any out-of-school time program serving children six years of age or older and meets all of the following requirements, or is an out-of-school time program that is affiliated and in good standing with a national congressionally chartered organization or

is an out-of-school time, summer recreation camp, or day camp program operated by a county parks and recreation commission, boards, and municipalities and meets all of the following requirements:

(A) The program is located in a facility that meets all fire and health codes;

(B) The program performs state and federal background checks on all volunteers and staff;

(C) The program's primary source of funding is not from fees for service except for programs operated by county parks and recreation commissions, boards, and municipalities; and

(D) The program has a formalized monitoring system in place; or

(9) Any kindergarten, preschool, or school education program which is operated by a private, parochial, or church school that is recognized by the West Virginia Department of Education under Policy 2330.

(f) The secretary is authorized to issue an emergency rule relating to conducting a survey of existing facilities in this state in which children reside on a temporary basis in order to ascertain whether they should be subject to licensing under this article or applicable licensing provisions relating to behavioral health treatment providers.

(g) Any informal family child-care home or relative family child-care home may voluntarily register and obtain a certificate of registration from the department.

(h) All facilities or programs that provide out-of-school time care shall register with the department upon commencement of operations and on an annual basis thereafter. The department shall obtain information such as the name of the facility or program, the description of the services provided, and any other information relevant to the determination by the department as to whether the

facility or program meets the criteria for exemption under this section.

(i) Any child-care service that is licensed or receives a certificate of registration shall have a written plan for evacuation in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to the children in the child-care service.

(1) The plan shall include, but not be limited to:

(A) A designated relocation site and evacuation;

(B) Procedures for notifying parents of the relocation and ensuring family reunification;

(C) Procedures to address the needs of individual children including children with special needs;

(D) Instructions relating to the training of staff or the reassignment of staff duties, as appropriate;

(E) Coordination with local emergency management officials; and

(F) A program to ensure that appropriate staff are familiar with the components of the plan.

(2) A child-care service shall update the evacuation plan by December 31 of each year. If a child-care service fails to update the plan, no action shall be taken against the child-care services license or registration until notice is provided and the child-care service is given 30 days after the receipt of notice to provide an updated plan.

(3) A child-care service shall retain an updated copy of the plan for evacuation and shall provide notice of the plan and notification that a copy of the plan will be provided upon request to any parent, custodian, or guardian of each child at the time of the child's enrollment in the child-care service and when the plan is updated.

(4) All child-care centers and family child-care facilities shall provide the plan and each updated copy of the plan to the Director of the Office of Emergency Services in the county where the center or facility is located.

(j) A residential child care center which has entered into a contract with the department to provide services to a certain number of foster children, shall accept any foster child who meets the residential child care center's program criteria, if the residential child care center has not met its maximum capacity as provided for in the contract. Any residential child-care center who has entered into a contract with the department may not discharge any child in its program, except as provided in the contract, including that if the youth does not meet the residential treatment level and target population, the provider shall request a MDT and work toward an alternative placement."

And,

By amending the title of the bill to read as follows:

Enr. S. B. 89 – "AN ACT to amend and reenact §49-2-113 of the Code of West Virginia, 1931, as amended, relating to clarifying what programs operated by a county parks and recreation commission, boards, and municipalities can be exempt from licensure requirements; and exempting from licensure requirements certain education programs operated by nonpublic schools recognized as accredited by the West Virginia Department of Education."

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. 426**), and there were—yeas 98, nays none, absent and not voting 2, with the yeas, nays, and absent and not voting being as follows:

Yeas: Anderson, Barach, Barnhart, Barrett, Bates, Boggs, Booth, Bridges, Brown, Bruce, Burkhammer, Capito, Clark, Conley, Cooper, Criss, Dean, Diserio, Doyle, Ellington, Espinosa, Evans, Fast, Ferrell, Fleischauer, Fluharty, Forsht, Foster, Garcia, Gearheart, Graves, Griffith, Hamrick, Hanna, Hansen, Hardy,

Haynes, Higginbotham, Holstein, Horst, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, Keaton, D. Kelly, Kessinger, Kimble, Kimes, Linville, Longanacre, Lovejoy, Malow, Mandt, Martin, Maynard, Mazzocchi, McGeehan, Miller, Nestor, J. Pack, L. Pack, Paynter, Pethel, Phillips, Pinson, Pritt, Pushkin, Queen, Reed, Reynolds, Riley, Rohrbach, Rowan, Rowe, Skaff, Smith, Statler, Steele, Storch, Summers, Sypolt, Thompson, Toney, Tully, Walker, Wamsley, B. Ward, G. Ward, Westfall, Williams, Worrell, Young, Zatezalo, Zukoff and Hanshaw (Mr. Speaker).

Nays: None.

Absent and Not Voting: Hornbuckle 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 (Enr. S. B. 89) 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. 2253, Relating to forgery and other crimes concerning lottery tickets.

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 22. STATE LOTTERY ACT.

§29-22-12. Crimes; forgery, counterfeiting, etc. of lottery tickets; penalties.

Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a lottery ticket is guilty of a ~~felony~~ misdemeanor, and, upon conviction thereof, shall be fined

not more than \$1,000, or be ~~imprisoned~~ confined in the penitentiary a state correctional facility for ~~not less~~ not more than one year, or both fined and ~~imprisoned~~ confined.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 427**), and there were—yeas 93, nays 5, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Fleischauer, Hanna, Kimes, Martin and Pushkin.

Absent and Not Voting: Hornbuckle 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 (H. B. 2253) 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. 2888, Relating to when contentions can be revived based on forensic scientific evidence that was not available at time of conviction.

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. 3081, Updating the West Virginia Business Corporations Act.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 12, Charles E. Jarvis Memorial Bridge.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the resolution by the Senate:

On page one, in the third Whereas clause, line thirteen, by striking out “66” and inserting in lieu thereof “63”.

The resolution, as amended by the Senate, 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 the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 20, Bill Withers Memorial Road.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the resolution by the Senate:

On page one, in the first Whereas clause, line fourteen, after the word “nominations” by striking out the comma and inserting in lieu thereof the word “and”.

On page two, in the first Whereas clause, line two, by striking out the words “on April 3” and inserting in lieu thereof the words “away on March 30”.

On page two, in the Resolved clause, line seven, by striking out the words “along County State Route 34”.

And,

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

H. C. R. 20 – “Requesting the Division of Highways to name Slab Fork Road, beginning near the Lester Highway and proceeding to its end at the Coalfield Expressway in Raleigh County, the ‘Bill Withers Memorial Road’.”

The resolution, as amended by the Senate, 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 the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 26, Victor Yoak Memorial Bridge.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the resolution by the Senate:

On page one, in the third Whereas clause, lines nineteen and twenty, after the word “there” by striking out the period and the words “there’s a closeness and friendliness”.

The resolution, as amended by the Senate, 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 the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 35, Requesting the Department of Health and Human Resources to continuously evaluate the child welfare system.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the resolution by the Senate:

On page one, in the first Whereas clause, line five, by striking out the word “identity” and inserting in lieu thereof the word “identify”.

On page one, in the fourth Whereas clause, line fourteen, by striking out the word “for” and inserting in lieu thereof the word “from”.

On page two, in the fourth Whereas clause, line sixteen, by striking out the word “and”.

And,

On page two, in the fourth Whereas clause, line seventeen, after the word “care”, by inserting the words “and other workforce issues”.

The resolution, as amended by the Senate, 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 the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 38, U.S. Marine Corps Sergeant David Andrew Green Memorial Bridge.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the resolution by the Senate:

On page two, in the *Resolved* clause, line twenty-seven, by striking out the words “county, the “U. S. Marine” and inserting in lieu thereof the words “County, the “U.S. Marine Corps”.

On page two, in the first *Further Resolved* clause, line thirty, by striking out the words “U. S. Marine Corps Sgt. David A.” and inserting in lieu thereof the words “U.S. Marine Corps Sergeant David Andrew”.

And,

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

H. C. R. 38 – “Requesting the Division of Highways to name bridge number: 26-001/01-000.01 (26A080), (40.02115, - 80.73147) locally known as 4th Street Overpass, carrying CR 1/1 over US 250 & WV 2 in Marshall County, the ‘U.S. Marine Corps Sergeant David Andrew Green Memorial Bridge’.”

The resolution, as amended by the Senate, 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 the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 62, Major Samuel Wilson Rogers Jr. Memorial Bridge.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the resolution by the Senate:

On page one, in the sixth Whereas clause, line fifteen, by striking out “17” and inserting in lieu thereof “24”.

The resolution, as amended by the Senate, 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 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. 490 - “A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Veterans’ Assistance, Department of Veterans’ Assistance, fund 0456, fiscal year 2021, organization 0613, by supplementing and amending the appropriations for the fiscal year ending June 30, 2021”; 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 Finance then Rules as follows:

S. C. R. 59 - “Requesting the Joint Committee on Government and Finance study the benefits of creating a third tier within the PERS retirement program for public safety employees, including 911 operators; determine the most appropriate and fair method of implementing this new tier; consider any potential unintended consequences of this creation of the tier; determine how the new tier should be used to provide enhanced benefits to public safety employees within PERS; determine whether return to work provisions should be modified for any or all retirement systems administered by the West Virginia Consolidated Public Retirement Board (CPRB); and determine whether employer contribution caps for certain retirement plans administered by the CPRB should be modified or eliminated.”

Whereas, Public safety employees within PERS are at greater risk due to the inherent danger of the duty obligations required by their occupations; and

Whereas, The open positions for correctional officers, police officers, firefighters, and 911 operators may be more easily filled if such occupations were entitled to participate in a separate tier of the PERS system with enhanced benefits; and

Whereas, The CPRB would have a greater administrative burden if a new tier is created within PERS, and this resolution will aid in quantifying that burden; and

Whereas, Certain retirement systems administered by the CPRB have employer contributions that are capped at certain levels and could have a detrimental impact on the actuarial funding of the system; and

Whereas, Certain return to work provisions for retirants of the retirement systems administered by the CPRB may be outdated and no longer sustainable for retirants who return to work on a part-time or temporary basis; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the benefits of creating a third tier within the PERS retirement program for public safety employees, including 911 operators; determine the most appropriate and fair method of implementing this new tier; consider any potential unintended consequences of this creation of the tier; determine how the new tier should be used to provide enhanced benefits to public safety employees within PERS; determine whether return to work provisions should be modified for any or all retirement systems administered by the West Virginia Consolidated Public Retirement Board (CPRB); and determine whether employer contribution caps for certain retirement plans administered by the CPRB should be modified or eliminated; and, be it

Further Resolved, That the Joint Committee on Government and Finance study the potential necessity of altering or amending certain outdated return to work provisions for retirants of the retirement systems administered by the CPRB; and, be it

Further Resolved, That the Joint Committee on Government and Finance study the potential benefits and detriments that would be involved in eliminating the employer contribution cap in certain retirement systems administered by the CPRB; and, be it

Further Resolved, That the Joint Committee on Government and Finance enlist the assistance of all ranks, organizations, groups, and departments of the CPRB as is necessary to conduct the study; and, be it

Further Resolved, That the Joint Committee on Government and Finance conclude its study and final report on its findings, conclusions, and recommendations on or before December 1, 2021; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, 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”; which was referred to the Committee on Finance then Rules.

Resolutions Introduced

Delegate Phillips offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 91 - “Requesting the Joint Committee on Government and Finance study the possible methods of retaining native businesses in West Virginia through the establishment of a ‘Business Retention Task Force.’”

Whereas, The Legislature recognizes the important role in considering methods of retaining native businesses, including, but not limited to the following:

Founders House: Establishing ‘Entrepreneur in Residence’ program to allow entrepreneurs to have housing and an environment to found startup businesses;

Student Loan Forgiveness: Granting student loan forgiveness for state school graduates who start a new business in the state within five years of graduation;

CRA Tax Credit: Extending tax credits for CRA eligible activity;

State guaranteed loans: Loans targeted at sole proprietorships and LLCs;

West Virginia Produced Bidding Credit: Tighten regulations to actual West Virginia produced or value-added products and add points for bidding contracts;

Business & Inventory Tax: Defer capital investments from BIT tax for one year to allow generation of income before taxation; and

Business and Operating Tax: Assess B&O tax on net income through startup years to establish new businesses; and

Whereas, All of these initiatives may create the retention of native businesses in West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the possible methods of retaining native businesses in West Virginia through the establishment of a “Business Retention Task Force;” and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the 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 Senior, Children, and Family Issues then Rules:

H. C. R. 92 - “Requesting the Joint Committee on Government and Finance to study the incidences of elder abuse in nursing facilities and among in-home care providers.”

Whereas, Allegations of elder abuse in nursing facilities and among in-home care providers have been brought to the attention of members of the House Committee on Seniors, Children and Families; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the incidences of elder abuse in nursing facilities and among in-home care providers; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature, no later than 30 days prior to the first day of the regular session, 2022, 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 Health and Human Resources Accountability.

Delegate Rowan offered the following resolution, which was read by its title and referred to the Committee on Senior, Children, and Family Issues then Rules:

H. C. R. 93 - “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% of these grandparents are in the workforce; and

Whereas, Approximately 20.9% 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 not later than sixty days prior to the beginning of the 2022 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 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 the Judiciary then Rules:

H. C. R. 94 - “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 has 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 sixty days prior to the beginning of the 2022 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.

Delegates Howell, Espinosa, Kessinger, Hamrick, Paynter, Steele, Martin, Pritt, Hott, Foster and Smith offered the following resolution, which was read by its title and referred to the Committee on Government Organization then Rules:

H. C. R. 95 - “Requesting the Joint Committee on Government and Finance study the effects of congressional redistricting, particularly identifying effects of the loss of a congressional district on board and commission membership.”

Whereas, Upon completion of the 2020 census data, the United States will undergo congressional redistricting; and

Whereas, It is expected that West Virginia will lose a congressional district upon completion of the redistricting process; and

Whereas, Many boards, commissions, and other entities rely on the state congressional district map for membership; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance undertake a study of the effects of congressional redistricting that identifies effected boards, commissions, or other entities effected by congressional redistricting; and, be it

Further Resolved, That the study develops a plan to resolve state committee, board, etc. membership discrepancies where needed; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

Bills Introduced

A bill was introduced, pursuant to House Rule 92, and referred as follows:

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

H. B. 3317 – “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 2021, organization 0804 in the amount of \$750,000 from the Department

of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2021, organization 0704, and making a supplementary appropriation of public moneys out of the Treasury for the fiscal year ending June 30, 2021”; to the Committee on Finance.

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. 34, Declaring the “pepperoni roll” to be the official state food of West Virginia,

H. C. R. 86, Study the recruitment and retention of Health Care Workers in West Virginia,

And,

H. C. R. 87, Study resolution regarding Courtesy Patrol submitting billing for reimbursement in certain instances.

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

The following resolutions, coming up in regular order as unfinished business, were, by unanimous consent, considered en masse, and adopted:

H. C. R. 4, Private First Class Herman Harold Lucas Memorial Bridge,

H. C. R. 10, James “Big Jim” Shaffer Memorial Bridge,

H. C. R. 11, Thomas Brothers Memorial Bridge,

H. C. R. 18, Daniel Okey Cunningham Memorial Bridge,

H. C. R. 19, U.S. Army Pvt. Dallis H. Johnson WWII Memorial Bridge,

H. C. R. 28, Paul J. Hofe Memorial Bridge,

H. C. R. 40, Guy Maywood Edwards Memorial Bridge,

H. C. R. 41, Halstead Brothers WWII Veterans Memorial Bridge,

H. C. R. 44, Timothy Wayne Farley Memorial Bridge,

H. C. R. 46, U. S. Navy BM1 Farris Burton Memorial Bridge,

H. C. R. 47, SP5 Terry Lee McClanahan Memorial Bridge,

H. C. R. 51, U.S. Army Private Elmo Davis Memorial Road,

H. C. R. 52, World War II Veterans Toothman Brothers Memorial Bridge,

H. C. R. 58, Kohlton Red Haney Memorial Bridge,

H. C. R. 60, Cpl. Billy F. Mann Memorial Bridge,

H. C. R. 66, Officer Cassie Johnson - Fallen Heroes Memorial Bridge,

H. C. R. 67, Roy E. Givens Memorial Road,

H. C. R. 71, Doctor Enrique Aguilar Memorial Bridge,

H. C. R. 75, U.S. Army Corporal Charles William "Bill" Knight Memorial Bridge,

H. C. R. 76, U.S. Navy Seaman 1st Class Byrne Lee Singleton Memorial Bridge⁶⁴⁴,

H. C. R. 77, Elmer Galford Memorial Road,

And,

H. C. R. 85, World War II Veterans Toothman Brothers Memorial Bridge.

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

Third Reading

S. B. 78, Relating to rehabilitative spousal support; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 428**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: J. Jeffries and Steele.

Absent and Not Voting: J. Kelly.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 78) passed.

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

S. B. 359, Informing landowners when fencing that may contain livestock is damaged due to accident; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Griffith asked and obtained unanimous consent to amend the bill on third reading and the rule was suspended to permit the offering and consideration of such.

On motion of Delegate Griffith the bill was amended, on page 1, section 17, line 4, following the words “to contact”, by inserting the word “either” and, on lines 4 and 5, by striking out the words “that owns the fence.” and inserting in lieu thereof, the words “or any known lessee of the land by immediately reporting the fence damage to dispatch to initiate an attempt to alert the landowner or lessee of the fence damage.”

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. 429**), 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 having voted in the affirmative, the Speaker declared the bill (S. B. 359) passed.

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

S. B. 359 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17C-4-17, relating to law enforcement making reasonable attempt to contact a landowner or lessee when an accident occurs that damages a fence that could contain livestock.”

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. 377, Relating to extension for boil water advisories by water utility or public service district; on third reading, coming up in 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 90, nays 9, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barrett, Hardy, J. Jeffries, Kessinger, Linville, Martin, Pushkin, Steele and Young.

Absent and Not Voting: J. Kelly.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 377) passed.

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

S. B. 437, Extending contingent increase of tax rate on certain eligible acute care 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. 431**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Kimes, Linville, Martin, Pritt and Steele.

Absent and Not Voting: J. Kelly.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 437) passed.

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

On this question, the yeas and nays were taken (**Roll No. 432**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Kimes.

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 (S. B. 437) 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. 514, Providing criteria for Natural Resource Commission appointment and 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. 433**), and there were—yeas 52, nays 47, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barach, Barrett, Bates, Boggs, Booth, Brown, Bruce, Clark, Conley, Dean, Diserio, Doyle, Ferrell, Fluharty, Gearheart, Griffith, Hardy, Holstein, Hornbuckle, Horst, J. Jeffries, Linville, Longanacre, Lovejoy, Mallow, Mandt, Maynard, Mazzocchi, McGeehan, Miller, Nestor, Paynter, Phillips, Pritt, Pushkin, Rowan, Smith, Steele, Storch, Thompson, Toney, Tully, B. Ward, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: J. Kelly.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 514) passed.

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

Com. Sub. for S. B. 518, Relating to grounds for administrative dissolution of certain companies, corporations, and partnerships; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 434**), 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 having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 518) passed.

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

S. B. 644, Exempting certain persons pursuing degree in speech pathology and audiology from license 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. 435**), 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 having voted in the affirmative, the Speaker declared the bill (S. B. 644) passed.

On motion of Delegate J. Pack, the title of the bill was amended to read as follows:

S. B. 644 - “A Bill to amend and reenact §30-26-2 of the Code of West Virginia, 1931, as amended, relating to providing an exemption to the hearing-aid dealer license.”

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. J. R. 4, Incorporation of Churches or Religious Denominations Amendment; on second reading, coming up in regular order, was, at the request of Delegate Summers, and by unanimous consent, postponed one day.

Com. Sub. for S. B. 263, Permitting online raffles to benefit charitable and public service organizations; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Barrett, the bill was amended on page 4, immediately following line 77, by inserting a new section, to read as follows:

“§47-20-15. Payment of reasonable expenses from proceeds; net proceeds disbursement.

(a) The reasonable, necessary and actual expenses incurred in connection with the conduct of bingo occasions, not to exceed ~~twenty five~~ forty percent of the gross proceeds collected during a license period, may be paid out of the gross proceeds of the conduct of bingo, including, but not limited to:

(1) Rent paid for the use of the premises: *Provided*, That a copy of the rental agreement was filed with the bingo license application and any changes to the rental agreement were filed within ten days of being made: *Provided, however*, That in no event may the rent paid for the use of any premises exceed the fair market value of rent for the premises;

(2) The cost of custodial services;

(3) The cost to the licensee organization for equipment and supplies used to conduct the bingo occasion;

(4) The cost to the licensee organization for advertising the bingo occasion;

(5) The cost of hiring security personnel, licensed pursuant to the provisions of article eighteen, chapter thirty of this code; and

(6) The cost of providing child care services to the raffle patrons: *Provided*, That any proceeds received from the provision of child care services shall be handled the same as raffle proceeds.

(b) The actual cost to the licensee for prizes, not to exceed the amounts as specified in section ten of this article, may be paid out of the gross proceeds of the conduct of bingo.

(c) The cost of any refreshments, souvenirs or any other item sold or otherwise provided through any concession to the patrons may not be paid for out of the gross proceeds from the bingo occasion. The licensee shall expend all net bingo proceeds and any interest earned on the proceeds for the charitable or public service purposes stated in the application within one year after the

expiration of the license under which the bingo occasions were conducted. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for a bingo license or as provided in subsection (e) of this section for permission to apply any or all of its net proceeds to directly support a charitable or public service activity or endeavor which it sponsors.

(d) No gross proceeds from any bingo operation may be devoted or in any manner used by any licensee or qualified recipient organization for the construction or acquisition of real or personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subdivision (3), subsection (a) of this section.

(e) The Tax Commissioner has the authority to disapprove any contract for sale of goods or services to any charitable bingo licensee for use in or with relation to any charitable bingo operation or occasion, or any lease of real or tangible personal property to any charitable bingo licensee for use in or with relation to any charitable bingo operation or occasion, if the contract or lease is unreasonable or not representative of fair market value. Contracts or leases which are disapproved shall be considered to be in contravention of this article, and are void. Any attempt by any charitable bingo licensee to engage in transactions under the terms of any lease or contract that has been disapproved is grounds for revocation or suspension of the charitable bingo license and for refusal by the Tax Commissioner to renew the charitable bingo license.

(f) If a property owner or lessee, including his or her agent, has entered into a rental contract to hold super bingo occasions on his or her premises, the premises shall be rented, for super bingo occasions, to not more than four super bingo licensees during any period of four consecutive calendar weeks: *Provided*, That each of the charitable or public service organizations desiring to hold a super bingo occasion must possess its own super bingo license. Subject to this limitation, the premises may be used for super bingo occasions during two consecutive days during a conventional weekend. For purposes of this subsection, the term "conventional

weekend” means Saturday and Sunday: *Provided, however,* That the super bingo occasions may occur at the same facility no more often than alternating weekends during a calendar month.

(g) Any licensee which, in good faith, finds itself unable to comply with the requirements of this provision shall apply to the commissioner for permission to expend its net proceeds for one or more charitable or public service purposes other than that stated in its license application or for permission to expend its net proceeds later than the one-year time period specified in this section. The application shall be on a form furnished by the commissioner and shall include the particulars of the requested changes and the reasons for the changes. The application shall be filed no later than sixty days before the end of the one-year period specified in this section. In the case of an application to extend the time in which the net proceeds are to be expended for a charitable or public service purpose, the licensee shall file such periodic reports with the commissioner as the commissioner directs until the proceeds are expended.”

And,

On page 7, immediately following line 89, by inserting a new section, to read as follows:

“§47-21-15. Payment of reasonable expenses from proceeds; net proceeds disbursement.

(a) The reasonable, necessary and actual expenses incurred in connection with the conduct of raffle occasions, not to exceed twenty-five forty percent of the gross proceeds collected during a license period, may be paid out of the gross proceeds of the conduct of the raffle, including, but not limited to:

(1) Rent paid for the use of the premises: *Provided,* That a copy of the rental agreement was filed with the raffle license application with any modifications to the rental agreement to be filed within ten days of being made: *Provided, however,* That in no event may the rent paid for the use of any premises exceed the fair market value of rent for the premises;

(2) The cost of custodial services;

(3) The cost to the licensee organization for equipment and supplies used to conduct the raffle occasion;

(4) The cost to the licensee organization for advertising the raffle occasion;

(5) The cost of hiring security personnel, licensed pursuant to the provisions of article eighteen, chapter thirty of this code; and

(6) The cost of providing child care services to the raffle patrons: *Provided*, That any proceeds received from the provision of child care services shall be handled the same as raffle proceeds.

(b) The actual cost to the licensee for prizes, not to exceed the amounts as specified in section eleven of this article, may be paid out of the gross proceeds of the conduct of raffle.

(c) The cost of any refreshments, souvenirs or any other item sold or otherwise provided through any concession to the patrons may not be paid for out of the gross proceeds from the raffle occasion. The licensee shall expend all net raffle proceeds and any interest earned on the net raffle proceeds for the charitable or public service purposes stated in the application within one year after the expiration of the license under which the raffle occasions were conducted. A licensee which does not qualify as a qualified recipient organization may apply to the commissioner at the time it applies for a raffle license or as provided in subsection (e) of this section for permission to apply any or all of its net proceeds to directly support a charitable or public service activity or endeavor which it sponsors.

(d) No gross proceeds from any raffle operation may be devoted or in any manner used by any licensee or qualified recipient organization for the construction, acquisition, or improvement, of real or personal property except that which is used exclusively for one or more charitable or public service purposes or as provided in subdivision (3), subsection (a) of this section.

(e) The Tax Commissioner has the authority to disapprove any contract for sale of goods or services to any charitable raffle licensee for use in or with relation to any charitable raffle operation or occasion, or any lease of real or tangible personal property to any charitable raffle licensee for use in or with relation to any charitable raffle operation or occasion, if the contract or lease is unreasonable or not representative of fair market value. Disapproved contracts or leases shall be considered to be in contravention of this article, and are void. Any attempt by any charitable raffle licensee to engage in transactions under the terms of any disapproved lease or contract is grounds for revocation or suspension of the charitable raffle license and for refusal by the Tax Commissioner to renew the charitable raffle license.

(f) Any licensee which, in good faith, finds itself unable to comply with the requirements of the subsections (a) through (e) of this section shall apply to the commissioner for permission to expend its net proceeds for one or more charitable or public service purposes other than that stated in its license application or for permission to expend its net proceeds later than the one-year time period specified in this section. The application shall be on a form furnished by the commissioner and shall include the particulars of the requested changes and the reasons for the changes. The application shall be filed no later than sixty days before the end of the one-year period specified in this section. In the case of an application to extend the time in which the net proceeds are to be expended for a charitable or public service purpose, the licensee shall file such periodic reports with the commissioner as the commissioner directs until the proceeds are expended.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 294, Relating generally to savings and investment programs offered by 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 nine, section six, line ninety-five, following the words “issued and

said”, by striking out the word “units” and inserting in lieu thereof the word “checks”.

And,

On page nine, section six, line one hundred four, following the words “arising after the”, by striking out the word “fund’s” and inserting in lieu thereof the word “plan’s”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 297, Relating generally to modernizing Board of Treasury Investments; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 307, Relating generally to in-state tuition rates for certain persons; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 318, Relating generally to public notice of unclaimed property held by State Treasurer; on second reading, coming up in regular order, was read a second time.

An amendment, from the Committee on Government Organization, was explained by Delegate Foster and adopted, amending the bill on page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-9. Notice and publication of lists of abandoned property.

(a) Publication of Bulletin. —

(1) The administrator shall publish ~~a notice not a bulletin no~~ later than November 30 ~~of the year next following the year in which~~ abandoned property has been paid or delivered to the administrator of each year, listing the names of the apparent owners of up to 15,000 properties recently paid or delivered to the administrator. The ~~notice~~ bulletin must be published in a newspaper of general circulation in ~~the each~~ county of this state ~~in which is located the last known address of any person named in the notice.~~ If a holder

~~does not report an address for the apparent owner, or the address is outside this state, the notice must be published in the county in which the holder has its principal place of business within this state or another county that the administrator reasonably selects. The advertisement bulletin must be in a form that, in the judgment of the administrator, is likely to attract the attention of the apparent owner of the unclaimed property. The ~~form~~ bulletin must contain:~~

~~(1)~~ (A) The name of each person appearing to be the owner of the property listed, as set forth in the report filed by the holder;

~~(2)~~ (B) The municipality in which the last known address or location of each person appearing to be the owner of the listed property is located, if an address or location is set forth in the report filed by the holder;

~~(3)~~ (C) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the administrator; and

~~(4)~~ (D) A statement that information about ~~the~~ unclaimed property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the administrator.

~~(b)(2)~~ The administrator is not required to ~~advertise the name and address or location of an owner of property having~~ include any property in the bulletin described in this subsection that has a total value of less than \$50 or information concerning any property that is a traveler's check, money order, or similar instrument.

(b) Exception to Bulletin Requirement. –

(1) The administrator is not required to publish the bulletin described in subsection (a) of this section in a county, if the administrator makes a determination that the bulletin is not a cost-effective method of promoting awareness of unclaimed property in that county. The determination shall be based on the cost to publish the bulletin in the county and the following criteria:

(A) The population of the county;

(B) Relevant geographic or demographic characteristics of the county;

(C) Residents' access to Internet within the county;

(D) Available data on the circulation and readership of newspapers within the county;

(E) The existence of alternative media outlets to newspapers in the county, through which the administrator may more effectively promote awareness of unclaimed property; and

(F) County-specific data collected by the administrator in previous years concerning the most effective methods of promoting awareness of unclaimed property within the county.

(2) During each year in which the administrator does not publish the bulletin described in subsection (a) of this subsection in a county, pursuant to subdivision (1) of this subsection, the administrator shall publish an advertisement in a newspaper of general circulation in the county by November 30 of that year. The advertisement must be in a form that, in the judgment of the administrator, is likely to attract the attention of the apparent owner of the unclaimed property and must contain:

(A) A statement notifying the reader that the administrator holds unclaimed property and that the reader might be entitled to claim unclaimed property in the administrator's custody;

(B) A brief description of the types of property that are commonly held by the administrator;

(C) Instructions for accessing the searchable database of unclaimed property on the administrator's website; and

(D) Instructions for requesting information regarding unclaimed property from the administrator by telephone or by mail.

(c) Online Database. — The administrator shall maintain a database on the administrator's website that is accessible by the public and electronically searchable which contains the names

reported to the administrator of all apparent owners for whom property is being held by the administrator: *Provided, That the administrator is not required to include in the database the name or location of an owner of property having a total value less than \$50 or information concerning a traveler's check, money order, or similar instrument.*"

(**Note:** April 1 Committee Report erroneously only noted a title amendment.)

The bill was then ordered to third reading.

Com. Sub. for S. B. 343, Authorizing DMV to process online driver's license or identification card change of address; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 361, Extending supervision for conviction of soliciting minor and using obscene matter with intent to seduce minor; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 376, Removing obsolete provisions regarding DOH standards for studded tires and chains; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 392, Creating penalty for impersonating law-enforcement officer or official; on second reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

S. B. 397, Relating to health care provider tax; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 401, Relating to WV Consumer Credit and Protection Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 434, Requiring training for law-enforcement officers responsible for investigating crimes of sexual assault; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 460, Relating to Deputy Sheriff Retirement System 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 1, section 2, line 8, by striking “§7-14D-9(a)” and inserting in lieu thereof “§7-14D-9a”.

On page 5, section 2, line 112, after the word “subdivision”, by striking the “(t)” and inserting in lieu thereof “(u)”.

On page 13, following line 31, by inserting the following:

“§7-14D-24. Service as sheriff.

(a) Any member who after the effective date of this article is elected sheriff of a county in West Virginia may elect to continue as a member in this plan by paying the amounts required by §7-14D-7 of this code. Upon the election, service as a sheriff shall be treated as covered employment and the sheriff is not entitled to any credit for that service under any other retirement system of the state.

(b) Any member retired as a deputy sheriff under this plan who, after the effective date of this article, is elected or appointed sheriff of a county in West Virginia, may elect to suspend the payment of his or her annuity from this system and again become a contributing member of this plan by paying the amounts required by §7-14D-7 of this code. Upon such election, service as a sheriff shall be treated as covered employment, and the sheriff is not entitled to any credit for that period of elected service under any other retirement system of the state. At the end of his or her term as sheriff, the member making such election shall have his or her annuity recalculated and shall be granted an adjustment to his or her previous annuity to include the period of elected service.

(c) Any person, who before the effective date of this article was elected sheriff of a county in West Virginia, and who, immediately prior to being so elected sheriff, was a deputy sheriff with at least 20 years of credited service under the Public Employees Retirement System, with at least 16 of those 20 years having been earned as a deputy sheriff, may elect to become a member of this plan by paying the amounts required by §7-14D-7 of this code. Upon such election, service shall be transferred from the Public Employees Retirement System pursuant to §7-14D-8 of this code: *Provided*, That any service as a sheriff shall be treated as covered employment under this article and the sheriff is not entitled to any credit for that service as a sheriff or the prior service as a deputy sheriff under any other retirement system of the state. Persons making the election provided for in this subsection shall do so within 10 days of taking office as sheriff or within 10 days of the effective date of this provision.

(d) Any person who, before the effective date of this article, was elected sheriff of a county of West Virginia, and who, prior to being elected sheriff, was a deputy sheriff and also a previously elected sheriff, with credited service under the Public Employees Retirement System, with at least 16 of those years having been earned as combined service as a deputy sheriff and a previously elected sheriff, may elect to become a member of this plan by paying the amounts required by §7-14D-7 of this code. Upon such election, service shall be transferred from the Public Employees Retirement System pursuant to §7-14D-8 of this code: *Provided*, That a person's service as a sheriff shall be treated as covered employment under this article, and that person is not entitled to any credit for that service as a sheriff or deputy sheriff under any other retirement system of this state. A person making the election provided in this subsection shall do so within 30 days of taking office as a sheriff or within 30 days of the effective date of this provision.

(e) Notwithstanding any other provision of the code to the contrary, any member who was elected sheriff of a county of West Virginia to serve on or after January 1, 2013, and who has not commenced retirement in the Deputy Sheriff Retirement System or

the Public Employees Retirement System, must notify the board in writing by July 31, 2020, of his or her intent to pay the difference in the employee contribution between the Public Employees Retirement System and the Deputy Sheriff Retirement System in order to transfer all service credit earned as a sheriff or purchased in accordance with Section 414(u) of the Internal Revenue Code and the federal Uniformed Services Employment and Reemployment Rights Act from the Public Employees Retirement System to the Deputy Sheriff Retirement System. The board shall compute the difference in employee contributions owed up through September 30, 2020, on the total compensation for which assets are being transferred and notify the sheriff of the amount owed in writing by letter mailed no later than August 21, 2020. This difference in employee contributions must be paid in full by the sheriff to the Deputy Sheriff Retirement System no later than September 30, 2020. If timely paid, employee and employer contributions to the Deputy Sheriff Retirement System shall commence October 1, 2020.

(1) The board shall transfer assets from the Public Employees Retirement System into the Deputy Sheriff Retirement System no later than November 30, 2020.

(2) The amount of assets to be transferred for each transferring sheriff shall be computed as of July 1, 2019, using the actuarial valuation assumptions in effect for the July 1, 2019, actuarial valuation of the Public Employees Retirement System, and updated with seven and one-half percent annual interest to the date of the actual asset transfer. The market value of the assets of the transferring sheriff in the Public Employees Retirement System shall be determined as of the end of the month preceding the actual transfer. To determine the computation of the asset share to be transferred the board shall:

(A) Compute the market value of the Public Employees Retirement System assets;

(B) Compute the accrued liability for all Public Employees Retirement System retirees, beneficiaries, disabled retirees, and terminated inactive members;

(C) Reduce the market value of Public Employees Retirement System assets by the accrued liability determined in paragraph (B) of this subdivision;

(D) Compute the entry age method accrued liability for all active Public Employees Retirement System members;

(E) Compute the share of accrued liability as determined pursuant to paragraph (D) of this subdivision, that is attributable to those sheriffs in the Public Employees Retirement System who have elected to transfer to the plan;

(F) Compute the percentage of active member's accrued liability computed to the sheriffs by dividing paragraph (E) by paragraph (D) of this subdivision; and

(G) Determine the asset share to be transferred from Public Employees Retirement System to the plan by multiplying paragraph (C) times paragraph (F) of this subdivision.

(f) Any member who was appointed sheriff of a county in West Virginia in which retirement contributions were not made to the Deputy Sheriff Retirement System or the Public Employees Retirement System may purchase service credit for the period he or she served as appointed sheriff by the member remitting the required employee contribution and any interest thereon, and the participating public employer remitting the required employer contribution and any interest thereon. Interest shall accumulate at a rate of 7.5% per annum. Payments for the purchase of service credit authorized by this section must be made in full on or before September 30, 2021."

The bill was then ordered to third reading.

Com. Sub. for S. B. 466, Relating generally to appraisal management companies; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 479, Relating to WV veterans service decoration and WV Service Cross; 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 1 by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1. DEPARTMENT OF VETERANS’ ASSISTANCE.

§9A-1-16. West Virginia veterans service decoration; West Virginia Service Cross.

(a) A West Virginia veterans service decoration may be awarded to any resident of West Virginia who served in any of the federally recognized military services for a period at a time during which there was armed conflict.

(b) A West Virginia Service Cross and ribbon bar, along with a certificate signed by the Governor, may be awarded to any veteran who meets the criteria set forth in subsection (a) of this section, and who also was awarded a federal achievement medal, commendation medal, meritorious service medal, or a medal for valor by one of the federally recognized military services.

(c) West Virginia National Guard members may also be authorized to receive and wear the medals and ribbons authorized under the provisions of this section in an order of precedence determined by the Adjutant General.

(d) The secretary may propose rules pursuant to §29A-3-1 *et seq.* of this code to implement the provisions of this section.

ARTICLE 1G. SERVICE MEDALS.

§15-1G-10. West Virginia veterans service decoration; West Virginia Service Cross.

[Repealed.]”

The bill was then ordered to third reading.

Com. Sub. for S. B. 483, Allowing oaths be taken before any person authorized to administer oaths; coming up in regular order,

was, at the request of Delegate Summers, and by unanimous consent, postponed one day.

S. B. 494, 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 and ordered to third reading.

S. B. 496, Relating to punishment for second or third degree felony; on second reading, coming up in regular order, was, at the request of Delegate Summers, and by unanimous consent, postponed one day.

Com. Sub. for S. B. 562, Relating to juvenile competency proceedings; coming up in regular order, was, at the request of Delegate Summers, and by unanimous consent, postponed one day.

S. B. 577, Exempting certain fire departments from licensure requirements for providing rapid response services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 626, Updating regulation for purchase of automobile catalytic converters; on second reading, coming up in regular order, was read a second time.

An amendment, from the Committee on Government Organization, was explained by Delegate Foster and adopted, amending the bill on page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-49. Purchase of scrap metal by scrap metal purchasing businesses, salvage yards, or recycling facilities; certificates, records, and reports of such purchases; criminal penalties.

(a) For the purposes of this section, the following terms have the following meanings:

(1) 'Business registration certificate' has the same meaning ascribed to it in §11-12-2 of this code.

(2) 'Purchaser' means any person in the business of purchasing scrap metal or used auto parts, any salvage yard owner or operator, or any public or commercial recycling facility owner or operator, or any agent or employee thereof, who purchases any form of scrap metal or used auto parts.

(3) 'Scrap metal' means any form of copper, aluminum, brass, lead, or other nonferrous metal of any kind, a catalytic converter, or any materials derived from a catalytic converter, or steel railroad track and track material.

(b) In addition to any requirement necessary to do business in this state, a scrap metal dealer shall:

(1) Have a current valid business registration certificate from the Tax Commissioner;

(2) Register any scales used for weighing scrap metal with the Division of Labor Weights and Measures ~~office~~;

(3) Provide a notice of recycling activity to the Department of Environmental Protection; and

(4) Register as a scrap metal dealer with the Secretary of State, who ~~is hereby directed to~~ shall maintain a list of scrap metal dealers and make it ~~publically~~ publicly available. The list shall include the dealer's business address, hours of operation, physical address, phone number, facsimile number, if any, and the name of the owners or principal officers of the business.

(c) Any purchaser of scrap metal shall make a record of such purchase that shall contain the following information for each transaction:

(1) The full name, permanent home and business addresses, and telephone number, if available, of the seller;

(2) A description and the motor vehicle license number of any vehicle used to transport the purchased scrap metal to the place of purchase;

(3) The time and date of the transaction;

(4) A complete description of the kind, character, and weight of the scrap metal purchased; and

(5) A statement of whether the scrap metal was purchased, taken as collateral for a loan, or taken on consignment.

(d) A purchaser also shall require and retain from the seller of the scrap metal the following:

(1) A signed certificate of ownership of the scrap metal being sold or a signed authorization from the owner of the scrap metal to sell ~~said~~ the scrap metal; and

(2) A photocopy of a valid driver's license or identification card issued by the West Virginia Division of Motor Vehicles of the person delivering the scrap metal, or in lieu thereof, any other valid photo identification of the seller issued by any other state or the federal government: *Provided*, That, if the purchaser has a copy of the seller's valid photo identification on file, the purchaser may reference the identification that is on file, without making a separate photocopy for each transaction.

(e) It is unlawful for any purchaser to purchase any scrap metal without obtaining and recording the information required under subsections (c) and (d) of this section. The provisions of this subsection do not apply to purchases made at wholesale under contract or as a result of a bidding process: *Provided*, That the purchaser retains and makes available for review consistent with subsection (g) of this section the contract, bill of sale, or similar documentation of the purchase made at wholesale under contract or as a result of a bidding process: *Provided, however*, That the purchaser may redact any pricing or other commercially sensitive information from ~~said~~ the contract, bill of sale, or similar documentation before making it available for inspection.

(f) ~~No~~ A purchaser of scrap metal may not knowingly purchase or possess a stainless steel or aluminum beer keg, whether damaged or undamaged, or any reasonably recognizable part thereof, for the intended purpose of reselling as scrap metal unless the purchaser receives the keg or keg parts from the beer manufacturer or its authorized representative.

(g) Using a form provided by the West Virginia State Police, or his or her own form, a purchaser of scrap metal shall retain the records required by this section at his or her place of business for not less than three years after the date of the purchase. Upon completion of a purchase, the records required to be retained at a purchaser's place of business shall be available for inspection by any law-enforcement officer or, upon written request and during the purchaser's regular business hours, by any investigator employed by a public utility or railroad to investigate the theft of public utility or railroad property: *Provided*, That in lieu of the purchaser keeping the records at ~~their~~ his or her place of business, the purchaser shall file the records with the local detachment of the State Police and with the chief of police of the municipality or the sheriff of the county ~~wherein~~ he or she is transacting business within ~~seventy-two~~ 72 hours of completion of the purchase. The records shall be retained by the State Police and the chief of police of the municipality or the sheriff for a period of not less than three years.

(h) To the extent otherwise permitted by law, any investigator employed by a public utility or railroad to investigate the theft of public utility or railroad property may accompany a law-enforcement officer upon the premises of a purchaser in the execution of a valid warrant or assist law enforcement in the review of records required to be retained pursuant to this section.

(i) Upon the entry of a final determination and order by a court of competent jurisdiction, scrap metal found to have been misappropriated, stolen, or taken under false pretenses may be returned to the proper owner of ~~such~~ the material.

(j) Nothing in this section applies to scrap purchases by manufacturing facilities that melt, or otherwise alter, the form of

scrap metal and transform it into a new product or to the purchase or transportation of food and beverage containers or other nonindustrial materials having a marginal value per individual unit.

(k)(1) Nothing in this section applies to a purchaser of a motor vehicle on which a catalytic converter is installed, a scrap metal dealer purchasing a detached catalytic converter or converters accompanying the motor vehicle from which it or they were removed, a purchaser of a catalytic converter intended for installation on a vehicle owned or leased by the purchaser, or any person who purchases, other than for purposes of resale, a catalytic converter, or a motor vehicle on which a catalytic converter is installed, for personal, family, household, or business use.

(2) In transactions not exempted by subdivision (1) of this subsection, any person delivering ~~five~~ one or more automobile catalytic converters to a scrap metal dealer shall, in addition to the requirements set forth in subsection (c) of this section, execute a document stating containing the name of the person or entity from whom or which the catalytic converter or converters being delivered was received and affirming that he or she is the lawful owner of the catalytic converters or is authorized by the lawful owner to sell the catalytic converters. Next to his or her signature the person delivering the catalytic converter or converters ~~he or she~~ shall place a clear impression of his or her index finger or thumb that is in ink and free of smearing, or the scrap metal dealer may elect to obtain the fingerprint electronically. This documentation shall be maintained consistent with subsection (c) of this section. Payment shall be made by check payable to the seller. No scrap metal dealer may process, sell, or remove a catalytic converter from its premises for at least 14 days after its acquisition: *Provided, That the 14-day retention requirement may be reduced to five days if, within the first consecutive five-day period, the scrap dealer provides all documentation required under this section to the local detachment of the State Police and: A) the chief of police of the municipality or, B) the sheriff of the county in which he or she is transacting business. A scrap metal dealer shall make a good faith effort to record any identifying information on a catalytic converter received or purchased and shall not purchase or take possession of*

a catalytic converter if the identifying information on it has been manually altered.

(l) Any person who knowingly or with fraudulent intent violates any provision of this section for which no penalty is specifically set forth, including the knowing failure to make a report or the knowing falsification of any required information, is guilty of a misdemeanor and, upon conviction of a first offense ~~thereof~~, shall be fined not less than \$1,000 nor more than \$3,000; upon conviction of a second offense ~~thereof~~, shall be fined not less than \$2,000 and not more than \$4,000 and, notwithstanding the provisions of §11-12-5 of this code, the court in which the conviction occurred shall issue an order directing the Tax Commissioner to suspend for a period of six months any business registration certificate held by that person; and upon conviction of a third or subsequent offense, ~~thereof~~ shall be fined not less than \$3,000 and not more than \$5,000 and, notwithstanding the provisions of §11-12-5 of this code, the court in which the conviction occurred shall issue an order directing the Tax Commissioner to cancel any business registration certificate held by that person and state the date ~~said~~ the cancellation ~~shall take~~ takes effect.

(m) ~~No~~ A person may not have or take possession of any scrap metal that he or she knows, or has reason to know, has been stolen or unlawfully obtained. Any person violating this subsection is guilty of larceny.

(n) ~~No~~ A scrap metal dealer may not purchase, possess, or receive scrap metal that the scrap metal dealer knows, or has reason to know, has been stolen or unlawfully obtained by the seller. Any person violating this subsection is guilty of larceny.

(o) No A scrap metal dealer may not purchase, possess, or receive any of the following items of scrap metal, or any reasonably recognizable part thereof, without obtaining written documentation which reflects that the seller is authorized to possess and sell the item or items and that the seller is in lawful possession of the item of scrap metal:

- (1) Utility access covers;
 - (2) Street light poles or fixtures;
 - (3) Road or bridge guard rails;
 - (4) Water meter covers;
 - (5) Highway or street signs;
 - (6) Traffic directional or traffic control signs;
 - (7) Traffic light signals;
 - (8) Any metal marked with any form of the name or initials of a governmental entity;
 - (9) Property marked as or readily identifiable as owned by a telephone, cable, electric, water, or other utility provider;
 - (10) Property owned and marked by a railroad;
 - (11) Cemetery markers or vases;
 - (12) Historical markers;
 - (13) Utility manhole covers and storm water grates; ~~and~~
 - (14) Fire hydrant or fire hydrant caps; or
 - (15) Twisted pair copper telecommunications wiring of 25 pair or greater in 19, 22, 24, or 26 gauge.
- (p) Nothing in this section prohibits a scrap dealer from purchasing or taking possession of scrap metal knowing or ~~have~~ having reason to know, that it is stolen or obtained illegally if it is done pursuant to a written agreement with law-enforcement officials.

§61-3-49c. Possession of a catalytic converter without documentation of ownership or authority to possess; advertising the sale or purchase of a catalytic converter.

(a) As used in this section, catalytic converter means a motor vehicle exhaust emission control that reduces toxic gases and pollutants from an internal combustion engine.

(b) Any person in possession of a catalytic converter which had previously been installed on a motor vehicle, or parts, thereof shall have in his or her possession written documentation of ownership or authorization to possess the catalytic converter. Any person who violates this subsection is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or confined in jail not more than one year or both fined and confined.

(1) Each catalytic converter possessed in violation of subsection (b) of this section shall constitute a separate offense.

(2) Any catalytic converter possessed in violation of subsection (b) of this section is subject to seizure at the time of arrest.

(3) A person possessing a single catalytic converter in violation of subsection (b) of this section shall for the offense be charged by citation and not subject to arrest for that offense.

(4) Notwithstanding the provisions of subsection (b) of this section, presentation to the court in which charges alleging a violation of said subsection are pending sufficient evidence to show lawful ownership or authority to possess constitutes an absolute defense to the charge or charges.

(c) Any person placing an advertisement on an internet-based platform, including but not limited to Facebook or Twitter, soliciting the sale or purchase of a catalytic converter must have completed the requirements to be considered a scrap metal recycler in §61-3-49(b) of this code, including any other business requirements. Any person who violates this subsection shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or confined in jail not more than one year or both fined and confined.

(1) Each catalytic converter possessed in violation of subsection (c) of this section shall constitute a separate offense.

(2) Any catalytic converter possessed in violation of subsection (c) of this section is subject to seizure at the time of arrest.

(3) Notwithstanding the provisions of subsection (c) of this section, presentation to the court in which charges alleging a violation of said subsection are pending sufficient evidence to show lawful ownership or authority to possess constitutes an absolute defense to the charge or charges.”

(Note: April 1 Committee Report erroneously only noted a title amendment.)

The bill was then ordered to third reading.

S. B. 651, Allowing county boards of education to publish financial statements on website; 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 §18-9-3a, line 1, by striking out the words “90 days” and inserting in lieu thereof the words “120 days”.

On page one, section §18-9-3a, line 2, by striking the words “State Tax Commissioner” and inserting in lieu thereof the words “State Auditor”.

On page two, section §18-9-3a, line 33, after the word “shall” by inserting the words “in addition to the information required in subsection (a) of this section”.

On page two, section §18-9-3a, line 43, after the word “year” and the comma by inserting the words “but no later than 90 days after the end of the fiscal year” and a comma.

And,

On page 2, section §18-9-3a, line 44, by striking the words “State Tax Commissioner” and inserting in lieu thereof the words “State Auditor”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 673, Relating to venue for bringing civil action or arbitration proceedings under construction contracts; on

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

S. B. 680, Allowing State Superintendent of Schools define classroom teachers certified in special education; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 710, Requiring impact statement in certain instances of school closing or consolidation; coming up in regular order, was, at the request of Delegate Summers, and by unanimous consent, postponed one day.

S. B. 713, Relating generally to inmate good time; on second reading, coming up in regular order, was read a second time and ordered to third reading.

H. B. 2895, Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2900, Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3313, Making supplemental appropriation to the Division of Motor Vehicles; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3314, Making supplemental appropriation to West Virginia State Police; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3315, Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund; on

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

H. B. 3316, Supplemental appropriation to the Department of Education, State Board of Education; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

Com. Sub. for S. B. 387, Relating to drug screening of applicants for cash assistance, coming up in regular order, was read a first time and ordered to second reading.

Com. Sub. for S. B. 492, Establishing program for bonding to reclaim abandoned wind and solar generation facilities; one first reading, coming up in regular order, was, at the request of Delegate Summers, and by unanimous consent, postponed one day.

Com. Sub. for S. B. 668, Creating Psychology Interjurisdictional Compact; 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 J. Kelly.

At 12:15 p.m., on motion of Delegate Summers, the House of Delegates recessed until 6:00 p.m.

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Evening Session

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

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

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 84, Requesting the Joint Committee on Government and Finance to study the declining population of military service veterans in West Virginia,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 84 - "Requesting That the Joint Committee on Government and Finance study the declining population of military service veterans in West Virginia, and the policies, programs and other factors present in states with increasing populations of military service members and veterans that could potentially be emulated in West Virginia,"

With the recommendation that the committee substitute be adopted.

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. 335, Relating to WV Invests Grant Program for students at accredited community and technical college,

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

Delegate J. Pack, 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. 714, Relating to physician assistant practice act,

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

Delegate Steele, 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. 486, Relating to powers and duties of Chief Technology Officer,

S. B. 488, Relating to distributing hotel occupancy tax to convention and visitor's bureaus,

S. B. 521, Extending licensure renewal term of certain private investigators, security guards, and associated firms,

S. B. 529, Correcting improper citation relating to DMV registration,

And,

Com. Sub. for S. B. 655, Eliminating sunset and legislative audit provisions for certain PSC rules,

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

Delegate Steele, 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. 684, Adding Curator of Division of Arts, Culture, and History as ex officio voting member to Library Commission,

And,

Com. Sub. for S. B. 695, Providing procedures for decreasing or increasing corporate limits by annexation,

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

Delegate D. Jeffries, 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 5th day of April, 2021, 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. 2024, Expand use of telemedicine to all medical personnel,

Com. Sub. for H. B. 2026, Relating to the modernization of the collection of income taxes by adopting uniform provisions relating to the mobile workforce,

Com. Sub. for H. B. 2260, Relating to procurement of child placing services,

And,

Com. Sub. for H. B. 2263, Update the regulation of pharmacy benefit managers.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 314, Regulating pawnbrokers,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 458, Relating to possession of firearms by individuals during state of emergency,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 419, Redefining “firearm” to match federal code,

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

On motion 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 titles, as follows:

By Delegates J. Pack, Barach, Barnhart, Bates, Dean, Ferrell, Fleischauer, Forsht, Griffith, D. Jeffries, Mallow, Miller, L. Pack, Pushkin, Reed, Rohrbach, Rowan, Summers, G. Ward and Walker:

H. C. R. 98 – “For West Virginia’s Public Employees Insurance Agency (PEIA) Finance Board to examine how they can enhance reimbursement rates to providers,”

Whereas, PEIA Finance Board members are appointed by the governor and The State Department of Administration cabinet secretary serves as chairman of the board; and

Whereas, The PEIA Finance Board creates a financial plan, including reimbursement rates, financial statements, and Legislative Session updates; and

Whereas, Reimbursement rates refer to the amount of money that PEIA pays to doctors and other healthcare providers when they provide medical services to a PEIA beneficiary; and

Whereas, Healthcare provider is a person or company that provides a healthcare service to you, and medical providers don't just include doctors and nurses, but also pharmacies, hospitals, labs, clinics, and many other entities; and

Whereas, The rate at which PEIA reimburses providers is generally less than the amount billed or the amount that a private insurance company might pay; and

Whereas, PEIA provides health insurance coverage for over 200,000 West Virginians, it covers state employees, higher education employees and their retirees, plus some county and city governments; and

Whereas, Enhanced reimbursement rates could potentially increase availability of providers for these PEIA enrollees; and

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study how local health departments are funded and supported; and, be it

Further Resolved, That the Joint Committee on Government and Finance report back its findings to the full legislature by the first day of the 2022 Regular Session; 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 J. Pack, Barach, Barnhart, Bates, Dean, Ferrell, Fleischauer, Forsht, Griffith, D. Jeffries, Mallow, Miller, L. Pack, Pushkin, Reed, Rohrbach, Rowan, Summers, G. Ward and Walker:

H. C. R. 99 – “Requesting the Joint Committee on Government and Finance study childcare in the state of West Virginia, specifically looking to examine the costs and availability of childcare across the state,”

Whereas, Childcare is defined as the care and supervision of a child or children; and

Whereas, West Virginia is ranked 48th in the nation for economic stability and 38th in the cost of childcare; and

Whereas, The median household income for a family of four in West Virginia is \$44,061 per year and the average cost of childcare is \$8,736, equating to almost 20% of the median income; and

Whereas, West Virginia’s average full-time minimum wage salary is \$18,200 per year and infant care costs as a share of minimum wage earnings is 48%; and

Whereas, There are six childcare resource facilities across the state that cover all fifty-five counties; and

Whereas, These facilities offer childcare assistance that have different income caps depending on location and family size; and

Whereas, Families who meet the income guidelines for assistance only pay a portion, if any, of the childcare tuition costs based on their income and family size; and

Whereas, Childcare availability in rural areas across West Virginia is less accessible than in more urban areas; and

Whereas, The COVID-19 pandemic has negatively impacted childcare in the state of West Virginia; and

Whereas, Temporary closures due to COVID-19 exposure at open childcare centers have become a burden on the finances and wellbeing of childcare centers and parents/guardians alike; and

Whereas, The COVID-19 pandemic has caused a shortage of childcare workers, forcing childcare centers to accept less children in order to maintain teacher to student licensing ratios; and

Whereas, With childcare centers now acting as virtual schooling hubs, the increased enrollment of school age children has caused even more stress on childcare worker shortages; and

Whereas, Childcare center employees are requesting hire wages and benefits to offset the risks of working during a public health crisis; and

Whereas, Childcare centers have struggled with increased health crisis related costs to run their businesses including purchasing personal protective equipment, cleaning supplies, and costly technological upgrades to accommodate children completing virtual schooling via the internet; and

Whereas, The overall ramifications of the COVID-19 pandemic will certainly exacerbate the already existing childcare woes facing 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 requested to study childcare in the state of West Virginia, specifically looking to examine the costs and availability of childcare across the state; and, be it

Further Resolved, That the Joint Committee on Government and Finance report back its findings to the full legislature by the first day of the 2022 Regular Session; 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 J. Pack, Barach, Barnhart, Bates, Dean, Ferrell, Fleischauer, Forsht, Griffith, D. Jeffries, Mallow, Miller, L. Pack, Pushkin, Reed, Rohrbach, Rowan, Summers, G. Ward and Walker:

H. C. R. 100 – “Requesting a study on how Local Health Departments are funded and supported.”

Whereas, Local health departments promote and protect the health of the people and the communities where they live and work; and

Whereas, Local health departments assist the community with needs such as; tobacco control, immunizations, food safety, infectious disease control, chronic diseases, injury and violence prevention, environmental health, maternal and child health, and emergency preparedness; and

Whereas, West Virginia’s 55 counties are served by 49 local boards of health charged with protecting the health and safety, and promoting the interest of the citizens of West Virginia and local boards of health provide services through local health departments located in all 55 counties; and

Whereas, Support to local health departments and local boards of health has traditionally been focused on core public health functions such as the prevention and control of infectious disease, preventing and responding to environmental health hazards in our food, air and water and promoting health and wellness; and

Whereas, Funding for county health departments comes from several sources, including federal funds state funds, and local appropriations from the county; and

Whereas, Many health departments receive grant or contract funding from public or private sources and a county health department may also generate revenue from fees for services; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study how local health departments are funded and supported; and, be it

Further Resolved, That the Joint Committee on Government and Finance report back its findings to the full legislature by the first day of the 2022 Regular Session; 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 J. Pack, Barach, Barnhart, Bates, Dean, Ferrell, Fleischauer, Forsht, Griffith, D. Jeffries, Mallow, Miller, L. Pack, Pushkin, Reed, Rohrbach, Rowan, Summers and G. Ward.

H. C. R. 101 - "Requesting a study of the state's laboratory needs and the utilization of private laboratories."

Whereas, Several state agencies, including the Department of Health and Human Resources, Department of Agriculture and State Police utilize laboratories to perform testing and other functions; and

Whereas, The COVID-19 pandemic taught us the critical impact that efficient testing can have on disease spread; and

Whereas, State laboratories were unable to support West Virginia's testing needs relating to the COVID-19 pandemic, resulting in substantial delays in testing results; and

Whereas, The use of private laboratories proved essential in supporting the state's testing needs; and

Whereas, Other functions performed by state laboratories, such as drug testing and medical examinations, are delayed significantly due to inefficiencies at the state laboratories; and

Whereas, Regular use of private laboratories to complement state laboratories could improve the health and well-being of West Virginians and enhance the functions and efficiency of state agencies; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the increased use of private laboratory services to supplement state laboratories; and, be it

Further Resolved, That the Joint Committee on Government and Finance report back its findings to the full legislature by the first day of the 2022 Regular Session; 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. 98, H. C. R. 99, H. C. R. 100 and H. C. R. 101) to the Committee on Rules.

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. 613, Adding classification and base salaries of certain civilian employees of State Police Forensic Laboratory,

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. 502, Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15,

S. B. 717, Supplemental appropriation from General Revenue to WV Community and Technical College Education, Control Account,

And,

S. B. 718, Relating generally to Coal Severance Tax Rebate,

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. 34, Creating exemption to state sales and use tax for rental and leasing of equipment,

Com. Sub. for S. B. 368, Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program,

Com. Sub. for S. B. 534, Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant funds,

And,

Com. Sub. for S. B. 610, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV,

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

Messages from the Senate

A message from the Senate, by

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

H. B. 2028, Exempting veterinarians from the requirements of controlled substance monitoring.

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. 2366, Requiring agencies who have approved a proposed rule that affects fees or other special revenues to provide to the committee a fiscal note.

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. 2791, Relating to enrollment and costs of homeschooled or private school students at vocational schools.

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. 2877, Expand direct health care agreements beyond primary care to include more medical care services.

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. 2957, Relating to the repeal of outdated code sections.

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. 2958, Relating to repealing outdated sections of state code.

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. 3045, Relating to firefighter disability claims.

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. 389, Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency.

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. 472, Updating criteria for regulating certain occupations and professions.

A message from the Senate, by

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

Com. Sub. for S. C. R. 45 “Requesting the Department of Veterans’ Assistance to name the new veterans’ nursing home, to be built in Beckley, the ‘Dennis E. Davis Veterans Nursing Home’.”

Whereas, Dennis Davis began his association with the United States military in 1959 when he entered the Reserve Officer Training Corps (ROTC) program at West Virginia State University; and

Whereas, Dennis Davis served stints with the U.S. Army at Fort Knox in Kentucky and Fort Sill in Oklahoma. In 1965, he graduated from the Army’s Non-Commissioned Officer Academy and received an honorable discharge in 1970; and

Whereas, In 1968, Dennis Davis received a Bachelor of Science degree in the field of education from West Virginia State University and subsequently began a career with the Kanawha County schools as a teacher, counselor, and administrator. In 1970, he received a Master of Science degree from Marshall University; and

Whereas, Dennis Davis ultimately took on the role of Assistant Superintendent of Kanawha County Schools for Vocational, Technical, and Adult Education; and

Whereas, In 1996, Governor Cecil Underwood appointed Dennis Davis as Executive Director of Workforce Development for West Virginia, in which position he served for four years; and

Whereas, Dennis Davis briefly returned to Kanawha County schools in 2013 as a member of the Kanawha County Board of Education, serving out the unexpired term of a previous member; and

Whereas, In January, 2017, Governor Jim Justice appointed Dennis Davis as Cabinet Secretary for the West Virginia Department of Veterans Assistance. He was responsible for the administration of claims for assistance across the state, plus the WV Veterans Nursing Facility, the West Virginia Veterans Home, and the Donel C. Kinnard Memorial State Veterans Cemetery, where he was also a member of the honor guard; and

Whereas, Dennis Davis passed away on January 18, 2021, at his home in Institute, West Virginia, in the presence of his loving wife and son. Dennis Davis was subsequently interred in the Donel C. Kinnard Memorial State Veterans Cemetery; and

Whereas, It is fitting that an enduring memorial be established to commemorate the achievements and contributions of Dennis Davis to our state and country; therefore, be it

Resolved by the Legislature of West Virginia:

That the Department of Veterans Assistance name the new veterans' nursing home, to be built in Beckley, the "Dennis E. Davis Veterans Nursing Home"; and, be it

Further Resolved, That the Department of Veterans' Assistance is hereby requested to have made and be placed signs identifying the facility as the "Dennis E. Davis Veterans Nursing Home"; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the acting Secretary of the Department of Veterans' Assistance and the Commissioner of the Division of Highways.

Miscellaneous Business

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegate Bates regarding the Upper Big Branch Mine Disaster

- Delegate Toney prayer during morning session

At 6:33 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, April 6, 2021.

Tuesday, April 6, 2021

FIFTY-SIXTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, April 5, 2021, 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. 710, on Second reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 634, on Second reading, House Calendar, had been transferred to the Special Calendar, and Com. Sub. for S. B. 671 on First reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 7, Limiting political activity by public employees,

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

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

Your Committee on the Judiciary has had under consideration:

S. B. 537, Relating generally to kidnapping,

Com. Sub. for S. B. 657, Relating to free expression on state institution of higher education campuses,

Com. Sub. for S. B. 658, Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children,

And,

S. B. 674, Clarifying that unpaid restitution does not preclude person from obtaining driver's license,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 470, Limiting release of certain personal information maintained by state agencies,

And,

Com. Sub. for S. B. 569, Relating to damages for medical monitoring,

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

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on April 5, 2021,

he approved **Com. Sub. for H. B. 2621, Com. Sub. for H. B. 2797, H. B. 2854, Com. Sub. for H. B. 2855 and H. B. 2905.**

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. 2267, Establishing an optional bus operator in residence program for school districts.

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 fifteen, line twenty-two, after the semicolon, by inserting the word “and”.

On page two, section fifteen, line twenty-four, by changing the semicolon to a period.

And,

On page two, section fifteen, after line thirty-four, by adding thereto a new section, designated section fifteen-a, to read as follows:

“ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-15a. Employment of retired bus operators as substitutes in areas of critical need and shortage.

(a) The Legislature hereby finds and declares that due to a shortage of qualified substitute bus operators, a compelling state interest exists in expanding the use of retired bus operators to provide service as substitute bus operators in an area of critical need and shortage.

(b) The Legislature further finds and declares that this shortage is significant and overarching, and in order to comply with §18-5-

13(f)(1) of this code, this need supersedes any preclusion of modification of rights codified in §18-7A-28(e) of this code.

(1) For the purposes of this subsection: ‘Area of critical need and shortage for substitute bus operators’ means that the number of available qualified substitute bus operators in the county who are not retired and are available and willing to accept substitute bus operator assignments is insufficient to meet the projected need for qualified substitute bus operators.

(2) A person receiving retirement benefits under article seven-a, chapter eighteen of this code, or who is entitled to retirement benefits during the fiscal year in which that person retired, may accept employment as a critical need substitute bus operator for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retirant is otherwise entitled, subject to satisfaction of the following conditions:

(A) The county board adopts a policy recommended by the superintendent to address a critical need and shortage for substitute bus operators;

(B) The superintendent of the county board submits the policy to the State Board of Education for approval in the first year of its utilization. After initial approval by the State Board of Education, the county board must annually renew the policy at the local level and provide confirmation to the State Board of Education of its intent to utilize the policy in the subsequent year;

(C) The policy sets forth the critical need and shortage for substitute bus operators in the county in accordance with the definition of area of critical need and shortage for substitute bus operators as provided in subdivision (1) of this subsection;

(D) The policy provides for the employment of retired bus operators as critical need substitute bus operators during the school year on an expanded basis in areas of critical need and shortage for substitute bus operators as provided in this subsection;

(E) The policy provides that a retired bus operator may be employed as a substitute bus operator in an area of critical need and

shortage for substitute bus operators on an expanded basis as provided in this subsection only when no other qualified bus operator who is not retired is available and accepts the substitute assignment; and

(F) Prior to employment of a retired bus operator as a critical need substitute bus operator beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board, the superintendent of the affected county submits to the state board in a form approved by the Consolidated Public Retirement Board and the state board, an affidavit signed by the superintendent stating the name of the county, the fact that the county has adopted a policy to employ retired bus operators as substitutes to address its critical need and shortage, the name or names of the person or persons to be employed as a critical need substitute pursuant to the policy, the date that the person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement. Upon verification of compliance with this section and the eligibility of the critical need substitute bus operator for employment beyond the post-retirement limit, the state board shall submit the affidavit to the Consolidated Public Retirement Board.

(3) Any person who retires and begins work as a critical need substitute bus operator within the same fiscal year in which that person retired shall lose those retirement benefits attributed to the annuity reserve, effective from the first day of employment as a retiree critical need substitute bus operator in that fiscal year and ending with the month following the date the retiree ceases to perform service as a critical need substitute bus operator.

(4) Retired bus operators employed to perform expanded substitute service pursuant to this subsection are considered day-to-day, temporary, part-time employees. The substitutes are not eligible for additional pension or other benefits paid to regularly employed employees and may not accrue seniority.

(5) A retired bus operator is eligible to be employed as a critical need substitute bus operator to fill a vacant position without any loss of retirement benefits attributed to the annuity reserve only if

the retired bus operator's retirement became effective before the first day of July preceding at least the fiscal year during which he or she is employed as a critical need substitute bus operator.

(6) When a retired bus operator is employed as a critical need substitute to fill a vacant position, the county board shall continue to post the vacant position until it is filled with a regularly employed bus operator who is fully qualified for the position.

(7) When a retired bus operator is employed as a critical need substitute to fill a vacant position, the position vacancy shall be posted electronically and easily accessible to prospective employees as determined by the state board.

(8) The provisions of this subsection shall expire on June 30, 2026.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2267 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18A-2-15; and to amend said code by adding thereto a new section, designated §18A-4-15a, all relating to bus operators; allowing retired bus operators to provide service as substitute bus operators in an area of critical need and shortage subject to certain conditions; providing that such substitute bus operators are considered day-to-day, temporary, part-time employees; allowing such substitute bus operators to fill a vacant position without loss of retirement benefits in certain circumstances; requiring the county board to post a vacant position until it is filled with a regularly employed bus operator; requiring the state board to post a vacant position electronically and easily accessible to prospective employees; establishing an optional bus operator in residence program for school districts; requiring certain steps in an application; establishing no entitlement to employment upon completion of the program; establishing wages or salaries paid to persons completing the program; establishing employment

requirements after completing the program; and not permitting seniority to accrue during completion of the program.”

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. 2427, Authorizing the Department of Health and Human Resources 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 5. AUTHORIZATION FOR DEPARTMENT OF HEALTH AND HUMAN RESOURCES TO PROMULGATE LEGISLATIVE RULES.

§64-5-1. Department of Health and Human Resources.

(a) The legislative rule filed in the State Register on August 25, 2020, authorized under the authority of §27-9-1 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 4, 2021, relating to the Department of Health and Human Resources (behavioral health centers licensure, 64 CSR 11), is authorized with the following amendments:

On page 1, subsection 1.7, after the words, “supports in the” by inserting the words, “state of”;

On page 11, subdivision 4.5.5 by striking out the word, “alternations” and inserting in lieu thereof the word, “alterations”;

On page 11, by adding a new subdivision 4.5.6 to read as follows:

“4.5.6. All plumbing shall meet the requirements of local plumbing codes or, in the absence thereof, the National Plumbing Code and be maintained and repaired in a state to conform with its intended purpose.”;

And,

By renumbering the remaining subdivisions;

On page 25, by striking out all of paragraph 9.5.1.f. and inserting in lieu thereof a new paragraph 9.5.1.f. to read as follows:

“9.5.1.f. Documentation that information on the Child Abuse and Neglect Registry created under W. Va. Code §15-13-1 *et seq.* was checked for that employee, student, or volunteer.”

And,

On page 4, subsection (f), line 83 by striking the period and adding the following:

“with the following amendment:

On page 50, after subsection 12.4., by adding a new section 13 to read as follows:

§64-48-13. Federal Model Program.

13.1. Any EMS agency licensed by the Bureau may seek approval from the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services to participate in the national Emergency Triage, Treat and Transport (ET3) Model program. Services under the ET3 Model program shall specifically include, but not be limited to, the transport of patients to alternative destinations such as federally qualified health centers, urgent care centers, physician offices and clinics, and behavioral health care facilities. The ET3 Model program has a five-year performance period and is not administered by the Bureau. Any EMS agency approved to participate in the ET3

Model program shall be governed solely by the standards and criteria established by the Centers for Medicare & Medicaid Services in its delivery of ET3 services thereunder.”

On page 28, paragraph 10.1.4.i, by striking out the word, “daily”;

On page 28, by striking out all of paragraph 10.1.4.l.:

On page 29, paragraph 10.1.4.m, after the word, “vermin” by inserting the words, “that stand to pose a threat to the health or safety of consumers or employees”;

And,

By renumbering the remaining paragraph;

On page 30, subdivision 10.2.11, by striking out the word, “sued” and inserting in lieu thereof the word, “used”;

On page 45, subdivision 12.16.5, by striking out the word, “uses” and inserting in lieu thereof the word, “use”;

On page 45, subdivision 12.16.5, by striking out the word, “made” and inserting in lieu thereof the word, “make”;

On page 52, paragraph 12.28.2.f, after the word, “immediate” by inserting a comma, and the words, “in-home”;

On page 52, paragraph 12.28.2.f, after the word, “record” by inserting the words, “in order to provide safe and appropriate care to consumers”;

And,

On page 55, subdivision 13.3.1 by changing the period and to a colon and inserting the following proviso: “*Provided*, That the Secretary may only suspend or revoke a license, if the licensee commits a violation which endangers the health, safety or welfare of a person;”;

(b) The legislative rule filed in the State Register on August 21, 2020, authorized under the authority of §16-5B-8 of this code, relating to the Department of Health and Human Resources (hospital licensure, 64 CSR 12), is authorized with the following amendment:

‘On page 13, by inserting a new subdivision 4.3.7 to read as follows;

“4.3.7. A hospital shall post signage in every patient room, patient care area or department, and staff rest area information outlining the process for reporting patient safety concerns via the facility’s designated internal reporting mechanism and the process for reporting unresolved patient safety concerns or complaints to the West Virginia Office for Health Facility Licensure and Certification. The posting shall include the address and telephone number for the West Virginia Office for Health Facility Licensure and Certification. Signage color and text shall conform to the Office of Safety and Health Administration regulations for safety instruction signs as provided in standard §1910.145. Nothing in the provision precludes any patient, patient representative, or healthcare provider from making a good faith report pertaining to patient safety concerns and/or alleged wrongdoing or waste to any other appropriate authorities as provided §16-39-3”.’

(c) The legislative rule filed in the State Register on August 25, 2020, authorized under the authority of §16-5C-5 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2020, relating to the Department of Health and Human Resources (nursing home licensure, 64 CSR 13), is authorized.

(d) The Legislature directs the Department of Health and Human Resources to promulgate the legislative rule effective of July 1, 2019, authorized under the authority of §16-1-4 of this code, relating to the Department of Health and Human Resources (food establishments, 64 CSR 17), with the following amendments:

On page 2, subsection 3.1, by adding a new subdivision 3.1.h, to read as follows:

‘3.1.h Chapter 6, section 6-501.115 is not applicable if the following conditions are met:

3.1.h.1. The dog is prohibited from entering any areas where food is being prepared.

3.1.h.2. An exterior play area is available for the dog;

3.1.h.3. The dog owner shall certify that his or her dog has a current rabies vaccination;

3.1.h.4. The dog owner will be asked to leave, if a dog creates a nuisance;

3.1.h.5. The establishment is licensed a private club, brew pub, or micro distillery;

3.1.h.6. The establishment has liability insurance for dog related incidents;

3.1.h.7. Dog accidents are cleaned and sanitized. Dog waste stations are available. A written procedure shall be established and posted concerning dog accident cleanup;

3.1.h.8. Signage is present indicating that the establishment is dog friendly;

3.1.h.9. Dog rules are provided to customers upon entrance.’

And,

By renumbering the remaining subdivisions.

(e) The legislative rule filed in the State Register on August 21, 2020, authorized under the authority of §16-35-4 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 10, 2020,

relating to the Department of Health and Human Resources (lead abatement licensing, 64 CSR 45), is authorized.

(f) The legislative rule filed in the State Register on November 20, 2020, authorized under the authority of §16-1-4 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 4, 2021, relating to the Department of Health and Human Resources (emergency medical services, 64 CSR 48), is authorized.

(g) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §27-5-9(g) of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 9, 2020, relating to the Department of Health and Human Resources (client rights at state-operated mental health facilities, 64 CSR 59), is authorized.

(h) The legislative rule filed in the State Register on August 21, 2020, authorized under the authority of §16-50-11 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2020, relating to the Department of Health and Human Resources (delegation of medication administration and health maintenance tasks to approved medication assistive personnel, 64 CSR 60), is authorized.

(i) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §33-59-1(k) of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 20, 2020, relating to the Department of Health and Human Resources (diabetes self-management education, 64 CSR 115), is authorized with the following amendment:

On page 1, subsection 1.2, by striking out, “53” and inserting in lieu thereof “59”.

(j) The legislative rule filed in the State Register on August 21, 2020, authorized under the authority of §16-49-9 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 20, 2020, relating to the Department of Health and Human Resources (West Virginia clearance for access, registry, and employment screening, 69 CSR 10), is authorized with the following amendment:

On page 2, by adding a new subsection 2.3 to read as follows:

“ 2.3. Covered Provider – means the following facilities or providers that are required to participate in the WV CARES program: skilled nursing facilities; nursing facilities; home health agencies; providers of hospice care; long-term care hospitals; providers of personal care services; providers of adult day care; residential care providers that arrange for or directly provide long-term care services including assisted living facilities; intermediate care facilities for individuals with intellectual disabilities; persons responsible for the care of children as described in W. Va. Code 49-2-114; chronic pain management clinics; behavioral health centers; neonatal abstinence syndrome centers; opioid treatment centers; and any other facility or provider required to participate in the West Virginia Clearance for Access: Registry and Employment Screening program as determined by the secretary in legislative rule.”;

And,

By renumbering the remaining subsections;

(k) The legislative rule filed in the State Register on July 1, 2020, authorized under the authority of §16-59-2(g) of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 9, 2020, relating to the Department of Health and Human Resources

(recovery residence certification and accreditation program, 69 CSR 15), is authorized.

(l) The legislative rule filed in the State Register on August 25, 2020, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 16, 2020, relating to the Department of Health and Human Resources (child placing agencies licensure, 78 CSR 02), is authorized with the following amendments:

On page 11, by striking out paragraph 6.3.1.b;

And,

By renumbering the remaining paragraph;

On page 20, subsection 8.1, by striking out the sentence, “The agency shall require the following qualifications for each position.”

On page 20, by striking out subdivision 8.1.1,

And,

On page 20, by striking out subdivision 8.1.4. and inserting in lieu thereof a new subdivision 8.1.4 to read as follows:

“8.1.4. Case Managers shall have a bachelor’s or master’s degree in social work or a related human service field, or a Board of Regents degree with a human service concentration, or a Bachelor’s degree who has completed department approved training provided by the child placing agency;

On page 21 by striking paragraph, 8.2.1.a:

And,

By renumbering the remaining paragraphs;

On page 36, by striking out subdivision, 11.4.5.;

And,

Renumbering the remaining subdivisions.

(m) The legislative rule filed in the State Register on August 25, 2020, authorized under the authority of §49-2-121 of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2020, relating to the Department of Health and Human Resources (minimum licensing requirements for residential child care and treatment facilities for children and transitioning adults and vulnerable and transitioning youth group homes and programs in West Virginia, 78 CSR 03), is authorized with the following amendments:

On page 23, by striking out all of subdivision 6.1.1.;

And,

By renumbering the remaining subdivisions;

On page 26, subsection 7.1., by striking out “governing body shall be one of the following:”

On page 26, by striking out all of subdivisions 7.1.1, 7.1.2, 7.1.3, 7.1.4, and 7.1.5;

On page 36, by striking out all of subsection 10.6.;

On page 40, by striking out all of subdivision 11.3.2;

And,

By renumbering the remaining subdivisions;

On page 41, by striking out all of subsection 12.1 and inserting in lieu thereof a new subsection 12.1. to read as follows:

12.1 The organization shall meet all applicable federal, state, and local, health, building, safety, and fire codes.”

On page 42, by striking out all of subdivision 12.2.1 and inserting in lieu thereof a new subsection 12.2.1 to read as follows:

“12.2.1 Food shall be stored, prepared, and served according to local health department regulations;

On page 43, by striking out all of subdivision 12.2.2.;

And,

On page 43, by striking out all of subsection 12.3.;

(n) The legislative rule filed in the State Register on August 26, 2020, authorized under the authority of §49-4-601b of this code, modified by the Department of Health and Human Resources to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 15, 2020, relating to the Department of Health and Human Resources (procedure to contest the substantiation of child abuse or neglect, 78 CSR 27), is authorized with the following amendments:

On page 2, after subsection 2.14, by adding two new sections designated sections 3 and 4 to read as follows:

“§78-27-3. Substantiation of abuse and neglect.

The Bureau may consider an allegation against a person of abuse or neglect of a child to have been substantiated for purposes of its records in either of the following two circumstances:

(a) The allegation of abuse or neglect has been the subject of a petition under chapter 49 of this code, that resulted in an adjudication finding that the person committed one or more acts of abuse or neglect of a child, and that adjudication has not been reversed or vacated on appeal; or

(b) The Bureau, as a result of its own investigation has determined that an allegation against a person of abuse or neglect of a child has been substantiated, whether or not there has been an adjudication under subsection (a) of this section: *Provided*, that

when there has been no adjudication, sections four and five of this rule apply.

§78-27-4. Allegations of abuse or neglect substantiated on or before July 1, 2021.

(a) Any person may write to the Bureau and inquire if the Bureau has included him or her in its records of persons against whom there has been a substantiated claim of abuse or neglect of a child. The person making the inquiry shall provide the Bureau with his or her full name, date of birth, address, and social security number.

(b) Within 30 days of the request, the Bureau shall inform the person that: (1) the Bureau has no record of any substantiated claim against the person of abuse or neglect of a child; or (2) the Bureau does have a record of a substantiated allegation against the person of abuse or neglect of a child. If the substantiation is not based upon an adjudication described in subsection (a), section three of this rule, the Bureau shall provide the notice required under section five of this rule, and all of the rights and obligations of the Bureau and the person apply as if the Bureau's substantiation had occurred after July 1, 2021.”;

And,

By renumbering the remaining sections;

On page 2, section 3, by striking out all of subsection 3.1. and inserting in lieu thereof a new subsection 3.1 to read as follows:

“3.1. After July 1, 2021, if the Bureau determines that an allegation against a person of abuse or neglect of a child has been substantiated, the Bureau shall provide written notice to the maltreater of its determination.”;

And,

On page 3, subsection 3.4., after the words “The notice shall” by striking out the remainder of the sentence and inserting in lieu thereof “inform the maltreater that a finding of a substantiated

abuse and neglect is recorded with the Bureau. The notice shall also inform the maltreater that the fact that a finding of a substantiated abuse and neglect is recorded with the Bureau may keep the maltreater from certain types of employment and may also prevent him or her from foster or kinship care of a child.”.

§64-5-2. Health Care Authority.

The legislative rule filed in the State Register on September 28, 2020, authorized under the authority of §16-2D-4 of this code, relating to the Health Care Authority (exemption from certificate of need, 65 CSR 29), is authorized with the following amendments:

On page 1, by striking out all of subsections 3.1 and 3.2 and inserting in lieu thereof a new subsection 3.1 and subsection 3.2 to read as follows:

3.1. A health service exempt from certificate of need review by W.Va. Code §16-2D-11 may not be acquired, offered, or developed within this state unless notification of the performance of the exemption is provided to the authority.

3.2. A person or health care facility may not knowingly charge or bill for a health service exempted from certificate of need review by W.Va. Code §16-2D-11 without first submitting a notification of performance of the exemption to the authority.’

On pages 2 and 3, by striking out all of section 5 in its entirety;

And,

By renumbering the remaining sections.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2427 – “A Bill to amend and reenact §64-5-1 *et seq.* of the Code of West Virginia, 1931, as amended, all relating generally to authorizing certain agencies of the Department of Health and Human Resources to promulgate legislative rules; authorizing the rules as filed, as modified by the Legislative Rule-

Making Review Committee and as amended by the Legislature; directing the promulgation of a current legislative rule with amendments; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to behavioral health centers licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to hospital licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to nursing home licensure; directing the Department of Health and Human Resources to promulgate a legislative rule relating to food establishments; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to lead abatement licensing; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to emergency medical services; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to client rights at state-operated mental health facilities; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to delegation of medication administration and health maintenance tasks to approved medication assistive personnel; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to diabetes self-management education; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to West Virginia clearance for access, registry, and employment screening; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to a recovery residence certification and accreditation program; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to child placing agencies licensure; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to minimum licensing requirements for residential child care and treatment facilities for children and transitioning adults and vulnerable and transitioning youth group homes and programs in West Virginia; authorizing the Department of Health and Human Resources to promulgate a legislative rule relating to the procedure to contest the substantiation of child abuse or neglect; and authorizing the Health

Care Authority to promulgate a legislative rule relating to exemption from certificate of need.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 436**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Paynter.

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. 2427) passed.

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

On this question, the yeas and nays were taken (**Roll No. 437**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2427) 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. 2529, Prohibiting West Virginia institutions of higher education from discriminating against graduates of private, nonpublic or home schools by requiring them to submit to alternative testing.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate, with further title amendment:

On page one, after the enacting clause, by inserting the following:

“CHAPTER 18. EDUCATION.

ARTICLE 8. COMUPULSORY SCHOOL ATTENDANCE.

§18-8-12. Issuance of a diploma or other appropriate credential by public, private, or home school administrator.

A person who administers a program of secondary education at a public, private or home school that meets the requirements of this chapter may issue a diploma or other appropriate credential to a person who has completed the program of secondary education. Such diploma or credential is legally sufficient to demonstrate that the person meets the definition of having a high school diploma or its equivalent. No state agency or institution of higher learning in this state may reject or otherwise treat a person differently solely on the grounds of the source of such a diploma or credential. ~~Nothing in this section prevents any agency or institution of higher learning from inquiring into the substance or content of the program to assess the content thereof for the purposes of determining whether a person meets other specific requirements.~~ Nothing in this section prevents an institution, once a student has been fully admitted, from administering placement tests or other assessments to determine the appropriate placement of students into college-level course sequences or to assess the content thereof for the purposes of determining whether a person meets other requirements for a specific program.

CHAPTER 18B. HIGHER EDUCATION.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2529 – “A Bill to amend and reenact §18-8-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18B-1-1e of said code, all relating to allowing an institution, once a student has been fully admitted, to administer placement tests or other assessments for certain purposes; prohibiting state institutions of higher education from discriminating against graduates of private, nonpublic, or home schools by requiring them to submit to alternative testing as a precondition for acceptance into the institution of higher education; and prohibiting institutions of higher education from rejecting a person with appropriate diploma or credentialing for admission to an institution of higher education solely because their secondary education was not accredited by the state Board of Education or agency the board approves.”

With the further title amendment, sponsored by Delegate Ellington, being as follows:

Com. Sub. for H. B. 2529 – “A Bill to amend and reenact §18-8-12 and §18B-1-1e of the Code of West Virginia, 1931, as amended; all relating to nondiscrimination in the higher education admissions process; allowing an institution, once a student has been fully admitted, to administer placement tests or other assessments for certain purposes; prohibiting state institutions of higher education from discriminating against graduates of private, nonpublic, or home schools by requiring them to submit to alternative testing as a precondition for acceptance into the institution of higher education; and prohibiting institutions of higher education from rejecting a person with appropriate diploma or credentialing for admission to an institution of higher education solely because their secondary education was not accredited by the state Board of Education or agency the board approves.”

The bill, as amended by the Senate, and further amended by the House of Delegates, was then put upon its passage.

On passage of the bill, the yeas and nays were taken (**Roll No. 438**), 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. 2529) 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. 2633, Creating the 2021 Farm Bill.

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. DEPARTMENT OF AGRICULTURE.

§19-1-2. Commissioner of Agriculture.

The commissioner of agriculture shall be elected by the qualified voters of the state at the same time and in the same manner as other state officers are elected, and shall hold office for a term of four years and until his or her successor is elected and qualified.

~~The commissioner shall be a practical farmer, learned in the science of agriculture, and shall have made agriculture his chief business for a period of ten years immediately preceding his election.~~

§19-1-3a. Marketing and ~~Development Division~~; economic development duties.

(a) ~~The duties of the Marketing and Development Division are to~~ department shall establish marketing, promotional, and economic development programs to advance West Virginia agriculture in the domestic and international markets; ~~to~~ provide

grading, inspection, and market news services to the various elements of the West Virginia agricultural industry; and to regulate and license individuals involved in the marketing of agricultural products. Upon request of the commissioner, the Department of Economic Development may coordinate with the Department of Agriculture in the development of such programs.

(b) Any documentary material, data, or other writing made or received by the department in furtherance of its economic development duties and for the purpose of furnishing assistance to a new or existing business shall be exempt from the provisions of §29B-1-1 et seq. of this code.

§19-1-7. Shared animal ownership agreement to consume raw milk.

(a) Notwithstanding any other provision of the law to the contrary, a responsible party may enter into a written shared animal ownership agreement to consume raw milk in which he or she:

(1) Acquires a percentage ownership interest in a milk-producing animal;

(2) Agrees to pay another for the percentage ownership interest for the care and boarding of the milk-producing animal at the dairy farm;

(3) Is entitled to receive a fair share of the animal's raw milk production as a condition of the contractual agreement;

(4) Agrees to sign a written document acknowledging the inherent dangers of consuming raw milk that may contain bacteria, such as *Brucella*, *Campylobacter*, *Listeria*, *Salmonella*, and *E. Coli*, that has not been pasteurized to remove bacteria and that is particularly dangerous to children, pregnant women, and those with compromised immunity. The responsible party then agrees to release the herd seller of liability for the inherent dangers of consuming raw milk but not for those dangers that are caused by negligent acts or omissions of the herd seller; and

(5) Agrees not to distribute raw milk. The sale or resale of raw milk obtained from a herd share is strictly prohibited.

(b) The signed and executed shared animal ownership agreement shall be filed by the herd seller with the Commissioner of Agriculture and shall contain the names, addresses, and phone numbers of the herd seller and the responsible party so that either party may be contacted in the event of an illness.

(c) The herd seller shall meet the animal health requirements for milk-producing animals established by the state veterinarian in accordance with state and national standards including the following:

(1) Raw milk from milk-producing animals intended for consumption shall be from a herd that tested negative within the previous 12 months for brucellosis, tuberculosis, and other diseases as required by the state veterinarian. Additions to the herd shall test negative for the diseases within the previous 30 days before introduction into the herd; and

(2) Milk-producing animals producing bloody, stringy, or abnormal milk, but with only slight inflammation of the udder, shall be excluded from the milking herd until reexamination shows that the milk has become normal. Milk-producing animals showing chronic mastitis, whether producing abnormal milk or not, shall be permanently excluded from the milking herd.

(d) Parties to a shared animal ownership agreement and physicians who become aware of an illness directly related to consuming raw milk shall report the illness to the local health department and the Commissioner of Agriculture. Upon receipt of such a report, the Commissioner of Agriculture or his or her designee shall contact and warn other parties consuming raw milk from the same herd seller.

(e) The Commissioner of Agriculture may impose an administrative penalty not to exceed \$100 for a person who violates the provisions of this section. Any penalty imposed under this subsection may be contested by the person against whom it is imposed pursuant to §29A-5-1 *et seq.* of this code.

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

(g) Notwithstanding any provision of code to the contrary, raw milk may be sold without the parties entering into a written shared animal ownership agreement if the raw milk is to be used:

(1) As an ingredient in the preparation or making of a nonedible product, such as a soap or lotion; or

(2) As feed for another animal: *Provided*, That the sale of raw milk to be used as animal feed is subject to the provisions of §19-14-1 *et seq.* of this code.

ARTICLE 1C. CARE OF LIVESTOCK.

§19-1C-2. Definitions.

For the purposes of this article:

(1) ‘Board’ means the Livestock Care Standards Board.

(2) ‘Commissioner’ means the Commissioner of Agriculture.

(3) ‘Department’ means the West Virginia Department of Agriculture.

(4) ‘Livestock’ has the same definition as set out in §19-10B-2(d) of this code.

§19-1C-3. Livestock Care Standards Board.

(a) On July 1, 2010, there is hereby created the Livestock Care Standards Board.

~~(b) Prior to July 1, 2010, the Governor shall appoint, by and with the advice and consent of the Senate, the following eleven members:~~

~~(1) One member who is a veterinarian licensed in this state engaging in large animal practice, for a term of two years;~~

~~(2) The dean of the agriculture department of a college or university located in this state, for a term of three years;~~

~~(3) One member representing a county humane society that is organized under state law, for a term of four years;~~

~~(4) One member who is knowledgeable about food safety in this state, for a term of five years;~~

~~(5) Two members of the public representing West Virginia consumers, one for a term of two years and one for a term of four years;~~

~~(6) Two members representing state agricultural organizations that represent farmers, one of whom must be a member of the largest organization in the state representing farmers for a term of three years, and the other must be a member of a statewide livestock organization, for a term of five years; and~~

~~(7) Three members representing family farms engaged in animal production, at least two of whom are family farmers, for the following terms: one for three years, one for four years and one for five years.~~

~~(c) After the initial appointment terms, the appointment term is five years. Appointed members may be reappointed for additional terms.~~

~~(d) (b) Commencing July 1, 2010 2021, the board consists of the following 13 members, to be appointed by the Governor, by and with the consent of the Senate:~~

~~(1) The Commissioner of the Department of Agriculture or his or her designee, ex officio non-voting, who is the chairperson of the board;~~

~~(2) The Director of the Animal Health Division State Veterinarian, ex officio non-voting;~~

~~(3) One member who is a veterinarian licensed in this state engaging in large animal practice;~~

(4) The dean of the agriculture department of a college or university located in this state;

(5) One member representing a county humane society that is organized under state law;

(6) One member who is knowledgeable about food safety in this state;

(7) ~~Two members of the public representing West Virginia consumers~~ who are law-enforcement officers: *Provided*, That one member shall be appointed for an initial term of two years, and the other shall be appointed for an initial term of five years;

(8) ~~Two members representing state agricultural organizations that represent farmers, one of whom must be a member of the largest organization in the state representing farmers, and the other must be a member of a statewide livestock organization; and One member selected from a list of three individuals submitted from the largest statewide poultry organization;~~

(9) One member selected from a list of three individuals submitted by the largest statewide livestock organization; and

(10) ~~Three members representing family farms engaged in animal production, at least two of whom are family farmers, selected from a list of 10 individuals submitted by the largest organization in the state representing farmers.~~

(c) After the initial appointment terms, the appointment term is five years. Appointed members may be reappointed for additional terms.

~~(e) (d)~~ All members must be residents of this state during their terms. ~~No more than seven members of the board may be of the same political party and no more than five may be from the same congressional district at any given time.~~

~~(f) (e)~~ All appointed members serve until their successor has been appointed and qualified. Vacancies shall be filled in the same

manner as the original appointment for the remainder of the unexpired term.

§19-1C-4. Powers and duties of the board.

(a) The board has the following powers and duties to:

(1) Establish standards governing the care and well-being of livestock;

(2) Maintain food safety;

(3) Encourage locally grown and raised food; and

(4) Protect West Virginia farms and families.

(b) The commissioner, in consultation with the board, is ~~also~~ authorized to establish standards by legislative rule, pursuant to the provisions of §29A-3-1 *et seq.* of this code, governing the care and well-being of livestock in this state, including:

(1) The agricultural best management practices for the care and well-being of livestock and poultry in this state;

(2) Procedures for addressing complaints regarding the inhumane treatment of livestock and coordinating efforts with county humane officers: Provided, That documents and communication regarding any investigation thereof, are considered confidential and are exempt from disclosure pursuant to §29B-1-1 *et seq.* of this code;

(3) Biosecurity, disease prevention, animal morbidity, and mortality data;

(4) Food safety practices; and

(5) The protection of local, affordable food supplies for consumers.

(c) ~~The Department of Agriculture shall administer and enforce the standards established by the board that are approved by the Legislature.~~ The board shall review any rule proposed by the

commissioner for legislative approval pursuant to this section. After reviewing the proposed legislative rule, the board may provide a recommendation to the Legislative Rule-Making Review Committee that the Legislature:

- (1) Authorize the promulgation of the legislative rule;
- (2) Authorize the promulgation of part of the legislative rule;
- (3) Authorize the promulgation of the legislative rule with certain amendments;
- (4) Recommend that the proposed rule be withdrawn; or
- (5) Reject the proposed rule.

§19-1C-6. Meetings of the board.

(a) The board shall meet at least annually, and the ~~chairperson~~ commissioner may call additional meetings of the board upon the written request of three members.

(b) The commissioner, on behalf of the board, may file an annual report with the Joint Committee on Government and Finance that contains information about the activities of the board and department for the prior year concerning livestock care standards; *Provided*; That after December 31, 2025, no reports filed on behalf the board may be filed with the Joint Committee on Government and Finance.

§19-1C-7. Enforcement of livestock care standards.

(a) The commissioner shall administer and enforce the standards established pursuant to this article. This authority may include, but is not limited to:

- (1) Coordinating with and providing assistance to law-enforcement officers;
- (2) Assisting law-enforcement officers with investigations and other actions taken in response to complaints regarding the care of livestock;

(3) Working with county, municipal, and state authorities to address situations in which a livestock care complaint needs to be reassigned due to a conflict of interest;

(4) Providing training for law-enforcement officers on the livestock care standards and proper animal handling techniques; and

(5) Providing opinions to law-enforcement officers, when such opinions are requested, regarding the application of livestock care standards promulgated pursuant to this article.

(b) State, county, and local law-enforcement officers shall notify the commissioner of all complaints and investigations concerning care of livestock, and may seek the advice and opinion of the commissioner regarding application of the livestock care standards in those cases.

(c) No later than September 1, 2021, the commissioner shall notify state, county, and local law-enforcement officers of the changes made to this article of code during the 2021 Regular Legislative Session.

ARTICLE 9A. FEEDING OF UNTREATED GARBAGE TO SWINE.

§19-9A-2. Permit required for feeding garbage to swine; renewal; fee; exception.

(a) No person shall feed garbage to swine without first securing a permit to do so from the commissioner. Such permits shall be renewed annually. ~~The fee for obtaining such permit shall be \$5.~~

(b) This article shall not apply to any person who feeds only his own household garbage to swine which are raised for such person's own use.

ARTICLE 12A. LAND DIVISION.

§19-12A-5. Powers, duties, and responsibilities of commissioner.

(a) The commissioner shall manage all institutional farms, equipment, and other property ~~in order~~ to most efficiently produce

food products for state institutions, support the department and its activities, advance the agricultural interests of the state, as identified by the commissioner, and otherwise implement the intent of the Legislature as set forth by this article. From the total amount of food, milk, and other commodities produced on institutional farms, the commissioner shall sell, at prevailing wholesale prices, and each of the institutions under the control of the Department of Health and Human Resources and Division of Corrections and Rehabilitation shall purchase, these products based on the dietary needs of each institution. *Provided*, That if the commissioner cannot sell sufficient food products to each institution to meet the demand created, each institution may purchase such food products from vendors who can supply those food products at the greatest savings to the taxpayers of the state.

(b) If requested by the Commissioner of the Division of Corrections and Rehabilitation, the commissioner may authorize the Division of Corrections and Rehabilitation to operate a farm or other enterprise using inmates as labor on those lands. The Commissioner of the Division of Corrections and Rehabilitation is responsible for the selection, direction, and supervision of the inmates and shall, in consultation with the Commissioner of Agriculture, assign the work to be performed by inmates. The Commissioner of Agriculture may also request inmate labor to perform work on the institutional farms, and if requested, the Commissioner of the Division of Corrections and Rehabilitation shall provide inmate labor, if available.

(c) The commissioner is hereby authorized and empowered to:

(1) Lease to public or private parties, for purposes including agricultural production or experimentation, public necessity, or other purposes, any land, easements, equipment, or other property, except that property may not be leased for any use in any manner that would render the land toxic for agricultural use, nor may toxic or hazardous materials as identified by the Commissioner of Agriculture be used or stored upon such property unless all applicable state and federal permits necessary are obtained. ~~Any lease for an annual consideration of \$1,000 or more shall be by sealed bid auction and the commission shall give notice of such~~

~~auction 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 is the county in which the property to be leased is located;~~

(2) Transfer to the public land corporation land designated in its management plan as land to be disposed of, which land shall be sold, exchanged, or otherwise transferred pursuant to §5A-11-4 and §5A-11-5 of this code;

(3) Develop lands to which it has title for the public use including forestation, recreation, wildlife, stock grazing, agricultural production, rehabilitation, and/or other conservation activities and may contract or lease for the proper development of timber, oil, gas, or mineral resources, including coal by underground mining or by surface mining where reclamation as required by specifications of the Department of Environmental Protection will increase the beneficial use of such property. ~~Any such contract or lease shall be by sealed bid auction as provided for in subdivision (1) of this subsection; and~~

(4) Upon 30 days written notice to the lessee, cancel a lease to which the department is a party and which is for annual consideration of less than \$5 per acre: *Provided*, That such lease must contain a provision authorizing cancellation or impairment by the Legislature; and

~~(4)~~ (5) Exercise all other powers and duties necessary to effectuate the purposes of this article.

(d) Notwithstanding the provisions of subsection (c) of this section, no timberland may be leased, sold, exchanged, or otherwise disposed of unless there is no commercially salable timber on the timberland, an inventory is provided, and an appraisal of the timber is provided, ~~and the sale, lease, exchange, or other disposition is accomplished by the sealed bid auction procedure provided above in subdivision (1) or (2), subsection (c) of this section as applicable.~~

(e) The commissioner may promulgate, pursuant to §29-1-1 *et seq.* of this code, rules and regulations relating to the powers and duties of the commissioner as enumerated in this section.

ARTICLE 14. WEST VIRGINIA COMMERCIAL FEED LAW.

§19-14-1. Title.

This article shall be known as the ‘West Virginia Commercial Feed Law ~~of 1991.~~’

§19-14-2. Definitions.

(a) ‘Brand name’ means any word, name, symbol or device, or any combination thereof, identifying the commercial feed of a distributor, guarantor, or manufacturer and distinguishing it from all others.

(b) ‘Bulk’ refers to commercial feed or feed ingredients distributed in nonpackaged form where a label cannot be attached and accompanied by an invoice or delivery slip.

(c) ‘Commercial feed’ means all materials or combinations of materials which are distributed, or intended for distribution, for use as feed or for mixing in feed for animals, other than ~~man~~ humans, except: (1) Unmixed or unprocessed whole seeds when such whole or unprocessed seeds are not chemically changed or adulterated; (2) ~~unground~~ unprocessed hay, straw, stover, silage, cobs, husks, hulls, and raw meat when not mixed with other materials and when not adulterated; (3) individual chemical compounds when not mixed with other materials. The term commercial feed shall include the categories of feed ingredients, customer-formula feeds, pet foods and specialty pet foods.

(d) ‘Commissioner’ refers to the commissioner of agriculture of the State of West Virginia or a duly authorized employee of the commissioner.

(e) ‘Contract feeder’ means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract

and the commercial feed is supplied, furnished, or provided to the independent contractor and such contractor's remuneration is determined all or in part by feed consumption, mortality, profits, or the amount or quality of the product.

(f) 'Customer-formula feed' means a commercial feed that consists of a mixture of commercial feed and/or feed ingredients, each batch of which is manufactured according to the specific instructions of the final purchaser.

(g) 'Distribute' means to offer for sale, sell, ~~expose for sale,~~ exchange, or barter commercial feed; or to supply, furnish, or provide commercial feed to a contract feeder.

(h) 'Distributor' means any person who ~~sells, exposes for sale, offers for sale, exchanges, barter, gives, parcels out, allots, shares, or dispenses~~ distributes a commercial feed.

~~(i) 'Domesticated animal' means any species of animal living and bred in a tame condition.~~

~~(j) (i)~~ (i) 'Drug' means any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals, other than ~~man~~ humans; and ~~substances, other than nutritive components,~~ any substance intended to affect the structure or any function of the animal body.

(j) 'Feed' means any material consumed, or intended to be consumed, by animals other than humans, or any element of that material that contributes nutrition, taste, or aroma, or otherwise has a technical effect on the consumed material. The term 'feed' includes raw materials, ingredients, and finished product.

(k) 'Feed ingredient' means each constituent material making up ~~commercial~~ feed, including individual chemical compounds labeled for use as a feed ingredient.

(l) 'Guarantor' means any person whose name appears on a label and who is therefore responsible for the product and its labeling.

(4) (m) 'Label' means a display of written, printed, or graphic matter printed upon or otherwise affixed to the container in which commercial feed is distributed; or printed upon or otherwise affixed to the invoice, delivery slip, or other shipping document which accompanies bulk shipments of commercial feed or customer-formula feed. All such labels shall be legible and in English.

~~(m)~~ (n) 'Labeling' means and includes all labels as well as all other written, printed, or graphic matter, ~~or advertising referencing such commercial feed~~ found: (1) upon a commercial feed or any of its containers or wrappers, or (2) accompanying such commercial feed.

~~(n)~~ (o) 'Manufacture' means to grind, mix, blend, package, pack, repackage, repack, or otherwise process a commercial feed for distribution.

~~(o)~~ (p) 'Medicated feed' means any ~~commercial~~ feed which contains one or more drugs. Antibiotics included in a feed growth promotion and/or efficiency level are drug additives and feeds containing such antibiotics are included in the definition of 'medicated feed'.

~~(p)~~ (q) 'Mineral feed' means a commercial feed designed or intended to supply primarily mineral elements or inorganic nutrients.

~~(q)~~ (r) 'Official sample' means any sample of ~~commercial~~ feed taken by the commissioner in accordance with the provisions of this article and rules promulgated hereunder.

~~(r)~~ (s) 'Percent' or 'percentage' means percentage by weights.

~~(s)~~ (t) 'Person' means an individual, partnership, association, fiduciary, firm, company, corporation, or any organized group of persons whether incorporated or not.

~~(t)~~ (u) 'Pet' means ~~any domesticated species of animal normally maintained in or near the household of the owner~~

~~including, but not limited to, dogs, cats and specialty pets dog (Canis familiaris) or cat (Felis catus).~~

~~(u) (v) ‘Pet food’ means any commercial feed manufactured and distributed for consumption by pets.~~

~~(v) ‘Principal display panel’ means the part of a label that is intended to be shown and examined when the product is on display for retail sale.~~

~~(w) ‘Process’ means any treatment that changes a feed ingredient so that it can no longer be restored to its previous form a method used to prepare, treat, convert, or transform materials into feed or feed ingredients. The word ‘processed’ can be used to further describe an ingredient name, so long as the ingredient is not nutritionally altered from the original form of the ingredient.~~

~~(x) ‘Product name’ means the name of the commercial feed which identifies it, such as: Species of animal, age group of animal, characterizing ingredients, specific use, or other descriptive terms as to kind, class, or specific use and distinguishes it from all other products bearing the same brand name.~~

~~(y) ‘Quantity statement’ means the net weight (mass), liquid measure, or count.~~

~~(y) ‘Registrant’ means any person who registers commercial feed for distribution or use in this state.~~

~~(z) ‘Repack’ or ‘repackaging’ means to pack and label a previously manufactured and packaged commercial feed prior to a specific request of a customer.~~

~~(aa) ‘Specialty pet’ means any ~~domesticated pet~~ animal normally maintained in a cage or tank including, but not limited to, household, such as gerbils, hamsters rodents, ornamental birds, tropical fish, goldfish, snakes and turtles, reptiles, amphibians, ferrets, hedgehogs, marsupials, and rabbits not raised for food or fur.~~

(bb) 'Specialty pet food' means any commercial feed ~~intended prepared and distributed~~ for consumption by specialty pets.

(cc) 'Ton' means a net weight of two thousand pounds avoirdupois.

§19-14-3. Powers and duties of the commissioner.

The commissioner has the power and authority to:

(a) (1) Enter and inspect, during reasonable hours, any location where commercial feeds ~~are~~ feed is manufactured, distributed, transported, or used, and where records relating to the manufacture, distribution, shipment, labeling, or sale of commercial feed are kept. Such inspection ~~includes~~ may include, but is not limited to, examining, photographing, verifying, copying, and auditing records as ~~is~~ necessary to determine compliance with this article; and reviewing labels, consumer complaints, and papers relating to the manufacturing, distribution, sampling, testing, and sale of commercial feeds.

(b) (2) Open, examine, sample, and test commercial feed, unmixed or unprocessed whole seeds, equipment, containers, transport containers, and packages used or intended to be used in the manufacture and distribution of commercial feeds.

(c) (3) Issue permits and registrations pursuant to this article.

(d) (4) Refuse, suspend, or revoke permits and registrations as provided in this article.

(e) (5) Issue embargoes as provided in this article.

(f) (6) Condemn and confiscate any product that is not brought into compliance with this article.

(g) (7) Collect fees and penalties, and expend moneys under the terms of this article.

(h) (8) Conduct sampling in accordance with the official methods published in the current edition of the Official Methods of Analysis of the Association of Official Analytical Chemists and

supplements thereto, or other methods approved by the commissioner by rules.

~~(i)~~ (9) Conduct hearings as provided by this article.

~~(j)~~ (10) Assess civil penalties and refer violations to a court of competent jurisdiction.

~~(k)~~ (11) Obtain court orders directing any person refusing to submit to inspection, sampling, and auditing to submit.

~~(l)~~ (12) Establish and maintain feed testing facilities; establish reasonable fees for such tests; incur expenses; and conduct tests in accordance with the official methods published in the current edition of the Official Methods of Analysis of the Association of Official Analytical Chemists and supplements thereto, or other methods approved by the commissioner by rules.

~~(m)~~ (13) Be guided by the analytical results of the official sample when determining whether the commercial feed is deficient in any component.

~~(n)~~ (14) Report the analytical results on all official samples to the ~~registrant~~ guarantor and, in the case of deficient samples, also to the dealer and the purchaser, if known.

~~(o)~~ (15) Upon request made within 30 days from the date the official sample results are reported, furnish a portion of the official sample to the ~~registrant~~ guarantor.

~~(p)~~ ~~Publish and distribute annually a composite report containing: (1) The sales of commercial feeds and feed ingredients during the preceding period, (2) the results of the analysis of official samples as compared with the guarantee on the label, (3) firms responsible for the product, and (4) such other data the commissioner deems necessary: *Provided*, That the information on production and use so provided does not disclose the operations of any person.~~

~~(q)~~ (16) ~~To cooperate~~ Cooperate with and enter into agreements with governmental agencies of this state and other states, agencies

of the federal government and foreign governments, and private associations ~~in order~~ to carry out the purpose and provisions of this article.

~~(†)~~ (17) Promulgate rules, in accordance with §29A-3-1 *et seq.* of this code, dealing with commercial feeds and enforcement of this article.

§19-14-5. Permits; registration.

(a) Permits and registrations shall not be transferrable with respect to persons or locations.

(b) A person must apply for a permit or registration at least ~~fifteen~~ 30 days prior to the expiration of the current permit or registration ~~expires~~; or at least ~~fifteen~~ 30 days prior to the date that the person intends to engage in the business of selling or marketing commercial feed products ~~or market products~~ in this state. All applications shall be accompanied by the required fee ~~established in this section~~. A penalty of ~~\$2~~ shall be added to the fee for all permits or registrations that are not applied for or renewed within the time limit.

(c) Persons manufacturing commercial feed or customer-formula feed in this state must obtain a Commercial Feed Manufacturing Permit from the commissioner, except ~~at~~ for persons manufacturing feed for only his/her animals on his/her premises, or those producing pet food. Application forms shall be provided by the commissioner and include such information as established by rules. A separate permit shall be obtained for each manufacturing facility or location in this state. Each Commercial Feed Manufacturing Permit application shall be accompanied by ~~an~~ the required application fee of ~~\$15~~. Each permit issued shall expire on December 31, next following the date of issue.

(d) Each person ~~first~~ distributing commercial feed ~~into~~ in West Virginia ~~trade channels~~ must obtain a Commercial Feed Distributor Permit from the commissioner, except: (1) Persons distributing pet food exclusively, (2) persons holding a valid Commercial Feed Manufacturing Permit issued by the commissioner, and (3) persons

~~distributing only those feeds that they register holding a Commercial Feed Guarantor Permit issued by the commissioner. Application forms shall be provided by the commissioner and include such information as established by rules. Each Commercial Feed Distributor Permit application shall be accompanied by an the required application fee of \$10. Each permit issued shall expire on December 31, next following the date of issue.~~

~~(c) All commercial feed distributed or used in this state, except customer formula feed, must be registered. Commercial feed that can be uniquely identified by its brand name, product name, physical form or other descriptive term shall be registered as a separate product. Commercial feed that is packaged in such weights as to apply to several categories shall be registered in each applicable category. Application forms shall be provided by the commissioner and include such information as established by rules. Each person whose name appears on the label of a commercial feed or customer-formula feed as guarantor must obtain a Commercial Feed Guarantor Permit from the commissioner for each manufacturing facility or location that distributes feed in or into the state, except those facilities or locations for which a Commercial Feed Manufacturing Permit has already been issued by the commissioner. Application forms shall be provided by the commissioner and include such information as established by rules. Each Commercial Feed Guarantor Permit application shall be accompanied by the required application fee. Each permit issued shall expire on December 31, next following the date of issue.~~

~~(1) Commercial feed, other than pet food, in packages over ten pounds or bulk shall be registered permanently. A registration fee of \$10 per product shall accompany each application for registration, except that there will be no fee for a revision of a commercial feed already on file that involves a change in the net weight, a change in the list of ingredients, and/or a change in the guarantee for vitamins or minerals.~~

~~(2) (f) On the thirty first day of August, 1991, permanent registrations for pet food in packages over ten pounds are void and application for registration and payment of fees will be required. Pet food, including specialty pet foods, in packages over 10 pounds~~

or bulk shall be registered annually. ~~A registration fee of \$50 per product shall accompany each~~ Each application for registration shall be accompanied by the required registration fee. ~~The~~ Each registration shall expire on ~~the thirty first day of August~~ August 31 next following the date of issue: *Provided*, That until June 30, 2027, an additional registration fee of \$50 per product shall accompany each application for registration and the additional registration fee shall be deposited into the West Virginia Spay Neuter Assistance Fund for spay and neutering services performed within this state by licensed veterinarians.

~~(3) (g) Commercial feed, excluding specialty pet food in packages of one pound or less, Pet food packaged in packages of 10 pounds and under shall be registered annually. A registration fee of \$40 per product shall accompany each~~ Each application for registration shall be accompanied by the required registration fee. ~~The~~ Each registration shall expire on December 31, next following the date of issue: *Provided*, That until June 1, 2027, an additional registration fee of \$35 per product shall accompany each application for registration and the additional registration fee shall be deposited into the West Virginia Spay Neuter Assistance Fund for spay and neutering services performed within this state by licensed veterinarians.

~~(4) (h) Specialty pet food in packages of one pound or less shall be registered annually. A registration fee of \$20 per product shall accompany each~~ Each application for registration shall be accompanied by the required registration fee. ~~The~~ Each registration shall expire on December 31, next following the date of issue.

~~(f) (i)~~ (i) A person is not required to register any brand name or product name of commercial feed which is already registered by another person.

~~(g) (j) Alteration of commercial feed a pet food or specialty pet food that changes the label requires a new application for a~~ Commercial Feed Registration registration be made and approved before distribution.

§19-14-6. Refusal of applications; suspension and revocation of registrations and permits.

The commissioner may refuse to grant, or may suspend or revoke ~~registration of any commercial feed~~ Commercial Feed Manufacturing Permit; any ~~commercial feed manufacturing permit~~ Commercial Feed Guarantor Permit; ~~or any commercial feed distributor permit~~ Commercial Feed Distributor Permit; or the registration of any Pet Food or Specialty Pet Food when it is determined that: ~~(a)~~(1) The applicant, permittee, or ~~registrant~~ guarantor has violated the provisions of this article or any official rule promulgated hereunder; or ~~(b)~~(2) this article or the rules promulgated hereunder cannot be or will not be complied with: *Provided*, That the permittee or ~~registrant~~ guarantor shall have the opportunity to be heard prior to the suspension or revocation of the registration or permit.

§19-14-7. Hearings and appeals.

(a) No application shall be refused until the applicant has the opportunity to amend his/her application to comply with the requirements of this article.

~~(b)~~ (b) No registration or permit shall be refused, suspended, or revoked until the ~~registrant~~ guarantor or permittee shall have the opportunity to have a hearing before the commissioner.

~~(b)~~ (c) Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this article, may ~~within forty-five days thereafter~~, bring an action for judicial review in the circuit court of the county in which the violation occurred in accordance with §29A-5-1 et seq. of this code.

~~Any party aggrieved by a final judgment entered by a circuit court, may appeal to the West Virginia Supreme Court of Appeals.~~

§19-14-8. Labeling.

(a) When commercial feed, except customer-formula feed, is distributed in this state in bags or other containers, the label shall

be affixed to the container; when commercial feed is distributed in bulk, the label shall accompany delivery.

(b) All commercial feed labels, except customer-formula feeds, shall ~~state~~ include the following:

(1) ~~The net weight avoirdupois. The net weight may also be stated in metric units~~ quantity statement.

(2) The product name, including brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis, expressed on an “as is” basis, stating what the commissioner determines by rules is required to advise the user of the composition of the commercial feed and other necessary information to support claims made on the label. The substances or elements guaranteed must be determinable by laboratory methods published by the association of official analytical chemists or ~~by an acceptable method supplied by the registrant~~ other methods approved by the commissioner.

(4) An ingredient statement, except that an ingredient statement is not required for single standardized ingredient feeds ~~or when such statement is not in the interest of consumers.~~ An ingredient statement shall include:

(A) The common or usual name of each ingredient as officially defined in the annual Official Publication of the Association of American Feed Control Officials;

(B) ~~Collective~~ Feed terms as defined in the annual Official Publication of the Association of American Feed Control Officials;

(C) The common or usual name of substances generally recognized as safe (GRAS) as authorized by 21 Code of Federal Regulations 570.30 (~~April 1, 1990~~ revised April 1, 2019) of the Federal Drug and Cosmetic Act as amended August, 1985;

(D) The common or usual name of substances which are so common ~~so~~ as to not need a definition, have a substantially safe history, and no safety hazard is known to exist after consumption

by a significant number of animals, including, but not limited to, salt and sugar; or

(E) Other ingredients or additives that the commissioner, by rules, deems necessary.

(5) The name and principal mailing address of the manufacturer or the distributor.

(6) For all commercial feeds containing drugs and for all other such commercial feeds as the commissioner may require by legislative rules, Adequate adequate directions as necessary for their safe and effective use and precautionary statements for safe and effective use.

(7) If a drug or drug containing product is used, then the following shall be stated:

(A) The established name of each active drug ingredient;

(B) The level of each drug used in the final mixture;

(C) The purpose of the medication (claim statement);

(D) Appropriate cautions and warnings on the use of the medicated commercial feed;

(E) Withdrawal statements, if applicable; and

(F) The word “medicated” shall appear directly following and below the product name in type size, no smaller than one-half the type size of the product name.

(c) Pet food and specialty pet food labels shall have such additional information as required by the commissioner through rules.

(d) All customer-formula feeds shall be labeled at all times and shall be supplied to the purchaser at the time of delivery. The label shall bear the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of manufacture and/or delivery.

(4) ~~Net weight (avoirdupois) of the commercial feed and each feed ingredient used in the customer formula feed~~ The product name and quantity statement of each commercial feed and each other ingredient used in the mixture.

(5) For all customer-formula feeds containing drugs and for all other such customer-formula feeds as the commissioner may require by legislative rules, Adequate adequate directions as necessary for their safe and effective use and precautionary statements for safe and effective use.

(6) If a drug or drug containing product is used, then the following shall be stated:

(A) The established name of each active drug ingredient;

(B) The level of each drug used in the final mixture;

(C) The purpose of the medication (claim statement);

(D) Appropriate cautions and warnings on the use of the commercial feed;

(E) Withdrawal statements, if applicable; and

(F) The word “medicated” shall appear directly following and below the product name in type size no smaller than one-half the type size of the product name.

§19-14-9. Tonnage reports; inspection fees.

(a) Each person holding a Commercial Feed Manufacturing Permit; or a Commercial Feed Distributor Guarantor Permit, and every registrant, except those persons ~~exempted in subsection (b) of this section~~ exclusively manufacturing pet food or specialty pet food, shall report the number of tons of commercial feed distributed and pay an inspection fee on all feed distributed, except no inspection fee shall be due on:

(1) Commercial feed, if the payment was previously made by a ~~previous~~ distributor, manufacturer, or guarantor.

(2) Customer-formula feeds or commercial feeds manufactured in this state, if the inspection fee was paid on the commercial feed or all the feed ingredients used as ingredients therein. For the purpose of this exemption, the sale of the feed ingredients used in customer-formula feeds are considered to have taken place before the processing of these items.

(3) Commercial feeds ~~or commercial feeds manufactured in this state~~ which are subsequently used as ingredients in the continuing manufacture of commercial feeds in which the end product is registered.

(4) Commercial feed supplied to a poultry contract feeder.

~~(5) Commercial feed in packages of ten pounds or less.~~

~~(6)~~ (5) Pet food or specialty pet food.

~~(7) Commercial feed, where the inspection fee was paid during a previous quarter and is offered for sale in the current quarter.~~

(b) An annual fee for commercial feed which does not meet the minimum inspection fee shall be paid in lieu of the inspection fee as established by legislative rule.

~~(b)~~ (c) Each person holding a Commercial Feed Manufacturing Permit, or a Commercial Feed Distributor Guarantor Permit, or a registrant, except those persons: ~~(1) Exclusively exclusively~~ distributing or manufacturing pet food or specialty pet food; ~~or (2) exclusively distributing or manufacturing commercial feed in packages of ten pounds or less,~~ shall file a semiannual statement under oath before ~~the 31st day of~~ January 31 and July 31 of each year. The statement shall include the number of net tons of commercial feeds and feed ingredients manufactured or ~~first~~ distributed in this state during the preceding six-month period.

(d) Each report shall be accompanied by an inspection fee at the rate of ~~35¢ per ton~~ established by legislative rule, including a

~~minimum inspection fee, on commercial feed and feed ingredients with the minimum inspection fee being \$10 each statement. The minimum fee is waived if the total amount of the calculated inspection fee due is \$2 or less. Such fees become effective on July 1, 1991.~~

Inspection fees which are due and payable and not remitted to the commissioner within 15 days following the due date shall be assessed a penalty of 10 percent of the amount due, except that semiannual reports with no fees due received 15 days after the due date shall be assessed a penalty of \$10 in an amount established by legislative rule. The assessment of this penalty fee shall not prevent the commissioner from taking other actions as provided in this chapter.

~~(e)~~ (e) All persons must keep accurate records, as may be necessary or required by the commissioner, to indicate the tonnage of commercial feed distributed in this state. The commissioner shall have the right to examine such records.

§19-14-10. Adulteration.

Commercial feed or feed ingredients is adulterated:

~~(a)(1)~~ (1) If it bears or contains any poisonous, or deleterious or nonnutritive substance, including pesticide chemical residues, food additives, color additives or drugs which is or may be render it injurious to animals when fed such feed in accordance with the directions, or to humans who consume the resultant food product of the animal health; unless the substance is not an added substance, in which case such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health;

~~(b)(2)~~ (2) If its composition or quality falls below or differs from what is stated on the label or by its labeling; If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance which is unsafe within the meaning of Section 406 of the Federal Food, Drug, and Cosmetic Act (other than one which is:

(A) A pesticide chemical in or on a raw commodity; or (B) a food additive;

(e)(3) If it contains viable weed seeds exceeding the limits set by the commissioner by rules; If it is, or it bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act;

(d)(4) If the facilities, controls, or methods used in the manufacture, processing, or packaging do not conform to industry standards set by the commissioner by rules; or If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act: *Provided*, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under Section 408 of the Federal Food, Drug, and Cosmetic Act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of Section 408(a) of the Federal Food, Drug, and Cosmetic Act;

(e)(5) If it was manufactured or held under conditions whereby it became contaminated by dust, dirt, insects, birds, rodents, or animal excretion thereby rendering it injurious to animal health. If it bears or contains any color additive which is unsafe within the meaning of Section 721 of the Federal Food, Drug, and Cosmetic Act;

(6) If it is, or it bears or contains, any new animal drug which is unsafe within the meaning of Section 512 of the Federal Food, Drug, and Cosmetic Act;

(7) If it consists, in whole or part, of any filth or decomposed substance, or if it is otherwise unfit for feed;

(8) If it has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;

(9) If it is, in whole or in part, the product of a diseased animal, or of an animal that has died other than by slaughter that is unsafe within the meaning of Section 401(a)(1) or (a)(2) of the Federal Food, Drug, and Cosmetic Act;

(10) If the container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

(11) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with the regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug, and Cosmetic Act;

(12) If any valuable constituent has been, in whole or in part, omitted or abstracted therefrom or any less valuable substance substituted therefor;

(13) If its composition falls below or differs from that which it is purported or represented to possess by its labeling; or

(14) If it contains a drug, and the methods used in the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice regulations promulgated by the commissioner to assure that the drug meets the requirements of this law as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess.

§19-14-11. Misbranding.

Commercial feed ~~is~~ shall be deemed to be misbranded:

~~(a)~~(1) If its label or labeling is false or misleading;

~~(b)~~(2) If it is not labeled as required by this article;

~~(e)~~(3) If any word, statement, or other information required by this article to appear on the label is not prominently and conspicuously placed so that it can be read and understood by the ordinary individual under customary conditions of purchase and use;

~~(d)~~(4) If it purports to be or is represented as a commercial feed, or ~~contains~~ if it purports to contain or is represented as containing a commercial feed ingredient that does not conform to the definition of identity prescribed by the commissioner by rules; or

~~(e)~~(5) If any damage or inferiority has been concealed; or

(6) If it is distributed under the name of another commercial feed.

§19-14-12. Embargoes; condemnation and confiscation; injunctions.

(a) Embargo orders:

(1) When the commissioner has reasonable cause to believe any lot of commercial feed is being manufactured, distributed, offered for sale, exposed for sale, or used in this state in violation of the provisions of this article or any rule promulgated hereunder, then ~~he/she~~ he or she may issue and enforce a written embargo order, warning the custodian of the commercial feed not to manufacture, distribute, use, remove, or dispose of the commercial feed lot in any manner until the embargo is released by the commissioner or by court order.

(2) When the embargo is issued, the commissioner shall affix a tag or other marking to the commercial feed and/or to the manufacturing device warning that such product or process is under embargo and notify the custodian that ~~he/she~~ he or she has a right to request an immediate hearing.

(3) The commissioner shall release the commercial feed lot so embargoed when said commercial feed has been brought into compliance with this article and its rules.

(4) The commissioner shall have the authority to issue an embargo against a perishable product, even if the result is the involuntary disposal of the product.

(5) The commissioner may take action to seize and condemn any product if not brought into compliance with this article and the rules issued hereunder, within 90 days of the notice to the custodian.

(b) Condemnation and confiscation:

(1) Any commercial feed not in compliance with the provisions of this article or the rules promulgated hereunder shall be subject to condemnation and confiscation on complaint of the commissioner to the circuit court of the county in which the commercial feed in question is located. Jurisdiction is hereby conferred upon the circuit courts to hear and determine such matter.

(2) If the court finds that the commercial feed is in violation of the provisions of this article or its rules and should be confiscated, then the court shall order the condemnation and confiscation of such commercial feed and its disposition in a manner consistent with the quality of such commercial feed which is not in violation of any other laws of this state: *Provided*, That the owner thereof must first be given an opportunity to process or relabel such commercial feed or dispose of the same in full compliance with the provisions of this article and its rules.

(c) Injunctions: Upon application by the commissioner, the circuit court of the county in which the violation is occurring, has occurred, or is about to occur, may grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this article or any rule promulgated hereunder. An injunction shall be issued without bond.

§19-14-14. Prohibited acts.

It shall be unlawful:

(a) To manufacture or distribute, ~~or knowingly use~~ any commercial feed that is adulterated or misbranded.

(b) To adulterate or misbrand any commercial feed.

(c) To distribute, use, remove, or dispose of commercial feed in violation of an embargo order, or condemnation and confiscation order provided for under this article.

(d) To manufacture, distribute, or use any commercial feed containing a drug or drugs that cause or may cause residue of the drug or drugs in the edible tissues, milk, or eggs of the animals fed such feed in excess of the acceptable residue levels set by the commissioner by rules.

(e) To fail or refuse to register ~~commercial feeds~~ pet foods or specialty pet foods.

(f) To fail or refuse to obtain permits required under this article.

(g) To fail to make an accurate statement of tonnage.

(h) To fail to pay inspection fees as required under this article.

(i) To distribute or knowingly use any commercial feed that has not had an accurate statement of tonnage reported to the commissioner in the previous reporting period.

(j) To use or imply the name West Virginia Department of Agriculture, or reference any inspection or sample findings made by the West Virginia Department of Agriculture on labels or labeling of commercial feed.

(k) To interfere with the commissioner's official duties.

(l) To distribute raw milk for use as commercial feed for any species, unless:

(1) It has been decharacterized using a sufficient quantity of food coloring as designated by the commissioner;

(2) It has been decharacterized using food coloring approved by the U.S. Food and Drug Administration, or in the case of raw milk labeled as organic, approved by the U.S. Department of Agriculture;

(3) It has been decharacterized and the nutritive value of the milk has not been adversely affected by the decharacterization;

(4) The packaging of the raw milk does not resemble that used for the packaging of milk for human consumption;

(5) It is not stored at retail with, or in the vicinity of, milk or milk products intended for human consumption; and

(6) It does not otherwise violate this section.

§19-14-16. Deviations and Penalties.

(a) The commissioner is authorized to adopt regulations establishing permitted analytical variation and providing for reasonable deviation from the guaranteed analysis.

(b) If the analysis of a sample shows a deviation from permitted analytical variation established by the commissioner, the guarantor or other responsible person shall be penalized as established by legislative rule.

(c) Penalties for multiple deviations within a sample shall be cumulative: *Provided*, That in no case shall the penalty exceed the retail value of the product.

(d) Penalties paid pursuant to this section shall, where possible, be used to reimburse the purchaser of the lot of commercial feed representing the sample analyzed. If the purchaser or purchasers cannot be found, the amount of the penalty assessed shall be paid to the commissioner and deposited in the department's fees account to be used for feed related program maintenance and educational training of the industry and consumers.

(e) If any penalty has not been paid within 90 days of notice of such penalty, a late payment penalty established by legislative rule will be added to the original penalty.

(f) If a product is found to be adulterated, the guarantor or other responsible party shall be penalized as established by legislative rules.

ARTICLE 21. CONSERVATION DISTRICTS.

§19-21A-1. Legislative determinations and declaration of policy.

It is hereby declared, as a matter of legislative determination:

(a) That the farm and grazing lands of the State of West Virginia are among the basic assets of the state and that the preservation of these lands is necessary to protect and promote the health, safety and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this state by water; that the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus and developing a soil condition that favors erosion; that the topsoil is being washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by water and flooding is increased with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any landowner to conserve the soil and control erosion upon his lands causes a washing of soil and water from his or her lands onto other lands and makes the conservation of soil and control of erosion of such other lands difficult or impossible and increases the potential damages from flooding.

(b) That the consequences of such soil erosion in the form of soil washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the piling up of soil on lower slopes and its deposit over alluvial plains; the reduction in

productivity or outright ruin of rich bottom lands by over-wash of -poor subsoil material, sand and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; the washing of soil into streams which silts over spawning beds and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve which causes water shortages, intensifies periods of drought and causes crop failures; an increase in the speed and volume of rainfall runoff, causing more severe and more numerous floods which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods; and losses in navigation, hydroelectric power, municipal water supply, irrigation developments, farming, grazing and reduction of suitable land available for homes and businesses.

(c) That to conserve soil resources and control and prevent soil erosion and prevent floodwater and sediment damage and further the conservation, development, utilization, water quality, and disposal of water, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued and appropriate soil-conserving land-use practices and works of improvement for flood prevention or the conservation, development, utilization, water quality, and disposal of water be adopted and carried out; that among the procedures necessary for widespread adoption are engineering operations such as the construction of terraces, terrace outlets, dams, desilting basins, floodwater retarding structures, channel improvements, floodways, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating and contour furrowing; land drainage; land irrigation; seeding and planting of waste, sloping, abandoned or eroded lands with water-conserving and erosion-preventing plants, trees and grasses; forestation and reforestation; rotation of crops; soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops; retardation of runoff by increasing absorption of rainfall; and

retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

(d) It is hereby declared to be the policy of the Legislature to provide for the conservation of the soil and soil resources of this state, for the control and prevention of soil erosion, for the prevention of floodwater and sediment damage and for furthering the conservation, development, utilization, water quality, and disposal of water, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

(e) This article contemplates that the incidental cost of organizing conservation districts will be borne by the state, while the expense of operating the districts so organized will be provided by donations, gifts, contributions, grants, and appropriations, in money, services, materials, or otherwise, from the United States or any of its agencies, from the State of West Virginia or from other sources, with the understanding that the owners or occupiers will contribute funds, labor, materials, and equipment to aid in carrying out erosion control measures on their lands.

§19-21A-3. Definitions.

Wherever used or referred to in this article, unless a different meaning clearly appears from the context:

(1) ‘Agency of this state’ means the government of this state and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this state.

(2) ‘Committee’ or ‘State Conservation Committee’ means the agency created in §19-21A-4 of this code.

(3) ‘Conservation’ means the reduction of soil erosion, enhancement of water supplies, control, and abatement of nonpoint sources of water pollution, improvement of water quality, increased aquatic and wildlife habitat, and the reduction of

damages caused by floodwater and sediment damages and other natural disasters.

~~(3)~~ (4) ‘District’ or ‘conservation district’ means a subdivision of this state, organized in accordance with the provisions of this article, for the purposes, with the powers and subject to the restrictions hereinafter set forth.

(4) ~~(5)~~ ‘Grant’ means the providing of grants for conservation purposes pursuant to legislative rule.

~~(5)~~ (6) ‘Governing body’ means the supervisors of any conservation district, town, or city, council, city commission, county court, or body acting in lieu of a county court, in this state, and the term ‘governmental division’ means any conservation district, town, city, or county in this state.

~~(6)~~ (7) ‘Land occupier’ or ‘occupier of land’ means any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this article, whether as owner, lessee, renter, or tenant.

~~(7)~~ (8) ‘Landowners’ or ‘owners of land’ means any person or persons, firm, or corporation who holds title to any lands lying within a district organized under the provisions of this article.

~~(8)~~ (9) ‘Notice’ means notice 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 the publication is the county in which is located the appropriate area. At any hearing held pursuant to such notice at the time and place designated in the notice, adjournment may be made, from time to time, without the necessity of renewing the notice for the adjournment dates.

~~(9)~~ (10) ‘Petition’ means a petition filed under the provisions of §19-21A-5(a) of this code for the creation of a district.

~~(10)~~ (11) ‘Soil conservation’, ‘erosion control’, or ‘erosion prevention projects’ means those projects that have been established by federal agencies in cooperation with state agencies

for the purpose of demonstrating soil erosion control and water conservation practices.

~~(11)~~ (12) ‘State’ means the State of West Virginia.

~~(12)~~ (13) ‘Supervisor’ means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this article.

~~(13)~~ (14) ‘United States’ or ‘agencies of the United States’ means the United States of America, Natural Resources Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

~~(14)~~ (15) ‘Works of improvement’ means such structures as may be necessary or convenient for flood prevention or the conservation, development, utilization, or disposal of water.

§19-21A-4. State Conservation Committee; continuation.

(a) The State Conservation Committee is continued. It serves as an agency of the state and is to perform the functions conferred upon it in this article. The committee consists of the following 10 members:

(1) Four citizen members;

(2) The following ex officio members or his or her designee:

(A) The Director of the state Cooperative Extension Service;

(B) The Director of the State Agricultural and Forestry Experiment Station;

(C) The Secretary of the Department of Environmental Protection;

(D) The State Commissioner of Agriculture, who is the chairperson of the committee;

(E) The Director of the Division of Forestry; and

(F) The President of the West Virginia Association of Conservation Districts.

(b) The Governor shall appoint, by and with the consent of the Senate, the four citizen members. Members shall be appointed for four-year terms, which are staggered in accordance with the initial appointments under prior enactment of this section. In the event of a vacancy, the appointment is for the unexpired term.

(c) The committee may invite the Secretary of Agriculture of the United States of America to appoint one person to serve with the committee as an advisory member.

(d) The committee shall keep a record of its official actions, shall adopt a seal, which shall be judicially noticed, and may perform those acts, hold public hearings, and adopt or propose for legislative approval rules necessary for the execution of its functions under this article.

(e) The State Conservation Committee may employ an administrative officer, technical experts, and other agents and employees, permanent and temporary, as it requires. The administrative officer and support staff shall be known as the West Virginia Conservation Agency. The committee shall determine their qualifications, duties, and compensation. The committee may call upon the Attorney General of the state for legal services it requires. It may delegate to its chairperson, to one or more of its members, or to one or more agents or employees powers and duties it considers proper. The committee may secure necessary and suitable office accommodations and the necessary supplies and equipment. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any state agency or of any state institution of learning shall, insofar as may be possible, under available appropriations and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of the agency or institution of learning and make special reports, surveys or studies required by the committee.

(f) A member of the committee holds office so long as he or she retains the office by virtue of which he or she is serving on the committee. A majority of the committee is a quorum and the concurrence of a majority in any matter within their duties is required for its determination. The chairperson and members of the committee may receive no compensation for their services on the committee, but are entitled to reimbursement of expenses, including traveling expenses necessarily incurred in the discharge of their duties on the committee. The committee shall:

(1) Require the execution of surety bonds for all employees and officers who are entrusted with funds or property;

(2) Provide for the keeping of a full and accurate public record of all proceedings and of all resolutions, rules, and orders issued or adopted;

(3) Provide for an annual audit of the accounts of receipts and disbursements; and

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

(g) In addition to other duties and powers conferred upon the State Conservation Committee, it may:

(1) Offer appropriate assistance to the supervisors of conservation districts, organized as provided in this article, in the carrying out of any of their powers and programs;

(2) Assist and advise conservation districts and others in implementing conservation improvements, and projects to control and abate nonpoint sources of water pollution and prevent damage from floodwater and sediment;

~~(2)~~ (3) Keep the supervisors of each of the several districts, organized under the provisions of this article, informed of the activities and experience of all other districts organized under this article, and facilitate an interchange of advice and experience between the districts and cooperation between them;

~~(3)~~ (4) Coordinate the programs of the several conservation districts so far as this may be done by advice and consultation;

~~(4)~~ (5) Contract for services directly related to natural disaster recovery and stream restoration related to flooding, on an as needed basis;

~~(5)~~ (6) Comply with provisions of present and future federal aid statutes and regulations, including execution of contracts or agreements with, and cooperation in, programs of the United States government and any of its proper departments, bureaus, or agencies relating to natural disaster response, natural disaster recovery, or stream restoration related to flooding;

~~(6)~~ (7) Secure the cooperation and assistance of the United States and any of its agencies and of agencies of this state in the work of the districts;

~~(7)~~ (8) Disseminate information throughout the state concerning the activities and programs of the conservation districts and encourage the formation of the districts in areas where their organization is desirable;

~~(8)~~ (9) Administer a conservation grant program that provides financial assistance to conservation districts and others to promote approved conservation, water quality, and soil conservation projects;

~~(9)~~ (10) Accept and receive donations, gifts, contributions, grants, and appropriations in money, services, materials, or otherwise from the United States or any of its agencies, from the State of West Virginia, or from other sources and use or expend the money, services, materials, or other contributions in carrying out the policy and provisions of this article, including the right to allocate the money, services, or materials in part to the various conservation districts created by this article in order to assist them in carrying on their operations;

~~(10)~~ (11) Obtain options upon and acquire by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise any property, real or personal, or rights or interests in the property;

maintain, administer, operate, and improve any properties acquired; receive and retain income from the property and to expend the income as required for operation, maintenance, administration, or improvement of the properties or in otherwise carrying out the purposes and provisions of this article; and sell, lease, or otherwise dispose of any of its property or interests in the property in furtherance of the purposes and the provisions of this article. Money received from the sale of land acquired in the small watershed program shall be deposited in the special account of the State Conservation Committee and expended as provided in this article;

~~(11)~~ (12) Promulgate emergency and legislative rules to effectuate the provisions of this article ~~as amended and reenacted by the Legislature during the 2018 regular session of the Legislature;~~ and

~~(12)~~ (13) Upon a Governor's proclamation declaring a state of emergency or federal disaster declaration, the state committee, its employees, or agents may enter any water of the state for the purpose of removing debris and other obstruction which impede water flow and present additional flood hazards. The agency shall make reasonable efforts to secure the permission of the landowner before entering any private property in connection with these removal activities. The exercise of this limited authority does not constitute taking of private property or trespass. This authority shall continue for the duration of the Governor's proclamation or the federal disaster declaration.

§19-21A-8. Powers of districts; additional powers of supervisors.

A conservation district organized under the provisions of this article and the supervisors thereof shall have the following powers, in addition to others granted in other sections of this article:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion, ~~and~~ floodwater and sediment damage, and nonpoint source water pollution, and to the conservation, development, utilization, water quality, and disposal of water and

the preventive and control measures needed to publish the results of such surveys, investigations, or research and to disseminate information concerning such preventive and control measures and works of improvement: *Provided*, That in order to avoid duplication of research activities, no district shall initiate any research program or publish the results except with the approval of the state committee and in cooperation with the government of this state or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this state or any of its agencies, with the consent and cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner and occupier of the lands or the necessary rights or interests in the lands in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved and soil erosion in the form of soil washing may be prevented and controlled, water quality may be improved, and works of improvement may be carried out;

(3) To carry out preventive and control measures and works of improvement within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land; drainage, irrigation, and other agricultural water management operations and measures for the prevention of floodwater and sediment damages, or for the control and abatement of nonpoint sources of water pollution; and the measures listed in §19-21A-2(c) of this code on lands owned or controlled by this state or any of its agencies with the consent and cooperation of the agency administering and having jurisdiction thereof and on any other lands within the district upon obtaining the consent of the owner and occupier of such lands or the necessary rights or interests in such lands;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to any agency, governmental or otherwise, or any occupier of lands within the district in the carrying on of

erosion-control and prevention operations, operations for the control and abatement of nonpoint sources of water pollution, and works of improvement within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this article;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to institute condemnation proceedings to acquire any property, real or personal, or rights or interests therein, whether or not located in the district, required for works of improvement; to maintain, administer and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this article; and to sell, lease or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this article;

(6) To make available, on such terms as it shall prescribe, to land occupiers within the district agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion and for flood prevention or the conservation, development, utilization, water quality, and disposal of water;

(7) To construct, improve, operate, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this article;

(8) To develop with the approval of the state committee comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion and for flood prevention and water quality improvement, or the conservation, development, utilization, and disposal of water within the district. The plans shall specify, in as much detail as may be possible, the acts, procedures, performances and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of

vegetation, cropping programs, tillage practices and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(9) To take over, by purchase, lease or otherwise, and to administer any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, located within its boundaries, undertaken by the United States or any of its agencies, or by this state or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this state or any of its agencies, any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, within its boundaries; to act as agent for the United States or any of its agencies, or for this state or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, flood-prevention, drainage, irrigation, water-management, erosion-control or erosion-prevention project, or combinations thereof, within its boundaries; to accept donations, gifts, contributions and grants in money, services, materials, or otherwise, from the United States or any of its agencies, or from this state or any of its agencies, or from any other source and to use or expend such money, services, materials or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district; to have a seal, which shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make and, from time to time, amend and repeal rules and regulations not inconsistent with this article to carry into effect its purposes and powers;

(11) As a condition to this extending of any benefits under this article to, or the performance of work upon, any lands, the supervisors may require contributions in money, services, materials or otherwise to any operations conferring such benefits and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as

will tend to prevent or control erosion and prevent floodwater and sediment damage thereon;

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder in its acquisition, operation and disposition of property unless the Legislature shall specifically so state;

(13) To enter into contracts and other arrangements with agencies of the United States, with persons, firms, or corporations, including public corporations, with the state government of this state or other states, or any department or agency thereof, with governmental divisions, with soil conservation, drainage, flood control, soil erosion, or other improvement districts in this state or other states, for cooperation or assistance in constructing, improving, operating, or maintaining works of improvement within the district, or in preventing floods, or in conserving, developing, utilizing and disposing of water in the district, or for making surveys, investigations, or reports thereof; and to obtain options upon and acquire property, real or personal, or rights or interests therein, in other districts or states required for flood prevention and water quality improvement, or the conservation, development, utilization, and disposal of water within the district and to construct, improve, operate or maintain thereon or therewith works of improvement.

ARTICLE 25. LIMITING LIABILITY OF LANDOWNERS.

§19-25-1. Purpose.

The purpose of this article is to encourage owners of land to make available to the public land and water areas for military, law-enforcement, ~~or~~ homeland-defense training, or recreational, agricultural, or wildlife propagation purposes by limiting their liability for injury to persons entering thereon and for injury to the property of persons entering thereon and limiting their liability to persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

§19-25-2. Limiting duty of landowner generally.

(a) Subject to the provisions of §19-25-4 of this code, an owner of land owes no duty of care to keep the premises safe for entry or use by others for recreational or wildlife propagation purposes, or to give any warning of a dangerous or hazardous condition, use, structure, or activity on such premises to persons entering for such purposes.

(b) Subject to the provisions of §19-25-4 of this code, an owner of land who either directly or indirectly invites or permits without charge as that term is defined in §19-25-5 of this code, any person to use such property for recreational or wildlife propagation purposes does not thereby: ~~(a) Extend~~

(1) ~~Extend~~ any assurance that the premises are safe for any purpose; ~~or (b) confer~~

(2) ~~Confer~~ upon such persons the legal status of an invitee or licensee to whom a duty of care is owed; or ~~(c) assume~~

(3) ~~Assume~~ responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

(c) Subject to the provisions of §19-25-4 of this code, an owner of land owes who invites or permits without charge, as that term is defined in §19-25-5 of this code, any person to enter onto the owner's land for the purpose of utilizing the owner's land for any agricultural purpose does not thereby:

(1) Extend any assurance that the premises are safe for any purpose;

(2) Confer upon such persons the legal status of an invitee or licensee to whom a duty of care is owed; or

(3) Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of such persons.

§19-25-5. Definitions.

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

‘Agricultural purposes’ means the raising, cultivation, drying, harvesting, marketing, production, or storage of agricultural products, including both crops and livestock, for sale or use in agriculture or agricultural production, or the storage of machinery or equipment used in support of agricultural production;

‘Charge’ means:

(A) For purposes of limiting liability for recreational or wildlife propagation purposes set forth in §19-25-2 of this code, the amount of money asked in return for an invitation to enter or go upon the land, including a one-time fee for a particular event, amusement, occurrence, adventure, incident, experience, or occasion which may not exceed \$50 a year per recreational participant: *Provided*, That the monetary cap on charges imposed pursuant to this article does not apply to the provisions of §20-14-1 *et seq.* of this code pertaining to the Hatfield-McCoy regional recreational authority or activities sponsored on the Hatfield-McCoy recreation area;

(B) For purposes of limiting liability for military, law-enforcement, or homeland-defense training set forth in §19-25-6 of this code, the amount of money asked in return for an invitation to enter or go upon the land;

‘Land’ includes, but is not limited to, roads, water, watercourses, private ways, and buildings, structures, and machinery or equipment when attached to the realty;

‘Noncommercial recreational activity’ does not include any activity for which there is any charge which exceeds \$50 per year per participant;

‘Owner’ includes, but is not limited to, tenant, lessee, occupant, or person in control of the premises;

‘Recreational purposes’ includes, but is not limited to, any one or any combination of the following noncommercial recreational activities: hunting, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, motorcycle or all-terrain vehicle riding, bicycling, horseback riding, spelunking, nature study, water skiing, winter sports, and visiting, viewing, or

enjoying historical, archaeological, scenic or scientific sites, aircraft or ultralight operations on private airstrips or farms or otherwise using land for purposes of the user;

‘Wildlife propagation purposes’ applies to and includes all ponds, sediment control structures, permanent water impoundments, or any other similar structure created in connection with surface mining activities as governed by §22-3-1 *et seq.* of this code or from the use of surface in the conduct of underground coal mining as governed by that article and any rules promulgated because of the article, which ponds, structures, or impoundments are designated and certified in writing by the Director of the Division of Environmental Protection and the owner to be necessary and vital to the growth and propagation of wildlife, animals, birds, and fish or other forms of aquatic life and finds and determines that the premises have the potential of being actually used by the wildlife for those purposes and that the premises are no longer used or necessary for mining reclamation purposes. The certification shall be in form satisfactory to the director and shall provide that the designated ponds, structures, or impoundments may not be removed without the joint consent of the director and the owner; and

‘Military, law-enforcement, or homeland-defense training’ includes, but is not limited to, training, encampments, instruction, overflight by military aircraft, parachute drops of personnel or equipment, or other use of land by a member of the Army National Guard or Air National Guard, a member of a reserve unit of the armed forces of the United States, a person on active duty in the armed forces of the United States, a state or federal law-enforcement officer, a federal agency or service employee, a West Virginia military authority employee or a civilian contractor supporting the military, and/or government employees acting in that capacity.

ARTICLE 31. GUS R. DOUGLASS AGRICULTURAL CENTER AT GUTHRIE.

§19-31-1. Establishing the name.

The Guthrie center, currently owned by the ~~Department of Health and Human Resources~~ Department of Agriculture, shall

hereinafter be known as the Gus R. Douglass Agricultural Center at Guthrie.

ARTICLE 35. FARMERS MARKETS.

§19-35-1. Legislative findings and purpose.

(a) The Legislature hereby makes the following findings:

(1) Farmers markets are critical incubators for small farm and food businesses because they offer an inexpensive, accessible, entry-level market for reaching consumers directly, though research has shown that the average vendor makes only a nominal dollar amount in sales on any given market day;

(b) (2) The number of farmers markets and the variety of products sold at farmers markets has increased significantly in the past 10 years, adding millions of dollars to the state's economy;

(c) (3) Encouraging locally grown and raised food is important to the health and welfare of the citizens of West Virginia;

(d) (4) Permit fees and requirements for farmers market vendors can vary widely from county to county and from one regulatory official to the other. Current food permit categories are not designed for farmers markets and their vendors, but rather for restaurants, grocery stores, or concessioners; and

(e) (5) Food permits required for farmers market vendors are currently not recognized across county lines.

(b) It is the purpose of this article:

(1) To reduce barriers on participants producing, preparing, and selling certain foods at farmers markets and elsewhere within West Virginia;

(2) To place regulation of farmers markets, vendors, and local food producers primarily within the Department of Agriculture; and

(3) To encourage the growth of the local food industry in West Virginia.

§19-35-2. Definitions.

For purposes of this article:

‘Acidified food’ means a low-acid food item to which acid or acid foods are added with a water activity of greater than 0.85 and a finished equilibrium of pH 4.6 or below. Acidified foods are considered potentially hazardous foods.

~~‘Consignment farmers market’ means a farmers market in which two or more vendors deliver their own farm and food products to a common location maintained by a third party that markets the vendors’ products and receives a percentage share of the profits from sales, with the individual vendor retaining ownership of the farm and food product until it is sold. A consignment farmers market may be mobile or in a stationary location.~~

‘Delivered’ means transferred to the consumer, either immediately upon sale or at a time thereafter.

‘Department’ means the Department of Agriculture.

‘Farm and food product’ means any agriculture, horticulture, agroforestry, animal husbandry, dairy, livestock, ~~cottage food~~, beekeeping, or other similar product, and includes potentially hazardous foods and nonpotentially hazardous food produced or manufactured therefrom. ~~Farm and food products are to be properly labeled.~~

‘Farmers market’ means:

(1) A traditional farmers market in which two or more vendors gather to sell farm and food products directly to consumers at a fixed location;

(2) An on-farm market or farm stand run by an individual producer that sells farm and food products;

(3) An online farmers market in which two or more vendors collectively market farm and food products and retain ownership of those products until they are sold; or

(4) A consignment farmers market as defined herein in which two or more vendors deliver their own farm and food products to a common location maintained by a third party that markets the vendors' products and receives a percentage share of the profits from sales, with the individual vendor retaining ownership of the farm and food product until it is sold. A consignment farmers market may be mobile or in a stationary location;

(5) A mobile farmers market;

(6) An area within a fair or festival at which farm and food products are sold; or

(7) Any other form of farmers market approved by the commissioner.

‘Farmers market vendor’ or ‘vendor’ means a person or entity that sells farm and food products at a farmers market.

~~‘Homemade food item’ means a nonpotentially hazardous food item, including a nonalcoholic beverage, which is produced and/or packaged at the private residence of the producer.~~

‘Nonpotentially hazardous’ means a food item that does not require time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

‘Potentially hazardous’ means a food item that requires time/temperature control or other protocols for safety to limit pathogenic microorganism growth or toxin formation.

To ‘Produce produce’ means to prepare a food item by cooking, baking, drying, mixing, cutting, fermenting, preserving, dehydrating, growing, raising, or other process.

‘Producer’ means the person who produces a homemade nonpotentially hazardous food item.

‘Retailer’ means and includes every person engaging in the business of selling, leasing, or renting tangible personal property.

‘Seller’ means the person who sells a ~~homemade~~ nonpotentially hazardous food item to a consumer. The seller of the ~~homemade~~ nonpotentially hazardous food item may be the producer of the item, an agent of the producer, or a third-party vendor, such as a retail shop or grocery store.

§19-35-3. Farmers markets; ~~farmers market vendor permits; fees; scope.~~

(a) All farmers markets operating within the state shall register with the department. Farmers markets shall register ~~with the~~ on a form prepared by the department and provide information to the department regarding:

- (1) ~~the~~ The type of farmers market;
- (2) The location, dates, and hours of operation;
- (3) ~~and its~~ The farmers markets’ vendors; and
- (4) Any other information required by the department.

(b) Upon submission of all required items, each farmers market shall be issued a Farmers Market Registration. Each farmers market shall display its registration in a conspicuous manner.

(c) Except for consignment farmers markets, which are required to apply for and obtain a food establishment permit from a local health department, no other type of farmers market is required to apply for and obtain a food establishment permit from a local health department.

(d) The department may establish regulations permitting the sampling of certain farm and food products at farmers markets by vendors.

(e) The department may establish penalties for violation of this section by legislative rule, pursuant to the provisions of §29A-3-1 et seq. of this code.

~~(b) Vendors at a farmers market selling farm and food products shall apply for a farmers market vendor permit and pay the annual permit fee to the department. The permit is valid in all counties in this state. A farmers market vendor permit shall be required in lieu of the food establishment permit, notwithstanding any other provisions of code or rule that require a food establishment permit or any other permit from a local health department. The department shall take final action upon all completed permit applications within 30 days of receipt if the application is uncontested, or within 90 days if the application is contested.~~

~~(c) The annual farmers market vendor permit fee is \$35.~~

~~(d) The following vendors are exempt from obtaining a farmers market vendor permit:~~

~~(1) Producers delivering their products to a consignment farmers market only; or~~

~~(2) Vendors selling fresh, uncut produce.~~

~~(e) A consignment farmers market shall obtain a food establishment permit issued by the local health department. Certain farm and food product also require food establishment or other permits to be sold at farmers markets including, but not limited to, meat, poultry, dairy, fish, and sprouted seeds. Notwithstanding the provisions of this article, the local health department in the jurisdiction in which the farmers market is located has the right to inspect and suspend the food establishment permit of a farmers market vendor that sells or serves food for which a food establishment permit is required.~~

~~(f) All farmers market vendor permits shall be displayed in a conspicuous manner.~~

~~(g) Nothing in this article eliminates or limits other state and federal rules and regulations that apply to certain farm and food products sold at a farmers market or a consignment farmers market.~~

~~(h) The department may establish regulations permitting the sampling of certain farm and food products at farmers markets by vendors.~~

~~(i) A vendor is subject to food sampling and inspection by the local health department in the jurisdiction in which the farmers market is located if the local health department determines that the vendor's food product is misbranded pursuant to §19-35-5(e) of this code, or adulterated, or if a consumer complaint has been received: *Provided*, That all sampling and inspection shall be performed in consultation with the Department of Agriculture.~~

~~(j) If the local health department in the jurisdiction in which the farmers market is located has reason to believe that an imminent health hazard exists it may invoke cessation of production until it deems that the hazardous situation has been addressed to the satisfaction of the local health department: *Provided*, That a local health department that invokes cessation of production under this subsection shall do so in consultation with the Department of Agriculture.~~

§19-35-3a. Farmers Market Vendor Permits.

(a) Except as provided in subsection (d) of this section, all vendors at a farmers market selling farm and food products shall apply for a farmers market vendor permit from the department.

(b) The farmers market vendor permit, once issued, is valid in all counties in this state.

(c) Notwithstanding any other provisions of code or rule to the contrary, a vendor is not required to obtain a food establishment permit to sell at a farmers market.

(d) The following vendors are exempt from obtaining a farmers market vendor permit:

(1) Vendors selling fresh, uncut produce;

(2) Vendors selling nonpotentially hazardous foods; and

(3) Vendors selling other farm and food products that are identified by the department.

(e) The department shall establish the conditions and procedures for issuance of farmers market vendor permits. As a condition of obtaining a farmers market vendor permit, a vendor may be required to satisfy additional requirements, including but not limited to, submitting to inspections, and obtaining and maintaining certain additional licenses or certifications.

(f) All farmers market vendor permits shall be displayed in a conspicuous manner.

(g) The department may establish penalties for violation of this section by legislative rule, pursuant to the provisions of §29A-3-1 et seq. of this code.

§19-35-3b. Role of local health departments in farmers markets.

(a) No local health department may require a farmers market or a farmers market vendor to obtain a food establishment permit, except a consignment farmers market is required to obtain a food establishment permit: *Provided*, That nothing in this article shall be construed to exempt restaurants or other prepared food vendors from the requirement to obtain a food establishment permit.

(b) A vendor is subject to food sampling and inspection by the local health department in the jurisdiction in which the farmers market is located if the local health department determines that the vendor's food product is misbranded or adulterated, or if a consumer complaint has been received: *Provided*, That all sampling and inspection shall be performed in consultation with the Department of Agriculture.

(c) If the local health department in the jurisdiction in which the farmers market is located has reason to believe that an imminent health hazard exists it may invoke cessation of production until it deems that the hazardous situation has been addressed to the satisfaction of the local health department: *Provided*, That a local health department that invokes cessation of

production under this subsection shall do so in consultation with the Department of Agriculture.

§19-35-4. Legislative rules.

(a) ~~The Department of Agriculture~~ department shall propose emergency or legislative rules for approval in accordance with the provisions of §29A-3-1 *et seq.* of this code for the purposes of implementing this article, including the setting of any fees.

~~(b) The Department of Agriculture shall consult with the Department of Health and Human Resources and shall consider the guidelines established in the Farmers Market Vendor Guide in promulgating the rules. The rules shall set forth quantity limitations for each type of farm and food product for which a farmers market vendor permit is required pursuant to §19-35-5(d) of this code.~~

§19-35-5. ~~Cottage foods; acidified foods; non-potentially hazardous foods; other exempted foods~~ Potentially hazardous foods.

(a) Notwithstanding any provision of §16-1-1 *et seq.* of this code or any rules or regulations to the contrary, the department shall regulate ~~cottage foods, acidified foods, nonpotentially~~ potentially hazardous foods and other exempted foods sold at farmers markets.

(b) A vendor of potentially hazardous foods shall apply for and obtain a farmers market vendor permit as required by §19-35-3a of this code.

~~(b) (c) Online farmers market sales shall be delivered in person and are not permitted to be shipped. A home, farm, community, or commercial kitchen may be used by a~~ cottage potentially hazardous foods vendor, as determined by the department.

(d) The department shall establish by legislative rule the requirements for obtaining a vendor permit for potentially hazardous foods, including acidified foods, and other categories identified and defined by the department.

~~(e)-(e) All potentially hazardous foods for which a farmers market vendor permit is required pursuant to §19-35-5(d) of this code sold at farmers markets shall be labeled in compliance with the department's labeling standards and provide information about its content and sources. The label shall include the words "MADE IN A WV _____ KITCHEN" in capital, bold, 10 point type or larger words, with the blank space to state whether the product was made in a home, farm, community, or commercial kitchen.~~

~~(d) A farmers market vendor permit is required to sell the following farm and food products at farmers markets: Certain canned acidified foods, including, but not limited to, pickled products, sauces, and salsas. Acidified foods are low acid foods to which acid or acid foods are added with a water activity of greater than .085 and a finished equilibrium of pH 4.6 or below. The majority of the produce in canned acidified foods shall be sourced from the vendor's West Virginia farm or garden, and records of the source of the produce shall be maintained.~~

~~(e) A farmers market vendor permit is not required to sell the following farm and food products at farmers markets:~~

~~(1) Nonpotentially hazardous foods, including, but not limited to: Breads, cakes, and candies; honey, tree syrup, apple butter, and molasses; standardized, nondietary jams and jellies; and dehydrated fruits and vegetables; and~~

~~(2) Other foods that are exempted from certain regulations, including, but not limited to, certain fermented products, certain exempted condiments, commercially harvested mushrooms, and canned, whole, or chopped tomatoes, tomato sauce, and tomato juice having a finished equilibrium of pH 4.6 or below.~~

~~(f) The Department of Agriculture shall consult with the Department of Health and Human Resources to promulgate any rules deemed necessary by the Commissioner of Agriculture to ensure the health, sanitation, and safety of the products produced and sold pursuant to this section.~~

§19-35-6. ~~Direct sale of homemade food items~~ Nonpotentially hazardous foods.

(a) The production and sale of ~~homemade food items~~ nonpotentially hazardous foods, when done in conformity with this section and the accompanying legislative rules, are exempt from licensing, permitting, inspection, packaging, and labeling laws of this state.

(b) The following conditions apply to the sale and delivery of ~~homemade food items~~ nonpotentially hazardous foods:

(1) The ~~homemade~~ nonpotentially hazardous food item must be sold by the producer to the consumer, whether in person or remotely, or by an agent of the producer or a third-party vendor; and

(2) The ~~homemade~~ nonpotentially hazardous food items must be delivered to the consumer by the producer, an agent of the producer, a third-party vendor, or a third-party carrier.

(c) ~~The following information must be provided to the consumer, in the format required by subsection (d) of this section:~~ All nonpotentially hazardous foods shall be labeled in compliance with the department's labeling standards and provide information about their content and sources.

~~(1) The name, home address, and telephone number of the producer of the homemade food item;~~

~~(2) The common or usual name of the homemade food item;~~

~~(3) The ingredients of the homemade food item in descending order of predominance; and~~

~~(4) The following statement: "This product was produced at a private residence that is exempt from State licensing and inspection. This product may contain allergens."~~

(d) ~~The information required by subsection (c) of this section must be provided:~~ A home, farm, community, or commercial

kitchen may be used by a nonpotentially hazardous foods vendor, as determined by the department.

~~(1) On a label affixed to the package, if the homemade food item is packaged;~~

~~(2) On a label affixed to the container, if the homemade food item is offered for sale from a bulk container;~~

~~(3) On a placard displayed at the point of sale, if the homemade food item is neither packaged nor offered for sale from a bulk container;~~

~~(4) On the webpage on which the homemade food item is offered for sale, if the homemade food item is offered for sale on the Internet; or~~

~~(5) On a receipt or other document provided to the customer with the homemade food item.~~

~~(e) The homemade food item must not be meat, meat byproduct, meat food product, poultry, poultry byproduct, or poultry food product, as those terms are defined for purposes of the federal Meat Inspection Act and federal Poultry Products Inspection Act, unless the production and sale of the items are within the exemption in 9 C.F.R. §303.1(d), §381.10(e), or §381.10(d) and comply with other applicable federal regulations.~~

~~(f) (e) This section shall not be construed to:~~

~~(1) Impede the authority of a local health department or the department to investigate or cease the production or sale of food items reported to have caused a foodborne illness;~~

~~(2) Preclude the department from providing assistance, consultation, or inspection at the request of the producer of a homemade nonpotentially hazardous food item;~~

~~(3) Preclude the production or sale of food items otherwise allowed by law;~~

(4) Exempt a producer, seller, third-party vendor, or third-party agent from any applicable tax law;

(5) Exempt producers or sellers of ~~homemade~~ nonpotentially hazardous food items from any law that requires the producer, seller, third-party vendor, or third-party agent to register its business name, address, and other identification information with the state;

(6) Exempt producers or sellers of ~~homemade~~ nonpotentially hazardous food items from any applicable law of the federal government, including any federal law prohibiting the sale of certain food items in interstate commerce; or

(7) Exempt producers or sellers of ~~homemade~~ nonpotentially hazardous food items from any applicable law of another state.

~~(g)~~ (f) This section preempts county, municipal, and other political jurisdictions from prohibiting and regulating the production and sale of ~~homemade~~ nonpotentially hazardous food items: *Provided*, That such preemption shall not include space rentals at government-owned or operated facilities, government-sanctioned or operated events, or product placement agreements with government-owned facilities, as well as temporary events 14 days or less in duration.

ARTICLE 37. WEST VIRGINIA FRESH FOOD ACT.

§19-37-2. State-funded institutions to purchase food from in-state sources; exception.

(a) Beginning July 1, 2019, ~~all~~ each state-funded ~~institutions~~ institution, such as including, but not limited to, schools, colleges, correctional facilities, governmental agencies, and state parks, shall ~~purchase~~ obtain a minimum of five percent of its food from in-state producers.

(b) To satisfy this requirement, state-funded institutions may purchase, either directly or indirectly fresh produce, meat and poultry products, milk and other dairy products, and other foods grown, produced, or processed ~~from~~ by in-state producers.

(c) The commissioner shall establish by legislative rules the criteria for a food or food product to satisfy the requirements of this section, and may further identify food and food products that are eligible to be considered for in-state food credit.

(d) The commissioner shall further establish the criteria for determining when exceptions or exemptions should be granted to state institutions, including, but not limited to, situations in which the desired food, such as ~~is~~ *Provided*, That such produce, meat and poultry products, milk and other dairy products, ~~can~~ cannot be grown or is not available from in-state producers.

(e) The state-funded institution shall ensure that all contracts for the purchase of food, or that include the purchase of food as a component of the contract, contain provisions to ensure that the institution complies with the provisions of this article and any legislative rule promulgated pursuant thereto.

ARTICLE 38. AGRICULTURE INVESTMENT PROGRAM.

§19-38-1. Legislative findings and purpose.

(a) The Legislature finds that:

(1) It is an important public policy to attract new and expand existing agricultural businesses and value-added facilities producing or further developing the availability of locally grown food and locally produced products.

(2) Agriculture-based businesses are necessary for diversifying the state's economy.

(3) Because of the unique nature of these businesses, agriculture-based businesses struggle to obtain appropriate capital for development or expansion and require unique tools and guidance to navigate the hurdles associated with establishment and growth.

(b) Therefore, the Legislature hereby creates the West Virginia Agriculture Investment Program to accomplish these important public policy goals.

§19-38-2. Definitions.

(a) 'Commissioner' means the Commissioner of Agriculture, or his or her designee.

(b) 'Department' means the West Virginia Department of Agriculture.

(c) 'Fund' means the Agriculture Investment Fund created by this article.

(d) 'Program' means the West Virginia Agriculture Investment Program created by this article.

§19-38-3. Agriculture Investment Fund created.

(a) There is hereby created in the State Treasury a special revenue account to be known as the West Virginia Agriculture Investment Fund. The fund shall be administered by the Department of Agriculture. The fund shall consist of all moneys that may be appropriated and designated for the fund by the Legislature, and all interest or other return earned from investment of the fund. The fund may receive any appropriations, gifts, grants, contributions, or other money from any source that is designated for deposit into the fund.

(b) Expenditures from the fund shall be for the purposes set forth in this article 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 fulfillment of the provisions of §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.

§19-38-4. West Virginia Agriculture Investment Program.

(a) The West Virginia Agriculture Investment Program is hereby authorized. The purpose of this program is to attract and support new and expanding agriculture businesses and facilities

producing or further developing products made, grown, or processed in West Virginia.

(b) The program shall be administered by the commissioner or his or her designee.

(c) Moneys may be awarded by the commissioner from the fund as either grants or loans.

(d) The criteria for awarding such grants or loans shall include, but are not limited to:

(1) The number of direct and indirect jobs expected to be created;

(2) The anticipated amount of private capital investment;

(3) The anticipated additional state tax revenue expected to accrue to the state and affected localities as a result of the capital investment and jobs created;

(4) The anticipated amount of West Virginia-grown, processed, or produced agricultural products utilized or promoted by the project; and

(5) The projected impact on agricultural producers.

(e) The commissioner may establish a committee to assist in the administration of the program. Members of the committee shall receive no compensation for their service on the committee but shall be entitled to receive reimbursement for expenses in accordance with the Department of Agriculture travel regulations.

§19-38-5. Legislative rules.

The commissioner shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code. Those rules shall, at a minimum:

(1) Identify the types of individuals and entities that are eligible for grants or loans from the program;

(2) Provide for the selection of members of any committee established by the commissioner to assist in administration of the program;

(3) Establish criteria for making grants or loans: *Provided*, That the commissioner shall consult with the Department of Commerce before proposing such criteria;

(4) Establish procedures and requirements for grant or loan applications; and

(5) Establish the administration, record-keeping, and reporting requirements for entities that receive grants or loans from the program.”

And by amending the title of the bill to read as follows:

Com. Sub. for H. B. 2633 – “A Bill to amend and reenact §19-1-2, §19-1-3a, and §19-1-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §19-1C-2, §19-1C-3, §19-1C-4, and §19-1C-6 of said code; to amend said code by adding thereto a new section, designated §19-1C-7; to amend and reenact §19-9A-2 of said code; to amend and reenact §19-12A-5 of said code; to amend and reenact §19-14-1, §19-14-2, §19-14-3, §19-14-5, §19-14-6, §19-14-7, §19-14-8, §19-14-9, §19-14-10, §19-14-11, §19-14-12, and §19-14-14 of said code; to amend said code by adding thereto a new section, designated §19-14-16; to amend and reenact §19-21A-1, §19-21A-3, §19-21A-4, and §19-21A-8 of said code; to amend and reenact §19-25-1, §19-25-2, and §19-25-5 of said code; to amend and reenact §19-31-1 of said code; to amend and reenact §19-35-1, §19-35-2, §19-35-3, §19-35-4, §19-35-5, and §19-35-6 of said code; to amend said code by adding thereto two new sections, designated §19-35-3a and §19-35-3b; to amend and reenact §19-37-2 of said code; and to amend said code by adding thereto a new article, designated §19-38-1, §19-38-2, §19-38-3, §19-38-4, and §19-38-5, all relating to the 2021 Farm Bill; eliminating certain qualifications for Commissioner of Agriculture; eliminating certain references to Marketing and Development Division of Department of Agriculture; authorizing Department of Agriculture to undertake certain marketing,

promotional, and economic development activities; authorizing coordination between Department of Economic Development and Department of Agriculture; providing an exemption from disclosure under Freedom of Information Act for certain materials in connection with Department of Agriculture's marketing, promotional, and economic development duties; clarifying that raw milk can be sold for purposes other than human consumption; defining terms related to care of livestock; removing outdated information relating to appointment and composition of Livestock Care Standards Board; establishing length of term for appointments; authorizing reappointment of members for additional terms; providing for gubernatorial appointment of members of Livestock Care Standards Board, by and with consent of Senate; modifying membership of Livestock Care Standards Board; eliminating certain qualifications for members of Livestock Care Standards Board; authorizing Commissioner of Agriculture to promulgate certain legislative rules in consultation with Livestock Care Standards Board; providing an exemption from disclosure under Freedom of Information Act for certain materials in connection with complaints regarding inhumane treatment of livestock; directing board to review proposed rules on livestock care standards and provide recommendation to Legislative Rule-Making Review Committee; authorizing Commissioner of Agriculture to call additional meetings of Livestock Care Standards Board; authorizing Commissioner of Agriculture to file annual reports with Joint Committee on Government and Finance prior to a date certain; providing for administration and enforcement authority of Commissioner of Agriculture with respect to livestock care standards; directing law-enforcement officers to notify Commissioner of Agriculture of certain complaints and investigations; authorizing law-enforcement officers to seek advice of Commissioner of Agriculture concerning application of livestock care standards; requiring Commissioner of Agriculture to notify law-enforcement officers of changes made during 2021 Regular Legislative session respecting livestock care standards; eliminating fee for permit to feed untreated garbage to swine; removing certain procedural requirements for certain contracts, leases, sales, exchanges, and other dispositions; authorizing cancellation of certain leases and providing for written

notice to lessee; amending name of West Virginia Commercial Feed Law; defining, amending, and removing terms related to commercial feed; modifying powers and duties of commissioner; removing certain references to registrant in West Virginia Commercial Feed Law; eliminating requirement to publish annual composite report; changing deadline to apply for permit or registration under West Virginia Commercial Feed Law; eliminating specific fee amounts in statute and authorizing rulemaking related thereto; updating requirements for Commercial Feed Manufacturing Permit and Commercial Feed Distributor Permit; setting forth requirements for individuals to possess Commercial Feed Guarantor Permit; eliminating certain registration requirements for commercial feed products; modifying registration requirements for pet food and specialty pet food; requiring new application for registration in certain circumstances; authorizing Commissioner of Agriculture to refuse to grant, suspend, or revoke permits or registrations in certain circumstances; modifying procedures for certain persons to amend application and appeal adverse determinations; requiring appeals to be in accordance with Administrative Procedures Act; modifying labeling requirements for certain commercial feed products; modifying requirements for tonnage reports and inspection fees; authorizing commissioner to inspect certain tonnage records; modifying meaning of commercial feed or feed ingredients; modifying meaning of misbranding of commercial feed; make technical modifications; modifying certain prohibited acts; defining additional prohibited acts; authorizing establishment of analytical variation rules; authorizing penalties for excessive deviations; providing for penalties to be returned to purchasers where possible; authorizing late payment penalties; modifying authority of West Virginia Conservation Agency and State Conservation Committee to address certain water quality issues; modifying legislative determinations; defining terms related to conservation districts; eliminating outdated language; modifying authority for conservation districts to address certain water quality issues; limiting liability of landowner who invites or permits persons to enter for agricultural purposes; defining terms related to landowner liability; clarifying ownership of Guthrie Center; modifying legislative findings and purpose; defining terms related

to farmers markets and certain foods; eliminating certain definitions; modifying requirements for farmers market registration; requiring that registration be conspicuously displayed; clarifying that certain farmers markets are not required to obtain food establishment permit; providing for department to establish sampling regulations; authorizing rulemaking to establish penalties; modifying requirements for farmers market vendor permits; providing that farmers market vendor permit is valid in all counties; establishing requirements for farmers market vendor permits; clarifying that farmers market vendors are not required to obtain food establishment permit; exempting certain vendors from farmers market vendor permit requirement; directing department to establish conditions and procedures for issuance of vendor permits; authorizing inspections and additional license or certifications as condition of issuing vendor permits; requiring vendor permits be displayed in a conspicuous manner; authorizing rulemaking to establish penalties; clarifying role of local health departments in farmers markets; prohibiting local health department from requiring food establishment permits for farmers markets or vendors except for consignment farmers markets; clarifying that restaurants and prepared food vendors remain subject to food establishment permitting requirements; authorizing food sampling and inspection of a farmers market vendor by local health departments in certain conditions; authorizing local health department to invoke cessation of production in certain conditions; requiring vendor food sampling and inspection and invocation of cessation of production by local health departments at farmers markets to be in consultation with department of agriculture; directing department to promulgate rules; eliminating certain requirements for promulgation of legislative rules; establishing requirements for regulation of potentially hazardous foods and nonpotentially hazardous foods sold at farmers markets; requiring vendors of potentially hazardous foods to obtain vendor permit; directing department to establish requirements for obtaining vendor permits; eliminating certain labeling requirements for potentially hazardous and nonpotentially hazardous; establishing requirements for sale of potentially hazardous and nonpotentially hazardous foods; expanding permissible kitchens for potentially hazardous foods and nonpotentially hazardous foods; modifying

West Virginia Fresh Food Act to include additional categories of foods grown, produced, or processed by in-state producers; modifying requirements for state-funded institutions to obtain food from in-state producers; directing commissioner to establish criteria for food or food products to satisfy in-state requirement; directing commissioner to establish criteria for granting exceptions or exemptions; requiring state-funded institutions to ensure that all contracts related to purchase of food include provisions to ensure compliance with Fresh Food Act; establishing Agriculture Investment Program; setting forth legislative findings and purpose; defining terms; establishing special revenue account in State Treasury to be known as Agriculture Investment Fund; defining source of funds and permissible expenditures from fund; authorizing West Virginia Agriculture Investment Program; providing for program administration; authorizing either grants or loans from fund; establishing certain criteria for awarding grants or loans; authorizing commissioner to establish committee to assist in program administration; and authorizing rulemaking related to Agriculture Investment Program and Agriculture Investment Fund.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 439**), and there were—yeas 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. 2633) 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. 2763, Creating WV Cyber Incident Reporting.

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 6C. WEST VIRGINIA CYBER INCIDENT REPORTING.

§5A-6C-1. Definitions.

As used in this article:

‘Cybersecurity Office’ means the office created by §5A-6B-1 of this code.

‘Incident’ or ‘cybersecurity incident’ means a violation, or imminent threat of violation, of computer security policies, acceptable use policies, or standard security practices.

§5A-6C-2. Scope.

This article applies to all state agencies within the executive branch, constitutional officers, all local government entities as defined by §7-1-1 or §8-1-2 of this code, county boards of education as defined by §18-1-1 of this code, the Judiciary, and the Legislature.

§5A-6C-3. Cyber Incident reporting; when required.

(a) Qualified cybersecurity incidents shall be reported to the Cybersecurity Office before any citizen notification, but no later than 10 days following a determination that the entity experienced a qualifying cybersecurity incident.

(b) A qualified cybersecurity incident meets at least one of the following criteria:

(1) State or federal law requires the reporting of the incident to regulatory or law- enforcement agencies or affected citizens;

(2) The ability of the entity that experienced the incident to conduct business is substantially affected; or

(3) The incident would be classified as emergency, severe, or high by the U.S. Cybersecurity and Infrastructure Security Agency.

(c) The report of the cybersecurity incident to the Cybersecurity Office shall contain at a minimum:

(1) The approximate date of the incident;

(2) The date the incident was discovered;

(3) The nature of any data that may have been illegally obtained or accessed; and

(4) A list of the state and federal regulatory agencies, self-regulatory bodies, and foreign regulatory agencies to whom the notice has been or will be provided.

(d) The procedure for reporting cybersecurity incidents shall be established by the Cybersecurity Office and disseminated to the entities listed §5A-6C-2 of this code.

§5A-6C-4. Cybersecurity Office annual report.

(a) On or before December 31 of each year, and when requested by the Legislature, the Cybersecurity Office shall provide a report to the Joint Committee on Government and Finance containing the number and nature of incidents reported to it during the preceding calendar year.

(b) The Cybersecurity Office shall also make recommendations, if any, on security standards or mitigation that should be adopted.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2763 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5A-6C-1, §5A-6C-2, §5A-6C-3, and §5A-6C-4, all relating to ‘West Virginia Cyber Incident Reporting’; providing definitions; requiring all state agencies within the executive branch, constitutional officers, all local governmental entities, county boards of education, Judiciary, and Legislature to report cybersecurity incidents; establishing criteria for reporting incidents; mandating Cybersecurity Office develop and disseminate procedure for reporting incidents; and requiring annual report.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 440**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: 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. 2763) 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. 2765, Relating to allowing emergency management and operations’ vehicles operated by airports to use red flashing warning lights.

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. WORDS AND PHRASES DEFINED.**§17C-1-6. Authorized emergency vehicle.**

‘Authorized emergency vehicle’ means vehicles of a fire department, duly chartered rescue squad, police department, ambulance service, hospital police department, state, county, or municipal agency, and such privately owned ambulances, tow trucks, wreckers, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation, postal service vehicles, snow removal equipment, Class A vehicles of firefighters, Class A vehicles of members of ambulance services, ~~and~~ Class A vehicles of members of duly chartered rescue squads, emergency management and operations vehicles operated by airports and designated pursuant to §17C-15-26 of this code, and all other emergency vehicles as are designated by the agency responsible for the operation and control of these persons or organizations. Class A vehicles are as defined by §17A-10-1 of this code. Agency authorization and emergency equipment are provided in §17C-15-26 of this code. Agencies responsible for issuing authorization for emergency vehicle permits may promulgate such regulations that are necessary for the issuance of permits for emergency vehicles.

ARTICLE 15. EQUIPMENT.**§17C-15-26. Special restrictions on lamps.**

(a) Any lighted lamp or illuminating device upon a motor vehicle other than head lamps, spot lamps, auxiliary lamps, or flashing front-direction signals which projects a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.

(b) No person may drive or move any vehicle or equipment upon any highway with any lamp or device on the vehicle displaying other than a white or amber light visible from directly

in front of the center of the vehicle except as authorized by §17C-15-26(d) of this code.

(c) Except as authorized in §17C-15-26(d) and 17C-15-26(g) of this code and authorized in §17C-15-19 of this code, flashing lights are prohibited on motor vehicles: *Provided*, That any vehicle as a means for indicating right or left turn or any vehicle as a means of indicating the same is disabled or otherwise stopped for an emergency may have blinking or flashing lights.

(d) Notwithstanding any other provisions of this chapter, the following colors of flashing warning lights are restricted for the use of the type of vehicle designated:

(1) Blue flashing warning lights are restricted to police vehicles. Authorization for police vehicles shall be designated by the chief administrative official of each police department.

(2) Except for standard vehicle equipment authorized by §17C-15-19 of this code, red flashing warning lights are restricted to the following:

(A) Ambulances;

(B) Fire-fighting vehicles;

(C) Hazardous material response vehicles;

(D) Industrial fire brigade vehicles;

(E) Rescue squad vehicles not operating out of a fire department;

(F) School buses;

(G) Class A vehicles, as defined by §17A-10-1 *et seq.* of this code, of those firefighters who are authorized by their fire chiefs to have the lights;

(H) Class A vehicles of members of duly chartered rescue squads not operating out of a fire department;

(I) Class A vehicles of members of ambulance services or duly chartered rescue squads who are authorized by their respective chiefs to have the lights;

(J) Class A vehicles of out-of-state residents who are active members of West Virginia fire departments, ambulance services, or duly chartered rescue squads who are authorized by their respective chiefs to have the lights;

(K) West Virginia Department of Agriculture emergency response vehicles;

(L) Vehicles designated by the Secretary of the ~~Department of Military Affairs and Public Safety~~ Department of Homeland Security for emergency response or emergency management by the Division of Corrections, Regional Jail and Correctional Facility Authority, Division of Juvenile Services, and Division of Homeland Security and Emergency Management; ~~and~~

(M) Class A vehicles of emergency response or emergency management personnel as designated by the Secretary of the ~~Department of Military Affairs and Public Safety~~ Department of Homeland Security and the county commission of the county of residence; and

(N) Emergency management and operations vehicles operated by airports.

Red flashing warning lights attached to a Class A vehicle may be operated only when responding to or engaged in handling an emergency requiring the attention of the firefighters, members of the ambulance services, or chartered rescue squads.

(3) The use of red flashing warning lights is authorized as follows:

(A) Authorization for all ambulances shall be designated by the Department of Health and Human Resources and the sheriff of the county of residence.

(B) Authorization for all fire department vehicles shall be designated by the fire chief and the State Fire Marshal's Office.

(C) Authorization for all hazardous material response vehicles and industrial fire brigades shall be designated by the chief of the fire department and the State Fire Marshal's Office.

(D) Authorization for all rescue squad vehicles not operating out of a fire department shall be designated by the squad chief, the sheriff of the county of residence and the Department of Health and Human Resources.

(E) Authorization for school buses shall be designated as set out in §17C-14-12 of this code.

(F) Authorization for firefighters to operate Class A vehicles shall be designated by their fire chiefs and the state Fire Marshal's office.

(G) Authorization for members of ambulance services or any other emergency medical service personnel to operate Class A vehicles shall be designated by their chief official, the Department of Health and Human Resources, and the sheriff of the county of residence.

(H) Authorization for members of duly chartered rescue squads not operating out of a fire department to operate Class A vehicles shall be designated by their squad chiefs, the sheriff of the county of residence, and the Department of Health and Human Resources.

(I) Authorization for out-of-state residents operating Class A vehicles who are active members of a West Virginia fire department, ambulance services, or duly chartered rescue squads shall be designated by their respective chiefs.

(J) Authorization for West Virginia Department of Agriculture emergency response vehicles shall be designated by the Commissioner of the Department of Agriculture.

(K) Authorization for vehicles for emergency response or emergency management by the Division of Corrections, Regional

Jail and Correctional Facility Authority, Division of Juvenile Services, and Division of Homeland Security and Emergency Management shall be designated by the Secretary of the ~~Department of Military Affairs and Public Safety~~ Department of Homeland Security.

(L) Authorization for Class A vehicles of emergency response or emergency management personnel as designated by the Secretary of the ~~Department of Military Affairs and Public Safety~~ Department of Homeland Security and the county commission of the county of residence.

(M) Authorization for emergency management and operations vehicles operated by airports shall be designated by the airport director and the Secretary of the Department of Homeland Security.

(4) Yellow or amber flashing warning lights are restricted to the following:

(A) All other emergency vehicles, including tow trucks and wreckers, authorized by this chapter and by §17C-15-27 of this code;

(B) Postal service vehicles and rural mail carriers, as authorized in §17C-15-19 of this code;

(C) Rural newspaper delivery vehicles;

(D) Flag car services;

(E) Vehicles providing road service to disabled vehicles;

(F) Service vehicles of a public service corporation;

(G) Snow removal equipment;

(H) School buses; and

(I) Automotive fire apparatus owned by a municipality or other political subdivision, by a volunteer or part-volunteer fire company or department, or by an industrial fire brigade.

(5) The use of yellow or amber flashing warning lights shall be authorized as follows:

(A) Authorization for tow trucks, wreckers, rural newspaper delivery vehicles, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation, and postal service vehicles shall be designated by the sheriff of the county of residence.

(B) Authorization for snow removal equipment shall be designated by the Commissioner of the Division of Highways.

(C) Authorization for school buses shall be designated as set out in §17C-14-12 of this code.

(D) Authorization for automotive fire apparatus shall be designated by the fire chief in conformity with the NFPA 1901 Standard for Automotive Fire Apparatus as published by the National Fire Protection Association (NFPA) on July 18, 2003, and adopted by the state Fire Commission by legislative rule (87 CSR 1, *et seq.*), except as follows:

(i) With the approval of the State Fire Marshal, used automotive fire apparatus may be conformed to the NFPA standard in effect on the date of its manufacture or conformed to a later NFPA standard; and

(ii) Automotive fire apparatus may be equipped with blinking or flashing headlamps.

(e) Notwithstanding the foregoing provisions of this section, any vehicle belonging to a county board of education, an organization receiving funding from the state or Federal Transit Administration for the purpose of providing general public transportation or hauling solid waste may be equipped with a white flashing strobotron warning light. This strobe light may be installed on the roof of a school bus, a public transportation vehicle, or a vehicle hauling solid waste not to exceed one-third the body length forward from the rear of the roof edge. The light shall have a single clear lens emitting light 360 degrees around its vertical axis and may not extend above the roof more than six and one-half inches.

A manual switch and a pilot light must be included to indicate the light is in operation.

(f) Notwithstanding the foregoing provisions of this section, any waste service vehicle as defined in §17C-6-11 of this code may be equipped with yellow or amber flashing warning lights.

(g) It is unlawful for flashing warning lights of an unauthorized color to be installed or used on a vehicle other than as specified in this section, except that a police vehicle may be equipped with either or both blue or red warning lights.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2765 – “A Bill to amend and reenact §17C-1-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §17C-15-26 of said code, all relating to emergency management and operations vehicles operated by airports; allowing such vehicles to be equipped with and use red flashing warning lights; authorizing airport director and Secretary of the Department of Homeland Security to designate emergency management and operations vehicles operated by airports; and specifying that such designated vehicles are authorized emergency vehicles.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 441**), 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. 2765) 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. 2785, Relating to public school enrollment for students from out of state.

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 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1a. Commencement and termination of compulsory school attendance; public school entrance requirements; exceptions.

(a) ~~Notwithstanding the provisions of section one of this article, compulsory school attendance begins with the school year in which the sixth birthday is reached prior to September 1 of such year or upon enrolling in a publicly supported kindergarten program and, subject to subdivision (3) of this subsection, continues to the sixteenth birthday or for as long as the student continues to be enrolled in a school system after the sixteenth birthday.~~ Compulsory school attendance begins with the school year in which the sixth birthday is reached prior to July 1 of such year or upon enrolling in a full-time publicly funded kindergarten program, and continues to the 17th birthday or for as long as the student continues to be enrolled in a school system after the 17th birthday.

(1) A child may be removed from such kindergarten program when the ~~principal, teacher and parent or guardian~~ concur determines that the best interest of the child would not be served by requiring further attendance. *Provided*, ~~That the principal shall make the final determination with regard to compulsory school attendance in a publicly supported kindergarten program.~~

(2) The compulsory school attendance provision of this article shall be enforced against a person 18 years of age or older for as long as the person continues to be enrolled in a school system and may not be enforced against the parent, guardian, or custodian of the person.

~~(3) Notwithstanding the provisions of section one of this article, compulsory school attendance begins with the school year in which the sixth birthday is reached prior to September 1 of such year or upon enrolling in a publicly supported kindergarten program and continues to the seventeenth birthday or for as long as the student continues to be enrolled in a school system after the seventeenth birthday: *Provided*, That beginning in the school year 2019-2020, compulsory school attendance begins with the school year in which the sixth birthday is reached prior to July 1 of such year or upon enrolling in a publicly supported kindergarten program.~~

~~(b) Attendance at a state approved or Montessori kindergarten, as provided in §18-5-18 of this code, is deemed school attendance for purposes of this section. Prior to entrance into the first grade in accordance §18-2-5 of this code, each child must have either:~~

~~(1) Successfully completed such publicly or privately supported, state approved kindergarten program, or Montessori kindergarten program; or~~

~~(2) Successfully completed an entrance test of basic readiness skills approved by the county in which the school is located. The test may be administered in lieu of kindergarten attendance only under extraordinary circumstances to be determined by the county board.~~

(b) A parent, as defined in §18-31-2 of this code, shall have the option, prior to enrolling in a publicly supported kindergarten program, to apply for a Hope Scholarship on behalf of his or her child as set forth in §18-31-1 *et seq.* of this code. Every year thereafter, a parent shall have the option to renew his or her child's enrollment in the Hope Scholarship Program pursuant to §18-31-8 of this code.

(c) Attendance at a state-approved, nonpublic kindergarten program, including a Montessori kindergarten program as provided in §18-5-18 of this code, homeschool kindergarten program, Hope Scholarship kindergarten program, or private, parochial, or church kindergarten program recognized under §18-8-1(k) of this code is deemed school attendance for the purposes of this section. Students entering the public school system after such kindergarten program shall be placed in the developmentally and academically appropriate grade level.

(d) Notwithstanding the provisions of this section ~~section five, article two of this chapter and section eighteen, article five of this chapter and §18-5-18 of this code~~, a county board may provide for advanced entrance or placement under policies adopted by said board for any child who has demonstrated sufficient mental and physical competency for such entrance or placement.

~~(e) This section does not prevent a~~ A student from another state, or who is eligible to enroll in a public school in this state, ~~from enrolling in the~~ shall be enrolled in the same grade in a public school in West Virginia as the student was enrolled at the school from which the student transferred. A transcript or other credential provided pursuant to §18-8-12 of this code shall be accepted by a public school in this state as a record of a student's previous academic performance for the purposes of placement and credit assignment.

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2785 – “A Bill to amend and reenact §18-8-1a of the Code of West Virginia, 1931, as amended, relating to requirements for compulsory school attendance; providing that parent and guardian make determination to remove child from kindergarten program; updating references and removing outdated language; providing option to parent to apply for Hope Scholarship for child prior to enrollment in kindergarten and every year thereafter; allowing students who successfully complete publicly or privately supported, state-approved kindergarten program,

Montessori kindergarten program, homeschool kindergarten program, Hope Scholarship Program, or private, parochial, or church kindergarten program recognized under subsection (k) of §18-8-1 of this code to be placed into the developmentally and academically appropriate grade level; requiring enrollment in same grade level as state or program from which student transferred; and requiring certain transcripts or credentials to be accepted as record of student's previous performance for placement and credit assignment.”

With the further amendment, sponsored by Delegate Ellington, being as follows:

On page 3, section §18-8-1a, line 48, by striking subsection (e) and inserting in lieu thereof a new subsection (e) to read as follows:

“(e) (d) This section does not prevent A student from another state, or who is eligible to enroll in a public school in this state, from enrolling in the shall be enrolled in the same grade in a public school in West Virginia as the student was enrolled at the school or program from which the student transferred. A transcript or other credential provided by a public school program, private school program, homeschool program or HOPE scholarship program shall be accepted by a public school in this state as a record of a student's previous academic performance for the purposes of placement and credit assignment.”

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On passage of the bill, the yeas and nays were taken (**Roll No. 442**), and there were—yeas 78, nays 22, absent and not voting none, with the nays being as follows:

Nays: Barach, Boggs, Brown, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Pethtel, Pushkin, Rowe, Skaff, Thompson, Toney, Walker, Williams, Young and Zukoff.

So, a majority of the members elected to the House of Delegates having voted on the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2785) 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 a title amendment, a bill of the House of Delegates, as follows:

H. B. 2906, Relating to the School Building Authority's allocation of money.

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 title and substituting therefor a new title, to read as follows:

H. B. 2906 – “A Bill to amend and reenact §18-9D-15 of the Code of West Virginia, 1931, as amended, relating to the allocation of money among categories of projects; and providing that the School Building Authority's discretion be increased to allow them to allocate up to ten percent of their funds available for distribution, except funds from the School Major Improvement fund and the School Access Safety Fund, for projects that service the educational community statewide, for school facilities under the direct supervision of the state board or an administrative council of an area vocational educational center, and for other purposes.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 443**), and there were—yeas 90, nays 10, absent and not voting none, with the nays being as follows:

Nays: Clark, Dean, Gearheart, Hanna, J. Jeffries, Kimes, Mazzocchi, McGeehan, Miller and Paynter.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (H. B. 2906) 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. 2916, Creating the Semiquincentennial Commission for the celebration of the 250th anniversary of the founding of the United States of America.

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 13A. WEST VIRGINIA SEMIQUINCENTENNIAL COMMISSION AND FUND.

§4-13A-1. Findings; West Virginia Semiquincentennial Commission established; purpose.

(a) The Legislature finds that the 250th anniversary of our nation’s founding is of such historical significance as to warrant its commemoration.

(b) There is hereby created the West Virginia Semiquincentennial Commission.

(c) The purpose of the commission is to prepare for and commemorate the semiquincentennial of our nation’s founding.

§4-13A-2. Membership; terms; filling vacancies; election of chair and vice chair.

(a) The Governor shall appoint 10 members as follows:

(1) Three academic historians;

(2) Five citizens members, no more than one of whom may be from any one state senatorial district;

(3) A member of the National Society of the Sons of the American Revolution;

(4) A member of the National Society of the Daughters of the American Revolution;

(b) The following shall serve as ex-officio voting members;

(5) The State Superintendent of Schools, or a designee;

(6) The Cabinet Secretary of Commerce, or a designee;

(7) The Curator of the Department of Arts, Culture, and History, or a designee;

(8) The Commissioner of the Division of Tourism, or a designee;

(9) The Executive Director of the Herbert Henderson Minority Affairs Office, or a designee;

(10) The West Virginia State Archivist;

(11) The Director of the West Virginia State Museums;

(12) One member of the House of Delegates, to be appointed by the Speaker of the House of Delegates, who shall serve as an ex officio nonvoting member of the commission; and

(13) One member of the State Senate, to be appointed by the President of the Senate, who shall serve as an ex officio nonvoting member of the commission;

(14) Members of the United States Senate from the State of West Virginia, or their designees shall serve as ex officio nonvoting members of the commission;

(15) Members of the United States House of Representatives from the State of West Virginia, or their designees shall serve as ex officio nonvoting members of the commission;

(c) All appointed members shall serve at the will and pleasure of the Governor;

(d) Appointments to fill vacancies shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

(e) The curator of the West Virginia Department of Arts, Culture and History shall serve as the chair of the commission. The commission shall elect a vice chair and secretary from among its members.

§4-13A-3. Expense reimbursement.

(a) Members shall serve without compensation.

(b) The commission may reimburse members for all reasonable and necessary expenses actually incurred in the performance of his or her duties as a commission member, in a manner consistent with the guidelines of the travel management office of the Department of Administration, subject to availability of funds received pursuant to §4-13A-6(a)(1). No provision of this section may be construed to require any appropriation of funds by the Legislature.

§4-13A-4. Quorum; meetings.

(a) A simple majority of the members serving on the board at a given time constitutes a quorum for the transaction of business.

(b) Meetings shall be held in accordance with the provisions of §6-9A-1 *et seq.*, of this code.

§4-13A-5. Advisory council.

The commission may establish an advisory council composed of citizens at large who have knowledge of American history and interest in its semiquincentennial celebration to assist the commission in its work.

§4-13A-6. Powers; duties; limitation on duration of contracts.

(a) The commission may:

(1) Solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal property for the purpose of aiding or facilitating the work of the commission, upon compliance with the provisions of §12-2-2 of this code;

(2) Procure supplies, services, and property and make or enter into contracts, leases, or other legal agreement as necessary to carry out its duties: *Provided*, That no contract, lease or other legal agreement may be entered into by the commission with terms which would extend beyond the termination date of the commission;

(3) Plan, develop and carry out programs and activities appropriate to commemorate the semiquincentennial of the founding of our nation;

(4) Encourage civic, historical, educational, economic, and other organizations throughout West Virginia to organize and participate in activities to expand the understanding and appreciation of the United States of America;

(5) Provide technical assistance to localities and nonprofit organizations to further the commemoration of the semiquincentennial of the founding of our nation;

(6) Develop programs and facilities to ensure that the semiquincentennial commemoration of the founding of our nation results in a positive legacy and long-term public benefit; and

(7) Encourage the development and conduct of programs designed to involve all citizens in activities that commemorate the semiquincentennial of the founding of our nation.

(b) The commission shall report to the Legislature at each regular session and at the same time report to the Governor concerning the action taken by the commission during the previous

year in carrying out the provisions of this article and make such special reports as may be required by the Legislature and Governor.

§4-13A-7. Termination of the commission.

The commission shall terminate on June 30, 2027.”

With the further amendment, sponsored by Delegate Summers, being as follows:

On page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 13A. WEST VIRGINIA SEMIQUINCENTENNIAL COMMISSION AND FUND.

§4-13A-1. Findings; West Virginia Semiquincentennial Commission established; purpose.

(a) The Legislature finds that the 250th anniversary of our nation’s founding is of such historical significance as to warrant its commemoration.

(b) There is hereby created the West Virginia Semiquincentennial Commission.

(c) The purpose of the commission is to prepare for and commemorate the semiquincentennial of our nation’s founding.

§4-13A-2. Membership; terms; filling vacancies; election of chair and vice chair.

(a) The Governor shall appoint 10 members as follows:

(1) Three academic historians;

(2) Five citizens members, no more than one of whom may be from any one state senatorial district;

(3) A member of the National Society of the Sons of the American Revolution;

(4) A member of the National Society of the Daughters of the American Revolution;

(b) The following shall serve as ex-officio voting members;

(1) The State Superintendent of Schools, or a designee;

(2) The Cabinet Secretary of Commerce, or a designee;

(3) The Curator of the Department of Arts, Culture, and History, or a designee;

(4) The Secretary of the Department of Tourism, or a designee;

(5) The Executive Director of the Herbert Henderson Minority Affairs Office, or a designee;

(6) The West Virginia State Archivist;

(7) The Director of the West Virginia State Museums;

(8) One member of the House of Delegates, to be appointed by the Speaker of the House of Delegates, who shall serve as an ex officio nonvoting member of the commission; and

(9) One member of the State Senate, to be appointed by the President of the Senate, who shall serve as an ex officio nonvoting member of the commission;

(10) Members of the United States Senate from the State of West Virginia, or their designees shall serve as ex officio nonvoting members of the commission;

(11) Members of the United States House of Representatives from the State of West Virginia, or their designees shall serve as ex officio nonvoting members of the commission;

(c) All appointed members shall serve at the will and pleasure of the Governor;

(d) Appointments to fill vacancies shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

(e) The curator of the West Virginia Department of Arts, Culture and History shall serve as the chair of the commission. The commission shall elect a vice chair and secretary from among its members.

§4-13A-3. Expense reimbursement.

(a) Members shall serve without compensation.

(b) The commission may reimburse members for all reasonable and necessary expenses actually incurred in the performance of his or her duties as a commission member, in a manner consistent with the guidelines of the travel management office of the Department of Administration, subject to availability of funds received pursuant to §4-13A-6(a)(1). No provision of this section may be construed to require any appropriation of funds by the Legislature.

§4-13A-4. Quorum; meetings.

(a) A simple majority of the members serving on the board at a given time constitutes a quorum for the transaction of business.

(b) Meetings shall be held in accordance with the provisions of §6-9A-1 *et seq.*, of this code.

§4-13A-5. Advisory council.

The commission may establish an advisory council composed of citizens at large who have knowledge of American history and interest in its semiquincentennial celebration to assist the commission in its work.

§4-13A-6. Powers; duties; limitation on duration of contracts.

The commission may:

(1) Solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds or real or personal property for the purpose

of aiding or facilitating the work of the commission, upon compliance with the provisions of §12-2-2 of this code;

(2) Procure supplies, services, and property and make or enter into contracts, leases, or other legal agreement as necessary to carry out its duties: *Provided*, That no contract, lease or other legal agreement may be entered into by the commission with terms which would extend beyond the termination date of the commission;

(3) Plan, develop and carry out programs and activities appropriate to commemorate the semiquincentennial of the founding of our nation;

(4) Encourage civic, historical, educational, economic, and other organizations throughout West Virginia to organize and participate in activities to expand the understanding and appreciation of the United States of America;

(5) Provide technical assistance to localities and nonprofit organizations to further the commemoration of the semiquincentennial of the founding of our nation;

(6) Develop programs and facilities to ensure that the semiquincentennial commemoration of the founding of our nation results in a positive legacy and long-term public benefit; and

(7) Encourage the development and conduct of programs designed to involve all citizens in activities that commemorate the semiquincentennial of the founding of our nation.

§4-13A-7. Termination of the commission.

The commission shall terminate on June 30, 2027.”

The bill, as amended by the Senate, and further amended by the House, was then put upon its passage.

On passage of the bill, the yeas and nays were taken (**Roll No. 444**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Kimes.

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. 2916) passed.

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

On this question, the yeas and nays were taken (**Roll No. 445**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Kimes 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 H. B. 2916) 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

Delegates Storch, Bridges, Forsht, Howell, Kimes and Miller offered the following resolution, which was read by its title and referred to the Committee on Health and Human Resources then Rules:

H. C. R. 96 - “Requesting that the Joint Committee on Government and Finance study childcare in the State of West Virginia.”

Whereas, The Legislature recognizes the importance of excellent child care to the working residents in this state; and

Whereas, The Legislature acknowledges the need to have quality, efficient child care providers to build West Virginia’s population; and

Whereas, The Legislature recognizes there are challenges experienced by families and child care providers; and

Whereas, These challenges include burdensome childcare costs to families, a lack of support and consideration of childcare as a critical need by the state, and stringent operating regulations for childcare centers; and

Whereas, The West Virginia Department for Health and Human Resources administers the Child Care Development Block Grant to give financial assistance to low income families for childcare costs. Centers are reimbursed for childcare on a monthly basis based on what tier they have achieved. Centers are either Tier 1, Tier 2 or Tier 3 (accredited institution), with higher tiered centers receive greater reimbursement; and

Whereas, Centers report that accepting these grants, also known as Title XX funds, create a loss of income for childcare centers because reimbursed funds are less than costs charged for noneligible children; and

Whereas, Childcare centers are only reimbursed based if the eligible child attends for the day, which is permitted only if the child's parent is working or in school. Eligible children are also required to be in the center's care for greater than four hours per day, 13 days per month for the center to be eligible for full reimbursement; and

Whereas, The regulations surrounding child care operations and staff are demanding. Childcare is typically a low paying job with minimal benefits, high demands, and long days which lead to high staff turnover and difficulty in retaining quality staff; and

Whereas, The COVID-19 pandemic created unique childcare burdens for childcare centers and families for which COVID Relief funds were dedicated; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study issues surrounding childcare in the State of West Virginia. The

study should examine how COVID Relief funds dedicate to childcare centers are being utilized; and, be it

Further Resolved, That the study shall examine regulations surrounding childcare centers, and what benefits and burdens those regulations created on childcare centers and employees; and, be it

Further Resolved, That the study examine categorizing early education and childcare as a critical need in the state budget; and, be it

Further Resolved, That the study shall examine how support for childcare centers, such as behavioral health specialists, are currently being utilized and compensated; and, be it

Further Resolved, That the study examine the stipulations for Child Care Development Block Grants, including what stipulations are currently required and if such requirements are necessary for the administration of the program; and, be it

Further Resolved, That not later than sixty days prior to the beginning of the 2022 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 appropriations to the Joint Committee on Government and Finance.

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

H. C. R. 97 - “Requesting the Joint Committee on Government and Finance study the ways to attract and keep existing distribution centers across the State of West Virginia.”

Whereas, Now is the time to attract distribution centers (i.e. Amazon fulfillment centers, Wal-Mart/CostCo distribution

centers, etc.) to the State of West Virginia, given the current economic climate and the resiliency of the West Virginia economy, even given the events of the pandemic; and

Whereas, The State of West Virginia can be a role model for other states through leading a comeback from the COVID-19 pandemic by attracting new business distribution centers to the state; and

Whereas, The best way to attract new business distribution centers to the State of West Virginia shall be to study the effects of creating a favorable business climate in order to attract those businesses considering relocating to West Virginia; and

Whereas, The study of how to attract new business distribution centers shall include examining all available avenues to create such a favorable business climate, including, but not limited to, potential tax breaks for businesses who open in West Virginia with the explicit purpose of opening a distribution center and hiring West Virginians to work there; and

Whereas, The State of West Virginia will also be well served by considering a proposed “Business Retention Task Force” as laid out in a separate study resolution, which will incorporate the following to retain existing native businesses:

Founders House: Establishing ‘Entrepreneur in Residence’ program to allow entrepreneurs to have housing and an environment to found startup businesses;

Student Loan Forgiveness: Granting student loan forgiveness for state school graduates who start a new business in the state within five years of graduation;

CRA Tax Credit: Extending tax credits for CRA eligible activity;

State guaranteed loans: Loans targeted at sole proprietorships and LLCs;

West Virginia Produced Bidding Credit: Tighten regulations to actual West Virginia produced or value-added products and add points for bidding contracts;

Business and Inventory Tax: Defer capital investments from BIT tax for one year to allow generation of income before taxation; and

Business and Operating Tax: Assess B&O tax on net income through startup years to establish new businesses; and

Whereas, All of the proposed initiatives for attracting new distribution centers, as well as the proposed initiatives to keep and retain existing distribution centers, may establish new centers and keep the old centers in place; therefore, be it

Resolved by the Legislature of West Virginia:

Requesting the Joint Committee on Government and Finance study the ways to attract and keep existing distribution centers across the State of West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, 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 the legislative appropriations to the Joint Committee on Government and Finance.

Motions

The following written motion was submitted:

Delegate Pushkin moves that the Committee on Health and Human Services be discharged from consideration of **Com. Sub. for S. B. 590**, Removing restriction preventing medical marijuana from being in edible form.

The Delegate subsequently clarified that the committee to be discharged was Health and Human Resources.

Delegate Summers moved that the motion be tabled.

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

On this question, the yeas and nays were taken (**Roll No. 446**), and there were—yeas 73, nays 27, absent and not voting none, with the nays being as follows:

Nays: Barach, Bates, Boggs, Brown, Capito, Dean, Diserio, Doyle, Evans, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, J. Jeffries, Lovejoy, McGeehan, Nestor, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

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

Special Calendar

Unfinished Business

H. C. R. 24, Urging Congress to extend federal tax incentives to participants in Jumpstart Savings programs that are similar to those that are currently provided to participants in College Savings plans, pursuant to 26 U.S.C. §529; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

Com. Sub. for H. C. R. 84, Requesting the Joint Committee on Government and Finance to study the declining population of military service veterans in West Virginia; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

Third Reading

Com. Sub. for S. B. 263, Permitting online raffles to benefit charitable and public service 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. 447**), and there were—yeas 82, nays 17, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Booth, Bruce, Burkhammer, Conley, Fast, Ferrell, D. Jeffries, Jennings, Kimes, Longanacre, Mazzocchi, L. Pack, Pinson, Rohrbach, Toney, B. Ward and G. Ward.

Absent and Not Voting: Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 263) passed.

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

On this question, the yeas and nays were taken (**Roll No. 448**), and there were—yeas 86, nays 13, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Bruce, Burkhammer, Conley, Fast, Ferrell, Jennings, Kimes, Longanacre, Mazzocchi, Pinson, Toney, B. Ward and G. Ward.

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 (Com. Sub. for S. B. 263) takes effect from its passage.

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

Com. Sub. for S. B. 294, Relating generally to savings and investment programs offered by 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. 449**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Longanacre.

Absent and Not Voting: Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 294) passed.

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

On this question, the yeas and nays were taken (**Roll No. 450**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Longanacre.

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 (Com. Sub. for S. B. 294) 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. 297, Relating generally to modernizing Board of Treasury Investments; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 451**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 297) passed.

A title amendment, recommended by the Committee on Finance, was reported by the Clerk.

Whereupon,

Delegate Householder obtained unanimous consent that the amendment be withdrawn.

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

Com. Sub. for S. B. 297 - “A Bill to amend and reenact §12-6C-4 and §12-6C-9 of the Code of West Virginia, 1931, as amended, all relating generally to the Board of Treasury Investments; authorizing the board to provide compensation to appointed directors for each meeting attended and establishing the rate thereof; authorizing the board to invest in commercial paper with certain nationally recognized ratings and weighted maturity; authorizing the board to invest in corporate debt with certain nationally recognized ratings and weighted maturity; authorizing the board to invest in state and local government securities with certain nationally recognized ratings and weighted maturity; authorizing the board to invest in certain asset-backed securities with certain nationally recognized ratings; removing the limitation

on the percentage of the Consolidated Fund that the board may invest in evidence of indebtedness of any private corporation or association; and eliminating the requirement that the board invest a certain percentage of the Consolidated Fund in obligations guaranteed by the United States.”

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

S. B. 307, Relating generally to in-state tuition rates for certain persons; on third reading, coming up in 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 97, nays 2, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Graves and Miller.

Absent and Not Voting: Worrell.

So, a majority of the members present 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. 318, Relating generally to public notice of unclaimed property held by State Treasurer; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 453**), and there were—yeas 69, nays 29, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barach, Boggs, Brown, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hanna, Hansen, Hornbuckle, Longanacre, Lovejoy, Miller, Nestor, Pethtel,

Pushkin, Rowe, Skaff, Summers, Thompson, Walker, B. Ward, Williams, Young and Zukoff.

Absent and Not Voting: Bridges and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 318) passed.

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

Com. Sub for S. B. 318 – “A Bill to amend and reenact §36-8-9 of the Code of West Virginia, 1931, as amended, relating generally to requirements for public notice of unclaimed property held by the State Treasurer; eliminating the requirement that the Treasurer annually publish a list of all unclaimed properties received the previous year in newspapers; requiring the Treasurer to annually publish a newspaper bulletin in each county of the state listing apparent owners of up to 15,000 recently received unclaimed properties; providing that the Treasurer is not required to publish said bulletin in a county if the Treasurer makes a determination that the bulletin is not a cost-effective method of promoting awareness of unclaimed property in that county; providing criteria for making a determination of cost-effectiveness; requiring the Treasurer to annually publish an advertisement regarding unclaimed property in a newspaper in each county in which the bulletin is not published; setting forth required content for said advertisement; and requiring the Treasurer to maintain a searchable online database of persons appearing to be the owners of unclaimed property.”

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. 343, Authorizing DMV to process online driver’s license or identification card change of address; on third reading, coming up in 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 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Bridges and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 343) passed.

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

Com. Sub. for S. B. 361, Extending supervision for conviction of soliciting minor and using obscene matter with intent to seduce minor; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 455**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Graves.

Absent and Not Voting: Linville and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 361) passed.

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

S. B. 376, Removing obsolete provisions regarding DOH standards for studded tires and chains; on third reading, coming up in 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 95, nays 2, absent

and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Miller and Rowe.

Absent and Not Voting: Espinosa, Linville and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 376) passed.

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

S. B. 397, Relating to health care provider tax; on third reading, coming up in regular order, was 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 94, nays 4, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Kimes, McGeehan, Miller and Pritt.

Absent and Not Voting: Linville and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 397) 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. 397 - “A Bill to amend and reenact §11-27-39 of the Code of West Virginia, 1931, as amended, relating to certain health care provider taxes; modifying definition of ‘eligible acute care hospital’ for purposes of certain tax; modifying effective date; and removing expiration date for the tax.”

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

On this question, the yeas and nays were taken (**Roll No. 458**), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Kimes and McGeehan.

Absent and Not Voting: Foster, Linville, Maynard and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 397) 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. 401, Relating to WV Consumer Credit and Protection Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 459**), and there were—yeas 79, nays 19, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Barrett, Bates, Brown, Bruce, Doyle, Fleischauer, Fluharty, Garcia, Hansen, Hornbuckle, Lovejoy, Pushkin, Rowe, Skaff, Steele, Thompson, Walker, Williams and Young.

Absent and Not Voting: Maynard and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 401) passed.

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

Com. Sub. for S. B. 434, Requiring training for law-enforcement officers responsible for investigating crimes of sexual assault; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 460**), 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 present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 434) passed.

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

Com. Sub. for S. B. 460, Relating to Deputy Sheriff Retirement System 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. 461**), 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 present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 460) 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. 460 – “A Bill to amend and reenact §7-14D-2, §7-14D-11, §7-14D-13, §7-14D-19, §7-14D-20 and §7-14D-24 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §7-14D-32, all relating to the Deputy Sheriff Retirement System Act; defining terms; amending and removing conflicting statutory provisions; removing obsolete restriction on type of annuity required of married members; clarifying preretirement death

benefits; clarifying survivor death benefit; authorizing the purchase of service credit for time served as an appointed sheriff in certain circumstances; and adding a severability clause.”

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. 466, Relating generally to appraisal management companies; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 462**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Howell and Jennings.

Absent and Not Voting: Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 466) passed.

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

Com. Sub. for S. B. 479, Relating to WV veterans service decoration and WV Service Cross; on third reading, coming up in 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 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 present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 479) 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. 494, 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. 464**), 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 present having voted in the affirmative, the Speaker declared the bill (S. B. 494) passed.

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

S. B. 577, Exempting certain fire departments from licensure requirements for providing rapid response 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. 465**), 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 present having voted in the affirmative, the Speaker declared the bill (S. B. 577) 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 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

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 (S. B. 577) 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. 626, Updating regulation for purchase of automobile catalytic converters; on third reading, coming up in 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 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Hardy, Horst, Howell and Paynter.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 626) passed.

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

Com. Sub for S. B. 626 – “A Bill to amend and reenact §61-3-49 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-3-49c, all relating to the purchase and possession of certain scrap metal; updating the regulation of the purchase of automobile catalytic converters; requiring certain evidence and documentation from a seller of an automobile catalytic converter; placing restrictions on the payment for automobile catalytic converters; placing restrictions on the sale or transfer of an automobile catalytic converter by a scrap metal dealer; requiring scrap metal dealer to make a good faith effort to record identifying information on a catalytic convertor; creating the criminal offense of possession of a catalytic converter without proof of ownership or authority to possess; requiring that persons charged with possession of a single

catalytic convertor are to be charged by citation and not be subject to arrest; establishing an absolute defense to the criminal action; creating the criminal offense of a person making an internet-based ad soliciting the sale or purchase of a catalytic converter under certain conditions; and establishing criminal penalties.”

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, Allowing county boards of education to publish financial statements on website; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 468**), and there were—yeas 52, nays 48, absent and not voting none, with the nays being as follows:

Nays: Anderson, Barach, Barnhart, Bates, Boggs, Brown, Clark, Cooper, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hanna, Hansen, Hornbuckle, D. Kelly, J. Kelly, Kimble, Lovejoy, Maynard, McGeehan, Miller, Nestor, Paynter, Pethtel, Phillips, Pritt, Pushkin, Queen, Reynolds, Riley, Rowan, Rowe, Skaff, Storch, Summers, Thompson, Toney, Walker, B. Ward, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 651) passed.

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

S. B. 651 – “A Bill to amend and reenact §18-9-3a of the Code of West Virginia, 1931, as amended, relating to giving county boards of education the option of publishing their financial statements on their websites rather than publishing as a Class I-0 legal advertisement; increasing the number of days for preparation for publication; requiring county boards to hold a public hearing before publishing on their websites; requiring county boards to provide public notice of the availability of such website posting; requiring county boards to include certain additional information if

they publish their financial statements on their websites; providing maximum time period for filing statement with state auditor and superintendent; providing that the changes made by amendments to this section become effective for the fiscal year commencing on July 1, 2023; and making technical updates.”

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. 673, Relating to venue for bringing civil action or arbitration proceedings under construction contracts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 469**), 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: Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 673) passed.

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 470**), 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: Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 673) takes effect July 1, 2021.

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

S. B. 680, Allowing State Superintendent of Schools define classroom teachers certified in special education; on third reading, coming up in regular order, was read a third time.

Delegates Criss, Evans, Barnhart, Ferrell and Longanacre requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class of persons possibly to be affected and refused to excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 471**), and there were—yeas 66, nays 33, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barach, Bates, Boggs, Brown, Dean, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Keaton, Lovejoy, Maynard, Nestor, Paynter, Pethtel, Pushkin, Queen, Rowe, Skaff, Thompson, Toney, Walker, Wamsley, Williams, Worrell, Young and Zukoff.

Absent and Not Voting: Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 680) passed.

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

S. B. 713, Relating generally to inmate good time; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 472**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Foster, Kimes, McGeehan, J. Pack and Steele.

Absent and Not Voting: Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 713) passed.

Delegate Summers moved that the bill take effect April 30, 2021.

On this question, the yeas and nays were taken (**Roll No. 473**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: 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. 713) takes effect April 30, 2021.

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

H. B. 2895, Supplementing and amending the appropriations of public moneys to the Department of Veterans' Assistance; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 474**), 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: Dean.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2895) passed.

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

On this question, the yeas and nays were taken (**Roll No. 475**), 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: Dean and Maynard.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2895) takes effect from its passage.

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

H. B. 2900, Expiring funds to the balance of the Department of Education – State Board of Education – School Building Authority – School Construction Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 476**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Hanna.

Absent and Not Voting: Maynard.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2900) passed.

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

On this question, the yeas and nays were taken (**Roll No. 477**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Hanna.

Absent and Not Voting: Maynard.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2900) takes effect from its passage.

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

H. B. 3313, Making supplemental appropriation to the Division of Motor Vehicles; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 478**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Kimes, McGeehan and Paynter.

Absent and Not Voting: Maynard.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3313) passed.

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

On this question, the yeas and nays were taken (**Roll No. 479**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Kimes, McGeehan and Paynter.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3313) takes effect from its passage.

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

H. B. 3314, Making supplemental appropriation to West Virginia State Police; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 480**), 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. 3314) passed.

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

On this question, the yeas and nays were taken (**Roll No. 481**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3314) takes effect from its passage.

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

H. B. 3315, Making supplemental appropriation to Division of Environmental Protection - Oil and Gas Reclamation Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 482**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Foster, Longanacre, Paynter and Steele.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3315) passed.

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

On this question, the yeas and nays were taken (**Roll No. 483**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Longanacre and Steele.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3315) takes effect from its passage.

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

H. B. 3316, Supplemental appropriation to the Department of Education, State Board of Education; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 484**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3316) passed.

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

On this question, the yeas and nays were taken (**Roll No. 485**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Burkhammer.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3316) 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

S. J. R. 4, Incorporation of Churches or Religious Denominations Amendment; 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 1, immediately following the resolved clause by striking everything after the resolved clause and inserting in lieu thereof the following:

“That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2022, which proposed amendment is that section 47, article VI thereof, be amended to read as follows:

ARTICLE VI. THE LEGISLATURE.**§47. Incorporation of religious ~~denominations prohibited~~ institutions permitted.**

~~No charter of incorporation shall be granted to any church or religious denomination.~~ Provisions may be made by general laws for securing the title to church property, and for the sale and transfer thereof, so that it shall be held, used, or transferred for the purposes of such church or religious ~~denomination~~ institution. Provision may also be made by general law for the incorporation of churches or religious institutions.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered “Amendment No. 1” and designated as the “Incorporation of Churches or Religious Institutions Amendment” and the purpose of the proposed amendment is summarized as follows: “To authorize the incorporation of churches or religious institutions.”

On motion of Delegate Capito, the strike and insert amendment was amended, on page 1, line 2, immediately following the words “the voters of the state”, by striking out “at the next general election to be held in the year 2022” and inserting in lieu thereof “at a special election to be held on July 24, 2021”.

The question before the House now being the amendment recommended by the Committee on the Judiciary, the Speaker declared the amendment adopted.

The resolution was ordered to third reading.

Com. Sub. for S. B. 387, Relating to drug screening of applicants for cash assistance; 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 2, section 6, line 27, by striking out “2022” and inserting “2026”.

Delegate Pushkin moved to amend the bill on page 1, section 6, line 16, by striking out the word “marijuana”.

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. 486**), and there were—yeas 27, nays 71, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Barrett, Bates, Boggs, Brown, Criss, Dean, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, Nestor, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Linville and Riley.

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

Delegate Pushkin moved to amend the bill on page 1, section 6, line 3, following the word “Program”, by striking out the period and inserting “or pursuant to §18-31-1 *et seq.* of this code.”

Delegate J. Pack arose to inquire of the Chair as to the germaneness of the amendment.

The Speaker ruled that the amendment was not germane.

The bill was ordered to third reading.

Com. Sub. for S. B. 392, Creating penalty for impersonating law-enforcement officer or official; 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, line ten, after the words “Department of”, by striking out the words “Military Affairs and Public Safety” and substituting therefore the following words “Homeland Security”.

The bill was then ordered to third reading.

Com. Sub. for S. B. 483, Allowing oaths be taken before any person authorized to administer oaths; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 496, Relating to punishment for second or third degree felony; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 562, Relating to juvenile competency proceedings; 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 1, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 4. COURT ACTIONS.

§49-4-712. Intervention and services by the department pursuant to initial disposition for status offenders or juvenile found incompetent to stand trial; enforcement; further disposition; detention; out-of-home placement; department custody; least restrictive alternative; appeal; prohibiting placement of status offenders or a juvenile found incompetent to stand trial in a ~~Division~~ Bureau of Juvenile Services facility. ~~on or after January 1, 2016~~

(a) ~~The services~~ Services provided by the department to ~~for~~ juveniles adjudicated as status offenders shall be consistent with §49-2-1001 *et seq.* of this code. ~~and~~ Services provided by the department for juveniles adjudicated as status offenders pursuant to §49-4-711 of this code and juveniles found to be incompetent to stand trial and in need of services pursuant to §49-4-734(b)(2) of this code 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 §49-1-207 of this code, 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~~ the 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~~ that are 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 order providing disposition other than mandatory

referral to the department for services is subject to appeal to the Supreme 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 or a juvenile found to be incompetent to stand trial on or after January 1, 2016 may not be placed in a Bureau Division of Juvenile Services facility.

§49-4-727. Juvenile competency proceedings.

(a) Subject to the provisions of subsection (c) of this section, a juvenile's attorney, the prosecuting attorney, or the court may raise the issue of his or her competency to participate in the proceeding any time during proceedings under this article. Once competency is raised, all proceedings unrelated to competency shall be stayed until the issue of competency is resolved. A juvenile presumed incompetent under subsection (c) of this section shall not be adjudicated unless the presumption of incompetency has been rebutted as provided in subsections (b) and (c) of this section.

(b) In any delinquency proceeding pursuant to this article, a juvenile 14 years or older is presumed to be competent. A juvenile has the burden of proof to rebut this presumption by showing incompetency by a preponderance of the evidence.

(c) In any delinquency proceeding pursuant to this article, if the juvenile is under 14 years of age, there exists a rebuttable presumption that he or she is incompetent to proceed beyond the stage of the proceeding resolving the issue of competency, unless judicially determined to be competent pursuant to the procedures set forth in §49-4-728 through §49-4-734 of this code. The state

has the burden of proof to rebut this presumption by showing competency by a preponderance of the evidence.

(d) Regardless of the age of the juvenile, the court may dismiss the petition without ordering a competency evaluation or competency hearing if the prosecuting attorney, the juvenile's attorney, and the guardian ad litem, if previously appointed, agree that there is compelling evidence that the juvenile is not competent to participate in the proceedings: *Provided*, That a court may not order services authorized by §49-4-733 of this code without a competency evaluation.

(e) If and when the issue of a juvenile's competency is raised under subsection (a) or a rebuttable presumption of incompetency exits under subsection (c), the court shall appoint a guardian ad litem for the juvenile. The Supreme Court of Appeals is requested to establish a training program for persons acting as guardians ad litem in juvenile competency matters.

§49-4-728. Definitions for juvenile competency proceedings.

As used in §49-4-727 through §49-4-734 of this code:

'Competent' and 'competency' refer to whether or not a juvenile has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and has a rational as well as factual understanding of the proceedings against him or her. A juvenile is incompetent if, due to developmental disability, intellectual disability, or mental illness, the juvenile is presently incapable of understanding the nature and objective of proceedings against him or her or of assisting in his or her defense.

'Competency attainment services' means services provided to a juvenile to assist the juvenile in attaining competency.

'Department' means the Department of Health and Human Resources.

'Developmental disability' means a severe and chronic disability that is attributable to a mental or physical impairment,

including, but not limited to, neurological conditions that lead to impairment of general intellectual functioning or adaptive behavior.

‘Developmental immaturity’ means a condition based on a juvenile’s chronological age and significant lack of developmental skills when the juvenile has no significant mental illness or intellectual disability.

‘Intellectual disability’ means a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social, and practical domains.

‘Mental illness’ means a manifestation in a person of significantly impaired capacity to maintain acceptable levels of functioning in the areas of intellect, emotion, and physical well-being.

‘Proceeding’ means any delinquency proceeding under this article.

‘Qualified forensic evaluator’ means a licensed psychologist or psychiatrist with the necessary education, training, and experience to perform juvenile competency evaluations, and who has been approved to render opinions for the court pursuant to the requirements of §49-4-729 of this code.

§49-4-729. Motion for determination of competency, time frames, order for evaluation.

(a) When the prosecuting attorney, the juvenile’s attorney, or the guardian ad litem has reasonable basis to believe that:

(1) A juvenile age 14 or older is incompetent to proceed in the delinquency action, that party shall file a motion for a determination of competency. The motion shall state any known facts to the movant of in support thereof. If the court raises the issue sua sponte, it shall, by written order, set forth the basis for ordering a competency evaluation.

(2) A juvenile under the age of 14 is competent to proceed in the delinquency action, the prosecuting attorney shall file a motion for determination of competency. The motion shall state the basis to believe the juvenile is competent to proceed despite the presumption of incompetency due to age and shall state any known facts to the prosecuting attorney in support of the motion. If the court raises the issue sua sponte, the court by written order shall set forth the factual basis supporting the finding that the juvenile is competent to proceed.

(b) Within 10 judicial days after a motion is made, the court shall make one of the following determinations regardless of which presumption applies:

(1) Find that there is compelling evidence that the juvenile is not competent to participate in the proceedings and dismiss the case pursuant to §49-4-727(d) of this code;

(2) Without conducting a hearing, find that there exists a reasonable basis to conduct a competency evaluation; or

(3) Schedule a hearing to determine whether there exists a reasonable basis to conduct a competency evaluation. The hearing shall be held within 30 judicial days. The court's determination shall be announced no later than three judicial days after the conclusion of the hearing.

(c) If the court determines there is a reasonable basis to order a competency evaluation pursuant to §49-4-731 of this code, or if the prosecutor and the juvenile's attorney agree to the evaluation, the court shall order a competency evaluation. If the court orders a competency evaluation, the court shall order that the competency evaluation be conducted in the least restrictive environment, taking into account the public safety and the best interests of the juvenile.

(1) Notwithstanding any other provisions of this code, the court shall provide in its order that the qualified forensic evaluator shall have access to all relevant confidential and public records related to the juvenile, including competency evaluations and reports conducted in prior delinquent proceedings. The court shall provide

to the qualified forensic evaluator a copy of the petition and the names and contact information for the judge, prosecutor, juvenile's attorney, and parents or legal guardians.

(2) Within five judicial days after the court orders an evaluation, the prosecutor shall deliver to the evaluator copies of relevant police reports and other background information relevant to the juvenile that are in the prosecutor's possession.

(3) Within five judicial days after the court orders an evaluation, the juvenile's attorney shall deliver to the qualified forensic evaluator copies of police reports and other records including, but not limited to, educational, medical, psychological, and neurological records that are relevant to the evaluation and that are in the attorney's possession. Upon good cause shown, the court may extend the time frame to deliver these documents noting that time is of the essence.

§49-4-730. Juvenile competency qualified forensic evaluator; qualifications.

An evaluation ordered by the court shall be conducted by a qualified forensic evaluator.

(1) A qualified forensic evaluator shall have education and training in the following areas:

(A) Forensic evaluation procedures for juveniles, including accepted criteria used in evaluating competency;

(B) Evaluation, diagnosis, and treatment of children and adolescents with developmental disability, developmental immaturity, intellectual disability, or mental illness;

(C) Clinical understanding of child and adolescent development; and

(D) Familiarity with competency standards in this state.

(2) The department shall establish procedures for ensuring the training and qualifications of qualified forensic evaluators.

Annually, the department shall provide a list of qualified forensic evaluators to the Administrative Office of the Supreme Court of Appeals of West Virginia.

§49-4-731. Juvenile competency evaluation.

(a) The qualified forensic evaluator shall file with the court a written competency evaluation report within 30 days after the date of entry of the order requiring the juvenile to be evaluated and appointing the qualified forensic evaluator. For good cause shown, the court may extend the time for filing for a period not to exceed an additional 30 days. The report shall include the evaluator's opinion as to whether or not a juvenile, due to developmental disability, intellectual disability, or mental illness, has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and whether the juvenile has a rational as well as factual understanding of the proceedings against him or her. The report shall not include the evaluator's opinion as to whether the juvenile committed the alleged offense or recite or reference any self-incriminating or inculpatory statements as reported by the juvenile. A self-incrimination or inculpatory statement made by a juvenile during an evaluation or hearing conducted pursuant to this article shall not be admissible on the issue of responsibility or guilt in subsequent court proceedings, including adjudication and disposition or transfer hearings.

(b) A competency evaluation report shall include:

(1) A statement of the procedures used, including psychometric tests administered, records reviewed, and the identity of persons interviewed;

(2) Pertinent background information, including a history of educational performance, psychiatric or psychological history, developmental and family history;

(3) Results of the mental status examination;

(4) A diagnosis, if one has been made, which shall address any psychological or psychiatric conditions or cognitive deficiencies determined to exist; and

(5) An opinion as to the juvenile's developmental maturity or developmental immaturity as it would affect his or her ability to proceed.

(c) If the qualified forensic evaluator determines that the juvenile is not competent to participate in the proceedings, the competency evaluation report shall address the following questions:

(1) Whether the juvenile has a developmental disability, intellectual disability, or mental illness;

(2) Whether the juvenile has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding;

(3) Whether a juvenile has a rational as well as factual understanding of the proceedings against him or her; and

(4) Whether the juvenile can attain competency in the foreseeable future if provided with a course of treatment, therapy, or training.

(d) If the qualified forensic evaluator determines that the juvenile is incompetent, but that there is a reasonable probability that he or she can attain competency within the periods set forth in §49-4-733(c)(3) of this code, the report shall include the following recommendations:

(1) A recommendation as to the treatment or therapy; and

(2) The least restrictive setting for juvenile competency attainment services consistent with the juvenile's ability to attain competency and the safety of both the juvenile and the public.

(e) The court shall provide a copy of each competency evaluation report it receives to the prosecutor, the juvenile's attorney, and guardian ad litem and may provide a copy upon request to the juvenile's parents or legal guardian.

(f) The department shall pay qualified forensic evaluators for all matters related to conducting a court-ordered competency evaluation. The department shall develop and implement a process for prompt payment of qualified forensic evaluators including a rate schedule. The amount of payment for court-ordered evaluations shall reasonably compensate qualified forensic evaluators for the work performed in a particular case.

§49-4-732. Hearing to determine juvenile's competency to participate in the proceedings.

(a) Not more than 15 judicial days after receiving the evaluator's report, the court shall conduct a hearing to determine the juvenile's competency to participate in the proceedings. The court may continue the hearing for good cause shown.

(b) The competency evaluation report is admissible as evidence in the competency proceedings. The qualified forensic evaluator may be called as a witness and is subject to cross examination by all parties. If authorized by the court, hearings held pursuant to this section may be conducted by or participated in using teleconference or video conference technology. If the court contacts the qualified forensic evaluator to obtain clarification of the report contents, the court shall promptly inform all parties and allow each party to participate in each contact.

(c) In determining the competency of the juvenile to participate in the proceedings, the court shall consider the content of all competency evaluation reports admitted as evidence. The court may consider additional evidence introduced at the hearing by the prosecuting attorney, the juvenile's attorney, or guardian ad litem.

(d) (1) Except as otherwise provided, the court shall make a written determination as to the juvenile's competency based on a preponderance of the evidence within 10 judicial days after completion of the hearing. The applicable burden of proof shall be set forth in section 49-4-727, subsections (b) and (c).

(2) The court shall not find a juvenile competent to proceed solely because the juvenile is receiving or has received in-patient

treatment or is receiving or has received psychotropic or other medication, even if the juvenile might become incompetent to proceed without that medication.

§49-4-733. Procedure after determination of juvenile's competency to participate in the proceedings.

(a) After a hearing pursuant to §49-4-732 of this code, if the court determines by a preponderance of the evidence that the juvenile is competent to proceed despite any presumption that may have applied, the delinquency proceedings shall resume as provided by law.

(b) If the court determines by a preponderance of the evidence that a juvenile is incompetent to proceed, but is likely to attain competency within a reasonable time with services, the court shall stay the proceedings and order the juvenile to receive services designated to assist the juvenile in attaining competency, based upon the recommendations in the competency evaluation report, unless the court makes specific findings that the recommended services are not justified. The court shall order the juvenile's parent or legal guardian to contact a court-designated provider by a specified date to arrange for services.

(1) The competency attainment services provided to a juvenile shall be based on the recommendations contained in the qualified forensic evaluator's report described in §49-4-731(d) of this code, and are subject to the conditions and time periods required pursuant to this section measured from the date the court approves the plan.

(2) The court shall order that the competency attainment services ordered are provided in the least restrictive environment, taking into account the public safety and the best interests of the juvenile. If the juvenile has been released on temporary orders and refuses or fails to cooperate with the service provider, the court may modify the orders to require a more appropriate setting for further services. A juvenile may not be placed in a Bureau of Juvenile Services facility to receive competency attainment services. Additionally, a juvenile presumed incompetent under §49-4-727(c) of this code shall not be placed in a Bureau of

Juvenile Services facility, except in compliance with §49-4-705 and §49-4-706 of this code, and corresponding Rules of Juvenile Procedure as adopted by the Supreme Court of Appeals of West Virginia.

(3) A juvenile shall not be required to participate in competency attainment services for longer than is necessary to attain competency or after the court determines that there is no reasonable likelihood that competency can be attained. The following maximum time limits apply to the participation of a juvenile:

(A) A juvenile charged with an act which would constitute a misdemeanor or nonviolent felony if committed by an adult shall not be required to participate in competency attainment services beyond his or her 19th birthday and there shall be a rebuttable presumption that competency is not attainable if the juvenile has not attained competency after 90 days of services.

(B) A juvenile charged with an act which would constitute a felony crime of violence if committed by an adult shall not be required to participate in competency attainment services beyond his or her 21st birthday and there shall be a rebuttable presumption that competency is not attainable if the juvenile has not attained competency after 180 days of services.

(4) Not later than 10 judicial days after the court orders competency attainment services, the department shall identify the appropriate entity and location to provide those services.

(5) Within 10 judicial days after the department identifies the appropriate entity and location, the provider responsible for the juvenile's competency attainment services shall commence. The court shall deliver to that provider:

(A) The name and address of the juvenile's counsel;

(B) A copy of the juvenile's petition;

(C) A copy of the competency evaluation report;

(D) The name, address, and phone number of the juvenile's parents or legal guardian;

(E) The name of the department's caseworker, if any; and

(F) Any other relevant documents or reports concerning the juvenile's health that have come to the attention of the court.

(c) The court shall order and conduct review hearings no less often than every 90 days as determined appropriate by the court. The multidisciplinary team shall meet prior to any review hearing and provide a written status report to the court prior to the hearing. Unless sooner ordered by the court, the qualified forensic evaluator shall submit a report to the court prior to any review hearing, and upon completion or termination of services, and shall include the following:

(1) The services provided to the juvenile, including medication, education, and counseling;

(2) The likelihood that the competency of the juvenile to proceed will be restored within the applicable period of time set forth in subdivision (3), subsection (b) of this section; and

(3) The progress made toward the goals and objectives for the restoration of competency identified in the recommendations from the competency evaluation adopted by the court.

(d) The provider responsible for the juvenile's competency attainment services shall report to the court within three judicial days if he or she determines that:

(1) The juvenile is failing to cooperate, and the lack of cooperation is significantly impeding or precluding the attainment of competency; or

(2) The current setting is no longer the least restrictive setting that is consistent with the juvenile's ability to attain competency taking into account public safety and the best interests of the juvenile. The provider shall include in the report an assessment of

the danger the juvenile poses to himself, herself or others and an assessment of the appropriateness of the placement.

(e) The provider responsible for the juvenile's competency attainment services shall request a subsequent evaluation when the provider has reason to believe:

(1) The juvenile has achieved the goals of the plan and would be able to understand the nature and objectives of the proceedings against him or her, to assist in his or her defense, and to understand and appreciate the consequences that may be imposed or result from the proceedings with or without reasonable accommodations; and

(2) The juvenile will not achieve the goals of the plan within the applicable period of time pursuant to subdivision (3), subsection (b) of this section.

(f) The evaluator shall assess the observation of the provider and provide a written report to the court within 10 days of receiving a report from the provider pursuant to subsection (e) of this section.

(g) The court shall provide copies of any report made by the provider to the prosecuting attorney, the juvenile's attorney, the juvenile's case worker, and the juvenile's guardian ad litem, if any. The court shall provide copies of any reports made by the provider to the juvenile's parents or legal guardians, unless the court finds that doing so is not in the best interest of the juvenile.

(h) Within 15 judicial days after receiving an evaluator's report, the court may hold a hearing to determine if new, additional, or further orders are necessary.

(i) If the court determines that the juvenile is not making progress toward competency or is so uncooperative that attainment services cannot be effective, the court may order a change in setting or services that would help the juvenile attain competency within the relevant period of time as set forth in subdivision (3), subsection (b) of this section.

§49-4-734. Disposition alternatives for incompetent juveniles.

(a) If the court determines that the juvenile has attained competency, the court shall proceed with the delinquent juvenile's proceeding in accordance with this article.

(b) After a hearing pursuant to §49-4-732 of this code, if the court determines by the preponderance of the evidence that the juvenile is incompetent to proceed and cannot attain competency within the period of time set forth in §49-4-733(b)(3) of this code, the court may dismiss the petition without prejudice, or may take the following actions or any combination thereof the court determines to be in the juvenile's best interest and the interest of protecting the public:

(1) Refer the matter to the department and request a determination on whether a child abuse or neglect petition, pursuant to §49-4-601 *et seq.* of this code, should be filed;

(2) Refer the juvenile to the department for services pursuant to §49-4-712 of this code. Services may include, but are not limited to, referral of the juvenile and his or her parents, guardians, or custodians and other family members to services for psychiatric or other medical care, or psychological, welfare, legal, education, or other social services, as appropriate to the needs of the juvenile and his or her family;

(3) Place the juvenile in the custody of his or her parents or other suitable person or private or public institution or agency under terms and conditions as determined to be in the best interests of the juvenile and the public, which conditions may include the provision of out-patient services by any suitable public or private agency; or

(4) Upon motion by the prosecuting attorney, stay the proceeding for no more than 20 days to allow the prosecuting attorney to initiate proceedings for civil commitment pursuant to §27-5-1 *et seq.* of this code if the juvenile has attained majority.

(c) A circuit court may, sua sponte or upon a motion by any party direct that a dangerous assessment be performed prior to directing the resolutions set forth in subsection (b) of this section.

§49-4-735. Stay of transfer to criminal jurisdiction.

If a juvenile is presumed incompetent under §49-4-727(c) of this code, or if the issue of the juvenile's competency to participate in the proceedings is raised at any time during the proceedings for a juvenile presumed competent under §49-4-727(b) of this code, the procedures outlined in §49-4-727 through §49-4-734 of this code shall be used to determine the juvenile's competency and if appropriate, restore the juvenile's competency regardless of whether the case is to proceed under the court's juvenile jurisdiction or transfer to adult criminal jurisdiction pursuant to §49-4-710 of this code and corresponding Rules of Juvenile Procedure adopted by the Supreme Court of Appeals of West Virginia."

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

Com. Sub. for S. B. 634, Requiring training of certain officers for persons with autism spectrum disorder; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 668, Creating Psychology Interjurisdictional Compact; 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:

Com. Sub. for S. B. 34, Creating exemption to state sales and use tax for rental and leasing of equipment,

Com. Sub. for S. B. 314, Regulating pawnbrokers,

Com. Sub. for S. B. 335, Relating to WV Invests Grant Program for students at accredited community and technical college,

Com. Sub. for S. B. 368, Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program,

Com. Sub. for S. B. 419, Redefining “firearm” to match federal code,

Com. Sub. for S. B. 458, Relating to possession of firearms by individuals during state of emergency,

S. B. 486, Relating to powers and duties of Chief Technology Officer,

S. B. 488, Relating to distributing hotel occupancy tax to convention and visitor’s bureaus,

Com. Sub. for S. B. 492, Establishing program for bonding to reclaim abandoned wind and solar generation facilities,

Com. Sub. for S. B. 502, Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15,

S. B. 521, Extending licensure renewal term of certain private investigators, security guards, and associated firms,

S. B. 529, Correcting improper citation relating to DMV registration,

Com. Sub. for S. B. 534, Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant funds,

Com. Sub. for S. B. 610, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV,

Com. Sub. for S. B. 613, Adding classification and base salaries of certain civilian employees of State Police Forensic Laboratory,

Com. Sub. for S. B. 655, Eliminating sunset and legislative audit provisions for certain PSC rules,

Com. Sub. for S. B. 671, Appointing Director of Office of Emergency Medical Services,

Com. Sub. for S. B. 684, Adding Curator of Division of Arts, Culture, and History as ex officio voting member to Library Commission,

Com. Sub. for S. B. 695, Providing procedures for decreasing or increasing corporate limits by annexation,

S. B. 714, Relating to physician assistant practice act,

S. B. 717, Supplemental appropriation from General Revenue to WV Community and Technical College Education, Control Account,

And,

S. B. 718, Relating generally to Coal Severance Tax Rebate.

At 2:01 p.m., on motion of Delegate Summers, the House of Delegates recessed until 6:00 p.m.

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Evening Session

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

Unanimous consent having been obtained, the House returned to further consideration of S. J. R. 4.

Due to an error earlier today when putting the question of adoption of the amendment recommended by the Committee on the Judiciary, as amended, the Speaker restated the question, which question prevailed.

The resolution was then ordered to third reading.

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

Delegate Anderson, Chair of the Committee on Energy and Manufacturing, submitted the following report, which was received:

Your Committee on Energy and Manufacturing has had under consideration:

H. C. R. 90, To study the commercial discrimination of producers of coal, gas, oil, carbon-based energy, and other products in the State of West Virginia,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. C. R. 90 – “Requesting the Joint Committee on Government and Finance study the commercial discrimination of producers of coal, gas, oil, carbon-based energy, and other productions in the State of West Virginia,”

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 was referred to the Committee on Rules.

Delegate Anderson, Chair of the Committee on Energy and Manufacturing, submitted the following report, which was received:

Your Committee on Energy and Manufacturing has had under consideration:

Com. Sub. for S. B. 542, Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants,

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

Delegate Steele, 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. 478, Permitting use of established federal marketplace programs to purchase supplies,

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

Delegate Steele, 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. 641, Allowing counties to use severance tax proceeds for litter cleanup programs,

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

Delegate Steele, 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. 95, Requesting Joint Committee and Government and Finance study the effect losing a Congressional district would have on boards, commissions and others,

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 was referred to the Committee on Rules.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 509, Removing requirement that determination of medical stability be found prior to admission to mental health facility,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 660, Providing for cooperation between law-enforcement agencies and military authorities,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 677, Relating generally to miners' safety, health, and training standards,

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

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 91, To study considering methods of retaining native businesses,

H. C. R. 98, For West Virginia's Public Employee Insurance Agency (PEIA) Finance Board to examine how they can enhance reimbursement rates to providers,

H. C. R. 99, Requesting the Joint Committee on Government and Finance study childcare in the state of West Virginia,

H. C. R. 100, Requesting study on how Local Health Departments are funded and supported,

And,

H. C. R. 101, Requesting a study of the state's laboratory needs and the utilization of private laboratories,

And reports the same back with the recommendation that they each be adopted.

On motion for leave a resolution was introduced (Originating in the Committee on Education 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 Clark, Ellington, Hanna, Higginbotham, Kimble, Longanacre, Tully, Griffith, Evans and Thompson:

H. C. R. 103 – “Allowing for an interim study to determine how Section 18 and Section 18A of the code could be improved to allow teachers, administrators, and service personnel to better perform their jobs and evaluating our current methods and procedures so that the overall education system in West Virginia may be improved.”

Whereas, The legislature recognizes that overall education system in West Virginia may have areas that could be improved by

our educators if they are given increased latitude to perform their jobs by the structure provided by the West Virginia Code; and

Whereas, The best way to determine those areas for improvement is to encourage members of the Legislature to reach out to teachers and educators throughout the state to learn what areas of the Code may be changed or added to allow them the opportunity to improve the quality of education provided in West Virginia; and

Resolved by the Legislature of West Virginia:

That members of the West Virginia Legislature from the House of Delegates and the Senate form an advisory committee to study and recommend how the Code may be reformed to accomplish the goals outlined herein; and, be it

Further Resolved, That the members of this advisory committee form as soon as possible after the close of the 2021 Regular Session and begin scheduling town hall meetings and other collaborative meetings with educators across the state to gather information and suggestions that will be compiled into a report that the advisory committee will provide to the House and Senate Education Committees prior to the start of the 2022 West Virginia Legislative Session and that said report may include suggested code changes and or additions that may be incorporated into legislation during the 2022 Regular Session.

The Speaker referred the resolution to the Committee on Rules.

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. 642, Requiring legal advertisements by State Auditor be posted to central website,

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:

S. B. 661, Permitting retailers to assume sales or use tax assessed on tangible personal property,

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. 398, Limiting eligibility of certain employers to participate in PEIA plans,

And,

S. B. 532, Limiting claims for state tax credits and rebates,

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 485, Relating to use or presentation of firearm during commission of felony,

And,

Com. Sub. for S. B. 702, Relating to involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes,

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

Delegate D. Jeffries, 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 6th day of April, 2021, 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. 346, Authorizing DMV use electronic means when providing notice for licensees and vehicle owners,

Com. Sub. for S. B. 429, Exempting Division of Emergency Management from Purchasing Division requirements for certain contracts,

Com. Sub. for S. B. 587, Making contract consummation with state more efficient,

And,

S. B. 693, Updating certain definitions and terms used in WV Personal Income Tax Act.

Messages from the Senate

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. 2768, Supplementing, amending and increasing an existing item of appropriation from the State Road Fund, to the Department of Transportation, Division of Highways.

A message from the Senate, by

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

Com. Sub. for H. B. 2769, Supplementing, amending and increasing items of existing appropriation from the State Road

Fund to the Department of Transportation, Division of Motor Vehicles.

A message from the Senate, by

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

H. B. 2790, Supplementing, amending, decreasing, and increasing items of existing appropriation to Division of Highways.

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. 2823, Exempting buildings or structures utilized exclusively for agricultural purposes from the provisions of the State Building Code.

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. 2829, Providing for the amortization of annual funding deficiencies for municipal police or firefighter pension and relief funds.

A message from the Senate, by

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

H. B. 3298, Making a supplemental appropriation to Dept. of Commerce, Dept. of Education, Senior Services and Civil Contingent Fund.

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. 68, Providing for the issuance of not to exceed \$22 million of refunding “bonds pursuant to the Safe Roads Amendment of 1996.

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. 644, Exempting certain persons pursuing degree in speech pathology and audiology from license requirements.

At the request of Delegate Summers, and by unanimous consent, the House of Delegates returned to the Seventh Order of Business for the purpose of introducing resolutions.

Resolutions Introduced

Delegates Fleischauer, Pethtel, Hansen, Williams, Walker, Statler, Summers, Garcia, G. Ward, Mallow, Sypolt, Jennings, Barach, Barnhart, Bates, Boggs, Brown, Conley, Cooper, Diserio, Doyle, Evans, Fluharty, Griffith, Hamrick, Hanna, Hornbuckle, Lovejoy Pushkin, Skaff, Smith, Young, Zatezalo, and Zukoff offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 24 – “Urging the Governor of West Virginia to form a task force with our congressional representatives, labor organizations, and other industry leaders to call upon the President of the United States to invoke the Defense Production Act of 1950, to order the Morgantown plant at the Chestnut Ridge facility of the former Mylan Pharmaceuticals to be retrofitted and placed into production for manufacturing, packaging, and shipping of critical, life-saving medical supplies including vaccines, medications, and personal protective equipment, and empower the Governor of West Virginia to save the lives of our friends, neighbors, and fellow citizens.”

Whereas, The Defense Production Act of 1950 grants the President of the United States a broad set of authorities to influence domestic industry in the interest of national defense and can be

used across the federal government to shape the domestic industrial base and provide essential materials and goods needed for the national defense; and

Whereas, The State of West Virginia and the entire United States currently face a severe shortage of medical supplies, including life-saving vaccines, medications, and personal protective equipment, which are vital in responding to the ongoing Coronavirus Disease (COVID-19) pandemic; and

Whereas, The failure to massively and expeditiously increase production of vaccines, medications, and personal protective equipment endangers the lives of our fellow citizens; and

Whereas, It is critical that the State of West Virginia utilize its citizens, resources, and facilities to their maximum potential to defeat this COVID-19 virus and protect the health, safety, and welfare of our friends and neighbors; and

Whereas, The Morgantown plant at the Chestnut Ridge facility of the former Mylan Pharmaceuticals, a vital facility, is scheduled to shut down on July 31, 2021; and

Whereas, This vital facility could be quickly repurposed to produce life-saving medical supplies including COVID-19 vaccines, medications, and personal protective equipment, while also preserving over 1,500 West Virginian jobs; and

Whereas, West Virginians always answer the call for assistance from our nation, whether that means service in our armed forces, producing the energy needed to power our homes, or stepping up to do our part in responding to the needs of the COVID-19 pandemic; and

Whereas, The employees of the Morgantown plant at the Chestnut Ridge facility of the former Mylan Pharmaceuticals will rise to this new challenge, continue their decades of proven labor, empower the Governor of West Virginia to continue his mission of saving the lives of West Virginians, and be able to, once again, demonstrate to the State of West Virginia, colleagues and fellow

workers, and industry leaders their value by their hard work, expertise, and resolve; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby urges the Governor of West Virginia to form a task force with our congressional representatives, labor organizations, and other industry leaders to call upon the President of the United States to invoke the Defense Production Act of 1950, to order the Morgantown plant at the Chestnut Ridge facility of the former Mylan Pharmaceuticals to be retrofitted and placed into production for manufacturing, packaging, and shipping of critical, life-saving medical supplies including vaccines, medications, and personal protective equipment,, and empower the Governor of West Virginia to save the lives of our friends, neighbors, and fellow citizens; and, be it

Further Resolved, That the Clerk forward a copy of this resolution to the Governor of West Virginia, the Honorable James C. Justice II.

Delegates Graves, Anderson, Barnhart, Barrett, Booth, Bridges, Bruce, Burkhammer, Clark, Cooper, Criss, Dean, Ellington, Espinosa, Fast, Ferrell, Forsht Foster, Gearheart, Hanna, Hardy, Haynes, Holstein, Horst, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, Keaton, J. Kelly, Kessinger, Kimble, Kimes, Linville, Longanacre, Mallow, Mandt, Martin, Mazzocchi, McGeehan, Nestor, J. Pack, Paynter, Phillips, Pinson, Pritt, Reynolds, Rohrbach, Rowan, Smith, Statler, Steele, Storch, Summers, Sypolt, Tully, Wamsley, B. Ward, G. Ward, Worrell and Zatezalo offered the following resolution, which was read by its title as follows:

H. C. R. 104 - “Providing for the expiration of certain emergency orders issued during the coronavirus pandemic declared on March 16, 2020 in West Virginia.”

Whereas, The global coronavirus (COVID-19) pandemic of 2020, which is continuing at this time, has presented unprecedented

challenges for the citizens of West Virginia, which have required response of the government of the State of West Virginia; and

Whereas, Exercising the authority and power provided by our State Code, the Governor of West Virginia has marshalled the resources of the state and the full authority and response of the government of West Virginia to address the COVID-19 pandemic; and

Whereas, As of April 6, 2021, the total number of confirmed COVID-19 cases in West Virginia is 113,819; and

Whereas, As of April 6, 2021, there have been 530,328 initial vaccinations for COVID-19 administered and 355,892 completed vaccinations for COVID-19 administered; and

Whereas, By May 17, 2021, the number total number of complete vaccinations and partial vaccinations for COVID-19 in West Virginia will be substantially increased from current numbers; and

Whereas, By May 17, 2021, the vast majority of West Virginians will have immunity from COVID-19 through either having recovered from the disease or from being fully or partially vaccinated; and

Whereas, The Legislature is mindful of the continuing challenges that the pandemic presents, but recognizes that West Virginia must not prolong emergency measures which might unduly harm the economic and psychological well-being of our citizens; and

Whereas, It is our sworn duty to protect the individual liberties of the citizens of West Virginia; therefore, be it

Resolved by the Legislature of West Virginia:

That is the intent of the Legislature to provide a time limit for the emergency orders that have been made by the Governor of West Virginia during the current COVID-19 pandemic; and, be it

Further Resolved, That all such orders in effect on April 6, 2021 issued as a result of the COVID-19 pandemic hereby expire on May 17, 2021, with the exception of Executive Orders 57-20, 79-20, 82-20, 26-20, 11-20, 11-21, 13-20, 17-20, 19-20, 27-20, 35-20, 54-20, 63-20, 66-20, 7-20, 72-20, 73-20, 83-20, 31-20 and 10-21; and, be it

Further Resolved, That the Clerk of the House forward copies of this resolution to the Governor of the State of West Virginia.

At the request of Delegate Summers, and by unanimous consent, the resolution was taken up for immediate consideration and reference of the resolution (H. C. R. 104) to the Committee on Rules was abrogated.

Miscellaneous Business

Pursuant to House Rule 132, consent was obtained to print the following in the Appendix to the Journal:

- Vote explanation by Delegate Fleischauer regarding Roll No. 446

Delegate Espinosa noted to the Clerk, that he was absent when the vote was taken on S. B. 376, and had he been present he would have voted “Yea” thereon.

Pursuant to House Rule 94b, forms were filed with the Clerk’s Office to be added as a cosponsor of the following:

H. C. R. 96: Delegates Clark, Walker, Young and Zukoff.

At 6:27 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, April 7, 2021.

Wednesday, April 7, 2021

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, April 6, 2021, 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. 562, on Third reading, Special Calendar, had been transferred to the House Calendar, and Com. Sub. for S. B. 34, Com. Sub. for S. B. 314, Com. Sub. for S. B. 368, and S. B. 718, on Second reading, Special Calendar had been transferred to the House Calendar; and Com. Sub. for S. B. 636, on Second reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 464, Requiring composting of organic materials and commercial composting products comply with WV Fertilizer Law,

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. 464) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 334, Establishing license application process for needle exchange programs,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 334) 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:

Com. Sub. for H. B. 2093, Relating to exemptions for the United States Department of Veterans Affairs Medical Foster Homes.

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 5E. REGISTRATION AND INSPECTION OF SERVICE PROVIDERS IN LEGALLY UNLICENSED HEALTH CARE HOMES.

§16-5E-3a. Exemption for the United States Department of Veterans Affairs Medical Foster Homes; reporting.

(a) The provisions of this article do not apply to any home or facility approved and annually reviewed by the United States Department of Veterans Affairs as a Medical Foster Home, pursuant to 38 CFR §17.73, in which care is provided exclusively to three or fewer veterans.

(b) The West Virginia Department of Veterans Affairs shall report annually by December 1, to the Governor, outlining the scope and effectiveness of the Medical Foster Home Program for veterans in West Virginia.

ARTICLE 49. WEST VIRGINIA CLEARANCE FOR ACCESS: REGISTRY AND EMPLOYMENT SCREENING ACT.

§16-49-1. Definitions.

As used in this article:

‘Applicant’ means an individual who is being considered for employment or engagement with the department, a covered provider or covered contractor.

‘Background check’ means a prescreening of registries specified by the secretary by rule and a fingerprint-based search of state and federal criminal history record information.

‘Bureau’ means a division within the Department of Health and Human Resources.

‘Covered contractor’ means an individual or entity, including their employees and subcontractors, that contracts with a covered provider to perform services that include any direct access services.

‘Covered provider’ means the following facilities or providers:

- (i) A skilled nursing facility;
- (ii) A nursing facility;

- (iii) A home health agency;
- (iv) A provider of hospice care;
- (v) A long-term care hospital;
- (vi) A provider of personal care services;
- (vii) A provider of adult day care;

(viii) A residential care provider that arranges for, or directly provides, long-term care services, including an assisted living facility;

(ix) An intermediate care facility for individuals with intellectual disabilities; ~~and~~

(x) Any other facility or provider required to participate in the West Virginia Clearance for Access: Registry and Employment Screening program as determined by the secretary by legislative rule-; and

(xi) Excludes medical foster home approved and annually reviewed by the United States Department of Veterans Affairs pursuant to 38 CFR §17.73.

‘Department’ means the Department of Health and Human Resources.

‘Department employee’ means any prospective or current part-time employee, full-time employee, temporary employee, independent contractor, or volunteer of the department.

‘Direct access’ means physical contact with a resident, member, beneficiary, or client, or access to their property, personally identifiable information, protected health information, or financial information.

‘Direct access personnel’ means an individual who has direct access by virtue of ownership, employment, engagement or agreement with the department, a covered provider, or covered contractor. Direct access personnel does not include volunteers or

students performing irregular or supervised functions or contractors performing repairs, deliveries, installations or similar services for the covered provider. The secretary shall determine by legislative rule whether the position in question involves direct access.

‘Disqualifying offense’ means:

(A) A conviction of any crime described in 42 U. S. C. §1320a-7(a); or

(B) A conviction of any other crime specified by the secretary in rule, which shall include crimes against care-dependent or vulnerable individuals, crimes of violence, sexual offenses, and financial crimes.

‘Negative finding’ means a finding in the prescreening that excludes an applicant from direct access personnel positions.

‘Notice of ineligibility’ means a notice pursuant to §16-49-3 of this code that the secretary’s review of the applicant’s criminal history record information reveals a disqualifying offense.

‘Prescreening’ means a mandatory search of databases and registries specified by the secretary in legislative rule for exclusions and licensure status prior to the submission of fingerprints for a criminal history record information check.

‘Rap back’ means the notification to the department when an individual who has undergone a fingerprint-based, state or federal criminal history record information check has a subsequent state or federal criminal history event.

‘Secretary’ means the Secretary of the West Virginia Department of Health and Human Resources, or his or her designee.

‘State Police’ means the West Virginia State Police Criminal Identification Bureau.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 487**), 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. 2093) 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. 2770, Including home confinement officers in definition of law-enforcement officers.

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:

**“CHAPTER 15A DEPARTMENT OF HOMELAND
SECURITY.**

ARTICLE 7. BUREAU OF COMMUNITY CORRECTIONS.

§15A-7-5. Powers and duties of state parole officers.

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;

(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of not less than \$1,000 nor more than \$3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant: (1) Arrest or order confinement of any parolee or probationer under his or her

supervision; and (2) search a parolee or probationer, or a parolee or probationer's residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute the search warrant, in connection to a parolee's whereabouts, or a parolee's activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.

(c) The Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

(d) In recognition of their duties in their employment which constitute law enforcement, state parole officers are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(e) Any state parole officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §92B if the following criteria are met:

(A) The Division of Corrections and Rehabilitation has a written policy authorizing a state parole officer to carry a concealed firearm for self-defense purposes;

(B) There shall be in place in the Division of Corrections and Rehabilitation a requirement that state parole officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(C) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection includes provisions which: (i) Preclude or remove a person from participation in the concealed firearm program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(5) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize state parole officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

(f) The privileges authorized by the amendments in this section enacted during the 2021 regular session of the legislature are wholly within the discretion of the Commissioner of Corrections and Rehabilitation.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of

safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(I) of this code, are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds ~~thereof~~ of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county, or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to §62-12-5 or chapter 49 of this code, in the performance of his or her duties;

(C) Any home incarceration supervisor employed by a county commission or a sheriff pursuant to §61-11B-7a of this code in the performance of his or her duties;

(D) A state parole officer appointed pursuant to §15A-7-5 of this code, while in performance of his or he official duties;

~~(C)~~ (F) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c), carries that firearm in a concealed manner, and has on his or her person official identification in accordance with that act;

~~(D)~~ (G) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

~~(E)~~ (H) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

~~(F)~~ (I) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

~~(G)~~ (J) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;

~~(H)~~ (K) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

~~(I)~~ (L) Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided, That:*

(i) When he or she is occupying the vehicle the person stores the handgun out of view from persons outside the vehicle; or

(ii) When he or she is not occupying the vehicle the person stores the handgun out of view from persons outside the vehicle, the vehicle is locked, and the handgun is in a glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any

driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code, and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days

after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

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

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

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

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 11B. HOME INCARCERATION ACT.

§62-11B-7a. Employment by county commission of home incarceration supervisors; authority of supervisors.

(a) The county commission may employ one or more persons with the approval of the circuit court and who ~~shall be~~ is subject to the supervision of the sheriff as a home incarceration supervisor or may designate the county sheriff to supervise offenders ordered to undergo home incarceration and to administer the county's home incarceration program. Any ~~person so supervising~~ supervisor shall have authority, equivalent to that granted to a probation officer pursuant to §62-12-10 of this code, to arrest a home incarceration participant when reasonable cause exists to believe that ~~such~~ the participant has violated the conditions of his or her home incarceration. Unless otherwise specified, the use of the term "supervisor" in this article shall refer to a home incarceration supervisor.

(b) In recognition of their duties in their employment which constitute law enforcement, home confinement supervisors are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(c) Any home incarceration supervisor may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The home incarceration program has a written policy authorizing home incarceration supervisors to carry a concealed firearm for self-defense purposes.

(B) There is in place in the home incarceration program a requirement that the home incarceration supervisors must regularly qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies in the county in which the home incarceration supervisors are employed; and

(C) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection shall include provisions which: (i) Preclude or remove a person from participation in the concealed firearm program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(5) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the supervising authority over the home confinement supervisors.

(7) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize home incarceration programs wishing to do so to allow home incarceration supervisors to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-5. Probation officers and assistants.

(a) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with its rules, is authorized to appoint one or more probation officers and clerical assistants.

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of ~~said the~~ order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical ~~assistants so appointed~~.

(c) The salary of probation officers and clerical assistants shall be paid at least twice per month, as the Supreme Court of Appeals by rule may direct and they shall be reimbursed for all reasonable and necessary expenses actually incurred in the line of duty in the field. The salary and expenses shall be paid by the state from the judicial accounts thereof. The county commission shall provide adequate office space for the probation officer and his or her assistants to be approved by the appointing court. The equipment and supplies as may be needed by the probation officer and his or her assistants shall be provided by the state and the cost thereof shall be charged against the judicial accounts of the state.

(d) ~~No~~ A judge may not appoint any probation officer, assistant probation officer or clerical assistant who is related to him or her either by consanguinity or affinity.

(e) Subject to the approval of the Supreme Court of Appeals and in accordance with its rules, a judge of a circuit court whose circuit comprises more than one county may appoint a probation officer and a clerical assistant in each county of the circuit or may appoint the same persons to serve in these respective positions in two or more counties in the circuit.

(f) Nothing contained in this section alters, modifies, affects or supersedes the appointment or tenure of any probation officer, medical assistant or psychiatric assistant appointed by any court under any special act of the Legislature heretofore enacted, and the salary or compensation of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

(g) In order to carry out the supervision responsibilities set forth in §62-26-12 of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance with the court's procedures, ~~is authorized~~ may to hire multijudicial-circuit probation officers, to be employed through the court's Division of Probation Services. Such officers may also supervise probationers who are on probation for sexual offences with the approval of the administrative director of the Supreme Court of Appeals or his or her designee.

(h) In recognition of their duties in their employment which constitute law enforcement, state probation officers are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(i) Any state probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The Supreme Court of Appeals has a written policy authorizing probation officers to carry a concealed firearm for self-defense purposes.

(B) There is in place a requirement that the probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(C) The Supreme Courts of Appeals issues a photographic identification and certification card which identify the home incarceration supervisors as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection shall include provisions which: (i) Preclude or remove a person from participation in the concealed firearm program; (ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(5) Any probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(6) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize state probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B.

(j) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals."

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2770 – “A Bill to amend and reenact §15A-7-5 of the Code of West Virginia, 1931, as amended; to

amend and reenact §61-7-11a of said code; to amend and reenact §62-11B-7a of said code, and to amend and reenact §62-12-5 of said code, all relating generally to qualifying for protection under the Law-Enforcement Officers Safety Act; clarifying that home confinement supervisors, state probation officers, and state parole officers are qualified enforcement officers who may carry a concealed firearm nationwide, as authorized by the federal Law-Enforcement Officers Safety Act; exempting certain persons from prohibition for carrying deadly weapons on the premises of educational facilities; providing the statutory authority necessary to give home confinement supervisors, state probation officers, and parole officers the option to carry firearms pursuant to federal law; requiring annual firearm training pursuant to federal law; clarifying that supervisory entities retain sole discretion as to authorizing participation in a program and setting forth duties of supervising authorities as to participation of home confinement supervisors, state probation officers, and state parole officers.”

With the further amendment, sponsored by Delegate Summers, being as follows:

On page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

**“CHAPTER 15A DEPARTMENT OF HOMELAND
SECURITY.**

ARTICLE 7. BUREAU OF COMMUNITY CORRECTIONS.

§15A-7-5. Powers and duties of state parole officers.

(a) Each state probation and parole officer employed by the Division of Corrections and Rehabilitation shall:

(1) Investigate all cases referred to him or her for investigation by the Commissioner of Corrections and Rehabilitation and report in writing on the investigation;

(2) Update the standardized risk and needs assessment adopted by the Division of Corrections and Rehabilitation pursuant to §62-

12-13(h) of this code for each parolee for whom an assessment has not been conducted for parole by a specialized assessment officer;

(3) Supervise each parolee according to the assessment and supervision standards determined by the Commissioner of Corrections and Rehabilitation;

(4) Furnish to each parolee under his or her supervision a written statement of the conditions of his or her parole together with a copy of the rules prescribed by the Commissioner of Corrections and Rehabilitation for the supervision of parolees;

(5) Keep informed concerning the conduct and condition of each parolee under his or her supervision and report on the conduct and condition of each parolee in writing as often as required by the Commissioner of Corrections and Rehabilitation;

(6) Use all practicable and suitable methods to aid and encourage a parolee and to bring about improvement in his or her conduct and condition;

(7) Keep detailed records of his or her work;

(8) Keep accurate and complete accounts of, and give receipts for, all money collected from parolees under his or her supervision, and pay over the money to persons designated by a circuit court or the Commissioner of Corrections and Rehabilitation;

(9) Give bond with good security, to be approved by the Commissioner of Corrections and Rehabilitation, in a penalty of not less than \$1,000 nor more than \$3,000, as determined by the Commissioner of Corrections and Rehabilitation; and

(10) Perform any other duties required by the Commissioner of Corrections and Rehabilitation.

(b) Each probation and parole officer, as described in this article, may, with or without an order or warrant:

(1) Arrest or order confinement of any parolee or probationer under his or her supervision; and

(2) search a parolee or probationer, or a parolee or probationer's residence or property, under his or her supervision. A probation and parole officer may apply for a search warrant, and execute the search warrant, in connection to a parolee's whereabouts, or a parolee's activities. He or she has all the powers of a notary public, with authority to act anywhere within the state.

(c) (1) Notwithstanding any other provision of this Code, the Commissioner of Corrections and Rehabilitation may issue a certificate authorizing any state parole officer who has successfully completed the Division of Corrections and Rehabilitation's training program for firearms certification, which is the equivalent of that required of any correctional employee under §15A-3-10 of this code, to carry firearms or concealed weapons. Any parole officer authorized by the Commissioner of Corrections and Rehabilitation may, without a state license, carry firearms and concealed weapons. Each state parole officer, authorized by the Commissioner of Corrections and Rehabilitation, shall carry with him or her a certificate authorizing him or her to carry a firearm or concealed weapon bearing the official signature of the Commissioner of Corrections and Rehabilitation.

(2) Additionally, any state parole officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §92B if the following criteria are met:

(A) The Division of Corrections and Rehabilitation has a written policy authorizing a state parole officer to carry a concealed firearm for self-defense purposes; including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) For those state parole officers wishing to avail themselves of the provisions of this subdivision, there shall be in place in the Division of Corrections and Rehabilitation a requirement that those state parole officers must annually qualify in the use of a firearm with standards which are equal to or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(C) The Division of Corrections and Rehabilitation issues a photographic identification and certification card which identify the state parole officers who meet the provisions of this subdivision, as law-enforcement employees of the Division of Corrections and Rehabilitation pursuant to the provisions of §30-29-12 of this code.

(3) Any state parole officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(4) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those state parole officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that state parole officers, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(5) The privileges authorized by the amendments in this section enacted during the 2021 regular session of the legislature are wholly within the discretion of the Commissioner of Corrections and Rehabilitation.

CHAPTER 49. CHILD WELFARE.**ARTICLE 4. COURT ACTIONS.****§49-4-719. Juvenile probation officers; appointment; salary; facilities; expenses; duties; powers.**

(a)(1) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with the rules of the Supreme Court of Appeals, shall appoint one or more juvenile probation officers and clerical assistants for the circuit. A probation officer or clerical assistant may not be related by blood or marriage to the appointing judge.

(2) The salary for juvenile probation officers and clerical assistants shall be determined and fixed by the Supreme Court of Appeals. All expenses and costs incurred by the juvenile probation officers and their staff shall be paid by the Supreme Court of Appeals in accordance with its rules. The county commission of each county shall provide adequate office facilities for juvenile probation officers and their staff. All equipment and supplies required by juvenile probation officers and their staff shall be provided by the Supreme Court of Appeals.

~~(3) A juvenile probation officer may not be considered a law-enforcement official under this chapter.~~

(b) (1) Any juvenile probation officers may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The Supreme Court of Appeals has a written policy authorizing juvenile probation officers to carry a concealed firearm for self-defense purposes, including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) There is in place a requirement that the juvenile probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(C) The Supreme Court of Appeals issues a photographic identification and certification card which identify the juvenile probation officers as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(2) Any juvenile probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(3) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those juvenile probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that juvenile probation officers, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(4) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.

~~(b)~~ (c) The clerk of a court shall notify, if practicable, the chief probation officer of the county, or his or her designee, when a juvenile is brought before the court or judge for proceedings under

this article. When notified, or if the probation officer otherwise obtains knowledge of such fact, he or she or one of his or her assistants shall:

(1) Make investigation of the case; and

(2) Furnish information and assistance that the court or judge may require.

~~(e)~~ (d) (1) The Supreme Court of Appeals may develop a system of community-based juvenile probation sanctions and incentives to be used by probation officers in response to violations of terms and conditions of probation and to award incentives for positive behavior.

(2) The community-based juvenile probation sanctions and incentives may consist of a continuum of responses from the least restrictive to the most restrictive, designed to respond swiftly, proportionally and consistently to violations of the terms and conditions of probation and to reward compliance therewith.

(3) The purpose of community-based juvenile probation sanctions and incentives is to reduce the amount of resources and time spent by the court addressing probation violations, to reduce the likelihood of a new status or delinquent act, and to encourage and reward positive behavior by the juvenile on probation prior to any attempt to place a juvenile in an out-of-home placement.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-11a. Possessing deadly weapons on premises of educational facilities; reports by school principals; suspension of driver's license; possessing deadly weapons on premises housing courts of law and family law courts.

(a) The Legislature finds that the safety and welfare of the citizens of this state are inextricably dependent upon assurances of safety for children attending and persons employed by schools in this state and for persons employed by the judicial department of

this state. It is for the purpose of providing assurances of safety that §61-7-11a(b), §61-7-11a(g), and §61-7-11a(h), of this code and §61-7-11a(b)(2)(I) of this code, are enacted as a reasonable regulation of the manner in which citizens may exercise the rights accorded to them pursuant to section 22, article III of the Constitution of the State of West Virginia.

(b) (1) It is unlawful to possess a firearm or other deadly weapon:

(A) On a school bus as defined in §17A-1-1 of this code;

(B) In or on the grounds of any primary or secondary educational facility of any type: *Provided*, That it shall not be unlawful to possess a firearm or other deadly weapon in or on the grounds of any private primary or secondary school, if such institution has adopted a written policy allowing for possession of firearms or other deadly weapons in the facility or on the grounds ~~thereof~~ of the facility; or

(C) At a school-sponsored function that is taking place in a specific area that is owned, rented, or leased by the West Virginia Department of Education, the West Virginia Secondary Schools Activities Commission, a county school board, or local public school for the actual period of time the function is occurring;

(2) This subsection does not apply to:

(A) A law-enforcement officer employed by a federal, state, county, or municipal law-enforcement agency;

(B) Any probation officer appointed pursuant to §62-12-5 or ~~§49-4-719~~ chapter 49 of this code, in the performance of his or her duties;

(C) Any home incarceration supervisor employed by a county commission or a sheriff pursuant to §61-11B-7a of this code, in the performance of his or her duties;

(D) A state parole officer appointed pursuant to §15A-7-5 of this code, in performance of his or her duties;

~~(C)~~ (E) A retired law-enforcement officer who meets all the requirements to carry a firearm as a qualified retired law-enforcement officer under the Law-Enforcement Officer Safety Act of 2004, as amended, pursuant to 18 U.S.C. §926C(c), carries that firearm in a concealed manner, and has on his or her person official identification in accordance with that act;

~~(D)~~ (F) A person, other than a student of a primary and secondary facility, specifically authorized by the board of education of the county or principal of the school where the property is located to conduct programs with valid educational purposes;

~~(E)~~ (G) A person who, as otherwise permitted by the provisions of this article, possesses an unloaded firearm or deadly weapon in a motor vehicle or leaves an unloaded firearm or deadly weapon in a locked motor vehicle;

~~(F)~~ (H) Programs or raffles conducted with the approval of the county board of education or school which include the display of unloaded firearms;

~~(G)~~ (I) The official mascot of West Virginia University, commonly known as the Mountaineer, acting in his or her official capacity;

~~(H)~~ (J) The official mascot of Parkersburg South High School, commonly known as the Patriot, acting in his or her official capacity; or

~~(I)~~ (K) Any person, 21 years old or older, who has a valid concealed handgun permit. That person may possess a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other areas of vehicular ingress or egress to a public school: *Provided, That:*

(i) When he or she is occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle; or

(ii) When he or she is not occupying the vehicle, the person stores the handgun out of view from persons outside the vehicle,

the vehicle is locked, and the handgun is in a glove box or other interior compartment, or in a locked trunk, or in a locked container securely fixed to the vehicle.

(3) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(c) A school principal subject to the authority of the State Board of Education who discovers a violation of §61-7-11a(b) of this code shall report the violation as soon as possible to:

(1) The State Superintendent of Schools. The State Board of Education shall keep and maintain these reports and may prescribe rules establishing policy and procedures for making and delivering the reports as required by this subsection; and

(2) The appropriate local office of the State Police, county sheriff or municipal police agency.

(d) In addition to the methods of disposition provided by §49-5-1 *et seq.* of this code, a court which adjudicates a person who is 14 years of age or older as delinquent for a violation of §61-7-11a(b) of this code, may order the Division of Motor Vehicles to suspend a driver's license or instruction permit issued to the person for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. If the person has not been issued a driver's license or instruction permit by this state, a court may order the Division of Motor Vehicles to deny the person's application for a license or permit for a period of time as the court considers appropriate, not to extend beyond the person's nineteenth birthday. A suspension ordered by the court pursuant to this subsection is effective upon the date of entry of the order. Where the court orders the suspension of a driver's license or instruction permit pursuant to this subsection, the court shall confiscate any driver's license or instruction permit in the adjudicated person's possession and forward it to the Division of Motor Vehicles.

(e)(1) If a person 18 years of age or older is convicted of violating §61-7-11a(b) of this code, and if the person does not act to appeal the conviction within the time periods described in §61-7-11a(e)(2) of this code, the person's license or privilege to operate a motor vehicle in this state shall be revoked in accordance with the provisions of this section.

(2) The clerk of the court in which the person is convicted as described in §61-7-11a(e)(1) of this code shall forward to the commissioner a transcript of the judgment of conviction. If the conviction is the judgment of a magistrate court, the magistrate court clerk shall forward the transcript when the person convicted has not requested an appeal within 20 days of the sentencing for the conviction. If the conviction is the judgment of a circuit court, the circuit clerk shall forward a transcript of the judgment of conviction when the person convicted has not filed a notice of intent to file a petition for appeal or writ of error within 30 days after the judgment was entered.

(3) If, upon examination of the transcript of the judgment of conviction, the commissioner determines that the person was convicted as described in §61-7-11a(e)(1) of this code, the commissioner shall make and enter an order revoking the person's license or privilege to operate a motor vehicle in this state for a period of one year or, in the event the person is a student enrolled in a secondary school, for a period of one year or until the person's twentieth birthday, whichever is the greater period. The order shall contain the reasons for the revocation and the revocation period. The order of suspension shall advise the person that because of the receipt of the court's transcript, a presumption exists that the person named in the order of suspension is the same person named in the transcript. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing is for the person requesting the hearing to present

evidence that he or she is not the person named in the notice. If the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(4) For the purposes of this subsection, a person is convicted when he or she enters a plea of guilty or is found guilty by a court or jury.

(f)(1) It is unlawful for a parent, guardian, or custodian of a person less than 18 years of age who knows that the person is in violation of §61-7-11a(b) of this code or has reasonable cause to believe that the person's violation of §61-7-11a(b) of this code is imminent to fail to immediately report his or her knowledge or belief to the appropriate school or law-enforcement officials.

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

(g)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts.

(2) This subsection does not apply to:

(A) A law-enforcement officer acting in his or her official capacity; and

(B) A person exempted from the provisions of this subsection by order of record entered by a court with jurisdiction over the premises or offices.

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

(h)(1) It is unlawful for a person to possess a firearm or other deadly weapon on the premises of a court of law, including family courts, with the intent to commit a crime.

(2) A person violating this subsection is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for a definite term of years of not less than two years nor more than 10 years, or fined not more than \$5,000, or both fined and imprisoned.

(i) Nothing in this section may be construed to be in conflict with the provisions of federal law.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 11B. HOME INCARCERATION ACT

§62-11B-7a. Employment by county commission of home incarceration supervisors; authority of supervisors.

(a) The county commission may employ one or more persons with the approval of the circuit court and who ~~shall be~~ is subject to the supervision of the sheriff as a home incarceration supervisor or may designate the county sheriff to supervise offenders ordered to undergo home incarceration and to administer the county's home incarceration program. Any ~~person so supervising~~ supervisor shall have authority, equivalent to that granted to a probation officer pursuant to §62-12-10 of this code, to arrest a home incarceration participant when reasonable cause exists to believe that ~~such~~ the participant has violated the conditions of his or her home incarceration. Unless otherwise specified, the use of the term "supervisor" in this article shall refer to a home incarceration supervisor.

(b) (1) Any home incarceration supervisor may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The home incarceration program has a written policy authorizing home incarceration supervisors to carry a concealed firearm for self-defense purposes; including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) There is in place in the home incarceration program a requirement that the home incarceration supervisors must regularly qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies in the county in which the home incarceration supervisors are employed; and

(C) The home incarceration program issues a photographic identification and certification card which identify the home incarceration supervisors as law-enforcement employees of the home incarceration program pursuant to the provisions of §30-29-12 of this code.

(2) Any home incarceration supervisor who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(3) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those home incarceration programs wishing to do so to allow home incarceration supervisors to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that home incarceration supervisors, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are

determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(4) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the supervising authority over the home confinement supervisors.

ARTICLE 12. PROBATION AND PAROLE.

§62-12-5. Probation officers and assistants.

(a) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with its rules, is authorized to appoint one or more probation officers and clerical assistants.

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of ~~said the~~ order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical assistants ~~so appointed~~.

(c) The salary of probation officers and clerical assistants shall be paid at least twice per month, as the Supreme Court of Appeals by rule may direct and they shall be reimbursed for all reasonable and necessary expenses actually incurred in the line of duty in the field. The salary and expenses shall be paid by the state from the judicial accounts thereof. The county commission shall provide adequate office space for the probation officer and his or her assistants to be approved by the appointing court. The equipment and supplies as may be needed by the probation officer and his or her assistants shall be provided by the state and the cost thereof shall be charged against the judicial accounts of the state.

(d) ~~No~~ A judge may not appoint any probation officer, assistant probation officer or clerical assistant who is related to him or her either by consanguinity or affinity.

(e) Subject to the approval of the Supreme Court of Appeals and in accordance with its rules, a judge of a circuit court whose circuit comprises more than one county may appoint a probation officer and a clerical assistant in each county of the circuit or may appoint the same persons to serve in these respective positions in two or more counties in the circuit.

(f) Nothing contained in this section alters, modifies, affects or supersedes the appointment or tenure of any probation officer, medical assistant or psychiatric assistant appointed by any court under any special act of the Legislature heretofore enacted, and the salary or compensation of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

(g) In order to carry out the supervision responsibilities set forth in §62-26-12 of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance with the court's procedures, ~~is authorized~~ may ~~to~~ hire multijudicial-circuit probation officers, to be employed through the court's Division of Probation Services. Such officers may also supervise probationers who are on probation for sexual offences with the approval of the administrative director of the Supreme Court of Appeals or his or her designee.

(h) (1) Any state probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. §926B if the following criteria are met:

(A) The Supreme Court of Appeals has a written policy authorizing probation officers to carry a concealed firearm for self-defense purposes, including provisions which:

(i) Preclude or remove a person from participation in the concealed firearm program;

(ii) preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(iii) prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defined in §17C-5-2 of this code.

(B) There is in place a requirement that the probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program; and

(C) The Supreme Court of Appeals issues a photographic identification and certification card which identify the probation officers as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(2) Any probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(3) It is the intent of the Legislature in enacting the amendments to this section during the 2021 regular session of the Legislature to authorize those state probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. §926B: *Provided*, That it is the intent of the Legislature in enacting this section during the 2021 regular session of the Legislature that state probation officers, in recognition of those duties in their employment supervising incarceration and supervised release and the inherent arrest powers for violation of the same which constitute law enforcement, are determined to be qualified law enforcement officers as that term is used in §30-29-12 of this code.

(4) The privileges authorized by the amendments to this section enacted during the 2021 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.”

With the further title amendment, sponsored by Delegate Summers, being as follows:

Com. Sub. for H. B. 2770 – “A Bill to amend and reenact §15A-7-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-4-719 of said code; to amend and reenact §61-7-11a of said code; to amend and reenact §62-11B-7a of said code, and to amend and reenact §62-12-5 of said code, all relating generally to additional persons qualifying for the provisions of the Law-Enforcement Officers Safety Act; clarifying that home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers are qualified law enforcement officers who may carry a concealed firearm nationwide, as authorized by the federal Law-Enforcement Officers Safety Act; exempting certain persons from prohibition for carrying deadly weapons on the premises of educational facilities; providing the statutory authority to give home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers the option to carry firearms pursuant to federal law; requiring annual firearm training pursuant to federal law; clarifying that supervisory entities retain sole discretion as to authorizing participation of qualified officers in such program; providing findings delineating the rationale by which home incarceration supervisors, state probation officers, juvenile probation officers, and parole officers are to be considered as law enforcement officers; and setting forth the duties of supervising authorities as to participation of home incarceration supervisors, state probation officers, juvenile probation officers, and state parole officers.”

The bill, as amended by the Senate, and further amended by the House of Delegates, was then put upon its passage.

On passage of the bill, the yeas and nays were taken (**Roll No. 488**), 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. 2770) 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:

H. B. 3175, Relating to removing certain felonies than can prohibit vehicle salespersons from receiving a license.

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 6E. MOTOR VEHICLE SALESPERSON LICENSE.

§17A-6E-1. Findings and purpose.

[Repealed.]

§17A-6E-2. Definitions.

[Repealed.]

§17A-6E-3. License required.

[Repealed.]

§17A-6E-4. Eligibility and issuance of license.

[Repealed.]

§17A-6E-5. Expiration of license, renewal and expired license.

[Repealed.]

§17A-6E-6. Change of employer.

[Repealed.]

§17A-6E-7. Change of address, lost or stolen license, duplicate license.

[Repealed.]

§17A-6E-8. Display of license.

[Repealed.]

§17A-6E-9. Revocation, suspension, or refusal to renew license.

[Repealed.]

§17A-6E-10. Administrative due process.

[Repealed.]

§17A-6E-11. Investigation, matters, confidential.

[Repealed.]

§17A-6E-12. Injunctive relief.

[Repealed.]

§17A-6E-13. Authority for rules.

[Repealed.]

§17A-6E-14. Motor Vehicle Salesperson License Fund.

[Repealed.]”

And,

By amending the title of the bill to read as follows:

H. B. 3175 – “A Bill to repeal §17A-6E-1, §17A-6E-2, §17A-6E-3, §17A-6E-4, §17A-6E-5, §17A-6E-6, §17A-6E-7, §17A-6E-8, §17A-6E-9, §17A-6E-10, §17A-6E-11, §17A-6E-12, §17A-6E-13, and §17A-6E-14 of the Code of West Virginia, 1931, as amended, all relating to repeal of the motor vehicle salesperson license.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 489**), and there were—yeas 92, nays 8, absent and not voting none, with the nays being as follows:

Nays: Doyle, Fleischauer, Gearheart, Hansen, Kimes, Martin, Miller and Rowe.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3175) passed.

Delegate Kessinger 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 94, nays 6, absent and not voting none, with the nays being as follows:

Nays: Doyle, Gearheart, Hansen, Kimes, Martin and Miller.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3175) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 3191, Requiring employers to send certain notifications when retirants are hired as temporary, part-time 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:

**“CHAPTER 5. GENERAL POWERS AND AUTHORITY
OF THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

**ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES
RETIREMENT ACT.**

**§5-10-19. Employers to file information as to employees’
service.**

(a) Each participating public employer shall file with the board of trustees, in such form as the board shall from time to time prescribe, a detailed statement of all service rendered to participating public employers by each of its employees and by any retirant who retired under section twenty-two-c of this article and who is working for the employer on a contract basis, as defined in section twenty-two-c of this article, and such other information as the board shall require in the operation of the retirement system.

(b) Prior to any retirant subsequently becoming employed on a temporary full-time or temporary part-time basis by a participating public employer, the employer shall notify the board and the retirant, in writing, if and when the retirant’s potential temporary employment will negatively impact the retirant’s retired status or benefits. Upon the retirant’s acceptance of either temporary full-time or temporary part-time employment, the employer shall notify the board, in writing, of the retirant’s subsequent employment.

CHAPTER 18. EDUCATION.

**ARTICLE 7A. STATE TEACHERS RETIREMENT
SYSTEM.**

§18-7A-13a. Resumption of service by retired teachers.

(a) For the purpose of this section, reemployment of a former or retired teacher as a teacher shall in no way impair the teacher’s eligibility for a prior service pension or any other benefit provided by this article.

(b) Retired teachers who qualified for an annuity because of age or service may not receive prior service allowance from the retirement board when employed as a teacher and when regularly employed by the State of West Virginia. The payment of the allowance shall be discontinued on the first day of the month within which such employment begins and shall be resumed on the first day of the month succeeding the month within which such employment ceases. The annuity paid the teacher on first retirement resulting from the Teachers' Accumulation Fund and the Employers' Accumulation Fund shall continue throughout the governmental service and thereafter according to the option selected by the teacher upon first retirement.

(c) Retired teachers who qualified for an annuity because of disability shall receive no further retirement payments if the retirement board finds that the disability of the teacher no longer exists; payment shall be discontinued on the first day of the month within which the finding is made. If the retired teacher returns to service as a teacher, he or she shall contribute to the Teachers' Accumulation Fund as a member of the system. His or her prior service eligibility, if any, shall not be impaired because of his or her disability retirement. His or her accumulated contributions which were transferred to the benefit fund upon his or her retirement shall be returned to his or her individual account in the Teachers' Accumulation Fund, minus retirement payments received which were not supported by such contributions and interest. Upon subsequent retirement, he or she shall receive credit for all of his or her contributory experience, anything to the contrary in this article notwithstanding.

(d) Notwithstanding any provision of this code to the contrary, a person who retires under the system provided by this article may subsequently become employed on either a full-time basis, part-time basis or contract basis by any institution of higher education without any loss of retirement annuity or retirement benefits if the person's retirement commences between the effective date of the enactment of this section in 2002 and December 31, 2002: *Provided, That* the person shall not be eligible to participate in any other state retirement system provided by this code.

(e) The retirement board is herewith authorized to require of the retired teachers and their employers such reports as it deems necessary to effectuate the provisions of this section.

(f) Prior to any retirant subsequently becoming employed on a substitute or temporary basis which if full-time would qualify the retirant as a teacher member or a nonteaching member, the employer shall notify the retirement board and the retirant, in writing, if and when the retirant's potential substitute or temporary employment will negatively impact the retirant's retired status or benefits. Upon the retirant's acceptance of either substitute or temporary employment, the employer shall notify the retirement board, in writing, of the retirant's subsequent employment."

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 491**), 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. 3191) 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 amendment of the House of Delegates, with further amendment, and the passage, as amended, of

Com. Sub. for S. B. 375, Relating to county boards of education policies for open enrollment.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate:

On page two, after the word "code", by changing the period to a colon and adding the following proviso: "*Provided*, That nothing

in this paragraph shall be construed to allow a county board to give an enrollment preference to a student transferring from a private, parochial, church, or religious school holding an exemption approved pursuant to §18-8-1(k) of this code.”

The bill, as amended by the House, and further amended by the Senate, was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 492**), and there were—yeas 84, nays 15, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Brown, Dean, Doyle, Fleischauer, Hornbuckle, J. Kelly, Lovejoy, Paynter, Pushkin, Rowe, Statler, Thompson, Walker, Young and Zukoff.

Absent and Not Voting: Graves.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 375) 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 amendment of the House of Delegates, with further amendment, and the passage, as amended, of

Com. Sub. for S. B. 439, Allowing use or nonuse of safety belt as admissible evidence in civil actions.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate:

On page six, section forty-nine-a, subsection (c), subdivision (4), after the word “violated”, by striking out the words “any statute in Chapter 61” and inserting in lieu thereof “§61-5-17(h), §61-5-17(i), or §61-5-17(j)”.

The bill, as amended by the House, and further amended by the Senate, was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 493**), and there were—yeas 59, nays 40, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barach, Barrett, Bates, Boggs, Bridges, Brown, Bruce, Dean, Diserio, Doyle, Evans, Fast, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Horst, Howell, Lovejoy, Mazzocchi, McGeehan, Nestor, Paynter, Pethtel, Phillips, Pushkin, Reynolds, Rowe, Skaff, Steele, Thompson, Toney, Walker, G. Ward, Williams, Young and Zukoff.

Absent and Not Voting: Graves.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 439) passed.

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

Resolutions Introduced

Delegate Howell offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 22 - “Calling for the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side.”

Whereas, The U.S. Department of Commerce’s Bureau of Economic Analysis shows that the outdoor recreation economy accounted for 2.2 percent (\$412 billion) of current-dollar GDP in 2016; and

Whereas, In 2017 Backcountry Discovery Routes generated \$17.3 million in new tourism expenditures, with the average traveling party spending \$3,769 per trip; and

Whereas, The construction of a licensed Off Highway Vehicle (OHV) semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side connecting existing OHV trails, and off-road parks where possible, would bring in significant tourism dollars. The proposed trail should enter West Virginia in the southern part of the state and exit in the Potomac Highlands; and

Whereas, The Legislature believes that the OHV trail will generate much needed economic stimulus to the state, create new jobs and increase tax revenue; therefore, be it

Resolved by the House of Delegates:

That the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side should be a high priority for State Government; and, be it

Further Resolved, That the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side can be supported by all West Virginians; and, be it

Further Resolved, That the Clerk of the House forward a copy of this resolution to the Governor and the state legislatures of the states where the Appalachian Trail traverses, Georgia, North Carolina, Tennessee, Virginia, Maryland, Pennsylvania, New Jersey, New York, Massachusetts, Vermont, New Hampshire and Maine with the addition of Alabama which lies to the west of Georgia and the trail.

Delegates Thompson, Griffith, Barach, Young and Pushkin offered the following resolution, which was read by its title and referred to the Committee on the Judiciary then Rules:

H. R. 23 - "Urging members of the United States Congress to enact federal legislation granting statehood to the people of Washington, D.C."

Whereas, The people living on the land that would eventually be designated as the District of Columbia were provided the right

to vote for representation in Congress when the United States Constitution was ratified in 1788; and

Whereas, The passage of the Organic Act of 1801 placed the District of Columbia under the exclusive authority of the United States Congress and abolished residents' right to vote for members of Congress and the President and Vice President of the United States; and

Whereas, Residents of the District of Columbia were granted the right to vote for the President and Vice President through passage of the Twenty-Third Amendment to the United States Constitution in 1961; and

Whereas, As of 2020, the U.S. Census Bureau data estimates that the District of Columbia's population at approximately 712,000 residents is comparable to the populations of Wyoming (582,000), Vermont (623,000), Alaska (731,000), and North Dakota (765,000); and

Whereas, Residents of the District of Columbia share all the responsibilities of United States citizenship, including paying more federal taxes than residents of 22 states, service on federal juries, and defending the United States as members of the United States armed forces in every war since the War for Independence, yet they are denied full representation in Congress; and

Whereas, The residents of the District of Columbia themselves have endorsed statehood for the District of Columbia and passed a District-wide referendum on November 8, 2016, which favored statehood by 6%; and

Whereas, No other democratic nation denies the right of self-government, including participation in its National Legislature, to the residents of its capital; and

Whereas, The residents of the District of Columbia lack full democracy, equality, and citizenship enjoyed by the residents of the 50 states; and

Whereas, The United States Congress repeatedly has interfered with the District of Columbia's limited self-government by enacting laws that affect the District of Columbia's expenditure of its locally raised tax revenue, including barring the usage of locally raised revenue, thus violating the fundamental principle that states and local governments are best suited to enact legislation that represents the will of their citizens; and

Whereas, Although the District of Columbia has passed consecutive balanced budgets since FY1997, it still faces the possibility of being shut down yearly because of Congressional deliberations over the federal budget; and

Whereas, District of Columbia Delegate Eleanor Holmes Norton and Delaware U.S. Senator Tom Carper introduced in the 117th Congress H.R. 51 and S. 51, the Washington, D.C. Admission Act, that provides that the State of Washington, D.C. would have all the rights of citizenship as taxpaying American citizens, including two Senators and at least one House member; and

Whereas, The United Nations Human Rights Committee has called on the United States Congress to address the District of Columbia's lack of political equality, and the Organization of American States has declared the disenfranchisement of the District of Columbia residents a violation of its charter agreement, to which the United States is a signatory; therefore, be it

Resolved by the House of Delegates:

That the State of West Virginia supports admitting Washington, D.C. into the Union as a state of the United States of America; and, be it

Further Resolved, That the members of the United States Congress are urged to enact federal legislation granting statehood to the people of Washington, D.C.

Delegates Hamrick, B. Ward, Haynes, Ferrell and Clark offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 102 - “Requesting the Joint Committee on Government and Finance study means by which to attract and retain remote workers in the State of West Virginia.”

Whereas, The COVID-19 pandemic has caused many of those in the workforce across the country to shift to remote working, with some jobs moving to permanent remote positions; and

Whereas, The Legislature recognizes the important role that tourism plays in each of our communities and in the state as a whole; and

Whereas, The State of West Virginia has a unique geographic location as the weighted center of population of the eastern United States; and

Whereas, The Legislature sees value in attracting those from across the country who may be considering remote working in a state such as West Virginia; and

Whereas, The Legislature recognizes the beauty and value in our state parks, and over the last year during the COVID-19 crisis, we have had an increase of residents and out of state visitors enjoying our state parks; and

Whereas, It is only natural that those persons who may be visiting or touring the state consider working in West Virginia remotely as their “home” state; and

Whereas, The Legislature notes that expanding our employment base to those remote workers will have fantastic benefits for our economy and our state as a whole; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study means by which to attract and retain remote workers in the State of West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022,

on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

Special Calendar

Unfinished Business

H. C. R. 91, To study considering methods of retaining native businesses; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

H. C. R. 98, For West Virginia's Public Employee Insurance Agency (PEIA) Finance Board to examine how they can enhance reimbursement rates to providers; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

H. C. R. 99, Requesting the Joint Committee on Government and Finance study childcare in the state of West Virginia; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

H. C. R. 100, Requesting study on how Local Health Departments are funded and supported; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

H. C. R. 101, Requesting a study of the state's laboratory needs and the utilization of private laboratories; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

H. C. R. 104, Providing for the expiration of certain emergency orders issued during the coronavirus pandemic declared on March 16, 2020 in West Virginia; 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. 494**), and there were—yeas 76, nays 24, absent and not voting none, with the nays being as follows:

Nays: Barach, Boggs, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Higginbotham, Hornbuckle, Lovejoy, L. Pack, Pethtel, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young, Zukoff and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker declared the resolution (H. C. R. 104) adopted.

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

Third Reading

S. J. R. 4, Incorporation of Churches or Religious Denominations Amendment; on third reading, coming up in regular order, was read a third time.

On the adoption of the resolution, the yeas and nays were taken (**Roll No. 495**), and there were—yeas 97, nays 2, absent and not voting 1, with the yeas, nays, and absent and not voting being as follows:

Yeas: Anderson, Barach, Barnhart, Barrett, Bates, Boggs, Booth, Bridges, Brown, Bruce, Burkhammer, Capito, Clark, Conley, Cooper, Criss, Dean, Diserio, Doyle, Ellington, Espinosa, Evans, Fast, Ferrell, Fleischauer, Fluharty, Forsht, Foster, Garcia, Gearheart, Graves, Griffith, Hamrick, Hanna, Hansen, Hardy, Haynes, Higginbotham, Holstein, Hornbuckle, Horst, Hott, Householder, Howell, D. Jeffries, Jennings, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Kimes, Longanacre, Lovejoy, Mallow, Mandt, Martin, Maynard, Mazzocchi, McGeehan, Miller, Nestor, J. Pack, L. Pack, Paynter, Pethtel, Phillips, Pinson, Pritt, Pushkin, Queen, Reed, Reynolds, Riley, Rohrbach, Rowan, Rowe, Skaff, Smith, Statler, Steele, Storch, Summers, Sypolt, Toney, Tully, Walker, Wamsley, B. Ward, G. Ward, Westfall, Williams, Worrell, Young, Zatezalo, Zukoff and Hanshaw (Mr. Speaker).

Nays: J. Jeffries and Thompson.

Absent and Not Voting: Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the resolution (S. J. R. 4) adopted, as follows:

S. J. R. 4 - “Proposing an amendment to the Constitution of the State of West Virginia, amending section 47, article VI thereof, relating to authorizing the incorporation of religious denominations; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.”

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at a special election to be held on July 24,

2021, which proposed amendment is that section 47, article VI thereof, be amended to read as follows:

ARTICLE VI. THE LEGISLATURE.

§47. Incorporation of religious ~~denominations prohibited~~ institutions permitted.

~~No charter of incorporation shall be granted to any church or religious denomination.~~ Provisions may be made by general laws for securing the title to church property, and for the sale and transfer thereof, so that it shall be held, used, or transferred for the purposes of such church or religious ~~denomination~~ institution. Provision may also be made by general law for the incorporation of churches or religious institutions.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby numbered “Amendment No. 1” and designated as the “Incorporation of Churches or Religious Institutions Amendment” and the purpose of the proposed amendment is summarized as follows: “To authorize the incorporation of churches or religious institutions.”

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. 387, Relating to drug screening of applicants for cash 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. 496**), and there were—yeas 80, nays 20, absent and not voting none, with the nays being as follows:

Nays: Barach, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Lovejoy, L. Pack, Pushkin, Skaff, Thompson, Walker, Williams, Worrell, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 387) 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. 392, Creating penalty for impersonating law-enforcement officer or official; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 497**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Maynard.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 392) 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. 483, Allowing oaths be taken before any person authorized to administer oaths; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 498**), 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: Reed.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 483) passed.

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

S. B. 496, Relating to punishment for second or third degree felony; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 499**), and there were—yeas 85, nays 14, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barach, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Hornbuckle, McGeehan, Pritt, Pushkin, Thompson, Walker, Williams and Young.

Absent and Not Voting: Longanacre.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 496) passed.

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

Com. Sub. for S. B. 634, Requiring training of certain officers for persons with autism spectrum disorder; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 500**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Kimes.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 634) passed.

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

Com. Sub. for S. B. 668, Creating Psychology Interjurisdictional Compact; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 501**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Kimes.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 668) passed.

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

Delegate Longanacre asked unanimous consent to reopen debate on Com. Sub. for S. B. 439, which consent was not granted, objection being heard.

Second Reading

Com. Sub. for S. B. 335, Relating to WV Invests Grant Program for students at accredited community and technical college; on second reading, coming up in regular order, was read a second time. The bill was then ordered to third reading.

Com. Sub. for S. B. 419, Redefining “firearm” to match federal code; 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 1, immediately following the enacting section, 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 7. DANGEROUS WEAPONS.

§61-7-2. Definitions.

As used in this article, unless the context otherwise requires:

(1) ‘Antique firearm’ means:

(A) Any firearm, including, but not limited to, a firearm with a match lock, flintlock, percussion cap, or similar type of ignition system which was manufactured on or before 1898;

(B) Any replica of any firearm described in paragraph (A) of this subdivision if such replica

is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(C) Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol, which is designed to use black powder, or black powder substitute, and which cannot use fixed ammunition. For purposes of this subdivision, the term ‘antique firearm’ shall not include any weapon which includes a firearm frame or receiver, any firearm which is converted into a muzzle-loading weapon, or any muzzle-loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(2) ‘Blackjack’ means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. The term ‘blackjack’ includes, but is not limited to, a billy, billy club, sand club, sandbag, or slapjack.

(3) ‘Concealed’ means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee is considered to be carrying on or about his or her person while in or on a motor vehicle if the firearm is located in a storage area in or on the motor vehicle.

(4) ‘Controlled substance’ has the same meaning as is ascribed to that term in §60A-1-101(e) of this code.

(5) ‘Deadly weapon’ means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term ‘deadly weapon’ includes, but is not limited to, the instruments defined in subdivisions (1) through (8), inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of §18A-5-1a of this code and §61-7-11a of this code, in addition to the definition of ‘knife’ set forth in subdivision (9) of this subsection, the term ‘deadly weapon’ also includes any instrument included within the definition of ‘knife’ with a blade of three and one-half inches or less in length. Additionally, for the purposes of §18A-5-1a of this code and §61-7-11a of this code, the term ‘deadly weapon’ includes explosive, chemical, biological, and radiological materials. Notwithstanding any other provision of this section, the term ‘deadly weapon’ does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes. The term ‘deadly weapon’ does not include pepper spray as defined in ~~subdivision (9)~~ subdivision (12) of this subsection when used by any person over the age of 16 solely for self-defense purposes.

(6) ‘Drug’ has the same meaning as is ascribed to that term in §60A-1-101(m) of this code.

(7) ‘Firearm’ means any weapon which will expel a projectile by action of an explosion: Provided, That it does not mean an antique firearm as defined in subdivision (1) of this subsection; except for the purposes of §48-27-502 of this code.

(8) ‘Gravity knife’ means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force and when released is locked in place by means of a button, spring, lever, or other locking or catching device.

(9) ‘Knife’ means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or

sharp-pointed blade, usually made of steel, attached to a handle which is capable of inflicting cutting, stabbing, or tearing wounds. The term 'knife' includes, but is not limited to, any dagger, dirk, poniard, or stiletto, with a blade over three and one-half inches in length, any switchblade knife or gravity knife, and any other instrument capable of inflicting cutting, stabbing, or tearing wounds. A pocket knife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports, or other recreational uses, or a knife designed for use as a tool or household implement is not included within the term 'knife' as defined in this subdivision unless the knife is knowingly used or intended to be used to produce serious bodily injury or death.

(10) 'Metallic or false knuckles' means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person who was struck. The terms 'metallic or false knuckles' includes any such instrument without reference to the metal or other substance or substances from which the metallic or false knuckles are made.

(11) 'Nunchaku' means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in ~~such~~ a manner ~~as to allow~~ that allows the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.

(12) 'Pepper spray' means a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose, throat, and skin that is intended for self-defense use.

(13) 'Pistol' means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.

(14) 'Revolver' means a short firearm having a cylinder of several chambers that are brought successively into line with the

barrel to be discharged, designed to be aimed and fired by the use of a single hand.

(15) ‘Switchblade knife’ means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch, or other releasing device in its handle.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 458, Relating to possession of firearms by individuals during state of emergency; 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 as follows:

On page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-19a. Possession of firearms during a declared state of emergency

~~(a) No person acting on behalf or under the authority of the state or a political subdivision of the state may do any of the following during any federal or state declared state of emergency~~

(a) During a federal or state declared state of emergency, no state agency, county, or municipality, or any elected or appointed official or employee thereof, may:

(1) Prohibit or restrict the otherwise lawful possession, use, carrying, transfer, transportation, storage, sale, or display, or other lawful use of a firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or personal weapons other than firearms;

(2) Seize, confiscate, or authorize the seizure or confiscation of any otherwise lawfully possessed firearm or ammunition, any

firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms unless:

(A) The person acting on behalf of or under the authority of the state, ~~or political subdivision~~ a county, or municipality is:

(i) Defending himself or herself or another from an assault; or

(ii) Arresting a person in actual possession of a firearm or ammunition for a violation of law; or

(B) The firearm or ammunition is being seized or confiscated as evidence of a crime;

(3) Require registration of any firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms;

(4) Suspend or revoke a license to carry a concealed deadly weapon or provisional license to carry a concealed deadly weapon issued pursuant to §61-7-1 et seq. of this code except as expressly authorized in that article;

(5) Willfully refuse to accept an application for a license to carry a concealed deadly weapon or provisional license to carry a concealed deadly weapon, provided the application has been properly completed in accordance with §61-7-1 et seq. of this code;

(6) Close or limit the operating hours of any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory, ammunition, ammunition reloading equipment and supplies, or personal weapons other than firearms, unless the closing or limitation of hours applies generally within the jurisdiction of commerce;

(7) Close or limit the operating hours of any indoor or outdoor shooting range; or

(8) Place restrictions or quantity limitations on any entity regarding the lawful sale or servicing of any firearm or ammunition, any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or personal weapons other than firearms.

(b) The prohibitions of ~~subsection (a)(1)~~ subdivision (1) of subsection (a) of this section do not prohibit the state or an authorized state or local authority from ordering and enforcing an evacuation or general closure of businesses in the affected area during a declared state of emergency.

(c) Any individual ~~aggrieved~~ adversely affected by a violation of this section may seek relief in an action at law or in equity for redress against any ~~person~~ state agency, county, municipality, or any elected or appointed official or employee of this state, a county, or municipality who that subjects ~~such~~ the individual, or causes ~~such~~ the individual to be subjected, to an action prohibited by this section.

(d) In addition to any other remedy at law or in equity, an individual ~~aggrieved~~ adversely affected by the seizure or confiscation of ~~a firearm or ammunition~~ any firearm or ammunition component or accessory, ammunition reloading equipment and supplies, or otherwise lawful personal weapons other than firearms in violation of this section may bring an action for the return of ~~such firearm or ammunition~~ the seized or confiscated property in the circuit court of the county in which that individual resides or in which ~~such firearm or ammunition~~ the seized or confiscated property is located.

~~(e) In any action or proceeding to enforce this section, the court shall award a prevailing plaintiff costs and reasonable attorney fees~~ A prevailing plaintiff in an action under this section is entitled to recover the following:

- (1) Actual damages, including consequential damages;
- (2) Court costs and fees; and
- (3) Reasonable attorney's fees."

The bill was then ordered to third reading.

S. B. 486, Relating to powers and duties of Chief Technology Officer; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 488, Relating to distributing hotel occupancy tax to convention and visitor's bureaus; 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 the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 492, Establishing program for bonding to reclaim abandoned wind and solar generation facilities; on second reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

Com. Sub. for S. B. 502, Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15; on second reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

S. B. 521, Extending licensure renewal term of certain private investigators, security guards, and associated firms; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 529, Correcting improper citation relating to DMV registration; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 534, Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant 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 on page 1, following the enacting clause,

by striking out the remainder of the bill and inserting in lieu thereof the following:

“§12-6C-11. Legislative findings; loans for industrial development; availability of funds and interest rates.

(a) The Legislature finds and declares that the citizens of the state benefit from the creation of jobs and businesses within the state; that business and industrial development loan programs provide for economic growth and stimulation within the state; that loans from pools established in the Consolidated Fund will assist in providing the needed capital to assist business and industrial development; and that time constraints relating to business and industrial development projects prohibit duplicative review by both the Board and West Virginia Economic Development Authority Board.

(b) ~~The Subject to a liquidity determination, the West Virginia Board of Treasury Investments shall make a revolving loan available, subject to a liquidity determination, in the form of a revolving loan, up to \$175 million from the Consolidated Fund to loan the West Virginia Economic Development Authority in an amount of up to \$200 million. The revolving loan shall be used for business or industrial development projects authorized by §31-15-7 of this code and to consolidate existing loans authorized to be made to the West Virginia Economic Development Authority pursuant to this section and pursuant to §31-15-2 §31-15-20 of this code which authorizes a \$175 \$150 million revolving loan and §31-18B-1 et seq. of this code which authorizes a \$50 million investment pool: Provided, That the West Virginia Economic Development Authority may not loan more than \$15 million for any one business or industrial development project. The revolving loan authorized by this subsection shall be secured by one note at a variable interest rate equal to the 12-month average of the board's yield on its West Virginia Money Market pool. The rate shall be set on July 1 and adjusted annually on the same date. 75% of the West Virginia Economic Development Authority's weighted average interest rate for outstanding loans in the Business and Industrial Development Loan Program authorized by §31-15-7 of this code. The rate may not be lower than 1.75% and must be reset~~

on July 1 of each year. The maximum annual adjustment may not exceed one percent. Monthly payments made by the West Virginia Economic Development Authority to the board shall be calculated on a 120-month amortization. The revolving loan is secured by a security interest that pledges and assigns the cash proceeds of collateral from all loans under this revolving loan pool. The West Virginia Economic Development Authority may also pledge as collateral certain revenue streams from other revolving loan pools which source of funds does not originate from federal sources or from the board.

(c) The outstanding principal balance of the revolving loan from the board to the West Virginia Economic Development Authority may at no time exceed one hundred three percent of the aggregate outstanding principal balance of the business and industrial loans from the West Virginia Economic Development Authority to economic development projects funded from this revolving loan pool. The independent audit of the West Virginia Economic Development Authority financial records shall annually certify that one hundred three percent requirement.

(d) The interest rates and maturity dates on the loans made by the West Virginia Economic Development Authority for business and industrial development projects authorized by §31-15-7 of this code shall be at competitive rates and maturities as determined by the West Virginia Economic Development Authority Board.

(e) Any and all outstanding loans made by the West Virginia Board of Treasury Investments, or any predecessor entity, to the West Virginia Economic Development Authority are refundable by proceeds of the revolving loan contained in this section and the board shall make no loans to the West Virginia Economic Development Authority pursuant to §31-15-20 of this code or §31-18B-1 *et seq.* of this code.

(f) The directors of the West Virginia Board of Treasury Investments shall bear no fiduciary responsibility with regard to any of the loans contemplated in this section.

(g) *Inspection of records.* – Within 30 days of receiving a written request from the board, the authority shall provide the board with the opportunity to inspect and copy any records in the custody of the authority related to any loan issued by the board to the authority or any loan from the authority to a third party funded by a loan issued by the board. Records to be made available pursuant to this subsection include, but are not limited to, accounting records, loan applications, loan agreements, board minutes, audit reports, and transaction records. Records of the authority held from time to time by the board pursuant to this subsection that are exempt from disclosure pursuant to the provisions of §31-15-22 of this code or §29B-1-1 *et seq.* of this code shall remain so while held by the board.

§31-15-5. West Virginia economic development authority; composition; appointment; terms; delegation of authority by chairman; voting; compensation and expenses.

(a) The West Virginia economic development authority is continued as a body corporate and politic, constituting a public corporation and government instrumentality.

(b) The authority shall be composed of a board of members consisting of a chairman, who shall be the Governor, or his or her designated representative, the State Treasurer, or his or her designated representative, the Tax Commissioner and seven members who shall be appointed by the Governor, by and with the advice and consent of the Senate, and who shall be broadly representative of the geographic regions of the state. One member of the House of Delegates to be appointed by the Speaker and one member of the Senate to be appointed by the President shall serve on the board in an advisory capacity as ex officio, nonvoting members. The board shall direct the exercise of all the powers given to the authority in this article. The Governor shall also be the chief executive officer of the authority, and shall designate the treasurer and the secretary of the board.

(c) As appointments expire, each subsequent appointment shall be for a full four-year term. Any member whose term has expired shall serve until his or her successor has been duly appointed and

qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any member is eligible for reappointment.

(d) The Governor may, by written notice filed with the secretary of the authority, from time to time, delegate to any subordinate the power to represent him or her at any meeting of the authority. In that case, the subordinate has the same power and privileges as the Governor and may vote on any question.

(e) Members of the authority 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.

(f) A majority of the members constitutes a quorum for the purpose of conducting business. Except in the case of a loan or insurance application or unless the bylaws require a larger number, action may be taken by majority vote of the members present. Approval or rejection of a loan or insurance application shall be made by majority vote of the full membership of the board.

(g) The board shall manage the property and business of the authority and may prescribe, amend, adopt and repeal bylaws and rules and regulations governing the manner in which the business of the authority is conducted.

(h) The board shall, without regard to the provisions of civil service laws applicable to officers and employees of the State of West Virginia, appoint any necessary managers, assistant managers, officers, employees, attorneys and agents for the transaction of its business, fix their compensation, define their duties and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed at the discretion of the board. The authority may reimburse any state spending unit for any special expense actually incurred in providing any service or the use of any facility to the authority.

(i) The board may delegate to the Executive Director the authority to make and execute all contracts and other agreements

or instruments necessary ~~for the exercise of its powers or to carry out its corporate purpose~~ to carry out the duties and powers of the authority, as provided in this article: *Provided, That nothing in this article authorizes the authority to enter into contracts or agreements with financial institutions, as that term is defined in §31A-1-2 of this code, for banking goods or services without approval of the State Treasurer, in accordance with §12-1-1 et seq. of this code.*

(j) In cases of any vacancy in the office of a voting member, the vacancy shall be filled by the Governor. Any member appointed to fill a vacancy in the board occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of the term.

(k) The Governor may remove a member in the case of incompetence, neglect of duty, gross immorality or malfeasance in office, and may declare the member's office vacant and appoint a person for the vacancy as provided in other cases of vacancy.

(l) The secretary of the board shall keep a record of the proceedings of the board and perform any other duties determined appropriate by the board. The treasurer shall be custodian of all funds of the authority and shall be bonded in the amount designated by other members of the board.

§31-15-6. General powers of authority.

The authority, as a public corporation and governmental instrumentality exercising public powers of the state, shall have and may exercise all powers necessary or appropriate to carry out the purposes of this article, including the power:

(a) To cooperate with industrial development agencies in efforts to promote the expansion of industrial, commercial, manufacturing and tourist activity in this state.

(b) To determine, upon the proper application of an industrial development agency or an enterprise, whether the declared public purposes of this article have been or will be accomplished by the establishment by such agency or enterprise of a project in this state.

(c) To conduct examinations and investigations and to hear testimony and take proof, under oath or affirmation, at public or private hearings, on any matter relevant to this article and necessary for information on the establishment of any project.

(d) To issue subpoenas requiring the attendance of witnesses and the production of books and papers relevant to any hearing before such authority or one or more members appointed by it to conduct any hearing.

(e) To apply to the circuit court having venue of such offense to have punished for contempt any witness who refuses to obey a subpoena, to be sworn or affirmed or to testify or who commits any contempt after being summoned to appear.

(f) To authorize any member of the authority to conduct hearings, administer oaths, take affidavits and issue subpoenas.

(g) To financially assist projects by insuring obligations in the manner provided in this article through the use of the insurance fund.

(h) To finance any projects by making loans to industrial development agencies or enterprises upon such terms as the authority shall deem appropriate: *Provided*, That nothing contained in this subsection (h) or under any other provision in this article shall be construed as permitting the authority to make loans for working capital: *Provided, however*, That nothing contained in this article shall be construed as prohibiting the authority from insuring loans for working capital made to industrial development agencies or to enterprises by financial institutions: *Provided further*, That nothing contained in this subsection or any other provision of this article shall be construed as permitting the authority to refinance existing debt except when such refinancing will result in the expansion of the enterprise whose debt is to be refinanced or in the creation of new jobs: *And provided further*, That nothing contained in this subsection or any other provision of this article shall be construed as prohibiting the authority from making working capital loans from a revolving loan fund capitalized with federal grant funds including, but not limited to,

federal grant funds received from the United States Economic Development Administration.

(i) To issue revenue bonds or notes to fulfill the purposes of this article, and to secure the payment of such bonds or notes, all as hereinafter provided.

(j) To issue and deliver revenue bonds or notes in exchange for a project.

(k) To borrow money for its purposes and issue bonds or notes for the money and provide for the rights of the holders of the bonds or notes or other negotiable instruments, to secure the bonds or notes by a deed of trust on, or an assignment or pledge of, any or all of its property and property of the project, including any part of the security for loans, and the authority may issue and sell its bonds and notes, by public or private sale, in such principal amounts as it shall deem necessary to provide funds for any purposes under this article, including the making of loans for the purposes set forth in this article.

(l) To maintain such sinking funds and reserves as the board shall determine appropriate for the purposes of meeting future monetary obligations and needs of the authority.

(m) To sue and be sued, implead and be impleaded, and complain and defend in any court.

(n) To adopt, use and alter at will a corporate seal.

(o) To make, amend, repeal and adopt both bylaws and rules and regulations for the management and regulation of its affairs.

(p) To appoint officers, agents and employees and to contract for and engage the services of consultants.

(q) To make contracts ~~of every kind and nature~~ and to execute all instruments necessary ~~or convenient for carrying on its business to carry out the powers and duties of the authority, as provided in this article.~~ Provided, That the provisions of §5A-3-3 of this code do not apply to contracts made pursuant to this subdivision;

Provided, however, That nothing in this article authorizes the authority to enter into contracts or agreements with financial institutions, as that term is defined in §31A-1-2 of this code, for banking goods and services without approval of the State Treasurer, in accordance with §12-1-1 et seq. of this code.

(r) To accept grants and loans from and enter into contracts and other transactions with any federal agency.

(s) To take title by conveyance or foreclosure to any project where acquisition is necessary to protect any loan previously made by the authority and to sell, by public or private sale, transfer, lease or convey such project to any enterprise.

(t) To participate in any reorganization proceeding pending pursuant to the United States Code (being the act of Congress establishing a uniform system of bankruptcy throughout the United States, as amended) or in any receivership proceeding in a state or federal court for the reorganization or liquidation of an enterprise. The authority may file its claim against any such enterprise in any of the foregoing proceedings, vote upon any questions pending therein which requires the approval of the creditors participating in any reorganization proceeding or receivership, exchange any evidence of such indebtedness for any property, security or evidence of indebtedness offered as a part of the reorganization of such enterprise or of any other entity formed to acquire the assets thereof and may compromise or reduce the amount of any indebtedness owing to it as a part of any such reorganization.

(u) To acquire, construct, maintain, improve, repair, replace and operate projects within this state, as well as streets, roads, alleys, sidewalks, crosswalks and other means of ingress and egress to and from projects located within this state.

(v) To acquire, construct, maintain, improve, repair and replace and operate pipelines, electric transmission lines, waterlines, sewer lines, electric power substations, waterworks systems, sewage treatment and disposal facilities and any combinations thereof for the use and benefit of any enterprise located within this state.

(w) To acquire watersheds, water and riparian rights, rights-of-way, easements, licenses and any and all other property, property rights and appurtenances for the use and benefit of any enterprise located within this state.

(x) To acquire, by purchase, lease, donation or eminent domain, any real or personal property, or any right or interest therein, as may be necessary or convenient to carry out the purposes of the authority. Title to all property, property rights and interests acquired by the authority shall be taken in the name of the authority.

(y) To issue renewal notes, or security interests, to issue bonds to pay notes or security interests and, whenever it deems refunding expedient, to refund any bonds or notes by the issuance of new bonds or notes, whether the bonds or notes to be refunded have or have not matured and whether or not the authority originally issued the bonds or notes to be refunded.

(z) To apply the proceeds from the sale of renewal notes, security interests or refunding bonds or notes to the purchase, redemption or payment of the notes, security interests or bonds or notes to be refunded.

(aa) To accept gifts or grants of property, funds, security interests, money, materials, labor, supplies or services from the United States of America or from any governmental unit or any person, firm or corporation, and to carry out the terms or provisions of, or make agreements with respect to, or pledge, any gifts or grants, and to do any and all things necessary, useful, desirable or convenient in connection with the procuring, acceptance or disposition of gifts or grants.

(bb) To the extent permitted under its contracts with the holders of bonds, security interests or notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any bond, security interests, note or contract or agreement of any kind to which the authority is a party.

(cc) To sell loans, security interests or other obligations in the loan portfolio of the authority. Such security interests shall be evidenced by instruments issued by the authority. Proceeds from the sale of loans, security interests, or other obligations may be used in the same manner and for the same purposes as bond and note revenues.

(dd) To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as the authority deems desirable.

(ee) To sell, license, lease, mortgage, assign, pledge or donate its property, both real and personal, or any right or interest therein to another or authorize the possession, occupancy or use of such property or any right or interest therein by another, in such manner and upon such terms as it deems appropriate.

(ff) To participate with the state and federal agencies in efforts to promote the expansion of commercial and industrial development in this state.

(gg) To finance, organize, conduct, sponsor, participate and assist in the conduct of special institutes, conferences, demonstrations and studies relating to the stimulation and formation of business, industry and trade endeavors.

(hh) To conduct, finance and participate in technological, business, financial and other studies related to business and economic development.

(ii) To conduct, sponsor, finance, participate and assist in the preparation of business plans, financing plans and other proposals of new or established businesses suitable for support by the authority.

(jj) To prepare, publish and distribute, with or without charge as the authority may determine, such technical studies, reports, bulletins and other materials as it deems appropriate, subject only to the maintenance and respect for confidentiality of client proprietary information.

(kk) To exercise such other and additional powers as may be necessary or appropriate for the exercise of the powers herein conferred.

(ll) To exercise all of the powers which a corporation may lawfully exercise under the laws of this state.

(mm) To contract for the provision of legal services by private counsel, and notwithstanding the provisions of ~~article three, chapter five~~ §5-3-1 et seq. of this code, such counsel may, but is not limited to, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating thereto, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority.

(nn) To develop, maintain, operate and apply for the establishment of foreign trade zones pursuant to and in accordance with all applicable provisions of federal law.

(oo) To exercise the powers and responsibilities previously vested in the state building commission by ~~section eleven-a, article six, chapter five~~ §5-6-11a of this code, including, but not limited to, the authority to refund bonds issued in accordance with that section.”

On motion of Delegate Householder, the committee amendment was amended, on page 2, section 11, line 20, by striking out “75%” and inserting in lieu thereof, “50%”.

And,

On page 2, section 11, line 23, by striking out “1.75%” and inserting in lieu thereof, “1.50%”.

The amendment recommended by the Committee on Finance was then adopted.

The bill was ordered to third reading.

Com. Sub. for S. B. 610, Providing tuition and fee waivers at state higher education institutions for volunteers who have completed service in AmeriCorps programs in WV; 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, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

**“ARTICLE 10. FEES AND OTHER MONEY COLLECTED
AT STATE INSTITUTIONS OF HIGHER EDUCATION.**

**§18B-10-7d. Tuition waivers for national service volunteers
serving in West Virginia.**

(a) Prior to the 2021 fall semester or term, each state institution of higher education’s governing board shall promulgate a rule regarding the award of tuition and fee waivers for undergraduate and graduate courses to any student who has completed service in an AmeriCorps State, National, VISTA, or Senior Corps program in West Virginia. The rule shall include at least the following criteria:

(1) To qualify for a tuition and fee waiver, the student shall have:

(A) Applied to and been accepted to the institution;

(B) Filed the Free Application for Federal Student Aid and have accepted all offers of state and federal financial assistance for which he or she is eligible: *Provided*, That the student is not required to accept offers of student loan or work study assistance;

(C) Accepted the Segal AmeriCorps Education Award; and

(D) Successfully completed his or her term of service in West Virginia and provided a Certification of Service Letter to the institution consistent with the AmeriCorps program and with the regulations of the Corporation for National and Community Service;

(2) Any award of a tuition and fee waiver shall be determined as follows:

(A) The student shall be awarded a tuition and fee waiver for one semester if the student successfully completed a term of service consisting of at least 600 hours of service or multiple terms of service that in the aggregate consist of at least 600 hours of service.

(B) The student shall be awarded a tuition and fee waiver for two semesters if the student successfully completed a term of service consisting of at least 1,200 hours of service or multiple terms of service that in the aggregate consist of at least 1,200 hours.

(C) The hours of service used to qualify for an award may not be used to qualify for another award;

(D) A student may successfully complete additional terms of service while enrolled at an institution or between semesters and provide the documentation specified in paragraph (D), subdivision (1) of this subsection to the institution for waivers of tuition and fees in accordance with this section and board of governors rule;

(E) The total number of tuition and fee waivers that may be granted to a student pursuant to this section is limited to eight semesters or terms of enrollment at the undergraduate or graduate levels combined;

(F) The nominal value of a tuition and fee waiver is the remaining cost of tuition and fees after the state and federal financial assistance accepted by the student in accordance with subdivision (1) of this subsection has been applied: *Provided*, That if the subsequent application of the student's Segal AmeriCorps Education Award causes the total of the student's financial assistance, waivers, and grants to exceed the student's cost of attendance, the nominal value of the tuition and fee waiver may be further reduced to reach the cost of attendance; and

(G) The award of a tuition and fee waiver is contingent upon the student meeting the academic progress standards established by the institution.

(3) The governing board's rule may establish any limitations on the provisions of this section as it considers proper.

(b) The award of tuition and fee waivers granted pursuant to this section is in addition to the tuition and fee waivers otherwise permitted in this article.

(c) The commission and the council may propose rules for legislative approval, pursuant to the provisions of §29A-3A-1 et seq. of this code, if necessary, to provide for uniformity in the administration and tracking of awards made pursuant to this section.”

On motion of Delegate Summers the bill was postponed one day.

Com. Sub. for S. B. 613, Adding classification and base salaries of certain civilian employees of State Police Forensic Laboratory; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 636, Requiring certain history and civics courses be taught in schools; 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 2, section §18-2-9, line 13, following the words “Thomas Jefferson”, by inserting a comma and the following: “and the treatment and contributions of historic minorities, including but not limited to African Americans, Native Americans and women.”

And,

On page 5, section §18-2-9, following line 106, by inserting a new subsection (g) to read as follows:

“(g) Beginning with the 2021 - 2022 school year, each public high school student shall complete a one credit course of study in personal finance as a requirement for high school graduation in place of existing economics coursework requirements. This

coursework must include an end-of-course examination. The State Board of Education shall develop the curriculum for this coursework before July 1, 2021.”

The bill was ordered to third reading.

Com. Sub. for S. B. 655, Eliminating sunset and legislative audit provisions for certain PSC rules on second reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

Com. Sub. for S. B. 671, Appointing Director of Office of Emergency Medical Services; on second reading, coming up in regular order, was read a second time.

Delegate Jennings moved to amend the bill on page 1, section 4, line 5, after the word, “have”, by inserting the following: “5 years of experience as a paramedic and is an emergency medical services instructor in West Virginia and”.

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. 502**), and there were—yeas 49, nays 49, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Anderson, Barnhart, Barrett, Bates, Booth, Bridges, Brown, Capito, Clair, Conley, Dean, Diserio, Doyle, Ellington, Espinosa, Evans, Fleischauer, Foster, Hamrick, Haynes, Higginbotham, Holstein, Hornbuckle, Horst, Hott, Householder, Howell, Keaton, D. Kelly, Kessinger, Linville, Lovejoy, Maynard, Mazzocchi, J. Pack, L. Pack, Paynter, Reynolds, Rohrbach, Rowan, Smith, Statler, Steele, Storch, Tully, Walker, Wamsley, Williams and Hanshaw, (Mr. Speaker).

Absent and Not Voting: Riley and Worrell.

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

The bill was ordered to third reading.

Com. Sub. for S. B. 684, Adding Curator of Division of Arts, Culture, and History as ex officio voting member to Library Commission; 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 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1. PUBLIC LIBRARIES.

§10-1-12. State Library Commission.

There shall be a state Library Commission, known as the West Virginia Library Commission, which shall consist of the Curator of the West Virginia Department of Arts, Culture and History as an ex officio voting member and five eight members who shall be appointed by the Governor, by and with the advice and consent of the Senate, each for a term of four years. ~~Thereafter, on July 1, 1995, four additional members shall be appointed: *Provided*, That for the four new members added to the commission in the year 1995, one shall serve an initial term of four years and three shall serve an initial term of two years.~~ No more than three members may reside in the same congressional district. At least four members of the commission shall be women and at least four members shall be men. No member of the commission shall receive compensation for services rendered, nor be engaged or interested in the publishing business.

The members of the commission in office on the date this code takes effect shall, unless sooner removed, continue to serve until their respective terms expire and their successors have been appointed and have qualified. On or before the expiration of the terms for which ~~said~~ the members are appointed, the Governor shall appoint their successors.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 695, Providing procedures for decreasing or increasing corporate limits by annexation; 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 1, by striking out everything after the enacting clause and inserting in lieu thereof:

“ARTICLE 6. ANNEXATION.

§8-6-4a. Annexation without election for municipalities in counties that have an adopted countywide zoning ordinance which includes urban growth boundaries.

(a) This section applies to municipalities in counties that have adopted a countywide zoning ordinance with designated urban growth boundaries and, prior to January 1, 2009, have adopted local impact fees pursuant to the provisions of §7-20-1 *et seq.* of this code that want to annex additional property without an election.

(b) For purposes of this section only:

(1) ‘Contiguous’ means property that is next to, abutting, and having a boundary that is coterminous with the municipality’s designated urban growth boundary. The length of a street, highway, road, or other traffic or utility easement, streams, rivers, or other natural topography are not to be used to determine if a property is contiguous: *Provided*, That the width of a street, highway, road, or other traffic or utility easement, streams, rivers, or other natural topography may be used to determine contiguous boundaries.

(2) ‘Urban growth boundary’ means a site-specific line, delineated on a zoning map or a written description in a zoning ordinance identifying an area around and outside the corporate limits of a municipality within which there is a sufficient supply of developable land within the boundary for at least a prospective 20-year period of municipal growth based on demographic forecasts and the time reasonably required to effectively provide municipal services to the identified area. The urban growth boundary may be

called by any name chosen by the county commission, but the word 'boundary' shall be used in the name of the boundary. The boundary shall be established by the county commission in agreement with each individual municipality regarding that municipality's boundary. If the county commission and municipality cannot agree upon the location or size of the boundary, either party may file for declaratory judgment relief in the circuit court which shall submit the dispute to mediation or arbitration prior to final resolution by the circuit court. Once a county has adopted an urban growth boundary by its designation on an adopted county zoning map, the gross area inside the boundary may not be reduced without written consent of the municipality. The county commission shall review each urban growth boundary at a period not to exceed 10 years or upon request of the individual municipality.

(c) Procedure for a municipality to annex property within an urban growth boundary. —

(1) If the proposed property to be annexed by a municipality is entirely within the municipality's designated urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code. Agreement with the county commission is not required.

(2) If the proposed property to be annexed by minor boundary adjustment by a municipality is entirely within the municipality's designated urban growth boundary, then the municipality may annex without an election the proposed property ~~pursuant to the provisions of §8-6-4 of this code~~ if the provisions of §8-6-5 of this code are followed, except that agreement with the county commission is not required.

(d) Procedure for a municipality to annex property within urban growth boundaries of two or more municipalities. —

If the proposed property to be annexed by a municipality is partially or wholly within another municipality's urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code

if the two municipalities have executed an intergovernmental agreement regarding the annexation of the subject property. Agreement with the county commission is not required.

(e) *Procedure for a municipality to annex contiguous property outside an urban growth boundary.* —

(1) If the proposed property to be annexed by a municipality is outside the municipality's designated urban growth boundary, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code, if:

(A) The proposed property to be annexed is contiguous to the municipality, as defined in this section; and

(B) The municipality has the county commission's agreement.

(2) Prior to the agreement of the county commission to the annexation of the proposed property, the county commission shall:

(A) Hold a public hearing;

(B) Place a notice on the subject property, which notice shall be the same as that required for property to be rezoned; and

(C) At least 15 days prior to the public hearing, publish a notice of the date, time, and place of the public hearing as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

(f) *Procedure for a municipality to annex noncontiguous property outside an urban growth boundary.* —

(1) If the proposed property to be annexed by a municipality is entirely outside the municipality's designated urban growth boundary and is not contiguous to the municipality, as defined in this section, then the municipality may annex without an election the proposed property pursuant to the provisions of §8-6-4 of this code if the municipality has the county commission's agreement and, prior to the agreement of the county commission to the annexation of the proposed property, the county commission shall:

(A) Hold a public hearing;

(B) Place a notice on the subject property, which notice shall be the same as that required for property to be rezoned; and

(C) At least 15 days prior to the public hearing, publish a notice of the date, time, and place of the public hearing as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.

(2) After the public hearing and on-site notice, if the county commission finds, by a written record, that the proposed annexation is for the good of the county as a whole, then the county commission may agree to the annexation.

(g) Prior to the county commission entering an order for any annexation pursuant to this section, the annexed property shall be surveyed by a licensed professional surveyor and a metes and bounds description of the annexed property must be provided to the county commission of the county in which the property is located.

(h) After a municipality has annexed property pursuant to this section and the property has been surveyed, the county commission shall enter an order. After the order is entered, the corporate limits of the municipality include the annexed property.

§8-6-5. Annexation by minor boundary adjustment.

(a) ~~In the event~~ If a municipality desires to increase its corporate limits by making a minor boundary adjustment, the governing body of the municipality may apply to the county commission of the county wherein the municipality or the major portion of the territory thereof, including the territory to be annexed, is located for permission to effect annexation by minor boundary adjustment. The municipality shall pay the costs of all proceedings before the commission: Provided, That:

(1) A minor boundary adjustment may not exceed 105 percent of the existing total municipal boundary;

(2) A minor boundary adjustment may not exceed 120 percent of the current area of the municipality; and

(3) A minor boundary adjustment made in this manner is limited to one boundary annexation within a two-year period, regardless of subdivisions (1) and (2) of this subsection.

(b) In addition to any other annexation configuration, a municipality may incorporate by minor boundary adjustment: (i) Territory that consists of a street or highway as defined in §17C-1-35 of this code and one or more freeholders; or (ii) territory that consists of a street or highway as defined in §17C-1-35 of this code which does not include a freeholder, but which is necessary for the provision of emergency services in the territory being annexed.

(c) A county commission may develop a form application for annexation for minor boundary adjustment. An application for annexation by minor boundary adjustment shall include, but not be limited to:

(1) The number of businesses located in and persons residing in the additional territory;

(2) An affidavit of each business located in, each person residing in, and each freeholder of the additional territory stating that he, she, or it has consented to be included in the annexation, in such form as the county commission deems sufficient. ~~In the event~~ If the municipality cannot obtain an affidavit from a business, resident, or freeholder within 90 days after sending the affidavit form and a letter explaining the purpose of the affidavit via certified mail, return receipt requested, to the best available address for the business, resident, or freeholder, such business, resident, or freeholder shall be ~~deemed~~ considered to have consented to the annexation;

(3) An accurate map showing the metes and bounds of the additional territory;

(4) A statement setting forth the municipality's plan for providing the additional territory with all applicable public services such as police and fire protection, solid waste collection, public water and sewer services, and street maintenance services, including to what extent the public services are or will be provided

by a private solid waste collection service or a public service district;

(5) A statement of the impact of the annexation on any private solid waste collection service or public service district currently doing business in the territory proposed for annexation in the event the municipality should choose not to utilize the current service providers;

(6) A statement of the impact of the annexation on fire protection and fire insurance rates in the territory proposed for annexation;

(7) A statement of how the proposed annexation will affect the municipality's finances and services; and

(8) A statement that the proposed annexation meets the requirements of this section.

(d) Upon receipt of a complete application for annexation by minor boundary adjustment, the county commission shall determine whether the application meets the threshold requirements for consideration as a minor boundary adjustment including whether the annexation could be efficiently and cost effectively accomplished under §8-6-2 or §8-6-4 of this code. If the county commission determines that the annexation could be cost effectively and efficiently accomplished under §8-6-2 or §8-6-4 of this code, that the application lacks sufficient evidence that all affected parties of the additional territory consent to the annexation, or that the application otherwise fails to meet the threshold requirements for consideration as a minor boundary adjustment, it shall enter an order denying the application, which order shall include the reasons upon which it is based.

(e) If the application meets the threshold requirements, the county commission shall order publication of a notice of the proposed annexation to the corporate limits and of the date and time set by the commission for a hearing on the proposal. Publication shall be as in the case of an order calling for an election, as set forth in §8-6-2 of this code. A like notice shall be

prominently posted at not less than five public places within the area proposed to be annexed.

(f) In making its final decision on an application for annexation by minor boundary adjustment, the county commission shall, at a minimum, consider the following factors:

(1) Whether the territory proposed for annexation is contiguous to the corporate limits of the municipality. For purposes of this section, 'contiguous' means that at the time the application for annexation is submitted, the territory proposed for annexation either abuts directly on the municipal boundary or is separated from the municipal boundary by an unincorporated street or highway, or street or highway right-of-way, a creek or river, or the right-of-way of a railroad or other public service corporation, or lands owned by the state or the federal government;

(2) Whether the proposed annexation is limited solely to a Division of Highways right-of-way or whether the Division of Highways holds title to the property in fee;

(3) Whether affected parties of the territory to be annexed oppose or support the proposed annexation. For purposes of this section, 'affected parties' means freeholders, firms, corporations, and qualified voters in the territory proposed for annexation and in the municipality, and a freeholder whose property abuts a street or highway, as defined in §17C-1-35 of this code, when: (i) The street or highway is being annexed to provide emergency services; or (ii) the annexation includes one or more freeholders at the end of the street or highway proposed for annexation;

(4) Whether the proposed annexation consists of a street or highway as defined in §17C-1-35 of this code and one or more freeholders;

(5) Whether the proposed annexation consists of a street or highway as defined in §17C-1-35 of this code which does not include a freeholder, but which is necessary for the provision of emergency services in the territory being annexed;

(6) Whether another municipality has made application to annex the same or substantially the same territory; and

(7) Whether the proposed annexation is in the best interest of the county as a whole.

(g) If the county commission denies the application for annexation by minor boundary adjustment, the commission may allow the municipality to modify the proposed annexation to meet the commissions objections. The commission must order another public hearing if significant modifications are proposed.

(h) The final order of the commission shall include the reasons for the grant or denial of the application.

(i) The municipality applying for annexation or any affected party may appeal the commission's final order to the circuit court of the county in which the municipality or the major portion thereof, including the area proposed to be annexed, is located. The county commission may participate in any appeal taken from its order in the same manner and to the same extent as a party to the appeal. The order may be reviewed by the circuit court as an order of a county commission ordering an election may be reviewed under §8-5-16 of this code.

(j) If the final order of the county commission is a denial of the application for annexation, the municipality may appeal as set forth in this section, but the municipality may not present the commission with another application for annexation relating to the same proposed change or any part thereof for a period of two years after issuance of the final order of the commission, unless such application is directed by the circuit court as the result of an appeal.

ARTICLE 7. DECREASE OF CORPORATE LIMITS.

PART II. DECREASE OF CORPORATE LIMITS BY ELECTION.

§8-7-2. Procedure to decrease corporate limits.

A petition to decrease the corporate limits of a municipality may be filed with the governing body thereof by five percent or

more of the freeholders in the territory proposed for elimination. Five percent or more of the freeholders of a municipality desiring to decrease the corporate limits thereof may file their petition in writing with the governing body thereof, setting forth the change proposed in the metes and bounds of the municipality, and asking that a vote be taken upon the proposed change. Such The petition shall be verified and shall be accompanied by an accurate survey map showing the territory which would be eliminated from the corporate limits by the proposed change: *Provided, That within 90 days after notice of the petition shall have been given by publication of a Class II-0 legal advertisement pursuant to §59-3-1 et seq., of this code, cost to be paid by the petitioners each business and freeholder within the territory proposed for elimination may file a sworn statement objecting to the change to the metes and bounds of the municipality. If a business or freeholder files a timely objection, that property shall remain within the territory or the municipality and shall be removed from the metes and bounds description and survey map submitted to the qualified voters as provided in this section.* The governing body, upon bond in penalty prescribed by the governing body with good and sufficient surety being given by petitioners, and conditioned to pay the costs of such election if a majority of the legal votes cast are against the proposed change in boundary, shall thereupon order a vote of the qualified voters of such municipality to be taken upon the proposed change on a date and at a time and place therein to be named in the order, not less than 20 nor more than 30 days from the date thereof. The governing body shall cause the order to be published, at the cost of the municipality, 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 municipality. The first publication ~~must~~ shall be at least 14 days prior to the date upon which the vote is to be taken. The order so published shall contain an accurate description by metes and bounds of the territory which would be eliminated from the corporate limits by the proposed change, and, if practicable, shall also contain a popular description of ~~such~~ the territory.

The election shall be held, superintended, and conducted, and the results thereof ascertained, certified, returned, and canvassed in

the same manner and by the same individuals as elections for municipal officers. The ballots, or ballot labels where voting machines are used, shall have written, or printed on them the words:

For Decrease of Corporate Limits

Against Decrease of Corporate Limits

When an election is held in any municipality in accordance with the provisions of this section, another such election relating to the same proposed change or any part thereof shall not be held for a period of one year.

If a majority of all of the legal votes cast within such municipality are in favor of the proposed change, then the governing body shall proceed as specified in the immediately succeeding section of this article.”

Delegate Espinosa 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 and directed the Member to vote on the amendment and the bill.

The Committee on Government Organization amendment was then adopted.

The bill was ordered to third reading.

S. B. 714, Relating to physician assistant practice act; 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 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 3E. PHYSICIAN ASSISTANTS PRACTICE ACT.

§30-3E-1. Definitions.

As used in this article:

~~(1) ‘Advance duties’ means medical acts that require additional training beyond the basic education program training required for licensure as a physician assistant.~~

~~(2) ‘Alternate collaborating physician’ means one or more physicians licensed in this state and designated by the collaborating physician to provide collaboration with a physician assistant in accordance with an authorized practice agreement.~~

(3) ‘Approved program’ means an educational program for physician assistants approved and accredited by the Accreditation Review Commission on Education for the Physician Assistant or its successor. Prior to 2001, approval and accreditation would have been by either the Committee on Allied Health Education and Accreditation or the Commission on Accreditation Review Commission on Education for the Physician Assistant of Allied Health Education Programs.

(4) ‘Boards’ means the West Virginia Board of Medicine and the West Virginia Board of Osteopathic Medicine.

(5) ‘Chronic condition’ means a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, and does not generally disappear. These conditions include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity.

(6) ‘Collaborating physician’ means a doctor of medicine, osteopathy, or podiatry fully licensed, by the appropriate board in this state, without restriction or limitation, who collaborates with physician assistants.

(7) 'Collaboration' means overseeing the activities of the medical services rendered by a physician assistant. Constant physical presence of the collaborating physician is not required as long as the collaborating physician and physician assistant are, or can be, easily in contact with one another by telecommunication. Collaboration does not require the personal presence of the collaborating physician at the place or places where services are rendered.

(8) 'Endorsement' means a summer camp or volunteer endorsement authorized under this article.

(9) 'Health care facility' means any licensed hospital, nursing home, extended care facility, state health or mental institution, clinic, or physician office.

~~(10) 'Hospital' means a facility licensed pursuant to §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 persons under the supervision of physicians and includes psychiatric hospitals.~~

(11) 'License' means a license issued by either of the boards pursuant to the provisions of this article.

(12) 'Licensee' means a person licensed pursuant to the provisions of this article.

(13) 'Physician' means a doctor of allopathic or osteopathic medicine who is fully licensed pursuant to the provisions of either §30-3-1 et seq. or §30-14-1 et seq. of this code to practice medicine and surgery in this state.

(14) 'Physician assistant' means a person who meets the qualifications set forth in this article and is licensed pursuant to this article to practice medicine ~~under~~ with a collaboration collaborating physician.

~~(15) 'Practice agreement' means a document that is executed between a collaborating physician and a physician assistant~~

~~pursuant to the provisions of this article, and is filed with and approved by the appropriate licensing board.~~

(16) 'Practice notification' means a written notice to the appropriate licensing board that a physician assistant will practice in collaboration with one or more collaborating physicians ~~in a hospital~~ in the state of West Virginia.

§30-3E-2. Powers and duties of the boards.

In addition to the powers and duties set forth in this code for the boards, the boards shall:

(1) Establish the requirements for licenses and temporary licenses pursuant to this article;

(2) Establish the procedures for submitting, approving, and rejecting applications for licenses and temporary licenses;

(3) Propose rules for legislative approval in accordance with the provisions of ~~article three, chapter twenty-nine a~~ §29A-3-1 *et seq.* of this code to implement the provisions of this article;

(4) Compile and publish an annual report that includes a list of currently licensed physician assistants ~~their collaborating physicians~~ and their primary practice locations in the state; and

(5) Take all other actions necessary and proper to effectuate the purposes of this article.

§30-3E-3. Rulemaking.

(a) The boards shall 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, including:

(1) The extent to which physician assistants may practice in this state;

(2) The extent to which physician assistants may pronounce death;

(3) Requirements for licenses and temporary licenses;

(4) Requirements for ~~practice agreements and~~ practice notifications;

(5) Requirements for continuing education;

(6) Conduct of a licensee for which discipline may be imposed;

(7) The eligibility and extent to which a physician assistant may prescribe, including: A state formulary classifying those categories of drugs which may not be prescribed by a physician assistant, including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals, and general anesthetics: Provided, That a physician assistant or an advanced practice registered nurse may prescribe no more than a three-day supply, without refill, of a drug listed in the Uniform Controlled Substances Act as a Schedule II drug. Drugs listed under Schedule III shall be limited to a 30-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a ~~practice agreement or~~ practice notification as set forth in this article, the rules shall permit the prescribing of an annual supply of any drug, with the exception of controlled substances, which is prescribed for the treatment of a chronic condition, other than chronic pain management. For the purposes of this section, a chronic condition is a condition which lasts three months or more, generally cannot be prevented by vaccines, can be controlled but not cured by medication, and does not generally disappear. These conditions, with the exception of chronic pain, include, but are not limited to, arthritis, asthma, cardiovascular disease, cancer, diabetes, epilepsy and seizures, and obesity;

(8) ~~The authority a collaborating physician may delegate for prescribing, dispensing, and administering of controlled substances, prescription drugs, or medical devices if the practice agreement includes:~~

~~(A) A notice of intent to delegate prescribing of controlled substances, prescription drugs, or medical devices;~~

~~(B) An attestation that all prescribing activities of the physician assistant shall comply with applicable federal and state law governing the practice of physician assistants;~~

~~(C) An attestation that all medical charts or records shall contain a notation of any prescriptions written by a physician assistant;~~

~~(D) An attestation that all prescriptions shall include the physician assistant's name and the collaborating physician name, business address, and business telephone number legibly written or printed; and~~

~~(E) An attestation that the physician assistant has successfully completed each of the requirements established by the appropriate board to be eligible to prescribe pursuant to a practice agreement accompanied by the production of any required documentation establishing eligibility;~~

~~(9) (8) A fee schedule; and~~

~~(10) (9) Any other rules necessary to effectuate the provisions of this article.~~

(b) The boards may propose emergency rules pursuant to §29A-3-1 *et seq.* of this code to ensure conformity with this article.

§30-3E-4. License to practice as a physician assistant.

(a) A person seeking licensure as a physician assistant shall apply to the Board of Medicine or to the Board of Osteopathic Medicine. The appropriate board shall issue a license to practice as a physician assistant with the collaboration of that board's licensed physicians or podiatrists.

(b) A license may be granted to a person who:

(1) Files a complete application;

(2) Pays the applicable fees;

(3) Demonstrates to the board's satisfaction that he or she:

(A) Obtained a baccalaureate or master's degree from an accredited program of instruction for physician assistants;

(B) Prior to July 1, 1994, graduated from an approved program of instruction in primary health care or surgery; or

(C) Prior to July 1, 1983, was certified by the Board of Medicine as a physician assistant then classified as Type B;

(4) Has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants;

(5) Has a current certification from the National Commission on Certification of Physician Assistants or has a current license in good standing from a state that does not require a physician assistant to maintain national certification;

(6) Is mentally and physically able to engage safely in practice as a physician assistant;

(7) Has not had a physician assistant license, certification, or registration in any jurisdiction suspended or revoked;

(8) Is not currently subject to any limitation, restriction, suspension, revocation, or discipline concerning a physician assistant license, certification, or registration in any jurisdiction: *Provided*, That if a board is made aware of any problems with a physician assistant license, certification, or registration and agrees to issue a license, certification, or registration notwithstanding the provisions of this subdivision or subdivision (7) of this subsection;

(9) Is of good moral character; and

(10) Has fulfilled any other requirement specified by the appropriate board.

(c) A board may deny an application for a physician assistant license to any applicant determined to be unqualified by the board.

§30-3E-9. Practice requirements.

(a) A physician assistant may not practice independent of a collaborating physician.

~~(b) A physician assistant may practice in a hospital in collaboration with physicians after filing a practice notification with the appropriate board. A physician assistant may practice in collaboration with physicians in any practice setting pursuant to a practice notification which has been filed with, and activated by, the appropriate board in accordance with §30-3E-10a of this code: *Provided, That a physician assistant who is currently practicing in collaboration with physicians pursuant to a practice agreement which was authorized by a board prior to June 1, 2021 may continue to practice under that authorization until the practice agreement terminates or until June 1, 2022, whichever is sooner.*~~

~~(c) Except as set forth in subsection (b) of this section, before a licensed physician assistant may practice and before a collaborating physician may delegate medical acts to a physician assistant, the collaborating physician, and the physician assistant shall:~~

~~(1) File a practice agreement with the appropriate licensing board, including any designated alternate collaborating physicians;~~

~~(2) Pay the applicable fees; and~~

~~(3) Receive written authorization from the appropriate licensing board to commence practicing as a physician assistant pursuant to the practice agreement.~~

~~(d) A physician applying to collaborate with a physician assistant shall affirm that:~~

~~(1) The medical services set forth in the practice agreement are consistent with the skills and training of the collaborating physician and the physician assistant; and~~

~~(2) The activities delegated to a physician assistant are consistent with sound medical practice and will protect the health and safety of the patient.~~

~~(e) A collaborating physician may enter into practice agreements with up to five full-time physician assistants at any one time.~~

~~(f) A physician may collaborate with physician assistants in a hospital as approved by the hospital.~~

(c) Notwithstanding any other provision of this code to the contrary, and to the degree permitted by federal law, physician assistants shall be considered providers and shall not be reimbursed at rates lower than other providers who render similar health services by health insurers as well as health plans operated or paid for by the state.

§30-3E-10. Practice agreement requirements.

[Repealed.]

§30-3E-10a. Practice notification requirements.

~~(a) A physician assistant shall collaborate with physicians in a hospital only after the physician assistant is notified by the appropriate licensing board that a complete practice notification has been filed with the board. Before a licensed physician assistant may practice in collaboration with physicians, the physician assistant and a health care facility shall:~~

~~(1) File a practice notification with the appropriate licensing board;~~

~~(2) Pay the applicable fee; and~~

~~(3) Receive written notice from the appropriate licensing board that the practice notification is complete and active.~~

~~(b) The licensing boards shall promulgate emergency rules to establish the content and criteria for submission of practice notifications for physician assistant hospital practice.~~

(c) A physician assistant shall notify the board, in writing, within 10 days of the termination of a practice notification. Failure to provide timely notice of the termination constitutes unprofessional conduct and disciplinary proceedings may be instituted by the appropriate licensing board.

§30-3E-11. Collaboration with physician assistants.

~~(a) A licensed physician or podiatrist may collaborate with a physician assistant:~~

~~(1) As a collaborating physician in accordance with an authorized practice agreement;~~

~~(2) As an alternate collaborating physician who:~~

~~(A) Collaborates in accordance with an authorized practice agreement;~~

~~(B) Has been designated an alternate collaborating physician in the authorized practice agreement; and~~

~~(C) Only delegates those medical acts that have been authorized by the practice agreement and are within the scope of practice of both the primary collaborating physician and the alternate collaborating physician; or~~

~~(3) In a hospital pursuant to a practice notification.~~

(a) Unless otherwise prohibited by a health care facility, a physician who practices medicine or podiatry at a health care facility may collaborate with any physician assistant who holds an active practice notification with the same facility.

(b) A collaborating physician When collaborating with physician assistants, collaborating physicians shall observe, direct, and evaluate the physician assistant's work, records, and practices including collaborating with the physician assistant in the care and treatment of a patient in a health care facility as necessary for appropriate and meaningful collaboration.

(c) A health care facility is only legally responsible for the actions or omissions of a physician assistant when the physician assistant is employed by or on behalf of the facility.

(d) Every licensed physician assistant shall be individually responsible and liable for the care they provide. This article does not relieve physician assistants or collaborating physicians of responsibility and liability which otherwise may exist for acts and omissions occurring during collaboration.

§30-3E-12. Scope of practice.

(a) A license issued to a physician assistant by the appropriate state licensing board shall authorize the physician assistant to perform medical acts: commensurate with their education, training, and experience and which they are competent to perform, consistent with the rules of the boards. Medical acts include prescribing, dispensing, and administering of controlled substances, prescription drugs, or medical devices.

~~(1) Pursuant to a practice notification or delegated to the physician assistant as part of an authorized practice agreement~~

~~(2) Appropriate to the education, training, and experience of the physician assistant;~~

~~(3) Customary to the practice of the collaborating physician; and~~

~~(4) Consistent with the laws of this state and rules of the boards.~~

(b) A physician assistant shall provide only those medical services for which they have been prepared by their education, training, and experience and are competent to perform, consistent with sound medical practice and that will protect the health and safety of the patient. This may occur in any health care setting, both hospital and outpatient in accordance with their practice notification.

(c) A physician assistant with an active practice notification may perform medical acts and/or procedures in collaboration with

physicians which are consistent with the physician assistant's education, training and experience, the collaborating physician scope of practice, and any credentialing requirements of the health care facility where the physician assistant holds an active practice notification.

(b) (d) This article does not authorize a physician assistant to perform any specific function or duty delegated by this code to those persons licensed as chiropractors, dentists, dental hygienists, optometrists, or pharmacists, or certified as nurse anesthetists.

§30-3E-13. Identification.

(a) While practicing, a physician assistant shall wear a name tag that identifies him or her as a physician assistant.

(b) A physician assistant shall keep his or her license and current ~~practice agreement~~ or practice notification available for inspection at his or her place of practice.

§30-3E-17. Complaint process.

(a) All hearings and procedures related to denial of a license, and all complaints, investigations, hearings, and procedures regarding a physician assistant license and the discipline accorded thereto, shall be in accordance with the processes and procedures set forth in either §30-3-1 et seq. or articles three and/or fourteen §30-14-1 et seq. of this ~~chapter~~ code, depending on which board licenses the physician assistant.

(b) The boards may impose the same discipline, restrictions, and/or limitations upon the license of a physician assistant as they are authorized to impose upon physicians and/or podiatrists.

(c) The boards shall direct to the appropriate licensing board a complaint against a physician assistant and/or ~~a collaborating physician and/or an alternate~~ a collaborating physician.

(d) In the event that independent complaint processes are warranted by the boards with respect to the professional conduct of a physician assistant or a collaborating ~~and/or alternate~~

~~collaborating~~ physician, the boards are authorized to work cooperatively and to disclose to one another information which may assist the recipient appropriate licensing board in its disciplinary process. The determination of what information, if any, to disclose shall be at the discretion of the disclosing board.

(e) A physician assistant licensed under this article may not be disciplined for providing expedited partner therapy in accordance with ~~article four f, chapter sixteen~~ §16-4F-1 et seq. of this code.”

The bill was ordered to third reading.

S. B. 717, Supplemental appropriation from General Revenue to WV Community and Technical College Education, Control Account; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Speaker Pro Tempore Howell in the Chair

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. 7, Limiting political activity by public employees,

Com. Sub. for S. B. 398, Limiting eligibility of certain employers to participate in PEIA plans,

Com. Sub. for S. B. 470, Limiting release of certain personal information maintained by state agencies,

Com. Sub. for S. B. 478, Permitting use of established federal marketplace programs to purchase supplies,

Com. Sub. for S. B. 485, Relating to use or presentation of firearm during commission of felony,

Com. Sub. for S. B. 509, Removing requirement that determination of medical stability be found prior to admission to mental health facility,

S. B. 532, Limiting claims for state tax credits and rebates,

S. B. 537, Relating generally to kidnapping,

Com. Sub. for S. B. 542, Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants,

Com. Sub. for S. B. 569, Relating to damages for medical monitoring,

Com. Sub. for S. B. 641, Allowing counties to use severance tax proceeds for litter cleanup programs,

Com. Sub. for S. B. 642, Requiring legal advertisements by State Auditor be posted to central website,

Com. Sub. for S. B. 657, Relating to free expression on state institution of higher education campuses,

Com. Sub. for S. B. 658, Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children,

Com. Sub. for S. B. 660, Providing for cooperation between law-enforcement agencies and military authorities,

S. B. 661, Permitting retailers to assume sales or use tax assessed on tangible personal property,

S. B. 674, Clarifying that unpaid restitution does not preclude person from obtaining driver's license,

Com. Sub. for S. B. 677, Relating generally to miners' safety, health, and training standards,

And,

Com. Sub. for S. B. 702, Relating to involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes.

Delegate Hanshaw, Mr. Speaker, in the Chair

Pursuant to House Rule 58, Delegate Longanacre, having voted on the prevailing side moved to reconsider **Com. Sub. for S. B. 439**.

Delegate Linville moved the previous question, which motion was subsequently withdrawn.

On the motion to reconsider, 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 57, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Barrett, Bates, Boggs, Brown, Bruce, Dean, Diserio, Doyle, Ellington, Evans, Fast, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, J. Jeffries, Longanacre, Lovejoy, Mallow, Mandt, Mazzocchi, McGeehan, Miller, Nestor, Paynter, Pethtel, Phillips, Pushkin, Rowe, Skaff, Thompson, Toney, Walker, Wamsley, G. Ward, Williams, Young and Zukoff.

Absent and Not Voting: Riley and Worrell.

So, a majority of the members present not having voted in the affirmative, the motion to reconsider Com. Sub. for S. B. 439 was rejected.

At 1:27 p.m., on motion of Delegate Summers, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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

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

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 332, Providing procedure for WV to select delegates to Article V Convention,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 332) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. J. R. 9, Disabled Veterans' Exemption from Ad Valorem Property Taxation Amendment,

And,

Com. Sub. for S. J. R. 11, Constitutional Officer Term Limit Amendment,

And reports the same back, with amendment, with the recommendation that they each be adopted, as amended.

At the respective requests of Delegate Summers, and by unanimous consent, the resolutions (Com. Sub. for S. J. R. 9 and Com. Sub. for S. J. R. 11) were each taken up for immediate consideration, read a first time and ordered to second reading.

Delegate D. Jeffries, 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 7th day of April, 2021, 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. 2094, Relating to the juvenile restorative justice programs,

Com. Sub. for H. B. 2400, Authorizing the Department of Transportation to promulgate legislative rules,

Com. Sub. for H. B. 2495, Relating to the filing of asbestos and silica claims,

H. B. 2808, Remove salt from list and definition of “mineral” for severance tax purposes,

H. B. 2852, Relating to distribution of the allowance for increased enrollment,

H. B. 2898, Making a supplementary appropriation to WorkForce West Virginia – Workforce Investment Act,

H. B. 2941, Supplementary appropriation decreasing an existing item and adding a new item of appropriation to the Department of Revenue, Insurance Commissioner,

And,

H. B. 3010, To extend the special valuation method for cellular towers to towers owned by persons not subject to regulation by the Board of Public Works.

Delegate D. Jeffries, 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 7th day of April, 2021, 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. 80, Allowing for administration of certain small estates by affidavit and without appointment of personal representative,

Com. Sub. for S. B. 81, Relating generally to WV Uniform Trust Code,

S. B. 374, Increasing threshold for bid requirement to \$10,000 to be consistent with other state agencies,

Com. Sub. for S. B. 389, Relating to State Resiliency Office responsibility to plan for emergency and disaster response, recovery, and resiliency,

Com. Sub. for S. B. 421, Authorizing Workforce West Virginia to hire at-will employees,

S. B. 463, Consolidating position of Inspector General of former Workers' Compensation Fraud and Abuse Unit and position of Director of Insurance Fraud Unit,

And,

Com. Sub. for S. B. 472, Updating criteria for regulating certain occupations and professions.

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 PROCLAMATION

By the Governor

WHEREAS, the Constitution of West Virginia sets forth the respective powers, duties, and responsibilities of the three separate branches of government; and

WHEREAS, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of February two thousand twenty-one; and

WHEREAS, pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand twenty-one regular session of the Legislature is scheduled to conclude on the tenth day of April, two thousand twenty-one; 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 seventh day of April, two thousand twenty-one.

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-one regular session of the Legislature for an additional period not to exceed one day, through and including the eleventh day of April, two thousand twenty-one; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except a provision for the cost thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, on this the seventh day of April, in the year of our Lord, Two Thousand Twenty-one, and in the One Hundred Fifty-Eighth year of the State.

James Justice,
Governor.

By the Governor

Mac Warner
Secretary of State

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

Com. Sub. for H. B. 2529, Prohibiting West Virginia institutions of higher education from discriminating against graduates of private, nonpublic or home schools by requiring them to submit to alternative testing.

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. 2758, Requiring the Insurance Commissioner to regulate professional bondsmen.

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. PROFESSIONAL BONDSMEN IN CRIMINAL CASES.

§51-10-1. Definitions.

~~The words ‘bonding business’ as used in this article mean the business of becoming surety for compensation upon bonds in criminal cases in the State of West Virginia, and the word “bondsman” means any person or corporation engaged either as principal or as agent, clerk, or representative of another in such business.~~

When used in this article:

(1) ‘Bonding business’ means the business of becoming surety for compensation upon bonds in criminal cases in the State of West Virginia;

(2) ‘Bondsman’ means (A) any person engaged in the bonding business that has satisfied the requirements for, and is duly licensed as, an insurance producer with a property and casualty line of authority as set forth by the Insurance Commissioner and §33-12-1, et seq. of this code; or (B) any person who is approved and licensed under the provisions of this article who pledges cash or approved securities with the commissioner as security for bail bonds written in connection with a judicial proceeding and receives or is promised money or other things of value for the pledge;

(3) ‘Commissioner’ means the Insurance Commissioner of West Virginia, as defined in §33-1-5 of this code; and

(4) ‘Insurer’ means any domestic, foreign, or alien person, including a surety company, which has been qualified generally to transact surety business in the State of West Virginia.

§51-10-8. Qualifications of bondsmen; rules to be prescribed by Supreme Court of Appeals; lists of agents to be furnished; renewal of authority to act; false swearing Insurance Commissioner; bondsman filing requirements; bondsman license renewal requirements; criminal penalty for filing false affidavit; list of bondsmen kept and provided to places of detention by Insurance Commissioner; requiring all bondsman to be licensed by Insurance Commissioner after July 1, 2022.

(a) ~~The Supreme Court of Appeals shall under reasonable rules, specify the qualifications of persons and corporations applying for authority to engage in the bonding business in criminal cases in the State of West Virginia, and the terms and conditions upon which the business may be carried on. After the first day of September, two thousand four, no person or corporation may, either as principal, or as agent, clerk, or representative of another, engage in the bonding business in any court regularly exercising criminal jurisdiction until qualified pursuant to the rules. The Supreme Court of Appeals, in making the rules, and in granting authority to persons to engage in the bonding business, shall take into consideration both the financial responsibility and the moral qualities of the person so applying, and no person may be permitted to engage, either as principal or agent, in the business of becoming surety upon bonds for compensation in criminal cases, who has ever been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character. The court shall require every person qualifying to engage in the bonding business as principal to file with the court a list showing the name, age, and residence of each person employed by the bondsman as agent, clerk, or representative in the bonding business, and require an affidavit from each of the persons stating that the person will abide by the terms and provisions of this article. The court shall require the authority of each of the persons to be renewed from time to time at periods the court may by rule provide. Before the authority may be renewed the court shall require from each of the persons an affidavit that since his or her previous qualifications to engage in the bonding business he or she has abided by the~~

provisions of this article, and any person swearing falsely in any of the affidavits is guilty of false swearing.

~~(b) Persons authorized to engage in the bonding business in criminal cases in the State of West Virginia on the effective date of the amendments made to this section during the regular session of the Legislature in two thousand four may continue to engage in the business until the first day of September, two thousand four.~~

(a) The commissioner shall promulgate and propose legislative rules for promulgation under §29A-3-1, et seq. of this code, to carry out the intent, administration, and enforcement of this article. The commissioner may promulgate any emergency rules under §29A-3-15 of this code necessary to carry out the intent, administration, and enforcement of this article. The commissioner shall develop all forms, contracts, or other documents to be used for the purposes outlined in this article.

(b) The rules required by subsection (a) of this section shall specify the qualifications that a person must have when applying to be a bondsman, and the terms and conditions upon which the bonding business may be conducted. The commissioner shall require a biennial fee of \$200 for all bondsman licensed under this article.

(c) The commissioner, in promulgating and proposing rules required by subsection (a) of this section, and in granting a license to a person to engage in the bonding business, shall take into consideration both the financial responsibility and the moral qualities of the person applying, and a person who has been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character shall not be licensed.

(d) The applicant shall provide the commissioner a qualifying power-of-attorney from a licensed insurer or surety company or pledge cash or approved securities with the commissioner as security for bail bonds.

(e) The applicant shall comply with the provisions of §33-12-37 of this code regarding criminal history record checks.

(f) The commissioner shall require every bondsman licensed to engage in the bonding business as a principal to file with the commissioner a list showing the name, age, and residence of each person employed by the bondsman as an agent, clerk, or representative in the bonding business, and require an affidavit from each of the persons stating that the person will abide by the terms and provisions of this article.

(g) (1) The commissioner shall require a person licensed as a bondsman to renew his or her license every two years and to file an affidavit stating that since his or her previous license to engage in the bonding business he or she has abided by the provisions of this article.

(2) A person who files a false affidavit is guilty of false swearing and, upon conviction thereof, shall be punished as provided by law for the offense.

(3) A person seeking to renew his or her license to engage in the bonding business shall submit to the property and casualty requirements under section (d) of this section for each renewal, unless he or she has voluntarily terminated his or her license to engage in the bonding business.

(h) The commissioner shall keep a list of all bondsmen and, upon the request of a place of detention listed under §51-10-6 of this code, furnish an alphabetical list of all licensed bondsmen to the jail.

(j) After July 1, 2022, a person shall not, either as principal, or as agent, clerk, or representative of an agent, engage in the bonding business unless licensed by the commissioner under this section.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2758 – “A Bill to amend and reenact §51-10-1 and §51-10-8 of the Code of West Virginia, 1931, as amended, all relating to requiring the Insurance Commissioner to regulate professional bondsmen; providing definitions; requiring

the Insurance Commissioner to promulgate and propose rules to carry out the intent, administration, and enforcement of the article; authorizing the promulgation of emergency rules; requiring the Insurance Commissioner to promulgate and propose rules regarding qualifications of bondsman; setting forth requirements for bondsman applicants; setting forth filing requirements for bondsmen with the Insurance Commissioner; setting forth renewal requirements for bondsman license; providing criminal penalty for false affidavit; requiring Insurance Commissioner to keep a list of licensed bondsmen and furnish to a jail upon request; and, after July 1, 2022, requiring all bondsmen to be licensed by the Insurance Commissioner.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 504**), and there were—yeas 83, nays 3, absent and not voting 14, with the nays and the absent and not voting being as follows:

Nays: J. Jeffries, McGeehan and Paynter.

Absent and Not Voting: Bridges, Brown, Cooper, Hamrick, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall 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. 2758) 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, and the passage, as amended, of

Com. Sub. for H. B. 2785, Relating to public school enrollment for students from out of state.

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. 2793, Permit out of state residents to obtain West Virginia concealed carry permits.

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 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

(a) (1) Except as provided in §61-7-4(hg) of this code, ~~any person~~ a legal resident or citizen of West Virginia desiring to obtain a state resident license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, and pay to the sheriff, at the time of application, a fee of \$25. ~~Concealed~~ A concealed weapons license may only be issued for pistols and revolvers.

(2) A legal resident or citizen of another state of the United States desiring to obtain a nonresident state license to carry a concealed deadly weapon shall apply to a sheriff of any county in this state for the license, and pay to the sheriff, at the time of application, a fee of \$100. A concealed weapons licenses may only be issued for pistols and revolvers.

(b) Each applicant for a state resident license or nonresident license to carry a concealed deadly weapon shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant’s full name, date of birth, ~~Social Security~~ social security number, a description of the applicant’s physical features, the applicant’s place of birth, the applicant’s country of

citizenship, and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs Enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U.S.C. §922(g)(5)(B);

(2) That, on the date the application is made, the applicant is a bona fide United States citizen or legal resident thereof and either a resident of this state and of the county in which the application is made or a resident of another state in the United States and has a valid driver's license or other state-issued or federally issued photo identification showing the residence;

(3) That the applicant is ~~twenty-one~~ 21 years of age or older;

(4) That the applicant is not addicted to alcohol, a controlled substance, or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside, or the applicant's civil rights have been restored or the applicant has been unconditionally pardoned for the offense;

(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subdivision (7) of this subsection in the five years immediately preceding the application;

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. §921(a)(33), or a misdemeanor offense of assault or battery either under §61-2-28 of this code or §61-2-9(b) or §61-2-9(c) of this code, in which the victim was a current or former spouse, current or former sexual or

intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant's child or ward or a member of the defendant's household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation, or other court-ordered supervision imposed by a court of any jurisdiction, ~~or~~ is the subject of an emergency or temporary domestic violence protective order, or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed, the applicant ~~must~~ shall provide a court order reflecting that the applicant is no longer under such disability and the applicant's right to possess or receive a firearm has been restored;

(10) That the applicant is not prohibited under the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n), from receiving, possessing, or transporting a firearm;

(11) That the applicant has qualified under the minimum requirements set forth in subsection ~~(d)~~ of this section for handling and firing the weapon: *Provided*, That this requirement shall be waived in the case of a renewal applicant who has previously qualified; and

(12) That the applicant authorizes the sheriff of the county, or his or her designee, to conduct an investigation relative to the information contained in the application.

~~(b)~~ For both initial and renewal applications, the sheriff shall conduct an investigation including a nationwide criminal background check consisting of inquiries of the National Instant Criminal Background Check System, the West Virginia criminal

history record responses, and the National Interstate Identification Index, and shall review the information received in order to verify that the information required in subsection (~~a~~b) of this section is true and correct. A license may not be issued unless the issuing sheriff has verified through the National Instant Criminal Background Check System that the information available to him or her does not indicate that receipt or possession of a firearm by the applicant would be in violation of the provisions of §61-7-7 of this code or federal law, including 18 U.S.C. §922(g) or (n).

(~~e~~d) (1) Twenty-five dollars of the resident license application fee and any fees for replacement of lost or stolen licenses received by the sheriff shall be deposited by the sheriff into a concealed weapons license administration fund. The fund shall be administered by the sheriff and shall take the form of an interest-bearing account with any interest earned to be compounded to the fund. Any funds deposited in this concealed weapon license administration fund are to be expended by the sheriff to pay the costs associated with issuing concealed weapons licenses. Any surplus in the fund on hand at the end of each fiscal year may be expended for other law-enforcement purposes or operating needs of the sheriff's office, as the sheriff considers appropriate.

(2) Fifteen dollars of the nonresident license application fee shall be deposited in the Courthouse Facilities Improvement Fund created by §29-26-6 of this code; \$25 of the application fee shall be deposited into the State Treasury and credited to the account of the State Police for the purchase of vehicles, equipment for vehicles, and maintenance of vehicles; and \$60 of the application fee shall be deposited in the concealed weapons license administration fund to be administered as provided in subsection (d) of this section.

(~~e~~) All persons applying for a license ~~must~~ shall complete a training course in handling and firing a handgun, which includes the actual live firing of ammunition by the applicant. The successful completion of any of the following courses fulfills this training requirement: *Provided*, That the completed course includes the actual live firing of ammunition by the applicant:

(1) Any official National Rifle Association handgun safety or training course;

(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college, or private or public institution or organization, or handgun training school ~~utilizing~~ using instructors certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States military, reserve, or National Guard, or proof of other handgun qualification received while serving in any branch of the United States military, reserve, or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization, or group that conducted or taught the course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class is evidence of qualification under this section and shall include the instructor's name, signature, and NRA or state instructor identification number, if applicable.

(~~e~~f) All concealed weapons license applications must be notarized by a notary public duly licensed under §39-4-1 *et seq.* of this code. Falsification of any portion of the application constitutes false swearing and is punishable under §61-5-2 of this code.

(~~f~~g) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect, or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue, or deny the license within 45 days after the application is filed if all required background checks authorized by this section are completed.

(~~gh~~) Before any approved license is issued or is effective, the applicant shall pay to the sheriff a fee in the amount of \$25 which the sheriff shall forward to the Superintendent of the West Virginia State Police within 30 days of receipt. A license in effect as of the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature shall, subject to revocation for cause, ~~be is~~ valid until the licensee's birthday during the fifth year from the date of issuance or five years from the date of issuance, whichever is later in time. Renewals of such licenses and licenses newly issued after the effective date of the amendments to this section enacted during the 2019 regular session of the Legislature ~~shall~~, subject to revocation for cause, ~~be are~~ valid for a period of five years from the licensees' most recent birthday.

(~~hi~~) Each license shall contain the full name and address of the licensee and a space upon which the signature of the licensee shall be signed with pen and ink. The issuing sheriff shall sign and attach his or her seal to all license cards. The sheriff shall provide to each new licensee a duplicate license card, in size similar to other state identification cards and licenses, suitable for carrying in a wallet, and the license card is considered a license for the purposes of this section. All duplicate license cards issued on or after July 1, 2017, shall be uniform across all 55 counties in size, appearance, and information and shall feature a photograph of the licensee.

(~~ij~~) The Superintendent of the West Virginia State Police, in cooperation with the West Virginia Sheriffs' Bureau of Professional Standards, shall prepare uniform applications for both resident and nonresident licenses and license cards showing that the license has been granted and shall do any other act required to be done to protect the state and see to the enforcement of this section.

(~~jk~~) If an application is denied, the specific reasons for the denial shall be stated by the sheriff denying the application. Any person denied a license may file, in the circuit court of the county in which the application was made, a petition seeking review of the denial. The petition shall be filed within 30 days of the denial. The court shall then determine whether the applicant is entitled to the issuance of a license under the criteria set forth in this section. The

applicant may be represented by counsel, but in no case is the court required to appoint counsel for an applicant. The final order of the court shall include the court's findings of fact and conclusions of law. If the final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals. If the findings of fact and conclusions of law of the court fail to uphold the denial, the applicant may be entitled to reasonable costs and attorney's fees, payable by the sheriff's office which issued the denial.

(kl) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of \$5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

~~(lm) Whenever any person after applying for and receiving a concealed weapon license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years unless the sheriff of the new county has determined that the person is no longer eligible for a concealed weapon license under this article, and the sheriff shall issue a new license bearing the person's new address and the original expiration date for a fee not to exceed \$5: *Provided*, That the licensee, within 20 days thereafter, notifies the sheriff in the new county of residence in writing of the old and new addresses. Whenever an applicant or licensee relocates from the address provided in his or her application to another address, he or she shall comply with the following notification requirements:~~

(1) Within 20 days of a resident licensee relocating from the address provided in his or her application to another county in the state, he or she shall provide written notification of the relocation to the sheriff of the county to which he or she moved and provide his or her new address. The sheriff shall then issue a new resident license bearing the licensee's new address and the original expiration date, for a fee not to exceed \$5. The license remains valid for the remainder of the original five year term, unless the sheriff has determined that the person is no longer eligible for a concealed weapon license under the provisions of this article.

(2) Within 20 days of a resident licensee relocating from the address provided in his or her application to an address outside the state, he or she shall provide written notification to the sheriff of the issuing county of the relocation and provide his or her new address. The sheriff shall then issue a new nonresident license bearing the licensee's new address and the original expiration date, for a fee not to exceed \$5. The license remains valid for the remainder of the original five-year term unless the sheriff has determined that the person is no longer eligible for a concealed weapon license under the provisions of this article: *Provided*, That any renewal of the license in the new jurisdiction after expiration requires the payment of a nonresident license fee.

(3) Within 20 days of a nonresident licensee relocating from the address provided in his or her application to another address outside of the state, he or she shall provide written notification of the relocation to the sheriff of the issuing county and provide his or her new address. The sheriff shall then issue a new nonresident license bearing the licensee's new address and original expiration date, for a fee not to exceed \$5. This license remains valid for the remainder of the original five-year term, unless the sheriff has determined that the person is no longer eligible for a concealed weapon license under the provisions of this article.

(4) Within 20 days of a nonresident licensee relocating to West Virginia from the address provided in his or her application, he or she shall provide written notification of the relocation to the sheriff of the county to which he or she has moved and provide his or her new address. The sheriff shall then issue a new resident license bearing the licensee's new address and the original expiration date, for a fee not to exceed \$5. This license remains valid for the remainder of the original five-year term, unless the sheriff has determined that the person is no longer eligible for a concealed weapon license under the provisions of this article.

~~(m)~~ The sheriff shall, immediately after the license is granted as aforesaid under this section furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list

of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(~~h~~o) The sheriff shall deny any application or revoke any existing license upon determination that any of the licensing application requirements established in this section have been violated by the licensee.

(~~e~~p) A person who is engaged in the receipt, review, or in the issuance or revocation of a concealed weapon license does not incur any civil liability as the result of the lawful performance of his or her duties under this article.

(~~p~~q) Notwithstanding subsection (a) of this section, with respect to application for a resident license by an honorably discharged veteran of the armed forces of the United States, or a former law-enforcement officer honorably retired from agencies governed by §7-14-1 *et seq.* of this code, §8-14-1 *et seq.* of this code, §15-2-1 *et seq.* of this code, and §20-7-1 *et seq.* of this code, an honorably retired officer or an honorably discharged veteran of the armed forces of the United States is exempt from payment of fees and costs as otherwise required by this section. All other application and background check requirements set forth in this section are applicable to these applicants.

(~~e~~r) Information collected under this section, including applications, supporting documents, permits, renewals, or any other information that would identify an applicant for, or holder of, a concealed weapon license, is confidential: *Provided*, That this information may be disclosed to a law-enforcement agency or officer: (i) To determine the validity of a license; (ii) to assist in a criminal investigation or prosecution; or (iii) for other lawful law-enforcement purposes. A person who violates this subsection is guilty of a misdemeanor and, upon conviction ~~thereof~~, shall be fined not less than \$50 or more than \$200 for each offense.

(~~f~~s) A person who pays fees for training or application pursuant to this article after the effective date of this section is entitled to a tax credit equal to the amount actually paid for training not to

exceed \$50: *Provided*, That if such training was provided for free or for less than \$50, then such tax credit may be applied to the fees associated with the initial application.

(st) Except as restricted or prohibited by the provisions of this article or as otherwise prohibited by law, the issuance of a concealed weapon license issued in accordance with the provisions of this section authorizes the holder of the license to carry a concealed pistol or revolver on the lands or waters of this state.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2793 – “A Bill to amend and reenact §61-7-4 of the Code of West Virginia, 1931, as amended, relating to permitting nonresidents to obtain state licenses to carry a concealed deadly weapon; requiring application to a county sheriff; establishing a \$100 fee and providing how that fee is to be used; providing that concealed weapons licenses may only be issued for pistols and revolvers; requiring non-residents to meet the same standards as West Virginia residents for licensure; and providing for the issuance of a new license if the resident or nonresident relocates.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 505**), and there were—yeas 87, nays none, absent and not voting 13, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall 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. 2793) 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. 2834, Adding the Curator of the West Virginia Division of Arts, Culture and History as an ex officio voting member of the commission.

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. 2874, Extend the current veteran's business fee waivers to active duty military members and spouses.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with a title amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2890, To clarify the regulatory authority of the Public Service Commission of West Virginia over luxury limousine services.

On motion of Delegate Summers, the House of Delegates concurred in the following title amendment by the Senate:

Com. Sub for H. B. 2890 – “A Bill to amend and reenact §24A-1-2 and §24A-1-3 of the Code of West Virginia, 1931, as amended, all relating to clarifying the authority of the Public Service Commission of West Virginia over luxury limousine services; defining terms; and creating exemption from certain contract and common carrier laws for luxury limousine services.”

Delegate Pushkin 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 and directed the Member to vote.

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 506**), and there were—yeas 53, nays 34, absent and not voting 13, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barach, Bates, Boggs, Bruce, Capito, Criss, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Hott, Jennings, Lovejoy, Paynter, Pethtel, Pushkin, Rowe, Skaff, Summers, Sypolt, Thompson, Toney, Walker, B. Ward, Williams, Young and Zukoff.

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2890) 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. 2914, To remove certain ex officio, voting members from the Archives and History Commission and update formatting.

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

Com. Sub. for H. B. 2916, Creating the Semiquincentennial Commission for the celebration of the 250th anniversary of the founding of the United States of America.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 2969, To clarify the procedures for the sale and operation of a municipally owned toll bridge by a private toll transportation 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:

“CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 16D. ELECTRONIC TOLL COLLECTION ACT.

§17-16D-6. Liability of owner.

(a) All owners and operators of motor vehicles shall pay the posted toll when on any toll road, highway, or bridge authorized by the Legislature, including any toll collected by a private toll transportation facility pursuant to §17-17-38 of this code, either by paying the toll at a toll collection facility on the toll road, highway, or bridge at the time of travel thereon or by paying the toll within the time prescribed for toll payment in a toll billing notice or invoice generated by an electronic toll collection system. These tolls may be collected by electronic toll collection. If an owner or operator of a vehicle fails to pay the prescribed toll when due, the owner of the vehicle is in violation of this article.

(b) If a violation occurs, the registration plate number of the vehicle as recorded by a video collection system establishes a rebuttable presumption for civil enforcement purposes that the owner of the vehicle was operating the vehicle, or had consented to another person operating the vehicle, at that time. This presumption may be overcome only if the owner: (1) proves by a preponderance of the evidence that he or she was not in fact

operating the vehicle at the time; and (2) identifies by name and mailing address the person who was operating the vehicle.

(c) If the presumption is not overcome by a preponderance of the evidence, the owner of the vehicle shall be found to have violated this article and be held responsible for payment of the tolls and the administrative fees and money penalties imposed by this article for failure to timely pay the tolls.

(d) Nothing in this section prohibits: (1) A law-enforcement officer from issuing a citation to a person in control of a vehicle for a violation of this article or other provisions of law at the time of the violation; ~~or~~ (2) the Parkways Authority from issuing reminder notices or making other communications directly or indirectly in connection with toll collection efforts or efforts to enforce violations of this article. The Parkways Authority is authorized to use secondary sources of information and services including, but not limited to, services such as the National Change of Address Service or skip tracing services; or (3) a private toll transportation facility from issuing any notices, reminders, or other communications in connection with its toll collection efforts pursuant to §17-17-38(c) and §17-17-38(d) of this code.

§17-16D-10. Evading tolls; damaging, interfering with, or obstructing video toll collection or infrastructure; violations and criminal penalties.

(a) Any person who knowingly or intentionally evades or seeks to evade the payment of tolls, rents, fees, or charges established by the Parkways Authority for the use of any toll facility under the jurisdiction of the Authority, or of any private toll transportation facility pursuant to §17-17-38 of this code, is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$50 for each violation of this article.

(b) Any person who deliberately damages, defaces, or obstructs a video collection system infrastructure or power supply with the intent to interfere with, ~~or~~ alter, or prevent the functioning of the system or electronic toll collection, or who obstructs a license plate or causes it to be unreadable by the video collection system, or who

causes a transponder or other device used in an electronic toll system to be inoperable or unreadable thereby causing no toll to be charged, including a private toll transportation facility pursuant to §17-17-38 of this code, is guilty of a misdemeanor and, in addition to any other penalties provided by the code, and upon conviction, shall be fined not more than \$500 for each such action and, if applicable, is additionally liable to the Parkways Authority or the private toll transportation facility for all costs incurred ~~by the Authority~~ to repair the damaged, defaced, or obstructed property.

ARTICLE 17. TOLL BRIDGES.

§17-17-10. Payment of toll prior to passage; demand of excessive toll; evading payment of toll.

The proprietor of any toll bridge may require lawful toll to be paid previous to a passage thereover. ~~But if there be demanded at any such bridge more than is lawful, the proprietor shall forfeit to the party aggrieved so much as is illegally demanded and a further sum of not less than two nor more than \$15~~ Whoever shall knowingly or intentionally defraud, or attempt to defraud, the proprietor of any toll bridge by evading, or attempting to evade, the payment of lawful toll for crossing such bridge, or whoever shall aid another to evade, or attempt to evade, the payment of such toll, shall be guilty of a misdemeanor and, for every such offense shall, upon conviction thereof, be fined not in excess of \$10.

§17-17-11. Gatekeeper to keep small change.

A gatekeeper on any toll bridge without an electronic toll collection system, as defined in §17-16D-2 of this code, shall keep such money of small denomination on hand, as may reasonably be required in the ordinary course of business, for making change for passengers, and it is the duty of passengers to offer money for passage of a denomination as near as possible to the amount charged for such passage. This section shall not apply to persons now having a lawful right to pass on such bridge without the payment of toll.

§17-17-12. Failure to provide gatekeeper and to allow prompt passage.

If at any toll bridge without an electronic toll collection system there be a failure to give any person or property a passage over the same in a reasonable time, the proprietor thereof shall forfeit to such person not less than \$2 nor more than \$20. If the keeper of any toll bridge without an electronic toll collection system shall absent himself therefrom without leaving any person in charge of the gates thereon, he shall leave the gates open. Any keeper of a toll bridge without an electronic toll collection who shall fail to comply with the requirements of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined \$50 for every such offense; and any person injured by such failure shall be entitled to recover therefor from such keeper all damages sustained thereby.

§17-17-21. General supervision of bridges under jurisdiction of commissioner.

The ~~state road~~ commissioner of highways shall properly maintain, repair, operate, manage, and control the bridges owned by the state, fix the rates of tolls and establish bylaws and rules and regulations for the use and operation of the bridges owned by the state, and may make and enter into all contracts or agreements necessary and incidental to the performance of his duties and the execution of his powers under this article, including power to permit use of such bridges owned by the state by street railways and other transportation lines, and telephone, telegraph, pipe, and other lines, and contract with them for such use and fix the terms and conditions thereof and the charges or tolls for such use of the bridges owned by the state.

§17-17-22. Tolls to be charged for bond payment; intrastate and interstate bridges included in one issue; purchasing of existing bridges; disposition of tolls.

Tolls shall be fixed, charged, and collected for transit over such bridges owned by the state and shall be so fixed and adjusted, in respect of the aggregate of tolls from the bridge or bridges owned

by the state for which a single issue of bonds is issued, as to provide a fund sufficient to pay the principal and interest of such issue of bonds and to provide an additional fund to pay the cost of maintaining, repairing, and operating such bridge or bridges, subject, however, to any applicable law or regulation of the United States of America now in force or hereafter to be enacted or made. Two or more bridges owned by the state may be included in one issue of bonds, and intrastate and interstate bridges may be grouped in the same issue: *Provided*, That no existing bridge or bridges owned by the state shall be acquired by purchase, eminent domain, or otherwise, unless the ~~state road~~ commissioner of highways shall have determined that the income therefrom, based upon the toll receipts for the next preceding fiscal or calendar year, will be sufficient to pay all expenses of operating and maintaining such bridge, in addition to the interest and sinking fund requirements of any bonds to be issued to pay the purchase price thereof, or, if such existing bridge or bridges owned by the state are to be combined with any other bridge or bridges, either then existing or thereafter to be constructed or acquired by purchase, eminent domain, or otherwise, as provided in §17-17-23b of this code, unless the ~~state road~~ commissioner of highways shall have determined that the income from such combined bridges, based upon the toll receipts for the next preceding fiscal or calendar year in the case of any existing bridge or bridges and upon estimates of future toll receipts in the case of any bridge or bridges to be constructed, will be sufficient to pay all expenses of operating and maintaining such combined bridges, in addition to the interest and sinking fund requirements of any bonds issued to pay the purchase price of such existing bridge or bridges and the interest and sinking fund requirements of any bonds issued to pay the cost of construction, acquiring, modernizing, repairing, reconstructing, or improving any bridge or bridges and approaches thereto, with which such existing bridge or bridges are to be so combined. The tolls from the bridge or bridges for which a single issue of bonds is issued, except such part thereof, as may be necessary to pay such cost of maintaining, repairing, and operating during any period in which such cost is not otherwise provided for (during which period the tolls may be reduced accordingly), shall be transmitted each month to the West Virginia Municipal Bond Commission and by it placed in a special fund which is hereby pledged to and charged with the payment of the principal of such bonds and the interest thereon,

and to the redemption or repurchase of such bonds, such special fund to be a fund for all such bonds without distinction or priority of one over another. The moneys in such special fund, less a reserve for payment of interest, if not used by the West Virginia Municipal Bond Commission within a reasonable time for the purchase of bonds for cancellation at a price not exceeding the market price and not exceeding the redemption price, shall be applied to the redemption of bonds by lot at the redemption price then applicable. Notwithstanding the foregoing, payments of principal and interest on any bonds owned by the United States or any governmental agency or department thereof may be made by the governing body directly thereto.

Any bridge or bridges constructed or acquired by purchase, eminent domain, or otherwise, or reconstructed, repaired, or improved, under the provisions of this article and forming a connecting link between two or more state highways, or providing a river crossing for a state highway, are hereby adopted as a part of the state road system, but no such bridge or bridges shall be constructed or acquired by purchase, eminent domain, or otherwise, or reconstructed, repaired, or improved by the state, under the provisions of this article without the approval in writing of the ~~state road~~ commissioner of highways and the Governor. If there be in the funds of the West Virginia Municipal Bond Commission an amount insufficient to pay the interest and sinking fund on any bonds issued for the purpose of constructing or acquiring by purchase, eminent domain, or otherwise, or reconstructing, repairing, or improving, such bridge or bridges, the ~~state road~~ commissioner of highways is authorized and directed to allocate to said commission, from the state road fund, an amount sufficient to pay the interest on said bonds and/or the principal thereof, as either may become due and payable.

§17-17-38. Municipal sale of ownership of toll bridges to private toll transportation facility; maintenance of tolls; imposition of liability for collection and payment; tax treatment and divestment.

(a) Sale of municipally owned toll bridge. – Any municipality which owns and operates a toll bridge pursuant to this article may, at the sole discretion of the municipality, and upon adoption of a

resolution to such effect by the council of such municipality, sell and convey such toll bridge to a private toll transportation facility subject to such terms and conditions as the council of such municipality may agree.

(b) *Privilege to maintain tolls.* – Any private toll transportation facility purchasing a municipally-owned toll bridge located fewer than five miles from a toll-free bridge which crosses the same body of water or obstacle pursuant to subsection (a) of this section may retain, modify, and collect any such toll charges for the use thereof on persons and things passing over any such bridge as the facility may, by resolution, from time to time prescribe.

(c) *Electronic collection of tolls and imposition of liability for payment.* – The collection and enforcement of tolls for the use of any such bridge may be accomplished by electronic toll collection in the same manner and procedures as provided in §17-16D-1 *et seq.* of this code, and the imposition of liability for payment of such tolls shall apply as set forth specifically in §17-16D-5, §17-16D-6, §17-16D-7, and §17-16D-10 of this code: *Provided,* That the toll rates provided for in §17-17-9 of this code shall not apply to a private toll transportation facility.

(d) *Nonrenewal of vehicle registration.* – If an owner of a vehicle has received at least one invoice from a private toll transportation facility for any unpaid tolls and has: (1) failed to pay the unpaid tolls and administrative fees, and (2) failed to file a notice to contest liability for a toll violation as provided for in the invoice, then the private toll transportation facility may notify the Commissioner of the Division of Motor Vehicles, who shall, if no form contesting liability has been timely filed with the private toll transportation facility, refuse to register or renew the registration of any vehicle of which the person committing the violation is a registered owner or co-owner until such time as the private toll transportation facility has notified the commissioner that such fees and unpaid tolls have been paid or satisfied.

(e) *Tax treatment of municipally owned toll bridge sold to private toll transportation facility.* – A municipally owned toll bridge sold to a private transportation facility pursuant to this

section shall be considered exempt for purposes of ad valorem property taxation under §11-1-1 et seq. of this code: *Provided*, That if said exemption is in any way held to be invalid, then the value of a municipally owned toll bridge purchased by a private toll transportation facility, for purposes of ad valorem property taxation under §11-1-1 et seq. of this code, shall in no event be valued at more than its salvage value, which for purposes of this article is the lower of fair market salvage value or five percent of the original cost of the property.

(f) *Divestment of private toll bridge.* – Nothing in this section shall be construed to limit or prevent the subsequent sale, lease, assignment, or transfer of a municipally-owned toll bridge purchased by a private toll transportation facility, provided that all other requirements of this section are met.

(g) *Definitions.* – For purposes of this section, the term “private toll transportation facility” means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other business entity engaged in the collecting or charging of tolls on a previously municipal-owned toll bridge pursuant to this article.

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION, REGISTRATION, CERTIFICATION OF TITLE, AND ANTITHEFT PROVISIONS.

ARTICLE 2A. UNIFORM MOTOR VEHICLE RECORDS DISCLOSURE ACT.

§17A-2A-7. Permitted disclosures

The division or its designee shall disclose personal information as defined in section three of this article to any person who requests the information if the person: (a) Has proof of his or her identity; and (b) verifies that the use of the personal information will be strictly limited to one or more of the following:

(1) For use by any governmental agency, including any court or law-enforcement agency, in carrying out its functions, or any

private person or entity acting on behalf of a governmental agency in carrying out its functions;

(2) For use in connection with matters of motor vehicle or driver safety and theft, motor vehicle product alterations, recalls or advisories, performance monitoring of motor vehicles, motor vehicle parts and dealers, motor vehicle market research activities including survey research and removal of nonowner records from the original owner records of motor vehicle manufacturers;

(3) For use in the normal course of business by a legitimate business or its agents, employees or contractors:

(A) For the purpose of verifying the accuracy of personal information submitted by the individual to the business or its agents, employees or contractors; and

(B) If the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against or recovering on a debt or security interest against the individual;

(4) For use in conjunction with any civil, criminal, administrative, or arbitral proceeding in any court or governmental agency or before any self-regulatory body, including investigation in anticipation of litigation, the service of process, the execution or enforcement of judgments and orders, or pursuant to an order of any court;

(5) For use in research and producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals;

(6) For use by any insurer or insurance support organization or by a self-insured entity, its agents, employees or contractors in connection with claim investigation activities, antifraud activities, rating or underwriting;

(7) For use in providing notice to the owners of towed or impounded vehicles;

(8) For use by any licensed private investigator agency or licensed security service for any purpose permitted under this section;

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.);

(10) For use in connection with the operation of private toll transportation facilities; and

(11) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

§17A-2A-9. Fees.

Any person making a request for disclosure of personal information required or permitted under sections five through eight of this article, ~~both~~ inclusive, shall pay to the division all reasonable fees related to providing the information: *Provided*, That all fees under this section shall be set by legislative rule pursuant to §29A-3-1 *et seq.* of this code: *Provided, however, That nothing herein shall prohibit the division from entering into a separate fee agreement with a private toll transportation facility to facilitate permitted disclosures pursuant to §17A-2A-7 of this code.*

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 located more than five miles from a toll-free bridge which crosses the same body of water or obstacle, wharves, ferries; solid waste facilities; and 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 the residential service: *Provided further*, That upon request of any of the customers of 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 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) 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) 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, is subject to §24-2-11c(e) through §24-2-11c(j) of this code as if the certificate of public convenience and necessity for the facility were a siting certificate issued under §24-2-11c of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(2) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be 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 is subject to §24-2-11c(e) through §24-2-11c(j) of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, is not subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility, regardless of whether the facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable federal law: *Provided*, That the owner or operator is subject to §24-2-1(d)(5) of this code if a material modification of the facility is made or constructed.

(4) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate electric energy solely for sale at retail outside this state or solely

for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of §24-2-11 of this code and, except for the provisions of §24-2-11c of this code, is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to §24-2-11 of this code to construct an electric generating facility described in this subsection or to make or construct a material modification of the electric generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order 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 do not affect or limit the commission's jurisdiction over contracts or arrangements between the owner or operator of the facility and any affiliated public utility subject to the provisions of this chapter.

(e) The commission does not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(1) "Internet protocol-enabled service" means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data, or video.

(2) "Voice-over Internet protocol service" means any service that:

(i) Enables real-time two-way voice communications that originate or terminate from the user's location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user's location.

(3) The term "voice-over Internet protocol service" includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission ~~has~~ shall not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to §24-2-12 and §24-2-12a of this code if all entities involved in the transaction are under common ownership.

(g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power systems are most fairly and

effectively regulated by the local governing body. Therefore, notwithstanding any other provisions of this article, the commission ~~has~~ shall not have jurisdiction over the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the jurisdiction of the Public Service Commission over municipal power systems is limited to that granted specifically in this code.”

And,

By amending the title of the bill to read as follows:

H. B. 2969 – “A Bill to amend and reenact §17-16D-6 and §17-16D-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §17-17-10, §17-17-11, §17-17-12, §17-17-21, and §17-17-22; to amend said code by adding thereto a new section, designated §17-17-38; to amend and reenact §17A-2A-7 and §17A-2A-9; and to amend and reenact §24-2-1 of said code, all relating to privately owned toll bridges; providing for the sale of a municipally owned toll bridge to a private toll transportation facility under certain circumstances; defining the term ‘private toll transportation facility’; authorizing disclosure of certain information in anticipation of litigation; authorizing the retention and collection of tolls on a privately owned toll bridge; clarifying procedures for the electronic collection of tolls by a private toll transportation facility; clarifying the tax treatment of toll bridges sold by a municipality to a private toll transportation facility; providing for the imposition of liability and nonrenewal of vehicle registration for failure to pay tolls on a privately owned toll bridge; clarifying the application of provisions of code to state owned and privately owned toll bridges; clarifying the jurisdiction of the Public Service Commission over toll bridges; and providing that commission does not have jurisdiction over certain telephone companies or municipal power systems.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 507**), and there were—yeas 83, nays 4, absent

and not voting 13, with the nays and the absent and not voting being as follows:

Nays: Fast, Kimes, Maynard and Paynter.

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2969) 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 84, nays 3, absent and not voting 13, with the nays and the absent and not voting being as follows:

Nays: Fast, Kimes and Paynter.

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2969) 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 a title amendment, to take effect July 1, 2022, a bill of the House of Delegates, as follows:

H. B. 3294, Relating to unemployment insurance.

Delegate Summers moved the House of Delegates concur in the following title amendment by the Senate:

H. B. 3294 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §21A-2D-1, §21A-2D-2, §21A-2D-3, §21A-2D-4, §21A-2D-5, §21A-2D-6, §21A-2D-7, §21A-2D-8, and §21A-2D-9; amending said code by adding thereto a new article designated §21A-6B-1, §21A-6B-2, §21A-6B-3, §21A-6B-4, §21A-6B-5, §21A-6B-6, and §21A-6B-7; all generally relating to unemployment insurance; creating the Unemployment Insurance Program Integrity Act; providing short title; providing definitions; requiring the commissioner, on a weekly basis, to check unemployment insurance rolls against Division of Corrections and Rehabilitation’s list of imprisoned individuals, check new hire records against the National Directory of New Hires, and check unemployment insurance rolls against a commercially available database that provides cross-matching functions to verify eligibility for unemployment benefits; providing for data sharing between Workforce West Virginia and other departments, agencies, or divisions; providing for action by bureau to make new eligibility determinations; requiring commissioner to implement internal administrative policies regarding the recovery of fraudulent unemployment overpayments, cooperative agreements with the U.S. Department of Labor to investigate unemployment fraud, and recover overpayments of unemployment benefits; providing a mechanism for an employer to contact Workforce when an employee is offered their job back but refuses to be rehired; reporting of relevant data, to the extent permitted by federal law, by commissioner to the Legislature; providing for rulemaking; providing an effective date; establishing the Short Time Compensation Program within Workforce West Virginia; defining terms; requiring the commissioner to establish and implement a short-time compensation program by July 1, 2023; requiring program to meet applicable federal and state law; providing that an employer that wishes to participate submit an application; requiring the commissioner to develop an employer application form to request approval of a plan and an approval process to participate in the program; establishing requirements for an application; providing procedure for commissioner approval or disapproval of a plan; providing for the effective date of a plan, expiration of a plan, revocation of a plan, and modification of a

plan; establishing employee eligibility requirements to receive short-time compensation under a plan; prescribing employee benefits and limitations on benefits; and providing for rulemaking.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 509**), and there were—yeas 87, nays none, absent and not voting 13, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, a majority of the members elected having voted in the affirmative, the Speaker declared the bill (H. B. 3294) passed.

Delegate Summers moved that the bill take effect July 1, 2022.

On this question, the yeas and nays were taken (**Roll No. 510**), and there were—yeas 87, nays none, absent and not voting 13, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Brown, Cooper, Hardy, Higginbotham, Householder, D. Kelly, J. Kelly, Nestor, Queen, Wamsley, Westfall and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3294) takes effect July 1, 2022.

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. 294, Relating generally to savings and investment programs offered by state.

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. 297, Relating generally to modernizing Board of Treasury Investments.

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 from passage, of

S. B. 397, Relating to health care provider tax.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendments of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 460, Relating to Deputy Sheriff Retirement System 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. 479, Relating to WV veterans service decoration and WV Service Cross.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendments of the House of Delegates and the passage, as amended, of

S. B. 651, Allowing county boards of education to publish financial statements on website.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the effective date of the House of Delegates, to take effect April 30, 2021, of

S. B. 713, Relating generally to inmate good time.

A message from the Senate, by

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

Com. Sub. for S. C. R. 3 - “Urging the United States Congress to reopen public lands in the State of West Virginia.”

Whereas, Off-highway vehicle recreation has demonstrated a tremendous economic benefit of at least \$43 billion throughout the United States and to West Virginia, in particular; and

Whereas, West Virginia has an unparalleled opportunity to replace lost jobs with new employment supporting off-highway vehicle recreation; and

Whereas, West Virginia currently suffers from the highest rates of drug overdose deaths, and the actual number of deaths due to opioid overdose has quadrupled since 2010, but wilderness therapy programs, outdoor recreation, and off-highway vehicle recreation have demonstrated positive health effects for veterans with post-traumatic stress disorder and individuals with opioid addictions; and

Whereas, off-highway vehicle recreation can provide greater access to the state’s public lands for disabled persons; and

Whereas, The public benefits of maintaining West Virginia’s recreation economy, opportunities for outdoor therapy, the adventure travel industry, and providing access for disabled persons to the state’s public lands, provide powerful reasons to restore full access to nationally managed public lands in this state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby urges the United States Congress to reopen public lands in the State of West Virginia; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the representatives and senators elected by the citizens of West Virginia serving the citizens of West Virginia in the Congress of the United States in Washington, D. C.

A message from the Senate, by

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

S. C. R. 55 - "Supporting the Atlantic Coast Pipeline and the use of natural gas as a critical source of energy across the State of West Virginia and the United States."

Whereas, The Atlantic Coast Pipeline has created thousands of good-paying jobs in West Virginia and across the United States; and

Whereas, The utilization of natural gas as a renewable energy source has resulted in the economic development of billions of dollars in West Virginia and across the United States; and

Whereas, Natural gas provides a clean, affordable power source to the State of West Virginia and to millions of people in the United States; and

Whereas, Natural gas is the number one source of agricultural fertilizer in the United States, and together with coal, natural gas promises to be a major economic engine for the people of West Virginia and the United States as a whole; and

Whereas, The Atlantic Coast Pipeline will be one of the integral means of delivering renewable natural gas to the entire country for years to come; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby supports the Atlantic Coast Pipeline and the use of natural gas as a critical source of energy across the State of West Virginia and the United States; and, be it

Further Resolved, That the Legislature recognizes the importance of the continued development of the Atlantic Coast Pipeline and the use of clean burning natural gas for the citizens of West Virginia and all of the United States; and, be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the Atlantic Coast Pipeline, LLC, the Federal Energy Regulatory Commission, and the West Virginia delegation of the United States Senate and the U.S. Congress.”

Miscellaneous Business

Pursuant to House Rule 132, consent was obtained to print the following in the Appendix to the Journal:

- Delegate Ferrell regarding Com. Sub. for S. B. 387

- Delegate Nestor regarding the motion to reconsider Com. Sub. for S. B. 439

At 5:29 p.m., the House of Delegates adjourned until 10:00 a.m., Thursday, April 8, 2021.

Thursday, April 8, 2021

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, April 7, 2021, 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. 509 and Com. Sub. for S. B. 610, on Second reading, Special Calendar, had been transferred to the House Calendar; and Com. Sub. for S. B. 34, on Second reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 95, Requesting Joint Committee and Government and Finance study the effect losing a Congressional district would have on boards, commissions and others,

And,

H. C. R. 103, Interim study to improve the education system in West Virginia,

And reports the same back with the recommendation that they each be adopted.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented communications from His Excellency, the Governor, advising that on April 7, 2021, he approved **S. B. 67, Com. Sub. for S. B. 356, S. B. 390, Com. Sub. for S. B. 431, Com. Sub. for S. B. 435, Com. Sub. for H. B. 2014, Com. Sub. for H. B. 2290, Com. Sub. for H. B. 2382, Com. Sub. for H. B. 2896, H. B. 2897, H. B. 2899, H. B. 2901, H. B. 2903, H. B. 2920 and H. B. 2940.**

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect July 1, 2021, and requested the concurrence of the House in the changed effective date, of

Com. Sub. for H. B. 2722, Prohibiting the use of class B fire-fighting foam for testing purposes if the foam contains a certain class of fluorinated organic chemicals.

On the question that the bill take effect July 1, 2021, the yeas and nays were taken (**Roll No. 511**), 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: Booth, Diserio and Graves.

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. 2722) takes effect July 1, 2021.

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

Special Calendar

Third Reading

Com. Sub. for S. B. 335, Relating to WV Invests Grant Program for students at accredited community and technical

college; on third reading, coming up in 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 95, nays 3, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Gearheart, J. Jeffries and Kimes.

Absent and Not Voting: Booth and Graves.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 335) passed.

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 513**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Gearheart.

Absent and Not Voting: Booth and Graves.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 335) takes effect July 1, 2021.

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

Com. Sub. for S. B. 419, Redefining “firearm” to match federal code; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 514**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Booth and Graves.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 419) 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. 458, Relating to possession of firearms by individuals 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. 515**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Doyle, Fleischauer, Hansen, Rowe, Walker and Williams.

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 458) 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. 486, Relating to powers and duties of Chief Technology Officer; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 516**), 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: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 486) passed.

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

S. B. 488, Relating to distributing hotel occupancy tax to convention and visitor's bureaus; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment offered by Delegate Fast was reported by the Clerk, on page 4, section 14, line 5, immediately following the words "Required expenditures.", by striking out the words "At least 50" and inserting in lieu thereof "Not more than 40".

Whereupon,

Delegate Fast subsequently obtained unanimous consent that his amendment be withdrawn.

The bill was then read a third time.

Delegates Queen and B. Ward 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 and directed the Members to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 517**), 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: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 488) passed.

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

S. B. 521, Extending licensure renewal term of certain private investigators, security guards, and associated firms; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 518**), 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: Booth and Householder.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 521) passed.

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

S. B. 529, Correcting improper citation relating to DMV registration; on third reading, coming up in 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 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Booth and Householder.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 529) passed.

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

Com. Sub. for S. B. 534, Permitting Economic Development Authority to make working capital loans from revolving loan fund capitalized with federal grant 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. 520**), and there were—yeas 95, nays 3, absent

and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Bates, McGeehan and Pritt.

Absent and Not Voting: Booth and Dean.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 534) 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. 534 - “A Bill to amend and reenact §12-6C-11 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31-15-5 and §31-15-6 of said code, all relating generally to Economic Development Authority; increasing the revolving loan capacity from the Board of Treasury Investments to the Economic Development Authority to an amount not to exceed \$200 million; establishing the interest rate by which the revolving loan will be secured; providing that the State Treasurer shall be a member of the Economic Development Authority Board; authorizing the Economic Development Authority to make working capital loans from a revolving loan fund capitalized with federal grant funds including those federal grant funds received from the United States Economic Development Administration; and clarifying that the authority is not authorized to enter into contracts or agreements with financial institutions for banking goods or services without the approval of the State Treasurer.”

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

Com. Sub. for S. B. 613, Adding classification and base salaries of certain civilian employees of State Police Forensic 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. 521**), 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: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 613) 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. 613 - “A Bill to amend and reenact §15-2-5 and §15-2-7 of the Code of West Virginia, 1931, as amended, all relating to adding the classification and base salaries of certain civilian employees of the West Virginia State Police Forensic Laboratory as Evidence Custodians I-IV, Forensic Technicians I-III, Forensic Scientists I-VI, and Forensic Scientist Supervisors I-IV; providing for promotion based upon the Forensic Lab Career Progression System; directing that a written manual be provided to individuals within the forensic laboratory governing certain established systems and that specific procedures must be identified for the evaluation of promotion or reclassification of those individuals; and providing for the inclusion of these civilian employees in longevity salary increase provisions.”

Com. Sub. for S. B. 636, Requiring certain history and civics courses be taught in schools; on third reading, coming up in regular order, was read a third time.

Delegate Thompson 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 and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 522**), and there were—yeas 91, nays 8, absent

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

Nays: Fleischauer, Fluharty, Hanna, Hansen, Kimes, Rowe, Statler and Young.

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 636) passed.

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

Com. Sub. for S. B. 636 – “A Bill to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to imposing additional requirements for the courses required for all public, private, parochial, and denominational schools in the history of the State of West Virginia, the history of the United States, in civics, in the Constitution of the United States, and in the government of West Virginia; requiring the State Board of Education to consult with other entities in prescribing the courses of study; requiring the State Board of Education to include the basic course requirements for middle school and high school and the academic standards when prescribing the courses of study; requiring the State Board of Education to publish an approved list of instructional resources; requiring the State Board of Education to provide testing or assessment instruments for the history and civics courses of instruction; expanding amendments to the Constitution of the United States to be emphasized as a part of the instruction in each social studies class required during Celebrate Freedom Week; requiring public high school students complete one-credit course in personal finance as a requirement for high school graduation; replacing existing economics coursework requirements; requiring end-of-course examination; and requiring state board to shall develop personal finance curriculum.”

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. 671, Appointing Director of Office of Emergency Medical 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. 523**), and there were—yeas 79, nays 20, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Bruce, Conley, Diserio, Fast, Foster, Hanna, Jennings, J. Kelly, Kimes, Martin, McGeehan, Paynter, Pinson, Pritt, Statler, Summers, Sypolt, Toney, B. Ward and Zukoff.

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 671) passed.

On motion of Delegate J. Pack, the title of the bill was amended to read as follows:

Com. Sub. for S. B. 671- “A Bill to amend and reenact §16-4C-4 of the Code of West Virginia, 1931, as amended, relating to providing for the appointment of a Director of the Office of Emergency Medical Services; providing qualifications; and requiring that the Office of Emergency Medical Services director be appointed by the Secretary of the 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. 684, Adding Curator of Division of Arts, Culture, and History as ex officio voting member to Library

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. 524**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Fast, Fluharty, Kimes, Pushkin and Young.

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 684) 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. 695, Providing procedures for decreasing or increasing corporate limits by annexation; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 525**), and there were—yeas 68, nays 31, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barach, Brown, Dean, Diserio, Doyle, Ellington, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Higginbotham, Hornbuckle, J. Kelly, Kimes, Lovejoy, Miller, Nestor, Pushkin, Queen, Riley, Rohrbach, Rowe, Skaff, Thompson, Toney, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Booth.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 695) passed.

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

On this question, the yeas and nays were taken (**Roll No. 526**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Doyle, Hansen, J. Kelly, Kimes, Miller and Walker.

Absent and Not Voting: Booth.

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. 695) 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. 714, Relating to physician assistant practice act; on third reading, coming up in regular order, was read a third time.

Delegate Tully 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 and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 527**), 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: Booth and Bridges.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 714) passed.

On motion of Delegate J. Pack, the title of the bill was amended to read as follows:

H. B. 714 - “A Bill to repeal §30-3E-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §30-3E-1, §30-3E-2, §30-3E-3, §30-3E-4, §30-3E-9, §30-3E-10a, §30-3E-11, §30-3E-12, §30-3E-13, and §30-3E-17 of said code, all relating to health care practitioners; defining terms; limiting rule-making authority; revising licensure requirements; revising practice requirements; eliminating practice agreement requirement; revising practice notification requirement; providing prescriptive authority; revising collaboration requirements; expanding scope of practice; expanding prescriptive authority; establishing minimum reimbursement rates; and revising complaint process.”

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

S. B. 717, Supplemental appropriation from General Revenue to WV Community and Technical College Education, Control Account; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 528**), 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: Booth and Bridges.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 717) passed.

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

On this question, the yeas and nays were taken (**Roll No. 529**), 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: Booth and Bridges.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 717) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 7, Limiting political activity by public employees; 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 everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 4. POLITICAL ACTIVITY BY PUBLIC EMPLOYEES AND PUBLIC OFFICIALS.

§6B-4-1. DEFINITIONS; EXCEPTIONS.

(a) For purposes of this article, ‘political activity’ means expressly advocating for others to vote for or against a candidate or to support or oppose a political committee or political party.

(b) This article shall not apply to:

- (1) Members of the Legislature;
- (2) Publicly elected members of the Board of Public Works;
- (3) Uncompensated public officials; and
- (4) Uncompensated public servant volunteers.

§6B-4-2. Limitation on political activity by public employees and public officials.

In addition to any other restrictions on political activity imposed by this code or by federal law, a public employee or a public official may not engage in political activity:

(1) While on duty; or

(2) While using any vehicle owned or leased by the State of West Virginia or any agency or political subdivision thereof.

§6B-4-3. Violations and penalties. Upon a final decision by the commission that a public employee or public official violated any provision of §6B-4-2 of this code, that person shall be subject to potential sanctions, recommendation of termination from employment or removal from office, or both as provided in §6B-2-4 of this code.”

The bill was ordered to third reading.

Com. Sub. for S. J. R. 9, Disabled Veterans’ Exemption from Ad Valorem Property Taxation Amendment; on second reading, coming up in regular order, was read a second time.

There being no objection, unanimous consent was obtained to advance the resolution to third reading with amendment pending and the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. J. R. 11, Constitutional Officer Term Limit Amendment; on second reading, coming up in regular order, was read a second time.

There being no objection, unanimous consent was obtained to advance the resolution to third reading with amendment pending and the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 34, Creating exemption to state sales and use tax for rental and leasing of equipment; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Finance, was reported by the Clerk and adopted, amending the bill on page 7, section 9, on line 160, following the word “amended” and the period, by striking out the word “Control”, and inserting in lieu thereof the following:

“For purposes of this subdivision, “control”.

And,

On line 166, after the word “among”, by striking out the remainder of the paragraph and inserting in lieu thereof the following:

“corporations, partnerships, or limited liability companies when the entities are members of the same control group or are related taxpayers as defined in Section 267 of the Internal Revenue Code of 1986, as amended.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 332, Providing procedure for WV to select delegates to Article V Convention; 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 amendment pending and the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 334, Establishing license application process for needle exchange programs; 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 amendment pending and the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 398, Limiting eligibility of certain employers to participate in PEIA plans; 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

1, section 29, following the section heading by striking the remainder of the bill and inserting in lieu thereof the following:

“Notwithstanding any other provision of this article to the contrary, the director may not consider any employer eligible for participation in a plan except for the following:

(1) All mandatory participants, including the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units;

(2) Any county board of education or public charter school established pursuant to §18- 5G-1 et seq. of this code, if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance program: *Provided*, That as it relates to eligible public charter schools, only employees directly employed by a charter school that is exempt from the payment of taxes under the United States Internal Revenue Code, Title 26 U.S.C. §501(c)(3), may participate in a plan.

(3) Any employer participating in a plan as of the effective date of the enactment of this section in the 2021 regular session of the Legislature.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 464, Requiring composting of organic materials and commercial composting products comply with WV Fertilizer Law; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 470, Limiting release of certain personal information maintained by state agencies; 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 amendment pending and the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 478, Permitting use of established federal marketplace programs to purchase supplies; 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 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 1J. THE WEST VIRGINIA MILITARY AUTHORITY ACT.

§15-1J-4. Establishment and general powers of the authority.

(a) The West Virginia Military Authority is hereby established to administer national security, homeland security, and other military-related or sponsored programs.

(b) The authority will be administered by the Adjutant General of the West Virginia National Guard.

(c) Funds provided by the federal government and any state funds authorized by appropriation of the Legislature used as a required match to secure federal funding for programs administered by the authority pursuant to this section shall be administered by the Adjutant General subject to the provisions of §4-11-1 *et seq.* of this code.

(d) Except as otherwise prohibited by statute, the authority, as a governmental instrumentality exercising public powers of the state, shall have and may exercise all powers necessary or appropriate to carry out the purpose of this article, including the authority to:

(1) Execute cooperative agreements between the guard and the federal and/or state governments;

(2) Contract on behalf of the guard with the federal government, its instrumentalities and agencies, any state, territory, or the District of Columbia and its agencies and instrumentalities,

municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals;

(3) Use funds administered by the authority pursuant to subsection (c) of this section for the maintenance, construction, or reconstruction of capital repair and replacement items as necessary and approved by the authority;

(4) Accept and use funds from the federal government, its instrumentalities and agencies, any state, territory, or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals for the purposes of national security, homeland security, and other military-related or sponsored programs;

(5) Procure insurance with state funds through BRIM covering property and other assets of the authority in amounts and from insurers that BRIM determines necessary;

(6) Contract on behalf of the guard with the federal government, its instrumentalities, and agencies, any state, territory, or the District of Columbia and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals for specialized technical services at a rate commensurate with industry standards as determined by the Adjutant General to support specific activities related to national security, homeland security, and other military-related programs;

(7) Hire employees at an appropriate salary equivalent to a competitive wage rate;

(8) Enroll employees in PERS, PEIA, and workers' compensation and unemployment programs, or their equivalents: *Provided*, That the authority, through the receipt of federal and/or state funds, pays the required employer contributions;

(9) Cooperate with economic development agencies in efforts to promote the expansion of industrial, commercial, and manufacturing in the state;

(10) Develop a human resources division that will administer and manage its employees and receive state matching funds as necessary to ensure maximum federal funds are secured;

(11) Due to the at-will employment relationship with the authority, its employees may not avail themselves of the state grievance procedure as set forth in §29-6A-1 *et seq.* of this code; ~~and~~

(12) Have the ability to secure all other bonding, insurance, or other liability protections necessary for its employees to fulfill their duties and responsibilities; and

(13) Purchase or contract under an established United States General Services Administration purchase programs, such as the General Services Administration Global Supply, catalogue, marketplace, or any other state or federal contract, platform, or program for the purchase of uniforms, safety equipment, personal protection equipment, firearms, supplies, materials, or for education textbooks, instructional materials, digital content resources, instructional technology, hardware, software, telecommunications, and technical services without application of the provisions of §5A-3-1 *et seq.* of this code: *Provided, That nothing in this section would limit or prevent the State Auditor from performing an audit on any purchases made pursuant to this subdivision.*

(e) There is hereby created in the State Treasury a special revenue account designated the Military Authority Fund which shall be administered by the Adjutant General. All revenues received from nonfederal government entities shall be deposited into the special revenue account and may be used by the Adjutant General in accordance with the provisions of this article.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 485, Relating to use or presentation of firearm during commission of felony; 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 1, section 61-7-15a, line 6, by striking out “other than those set forth in subsection (c) of this section.”

And,

On page 1, section 61-7-15a, line 7, by inserting after the word who, “is otherwise prohibited by law from possessing a firearm.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 492, Establishing program for bonding to reclaim abandoned wind and solar generation facilities; 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 right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for S. B. 502, Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 532, Limiting claims for state tax credits and rebates; 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 1, section 5ee, line 10, following the word “is”, by striking out the word “least” and inserting in lieu thereof the word “most”.

The bill was ordered to third reading.

S. B. 537, Relating generally to kidnapping; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 542, Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegate Evans, was reported by the Clerk on page 3, following Section 21 after line 24, by inserting a new section to read as follows:

“§24-2-22. Coal community comeback planning required; Coal Community Comeback Advisory Committee established; Coal Community Comeback Plan.

(a) The West Virginia Public Service Commission shall facilitate a process to create a Coal Community Comeback Plan for the State of West Virginia, which shall include, at a minimum:

(1) The maintenance and development of water and wastewater, broadband, and other infrastructure needed to revitalize impacted communities;

(2) Opportunities to maintain and increase jobs in coal mines, coal-fired power plants, and other sectors that would diversify the economies of impacted communities;

(3) Grants and local, state, federal, and other sources of funding that will assist impacted communities, and recommendations to align and target existing local, state, and federal funding and leverage additional funding to support impacted communities and impacted workers;

(4) Other programs and activities that will assist impacted communities, and recommendations to align and target existing local, state, and federal programs and activities and establish additional programs and activities to support impacted communities and impacted workers;

(5) Recommendations for legislation, studies, and other activities, including but not limited to the creation of a fund to collect and distribute public revenue to address shortfalls in

funding for counties, school systems, and municipalities in impacted communities;

(6) Planning of and facilitation of innovative land use and economic development activities that impacted communities can use to diversify their economies;

(7) Projected short-term and long-term costs and benefits to the state of each plan component;

(8) Potential fiscal, economic, workforce, and other implications of extending plan components to other sectors and industries affected by similar economic disruptions; and

(9) Which components can be implemented under existing authority and which require additional legislation.

(b) There is hereby created the Coal Community Comeback Advisory Committee to develop and recommend a Coal Community Comeback Plan for the State of West Virginia. It shall consist of the following members:

(1) The Chair of the West Virginia Public Service Commission or his or her designee, who shall serve as co-chairperson of the Committee;

(2) The Secretary of the Department of Economic Development or his or her designee, who shall also serve as co-chairperson of the Committee;

(3) One representative of the Office of the Governor;

(4) One member of the Senate appointed by the president of the Senate, and one member of the House of Delegates appointed by the Speaker of the House; and the following members, to be appointed by the Governor:

(A) Two representatives of labor unions;

(B) Three representatives of impacted workers from impacted communities;

(C) Two representatives with professional economic development or workforce retraining experience; and

(D) Two representatives of utilities that, on the effective date of this section, operated one or more coal-fueled electric generating units.

(c) (1) The West Virginia Public Service Commission shall provide administrative and logistical support to the work of the Committee.

(2) The Committee shall meet at least once every three months. The chairpersons may call such additional meetings as are necessary for the Committee to complete its duties.

(3) Each member of the Committee is entitled to receive reimbursement for actual and necessary expenses pursuant to §4-2A-6 of this code.

(4) The Committee may engage additional nonvoting members or advisors and provide additional expertise as needed.

(5) The Committee shall hold at least three public hearings in the state on the Coal Community Comeback Plan, with at least one hearing held in each congressional district of the state. On or before July 1, 2022, the Committee shall present its draft Coal Community Comeback Plan to the Chair of the West Virginia Public Service Commission. On or before December 31, 2022, the Committee shall present its final Coal Community Comeback Plan to the Governor and the Legislature. Unless otherwise extended by Act of the Legislature, the Committee shall expire effective January 1, 2023.

(d) As used in this section:

(1) ‘Coal-related employment’ means employment in the coal industry, or an industry dependent on coal production, consumption, or distribution;

(2) ‘Committee’ means the Coal Community Comeback Advisory Committee established pursuant to §24-2-22(b) of this code;

(3) ‘Impacted community’ means a county in which a coal mine or a coal-fired plant has closed after December 31, 1999, causing a loss of at least 200 jobs;

(4) ‘Impacted worker’ means a West Virginia worker laid off from coal-related employment who has not found employment with similar wages or benefits.”

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

Com. Sub. for S. B. 569, Relating to damages for medical monitoring; on second reading, coming up in regular order, was read a second time.

An amendment, offered by Delegate Steele, was reported by the Clerk on page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-32. Limitations on medical monitoring damages.

(a) In any civil action where a plaintiff who does not allege a present physical injury or disease seeks to recover future medical monitoring costs as damages, a defendant cannot be required to pay as damages or provide any other type of legal, injunctive or equitable relief for a plaintiff’s future medical surveillance, screening tests or monitoring procedures unless the plaintiff proves to a reasonable degree of certainty all of the requirements for the underlying cause of action and that:

(1) He or she has been significantly exposed;

(2) To a proven hazardous substance;

(3) Through the tortious conduct of the defendant;

(4) As a proximate result of the exposure, the plaintiff has suffered a significantly increased risk of contracting a serious latent disease relative to the general population of more than one hundred percent;

(5) The increased risk of disease makes it objectively medically necessary for the plaintiff to undergo periodic diagnostic medical examinations and such periodic diagnostic medical examinations are different from what would be prescribed in the absence of the exposure;

(6) Monitoring procedures exist that make the early detection of a disease possible; and

(7) Early detection is beneficial, meaning that a treatment exists that can significantly decrease the risk of death or the severity of the disease, according to contemporary scientific principles.

(b) A claim under this section may be brought by a Plaintiff after birth based on a prenatal exposure, regardless of whether the prenatal exposure occurred prior to fetal viability, if the Plaintiff otherwise meets the requirements of this section.

(c) In any civil action in which a court orders a defendant to pay for a plaintiff's future medical surveillance, screening tests or monitoring procedures in the absence of a present physical injury or disease, no plaintiff shall be awarded or paid any moneys to cover the cost of his or her future medical surveillance, screening tests or monitoring procedures until such surveillance, tests or monitoring procedures have been completed. With respect to payments for such damages in the future, the court shall order that the liable defendant make periodic payments into a fund established sufficient to timely pay the cost of future medical surveillance, screening tests or monitoring procedures that are required by the judgment of the court. The court shall determine how such fund will be administered. The court shall also determine

the date after which such future medical surveillance, screening tests or monitoring procedures are no longer required, and, after that date, any moneys remaining in the fund that are not needed to pay for medical surveillance, screening tests or monitoring procedures completed prior to such termination date shall be repaid to the liable defendant who paid such amounts into the fund. If there are multiple such defendants, then repayments shall be made in proportion to the total contributions of each defendant into the fund.

(d) The damage award authorized by this section is not available in a civil action brought against an employer pursuant to paragraph (B), subdivision (2), subsection (d), section two, article four, chapter twenty-three of this code.

(e) No award of punitive damages shall be made with respect to damages awarded under this section.

(f) It is a defense to the award of damages authorized in this section that the benefits of medically monitoring the exposed population are outweighed by the costs of the monitoring. In making this determination, the finder of fact may consider:

(1) The number of people likely to benefit from the monitoring in relation to the population to be monitored;

(2) Whether early diagnosis of the latent disease is likely to lead to a better treatment outcome;

(3) Whether treatment currently exists for the disease that is the subject of medical monitoring or whether the condition diagnosed is an irreversible and untreatable disease; and

(4) Whether the assets of the defendant are limited such that the available funds should be reserved to compensate those who have or subsequently develop injury.

(g) Notwithstanding any provision of this code to the contrary, the venue for any civil action brought pursuant to the provisions of this section shall lie in the county where the significant exposure allegedly occurred.”

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

Com. Sub. for S. B. 641, Allowing counties to use severance tax proceeds for litter cleanup programs; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 642, Requiring legal advertisements by State Auditor be posted to central website; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 655, Eliminating sunset and legislative audit provisions for certain PSC rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 657, Relating to free expression on state institution of higher education campuses; on second reading, coming up in regular order, was read a second time. The bill was then ordered to third reading.

Com. Sub. for S. B. 658, Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 660, Providing for cooperation between law-enforcement agencies and military authorities; on second reading, coming up in regular order, was read a second time.

Delegates Fast and Steele, respectively, were recognized to explain the following two strike and insert amendments.

An amendment recommended by the Committee on the Judiciary was explained by Delegate Fast:

On page 1, immediately after the enacting clause by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-7. Cooperation with military authorities.

(a) Unless otherwise prohibited by this Code, the head of a law-enforcement agency or head of a campus police department, as those positions are defined in §15-10-3 of this code, may assign law-enforcement personnel under his or her command to provide assistance, cooperation, and information to the National Guard of this state or any service component of the United States Department of Defense located in this state upon the written request of the Adjutant General or the commanding officer of the unit or facility.

(b) The assistance authorized by subsection (a) of this section may be provided for:

(1) Alleged violations of the federal and state Codes of Military Justice;

(2) Alleged violations of the criminal laws of the United States and the State of West Virginia when those involve military property and personnel;

(3) Investigations and other actions related to reports of sexual assault or sexual harassment, to include any cases of reprisal or retaliation; and

(4) Violations of military directives, regulations, or instruction.

(c) The purpose of this section is to support the military by providing it objective, qualified, law-enforcement services.

(d) It shall be unlawful for any law enforcement officer employed by the state of West Virginia, or, by any municipality or political subdivision of the same, to cooperate with the National

Guard of this state, or any other service component of the United States Department of Defense, to investigate, or enforce, any crimes relating to any federal firearms laws, which are not also crimes prohibited by the laws of this state.”

Delegate Steele offered an amendment for which the Delegate was recognized to explain as follows:

On page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-7. Cooperation with military authorities.

(a) Unless otherwise prohibited by this Code, the head of a law-enforcement agency or head of a campus police department, as those positions are defined in §15-10-3 of this code, may assign law-enforcement personnel under his or her command to provide assistance, cooperation, and information to the National Guard of this state or any service component of the United States Department of Defense located in this state upon the written request of the Adjutant General or the commanding officer of the unit or facility.

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(1) Alleged violations of the federal and state Codes of Military Justice;

(2) Alleged violations of the criminal laws of the United States and the State of West Virginia when those involve military property and personnel;

(3) Investigations and other actions related to reports of sexual assault or sexual harassment, to include any cases of reprisal or retaliation; and

(4) Violations of military directives, regulations, or instruction.

(c) The purpose of this section is to support the military by providing it objective, qualified, law-enforcement services.

(d) It shall be unlawful for any law enforcement officer employed by the state of West Virginia, or, by any municipality, or political subdivision, of the same, to cooperate with the National Guard of this state, or any other service component of the United States Department of Defense, to investigate, or enforce, any crimes relating to any federal act, law, order, rule, or regulation regarding a firearm, firearm accessory, or ammunition if the act, law, order, rule, or regulation does not exist does under the laws of this state or is not substantially similar to a law of this state.

§15-10-8 Non-commandeering of civilian law enforcement agencies by federal agencies.

(a) Other than compliance with an order of a court of this state, notwithstanding any law, regulation, rule, or order to the contrary, no agency of this state, political subdivision of this state, or employee of an agency or political subdivision of this state acting in his or her official capacity may use agency or department moneys or personnel to investigate, interrogate, detain, detect, or aid a federal agency in whole or in part or arrest persons for federal law enforcement purposes, including any of the following:

(1) Inquiring into an individual's ownership regarding a firearm, firearm accessory, or ammunition, if the act, law, order, rule, or regulation for which the individual is suspected to be in violation does not exist under the laws of this state nor is substantially similar to a law of this state;

(2) Detaining an individual on the basis of a hold request related solely to an alleged federal firearm violation;

(3) Providing personal information about an individual, including, but not limited to, the individual's home address or work address if that information is required for the purpose of furthering a federal firearm investigation into a violation of federal firearm law that is not otherwise unlawful in West Virginia, unless that information is available to the public;

(4) Making or intentionally participating in arrests based strictly on a federal firearm law that differs from or is not substantially similar to a West Virginia law;

(5) Performing the functions of an agent or officer of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, whether pursuant to any other law, regulation, or policy, whether formal or informal, if such function is to knowingly and willingly participate in any way in the enforcement of any federal act, law, order, rule, or regulation regarding a firearm accessory or ammunition if the act, law, order, rule or regulation does not exist in the laws of the State of West Virginia or is not substantially similar to a law of West Virginia;

(6) Placing law enforcement officers under the supervision of federal agencies or employ law enforcement officers deputized as special federal officers or special federal deputies for purposes of federal firearm law enforcement unless the act, law, order, rule, or regulation for which such enforcement is sought is the same as or substantially similar to a law of West Virginia. All law enforcement officers remain subject to West Virginia law governing conduct of law enforcement officers and the policies of the employing agency;

(7) Providing office space exclusively dedicated for federal authorities for use within a municipal or county law enforcement facility for the purpose of federal firearms regulation enforcement;
or

(8) Utilizing any assets, state funds, or funds allocated by the state to local entities on or after the effective date of this article, in whole or in part, to engage in any activity that aids a federal agency, federal agent, or corporation providing services to the federal government in the enforcement or any investigation pursuant to the enforcement of any federal act, law, order, rule, or regulation regarding a firearm, firearm accessory, or ammunition if the act, law, order, rule, or regulation does not exist under the laws of this state or is not substantially similar to a law of this state.

(b) Notwithstanding the limitations in subdivision (1) of this section, this section does not prevent any West Virginia law enforcement agency from doing any of the following that does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:

(1) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of state law that is detected during an unrelated law enforcement activity.

(2) Responding to a request from federal law enforcement authorities for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information, or where otherwise permitted by state law.

(3) Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations, and shall serve as immunity for involved officers against prosecution so long as the following conditions are met:

(A) The primary purpose of the joint law enforcement task force is not federal firearm law enforcement; and

(B) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to federal firearm law enforcement.

§15-10-9 Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article, and to this end the provisions of this article are declared to be severable.”

Delegate Pushkin arose to inquire of the Chair as to the germaneness of the amendment offered by Delegate Steele.

The Speaker ruled that both amendments were germane.

Subsequently, unanimous consent was obtained to advance the bill to third reading with amendments pending, and the rule was suspended to permit the offering and consideration of amendments on that reading.

S. B. 661, Permitting retailers to assume sales or use tax assessed on tangible personal property; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 674, Clarifying that unpaid restitution does not preclude person from obtaining driver's license; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 677, Relating generally to miners' safety, health, and training standards; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 702, Relating to involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes; 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 2, section 27-6A-2(a), line 14, by inserting "at a Division of Corrections and Rehabilitation Facility by a qualified forensic evaluator" between "at an outpatient facility" and "or at the office".

The bill was then ordered to third reading.

Leaves of Absence

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

At 12:43 p.m., on motion of Delegate Summers, the House of Delegates recessed until 4:00 p.m.

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Afternoon Session

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[DELEGATE HOWELL, MR. SPEAKER PRO TEMPORE, IN
THE CHAIR]

The House of Delegates was called to order by the Honorable Gary Howell, Speaker Pro Tempore.

At the request of Delegate Summers, and by unanimous consent, the House of Delegates returned to further consideration of **Com. Sub. for S. B. 613**, Adding classification and base salaries of certain civilian employees of State Police Forensic Laboratory.

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 530**), 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: Booth, Gearheart, Graves, Statler, Westfall and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the bill (Com. Sub. for S. B. 613) takes effect July 1, 2021.

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

At the request of Delegate 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

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. 24, Urging the Governor of West Virginia to form a task force regarding Mylan Pharmaceuticals plant in Morgantown,

And reports back a committee substitute therefor, with the same title, as follows:

Com. Sub. for H. R. 24 – “Urging the Governor of West Virginia to form a task force with our congressional representatives, labor organizations, industry leaders, and economic development representatives to utilize the Morgantown plant at the Chestnut Ridge facility of the former Mylan Pharmaceuticals to produce, manufacture, package, and ship critical, life-saving medical supplies including vaccines, medications, and personal protective equipment, to save the lives of our friends, neighbors, and fellow citizens,”

With the recommendation that the committee substitute be adopted.

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

By Delegates Higginbotham, Graves, Linville, Espinosa, J. Pack, Skaff and Howell:

H. R. 25 - “Support the signing of a Bilateral Trade Agreement (BTA) between the United States and the Republic of China (Taiwan), celebrating the 41st anniversary of the sister-state ties between the State of West Virginia and Taiwan, reaffirming support for Taiwan’s meaningful participation and contributions in international organizations, and for strengthening and expanding sister-state ties between the State of West Virginia and Taiwan.”

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 102, A resolution to study attracting and retaining remote workers in West Virginia,

H. R. 22, Calling for the construction of an licensed Off Highway Vehicle (OHV) vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side,

Com. Sub. for S. C. R. 3, Urging Congress reopen public lands in WV,

And,

S. C. R. 55, Supporting Atlantic Coast Pipeline,

And reports the same back with the recommendation that they each be adopted.

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. 344, Relating to credit for qualified rehabilitated buildings investment,

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

At the respective requests of Delegate Summers, and by unanimous consent, the bill (Com. Sub. for S. B. 344) 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 again passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2005, Relating to health care costs.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. INSURANCE COMMISSIONER.

§33-2-24. Authority of Insurance Commissioner to enforce No Surprises Act; administrative penalties; injunctive relief; regulatory assistance of other agencies; rulemaking; effective date.

(a) The Insurance Commissioner shall enforce the applicable provisions of the No Surprises Act (H.R. 133, Public Law 116-260) against health insurers, medical providers, and health care facilities.

(b) Whenever the Insurance Commissioner believes, from evidence satisfactory to him or her, that any insurer, medical provider, or health care facility is violating the applicable provisions of the No Surprises Act, the Commissioner may assess a fine, not to exceed \$10,000 per violation, after notice and hearing pursuant to §33-2-13 of this code. In addition to the administrative penalty available in this subsection, the Insurance Commissioner may cause a complaint to be filed in the appropriate court of this state seeking to enjoin and restrain the insurer, medical provider, or health care facility from continuing the violation or engaging therein or doing any act in furtherance thereof.

(c) The Insurance Commissioner may, at his or her discretion, seek assistance from any other state government agency regarding regulatory enforcement of this section against medical providers or health care facilities. The Insurance Commissioner may also call upon the Attorney General for legal assistance and representation as provided by law.

(d) The Insurance Commissioner may propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code to effectuate the provisions of this section.

(e) The provisions of this section shall become effective January 1, 2022.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2005 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-2-24, relating to health care costs generally; requiring the Insurance Commissioner to enforce the applicable provisions of the No Surprises Act; permitting the Insurance Commissioner to assess a fine for violation of the No Surprises Act; permitting the Insurance Commissioner to seek administrative penalties for violations of the No Surprises Act; permitting the Insurance Commissioner to seek assistance from any other state government agency regarding regulatory enforcement; permitting the Insurance Commissioner to use the Attorney General for legal assistance; permitting rulemaking; and providing effective date.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 531**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Booth, Gearheart, Graves, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 2005) 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. 2017, Rewriting the Criminal Code.

The bill was referred to the Committee on the Judiciary.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had receded
from its amendments, and passed, a bill of the House of Delegates
as follows:

Com. Sub. for H. B. 2267, Establishing an optional bus
operator in residence program for school districts.

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed,
with amendment, to take effect July 1, 2021, a bill of the House of
Delegates, as follows:

Com. Sub. for H. B. 2507, Remove the limitations on
advertising and promotional activities by limited video lottery
retailers.

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 22B. LIMITED VIDEO LOTTERY.

**§29-22B-404. Advertising by commission or director
prohibited.**

~~Neither the~~ The commission ~~nor~~ and the director may conduct
video lottery advertising ~~or promotional activities to promote or
advertise limited video lottery~~ only for the purpose of advising the
public as to the use of the revenues generated by video lottery
operations authorized by this article.

§29-22B-702. Additional duties of limited video lottery retailers.

In addition to the general duties imposed on all licensees in ~~section 22B-701~~ §29-22B-701 of this code, a limited video lottery retailer shall:

(1) Attend all commission mandated meetings, seminars, and training sessions concerning operation of video lottery terminals, the validation and redemption of video lottery winning tickets, and the operation of all ticket validation terminals and equipment;

(2) Maintain all skills necessary for the accurate validation of video lottery tickets;

(3) Supervise video lottery operations and ticket validation procedures at the applicable location;

(4) Permit no person to tamper with or interfere with the operation of any video lottery terminal;

(5) Ensure that telephone lines from the commission's central control computer to the video lottery terminals located at the approved location are at all times connected, and prevent any person from tampering or interfering with the operation of the telephone lines;

(6) Ensure that video lottery terminals are within the sight and control of designated employees of the limited video lottery retailer;

(7) Ensure that video lottery terminals are placed and remain placed in the specific locations which have been approved by the commission. A video lottery terminal in a restricted access adult-only facility may not be relocated within the facility without the prior written approval of the commission;

(8) Monitor video lottery terminals to prevent access to or play by persons who are under the age of 21 years or who are visibly intoxicated;

(9) Maintain at all times sufficient change and cash in the denominations accepted by the video lottery terminals;

(10) Provide no access by a player to an automated teller machine (ATM) in the restricted access adult-only facility where video lottery games are played, accept no credit card or debit card from a player for the exchange or purchase of video lottery game credits or for an advance of coins or currency to be utilized by a player to play video lottery games, and extend no credit, in any manner, to a player so as to enable the player to play a video lottery game;

(11) Pay for all credits won upon presentment of a valid winning video lottery ticket;

(12) Report promptly in writing to the operator and the commission all video lottery terminal malfunctions and notify the commission in writing of the failure of an operator or service technician to provide prompt service and repair of the terminals and associated equipment;

(13) Conduct ~~no~~ any video lottery advertising or promotional activities only in accordance with legislative rules promulgated pursuant to §29A-3-1 et seq. of this code;

~~(14) Not use the words “video lottery” in the name of the approved location, or in any directions or advertising visible from outside the retailer’s establishment;~~

~~(15)~~ (14) Install, post, and display prominently within or about the approved location signs, redemption information and other promotional material as required by the commission;

~~(16)~~ (15) Permit video lottery to be played only during those hours established and approved by the commission: *Provided*, That the limited video lottery retailer shall not permit video lottery to be played beyond the hour during which liquor may be served;

~~(17)~~ (16) Contract with no more than one licensed operator for the placement of video lottery terminals at the licensed location;

~~(18)~~ (17) Maintain insurance covering all losses as the result of fire, theft, or vandalism to video lottery terminals and associated equipment; and

~~(19)~~ (18) Comply with all applicable provisions of this article and rules and orders of the commission.

§29-22B-706. Additional duties of operators.

In addition to the general duties imposed on all licensees in ~~section 22B-701 of this article~~ §29-22B-701 of this code, an operator shall:

(1) Acquire video lottery terminals by purchase, lease, or other assignment only from licensed manufacturers;

(2) Acquire no video lottery terminals in excess of the number they are authorized to operate in this state as stated in the permit issued under part 11 of this article;

(3) Contract with limited video lottery retailers for a secure location for the placement, operation, and play of the video lottery terminals;

(4) Pay no compensation of any kind to any limited video lottery retailer or give or transfer anything of value to any limited video lottery retailer, that is in addition to the consideration stated in the written agreement between the operator and the limited video lottery retailer, which may be not less than 40 percent nor more than 50 percent of the amount of net terminal income received by the operator in connection with the video lottery terminals at that location;

(5) Pay for the installation and operation of commission approved telephone lines to provide direct dial-up or on-line communication between each video lottery terminal and the commission's central control computer;

(6) Purchase or lease and install computer controller units and other associated equipment required by the commission for video lottery terminals owned or leased by the permittee;

(7) Permit no person to tamper with or interfere with the operation of any video lottery terminal;

(8) Ensure that telephone lines from the commission's central control computer to the video lottery terminals located at the approved location are at all times connected, and prevent any person from tampering or interfering with the operation of the telephone lines;

(9) Ensure that video lottery terminals are placed and remain placed in the specific places within the approved restricted access adult-only facility that have been approved by the commission. No video lottery terminal in a restricted access adult-only facility may be relocated within the restricted access adult-only facility without the prior written approval of the commission;

(10) Assume financial responsibility for proper and timely payments by limited video lottery retailers of all credits awarded to players in accordance with legislative rules promulgated by the commission;

(11) Enter into contracts with limited video lottery retailers to provide for the maintenance and repair of video lottery terminals and associated equipment only by licensed service technicians, and to provide for the placement of video lottery terminals pursuant to the provisions of this article;

(12) Conduct ~~no~~ any video lottery advertising and promotional activities only in accordance with legislative rules promulgated pursuant to §29A-3-1 et seq. of this code;

(13) Install, post, and display prominently within or about the approved location signs, redemption information and other material as required by the commission;

(14) Maintain general liability insurance coverage for all video lottery terminals in an amount of at least \$1 million per claim;

(15) Promptly notify the commission in writing of any breaks or tears to any logic unit seals;

(16) Assume liability for all amounts due to the commission in connection with any money lost or stolen from any video lottery terminal;

(17) Comply with all applicable provisions of this article and rules and orders of the commission; and

(18) Maintain a separate bank account into which the operator shall deposit the gross terminal income from all of the operator's video lottery terminals.

PART 12. PLACEMENT AND TRANSPORTATION OF VIDEO LOTTERY TERMINALS.

§29-22B-1201. Placement of video lottery terminals.

(a) Video lottery terminals allowed by this article may be placed only in licensed limited video lottery locations approved by the commission: ~~Provided, That prior to the approval of the placement of a video lottery terminal operated pursuant to a permit issued after December 31, 2017, the commission shall hold one or more public hearings at which interested persons may express their views on the proposed video lottery locations pursuant to subsection (b) of this section.~~

~~(b) Public Hearing.~~

~~(1) Notice of public hearing. — Notice of the public hearing or hearings shall be published as a Class II legal advertisement at the expense of the permittee, in a form acceptable to the commission, and accordance with the requirements of article three, chapter fifty-nine of this code. — The published notice shall include, at a minimum:~~

~~(A) The date, time, place and purpose of the public hearing or hearings; and~~

~~(B) The proposed location of a video lottery terminal.~~

~~(e) (b) All video lottery terminals in approved locations shall be physically located as follows:~~

(1) The video lottery terminals shall be continuously monitored through the use of a closed circuit television system capable of identifying players and terminal faces and of recording activity for a continuous 24 hour period. All video tapes or other recording medium approved in writing by the commission shall be retained for a period of at least 60 days and be available for viewing by an authorized representative of the commission or the commissioner of alcohol beverage control. The cost of monitoring shall be paid by the limited video lottery retailer;

(2) Access to video lottery terminal locations shall be restricted to persons legally entitled by age to play video lottery games;

(3) The permittee shall submit for commission approval a floor plan of the area or areas where video lottery terminals are to be operated showing terminal locations and security camera mount location; and

(4) No video lottery terminal or video lottery camera may be relocated without prior written approval from the commission.

~~(d)~~ (c) Personnel of the limited video lottery retailer shall be present during all hours of operation at each video lottery terminal location. These personnel shall make periodic inspections of the restricted access adult-only facility in order to provide for the safe and approved operation of the video lottery terminals and the safety and well-being of the players.

~~(e)~~ (d) Security personnel of the commission and investigators of the Alcohol Beverage Control Commissioner shall have unrestricted access to video lottery terminal locations.

~~(f)~~ (e) Notwithstanding any other provision of this article to the contrary, the commission may not approve the placement of a video lottery terminal in a state park.

~~(g) Notwithstanding any other provision of this article to the contrary, during any bidding pursuant to section 1107 of this article occurring after June 30, 2021, the commission shall reduce the number of licensed limited video lottery locations to a number less than one thousand two hundred and fifty.”~~

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2507 – “A Bill to amend and reenact §29-22B-404, §20-22B-702, §29-22B-706, and §29-22B-1201 of the Code of West Virginia, 1931, as amended, all relating to limited video lottery advertising and promotional activities; authorizing the Lottery Commission and its Director to conduct video lottery advertising for a certain limited purpose; authorizing certain video lottery advertising and promotional activities by licensed limited video lottery retailers; authorizing rulemaking by the Lottery Commission with respect to limited video lottery advertising and promotional activities by licensed limited video lottery retailers; removing restriction on use of certain words by licensed limited video lottery retailers; authorizing certain video lottery advertising and promotional activities by licensed limited video lottery operators; authorizing rulemaking by the Lottery Commission with respect to limited video lottery advertising and promotional activities by licensed limited video lottery operators; removing requirements for notice and public hearing prior to approval by Lottery Commission of placement of a video lottery terminal; and removing required reduction on licensed limited video lottery locations.”

On the motion to concur in the Senate amendments, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 532**), and there were—yeas 52, nays 43, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barnhart, Boggs, Bridges, Brown, Bruce, Burkhammer, Conley, Doyle, Fast, Fleischauer, Griffith, Hanna, Hansen, Holstein, D. Jeffries, Jennings, Keaton, D. Kelly, J. Kelly, Kimble, Kimes, Linville, Longanacre, Lovejoy, Mandt, Martin, Mazzocchi, Miller, J. Pack, L. Pack, Phillips, Pinson, Rohrbach, Rowan, Rowe, Steele, Sypolt, Toney, Wamsley, B. Ward, G. Ward and Worrell.

Absent and Not Voting: Booth, Gearheart, Graves, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the motion to concur in the amendment of the bill by the Senate prevailed.

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 533**), and there were—yeas 55, nays 40, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Nays: Anderson, Barnhart, Boggs, Brown, Bruce, Burkhammer, Conley, Doyle, Fast, Ferrell, Fleischauer, Griffith, Hanna, Hansen, D. Jeffries, Jennings, Keaton, D. Kelly, J. Kelly, Kimble, Kimes, Linville, Longanacre, Lovejoy, Mandt, Martin, Mazzocchi, Miller, J. Pack, L. Pack, Phillips, Pinson, Rohrbach, Rowan, Sypolt, Toney, Wamsley, B. Ward, G. Ward and Worrell.

Absent and Not Voting: Booth, Gearheart, Graves, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members elected having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 2507) passed.

Delegate Kessinger moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 534**), and there were—yeas 69, nays 26, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Nays: Barnhart, Bruce, Burkhammer, Conley, Doyle, Fast, Ferrell, Fleischauer, Hansen, D. Jeffries, Keaton, D. Kelly, Kimble, Kimes, Longanacre, Mandt, Martin, Mazzocchi, Miller, Phillips, Pinson, Rowan, Toney, B. Ward, G. Ward and Worrell.

Absent and Not Voting: Booth, Gearheart, Graves, Westfall and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the bill (Com. Sub. for H. B. 2507) takes effect July 1, 2021.

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. 2730, Relating to persons filing federal bankruptcy petition to exempt certain property of the estate.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 10. TAX LIENS; ORDERS AND DECREES IN BANKRUPTCY.

§38-10-4. Exemptions of property in bankruptcy proceedings.

~~Pursuant to the provisions of 11 U.S.C. §522(b)(1), this state specifically does not authorize debtors who are domiciled in this state to exempt the property specified under the provisions of 11 U.S.C. §522(d).~~

Any person who files a petition under the federal bankruptcy law may exempt from property of the estate in a bankruptcy proceeding the following property:

(a) The debtor’s interest, not to exceed ~~\$25,000~~ \$35,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence or in a burial plot for the debtor or a dependent of the

debtor: *Provided*, That when the debtor is a physician licensed to practice medicine in this state under ~~article three or article fourteen, chapter thirty~~ §30-3-1 et seq. or §30-14-1, et seq. of this code, and has commenced a bankruptcy proceeding in part due to a verdict or judgment entered in a medical professional liability action, if the physician has current medical malpractice insurance in the amount of at least \$1 million for each occurrence, the debtor physician's interest that is exempt under this subsection may exceed ~~\$25,000~~ \$35,000 in value but may not exceed \$250,000 per household.

(b) The debtor's interest, not to exceed ~~\$2,400~~ \$7,500 in value, in one motor vehicle.

(c) The debtor's interest, not to exceed \$400 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops or musical instruments that are held primarily for the personal, family or household use of the debtor or a dependent of the debtor: *Provided*, That the total amount of personal property exempted under this subsection may not exceed \$8,000.

(d) The debtor's interest, not to exceed \$1,000 in value, in jewelry held primarily for the personal, family or household use of the debtor or a dependent of the debtor.

(e) The debtor's interest, not to exceed in value \$800 plus any unused amount of the exemption provided under subsection (a) of this section in any property.

(f) The debtor's interest, not to exceed \$1,500 in value, in any implements, professional books or tools of the trade of the debtor or the trade of a dependent of the debtor.

(g) Any unmeasured life insurance contract owned by the debtor, other than a credit life insurance contract.

(h) The debtor's interest, not to exceed in value \$8,000 less any amount of property of the estate transferred in the manner specified in 11 U.S.C. §542(d), in any accrued dividend or interest under, or loan value of, any unmeasured life insurance contract owned by the

debtor under which the insured is the debtor or an individual of whom the debtor is a dependent.

(i) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(j) The debtor's right to receive:

(1) A social security benefit, unemployment compensation or a local public assistance benefit;

(2) A veterans' benefit;

(3) A disability, illness or unemployment benefit;

(4) Alimony, support or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(5) A payment under a stock bonus, pension, profit sharing, annuity or similar plan or contract on account of illness, disability, death, age or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, and funds on deposit in an individual retirement account (IRA), including a simplified employee pension (SEP) regardless of the amount of funds, unless:

(A) The plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose;

(B) The payment is on account of age or length of service;

(C) The plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408 or 409 of the Internal Revenue Code of 1986; and

(D) With respect to an individual retirement account, including a simplified employee pension, the amount is subject to the excise tax on excess contributions under Section 4973 and/or Section 4979 of the Internal Revenue Code of 1986, or any successor provisions, regardless of whether the tax is paid.

(k) The debtor's right to receive or property that is traceable to:

(1) An award under a crime victim's reparation law;

(2) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(3) A payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of the individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(4) A payment, not to exceed \$15,000 on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;

(5) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(6) Payments made to the prepaid tuition trust fund or to the savings plan trust fund, including earnings, in accordance with article thirty, chapter eighteen of this code on behalf of any beneficiary.

(l) Solely for the purpose of applying the provisions of 11 U.S.C. § 552(b)(2) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law, an individual debtor domiciled in this state may exempt from property the debtor's bankruptcy estate the property specified under 11 U.S.C. § 552(d).

(m) The amendments made to this section during the 2021 session of the Legislature shall apply to bankruptcies filed on or after the effective date of those amendments."

And,

By amending the title of the bill to read as follows:

H. B. 2730 – “A Bill to amend and reenact §38-10-4 of the Code of West Virginia, 1931, as amended, relating generally to exemptions of property in bankruptcy; allowing a debtor in bankruptcy to use the federal law exemptions under 11 U.S.C. §522(d); increasing the value of a debtor’s interest in property the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence or in a burial plot for the debtor or a dependent of the debtor to \$35,000; increasing the value of a debtor physician’s interest that is exempt to \$35,000; increasing the value of a debtor’s interest in one motor vehicle to \$7,500; and providing for an effective date.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 535**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Fast.

Absent and Not Voting: Booth, Gearheart, Graves, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (H. B. 2730) passed.

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

Mr. Speaker, Delegate Hanshaw in the Chair

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. 2760, Relating to economic development incentive tax credits.

On motion of Delegate Summers, the House refused to concur in the following amendment of the bill by the Senate, and the Senate is requested to recede therefrom:

On page eighteen, after line sixty-six, by adding two new sections, designated sections eight-a and twenty-three-a, to read as follows:

“ARTICLE 21. PERSONAL INCOME TAX.

§11-21-8a. Credit for qualified rehabilitated buildings investment.

A credit against the tax imposed by the provisions of this article is allowed as follows:

~~(a)~~ *Certified historic structures.* — For certified historic structures, the credit is equal to 10 percent of qualified rehabilitation expenditures as defined in §47(c)(2), Title 26 of the United States Code, as amended: *Provided*, That for qualified rehabilitation expenditures made after December 31, 2017, pursuant to an historic preservation certification application, Part 2 – Description of Rehabilitation, received by the state historic preservation office after December 31, 2017, the credit allowed by this section is equal to 25 percent of the qualified rehabilitation expenditure, subject to the ~~limitations and other~~ provisions of §11-24-23a of this code: *Provided, however*, That the credit authorized by this section for qualified rehabilitation expenditures made after December 31, 2017, may not be used to offset tax liabilities of the taxpayer prior to the tax year beginning on or after January 1, 2020: *Provided further*, That the taxpayer is not entitled to this credit if, when the applicant begins to claim the credit and throughout the time period within which the credit is claimed, the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of any local or municipal tax, or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax

structure when the applicant begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with §29A-3-1 *et seq.* of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division, is not delinquent in the payment of any local or municipal tax, nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure, and such other administrative requirements as the Tax Commissioner may specify. This credit is available for both residential and nonresidential buildings located in this state, that are reviewed by the West Virginia Division of Culture and History and designated by the National Park Service, United States Department of the Interior as “certified historic structures”, and further defined as a “qualified rehabilitated building”, as defined under §47(c)(1), Title 26 of the United States Code, as amended.

~~(b) The tax credit allowed by this section is eliminated after December 31, 2022: *Provided*, That any tax credits authorized by the state historic preservation officer and eligible to be claimed prior to January 1, 2023, shall continue to be eligible to be claimed subject to the provisions of law governing those tax credits that were in effect prior to January 1, 2023~~

(a) Any unused portion of the credit for qualified rehabilitated buildings investment authorized by this section which may not be taken in the taxable year to which the credit applies does not qualify for carryback and carryforward treatment subject to the identical general provisions under § 39, Title 26 of the United States Code, as amended: *Provided*, That the amount of the credit taken in a taxable year shall in no event exceed the tax liability due for the taxable year: *Provided, however*, That for tax years beginning on and after January 1, 2020, any unused portion of the credit authorized by this section may not be carried back to any prior taxable year: *Provided further*, That for tax years beginning on and after January 1, 2020, any unused portion of the credit authorized by this section may be carried over to each of the next 10 tax years

following the first tax year for which the credit entitlement is authorized under this article for a specific qualified rehabilitation buildings investment until used to exhaustion or forfeited due to lapse of time.

(b) Effective for taxable years beginning on and after January 1, 2021, credits granted to an electing small business corporation (S corporation), limited partnership, general partnership, limited liability company, or multiple owners of property shall be passed through to the shareholders, partners, members, or owners, either pro-rata or pursuant to an agreement among the shareholders, partners, members, or owners, documenting an alternative distribution method. The Tax Commissioner shall promulgate procedural rules in accordance with §29A-3-1 et seq. of this code that provide the method of reporting the alternative method of distribution authorized by this section.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-23a. Credit for qualified rehabilitated buildings investment.

(a) A credit against the tax imposed by the provisions of this article shall be allowed as follows:

Certified historic structures. — For certified historic structures, the credit is equal to 10 percent of qualified rehabilitation expenditures as defined in §47(c)(2), Title 26 of the United States Code, as amended: *Provided*, That for qualified rehabilitation expenditures made after December 31, 2017, pursuant to an historic preservation certification application, Part 2 – Description of Rehabilitation, received by the state historic preservation office after December 31, 2017, the credit allowed by this section is equal to 25 percent of the qualified rehabilitation expenditure: *Provided, however*, That the credit authorized by this section for qualified rehabilitation expenditures made after December 31, 2017, may not be used to offset tax liabilities of the taxpayer prior to the tax year beginning on or after January 1, 2020: *Provided further*, That the taxpayer is not entitled to this credit if, when the applicant begins to claim the credit and throughout the time period within which the

credit is claimed, the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of any local or municipal tax, or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax structure when the applicant begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with §29A-3-1 *et seq.* of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division, is not delinquent in the payment of any local or municipal tax, nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure, and such other administrative requirements as the Tax Commissioner may specify. This credit is available for both residential and nonresidential buildings located in this state that are reviewed by the West Virginia Division of Culture and History and designated by the National Park Service, United States Department of the Interior as “certified historic building”, and further defined as a “qualified rehabilitated building”, as defined under §47(c)(1), Title 26, of the United States Code, as amended.

~~(b) Allocations and maximum amounts of tax credits per project and per fiscal year~~

~~(1) No more than \$10 million of the tax credits authorized by this section and section eight a, article twenty one of this chapter may be allocated, reserved or issued by the state historic preservation officer to any single certified rehabilitation.~~

~~(2) No more than \$30 million of the tax credits authorized by this section and section eight a, article twenty one of this chapter cumulatively may be issued by the state historic preservation officer for use in any given West Virginia state fiscal year, and any amount remaining up to \$30 million may not be carried over to a subsequent West Virginia state fiscal year.~~

~~(3) At the beginning of each fiscal year, no less than \$5 million of the tax credits authorized by this section and §11-21-8a of this~~

~~code shall be set aside for reservation and the issuance of tax credits for certified rehabilitation projects with proposed tax credits of \$500,000. The balance of any amount set aside for these projects that has not been reserved pursuant to the procedures in subsection (e) of this section by the end of the fiscal year shall be allocated by the state historic preservation officer for the projects in any amount of other pending applicants otherwise eligible for the issuance of tax credits under this section and section eight a, article twenty one of this chapter in the order that the applications for those projects were received.~~

~~(e) (b) Procedure for issuance of tax credits reservations and certificates by the state historic preservation officer. —~~

(1) Any claim for the tax credits authorized pursuant to this section and §11-21-8a of this code shall be accompanied by a tax credit certificate issued by the state historic preservation officer.

(2) ~~The tax credits will be awarded on a first come, first served basis. At the time the historic preservation certification application, Part 2 — Description of Rehabilitation, is received by the state historic preservation office, the project will be placed on a reservation list, which will reserve the tax credit amount listed on the application. The historic preservation certification application, Part 2 — Description of Rehabilitation, will be reviewed by the state historic preservation office for completion and submitted to the National Park Service for full review. At the time the historic preservation certification application, Part 2 — Description of Rehabilitation, is submitted to the National Park Service, the state historic preservation officer shall send a request for the fee prescribed in subsection (d) of this section to the property owner. Upon approval of the historic preservation certification application, Part 2 — Description of Rehabilitation, from the National Park Service, including approval with conditions, that the project will meet the Secretary of the Interior's standards for rehabilitation, the owner of the building will receive guarantee of the tax credits from the state historic preservation office.~~

(3) The state historic preservation officer shall issue tax credit certificates for certified rehabilitation projects that the National

Park Service has determined have met the Secretary of the Interior standards for rehabilitation based on the issuance of an approved historic preservation certification application, Part 3 – Request for Certification of Completed Work.

~~(4) Once the state historic preservation officer has allocated and reserved the maximum tax credits authorized for any given West Virginia state fiscal year, the state historic preservation officer then shall allocate and reserve tax credits against the maximum tax credits authorized for use in the succeeding West Virginia state fiscal year.~~

~~(5) If an applicant for tax credits that receives a reservation for tax credits for any given West Virginia state fiscal year fails to submit an approved historic preservation certification application, Part 3— Request for Certification of Completed Work in the instance of a certified rehabilitation within thirty six (36) months of the date of the approved historic preservation certification application, Part 2— Description of Rehabilitation, therefor or in the instance of a phased project as determined by the National Park Service within 60 months of the date of the advisory determination by the National Park Service therefor that such phase has been completed in accordance with the Secretary of the Interior standards for rehabilitation then the state historic preservation officer may reallocate part or all of the tax credits reserved therefor to other applicants in the order their applications were received.~~

~~(d)~~ (c) The state historic preservation officer shall prescribe and publish a form and instructions for an application for reservation and issuance of the tax credits authorized by this section and §11-21-8a of this code.

~~(e)~~ (d) *Application fee.* — Each application for tax credits authorized pursuant to this section and §11-21-8a of this code shall require a fee payable to the state historic preservation officer equal to the lesser of: (1) 0.5% of the amount of the tax credits requested for in such application; and (2) \$10,000. The state historic preservation officer shall review and act on all such applications within 30 days of receipt.

Fees collected under this subsection shall be deposited into a special revenue account which is hereby created. The fund shall be administered by the state historic preservation officer and expended for the purposes of administering the provisions of this section and §11-21-8a of this code.

~~b The tax credit allowed by this section is eliminated after December 31, 2022: *Provided*, That any tax credits authorized by the state historic preservation officer and eligible to be claimed prior to January 1, 2023, shall continue to be eligible to be claimed subject to the provisions of law governing those tax credits that were in effect prior to January 1, 2023.~~

Any unused portion of the credit for qualified rehabilitated buildings investment authorized by this section which may not be taken in the taxable year to which the credit applies shall qualify for carryback and carryforward treatment subject to the identical general provisions under § 39, Title 26 of the United States Code, as amended: *Provided*, That the amount of such credit taken in a taxable year shall in no event exceed the tax liability due for the taxable year: *Provided, however*, That for tax years beginning on and after January 1, 2020, any unused portion of the credit authorized by this section, may not be carried back to any prior taxable year: *Provided further*, That for tax years beginning on and after January 1, 2020, any unused portion of the credit authorized by this section may be carried over to each of the next 10 tax years following the first tax year for which the credit entitlement is authorized under this article for a specific qualified rehabilitation buildings investment until used to exhaustion or forfeited due to lapse of time.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2760 – “A Bill to amend and reenact §11-13Q-9, §11-13Q-10, §11-13Q-10a, and §11-13Q-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-21-8a of said code; and to amend and reenact §11-24-23a of said code, all relating to economic development incentive tax credits;

modifying the economic opportunity tax credit; authorizing the economic opportunity tax credit for the creation of 10 jobs under certain circumstances; eliminating credit to business franchise tax; terminating small business credit after a certain date; authorizing certain manufacturing activities to qualify for high technology manufacturing tax credit; defining terms; limiting certain multiple tax credits for the same qualified investment; striking obsolete reference to prevailing wage requirement; providing effective dates; modifying the credit for qualified rehabilitated buildings investment; eliminating the termination date of the credit; providing for carryback and carryforward provisions for the tax credit; and eliminating the maximum allowable amount of the tax credit.”

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 passage, without amendment a bill of the House of Delegates, and requested concurrence in the changed effective date, to take effect from passage, of

Com. Sub. for H. B. 2773, Permitting DNR to issue up to 100 permits for boats greater than 10 horsepower on Upper Mud River Lake.

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

On this question, the yeas and nays were taken (**Roll No. 536**), 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: Booth, Gearheart and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2773) takes effect from its passage.

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

A message from the Senate, by
The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 2830, Relating generally to sex trafficking.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 49. CHILD WELFARE.

ARTICLE 5. RECORD KEEPING AND DATABASE.

§49-5-104. Confidentiality of juvenile records for children who become of age while a ward of the state or who have been transferred to adult criminal jurisdiction; separate and secure location; penalties; damages; accessibility of records for child victims of sex trafficking.

(a) One year after the juvenile’s 18th birthday, or one year after personal or juvenile jurisdiction has terminated, whichever is later, the records of a juvenile proceeding conducted under this chapter, including, but not limited to, law-enforcement files and records, may be kept in a separate secure confidential place and the records may not be inspected except by order of the circuit court.

(b) The records of a juvenile proceeding in which a juvenile was transferred to criminal jurisdiction pursuant to ~~section seven hundred ten, article four of this chapter~~ §49-4-710 of this code shall be kept in a separate secure confidential place and the records may not be inspected except by order of the circuit court if the juvenile is subsequently acquitted or found guilty only of an offense other than an offense upon which the waiver or order of transfer was based, or if the offense upon which the waiver or order of transfer was based is subsequently dismissed.

(c) To keep the confidentiality of juvenile records, they shall be returned to the circuit court in which the case was pending and be kept in a separate confidential file. The records shall be physically marked to show that they are to remain confidential and shall be securely kept and filed in a manner so that no one can have access to determine the identity of the juvenile, except upon order of the circuit court.

(d) Marking the juvenile records to show they are to remain confidential has the legal effect of extinguishing the offense as if it never occurred.

(e) The records of a juvenile convicted under the criminal jurisdiction of the circuit court pursuant to ~~subdivision (1), subsection (d), section seven hundred ten, article four of this chapter~~ §49-4-710(d)(1) of this code may not be marked and kept as confidential.

(f) Any person who willfully violates this section is guilty of a misdemeanor and, upon conviction ~~thereof~~, shall be fined not more than \$1,000, or confined in jail for not more than six months, or both so fined and confined, and is liable for damages in the amount of \$300 or actual damages, whichever is greater.

(g) Notwithstanding any other provision of this code, the records of a juvenile victim of sex trafficking within the meaning of §61-14-1 et seq. of this code, may be immediately accessible to the juvenile victim upon written request to the circuit court in which a juvenile delinquency case was pending.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY, AND DECENCY.

§61-8-5. Houses of ill fame and assignation; immunity for minor victims of sex trafficking; penalties; jurisdiction of courts.

(a) Any person who shall keep, set up, maintain, or operate any house, place, building, hotel, tourist camp, other structure, or part

thereof, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall own any place, house, hotel, tourist camp, other structure, or part thereof, or trailer or other conveyance knowing the same to be used for the purpose of prostitution, lewdness, or assignation, or who shall let, sublet, or rent any such place, premises, or conveyance to another with knowledge or good reason to know of the intention of the lessee or rentee to use such place, premises, or conveyance for prostitution, lewdness, or assignation; or who shall offer, or offer to secure, another for the purpose of prostitution, or for any other lewd or indecent act; or who shall receive or offer or agree to receive any person into any house, place, building, hotel, tourist camp, or other structure, or vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose; or who for another or others shall direct, take, or transport, or offer or agree to take or transport, or aid or assist in transporting, any person to any house, place, building, hotel, tourist camp, other structure, vehicle, trailer, or other conveyance, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by imprisonment in the county jail for a period not less than six months nor more than one year, and by a fine of not less than \$100 and not to exceed \$250, and upon conviction for any subsequent offense under this section shall be punished by imprisonment in the penitentiary for a period of not less than one year nor more than five years.

(b) Any person who shall engage in prostitution, lewdness, or assignation, or who shall solicit, induce, entice, or procure another to commit an act of prostitution, lewdness, or assignation; or who shall reside in, enter, or remain in any house, place, building, hotel, tourist camp, or other structure, or enter or remain in any vehicle, trailer, or other conveyance for the purpose of prostitution, lewdness, or assignation; or who shall aid, abet, or participate in the doing of any of the acts herein prohibited, shall, upon conviction for the first offense under this section, be punished by

imprisonment in the county jail for a period of not less than 60 days nor more than six months, and by a fine of not less than \$50 and not to exceed \$100; and upon conviction for the second offense under this section, be punished by imprisonment in the county jail for a period of not less than six months nor more than one year, and by a fine of not less than \$100 and not to exceed \$250, and upon conviction for any subsequent offense under this section shall be punished by ~~imprisonment~~ confinement in the penitentiary a state correctional facility for not less than one year nor more than three years: Provided, That no minor shall be prosecuted nor held criminally liable for an offense of prostitution in violation this subsection if the court determines that the minor is a victim of an offense under §61-14-1 et seq. of this code.

The subsequent offense provision shall apply only to the pimp, panderer, solicitor, operator, or any person benefiting financially or otherwise from the earnings of a prostitute.

(c) All leases and agreements, oral or written, for letting, subletting, or renting any house, place, building, hotel, tourist camp, or other structure which is used for the purpose of prostitution, lewdness, or assignation, shall be void from and after the date of any person who is a party to such an agreement shall be convicted of an offense hereunder. The term “tourist camp” shall include any temporary or permanent buildings, tents, cabins, or structures, or trailers, or other vehicles which are maintained, offered, or used for dwelling or sleeping quarters for pay.

(d) In the trial of any person, charged with a violation of any of the provisions of this section, testimony concerning the reputation or character of any house, place, building, hotel, tourist camp, or other structure, and of the person or persons who reside in or frequent same, and of the defendant or defendants, shall be admissible in evidence in support of the charge. Justices of the peace shall have concurrent jurisdiction with circuit, intermediate, and criminal courts to try and determine the misdemeanors set forth and described in this section.

ARTICLE 14. HUMAN TRAFFICKING.**§61-14-2. Human trafficking of an individual; aiding and abetting human trafficking; penalties.**

(a) Any person who knowingly and willfully traffics an adult, or who knowingly and willfully aids, assists, or abets in any manner in the trafficking of an adult, is guilty of a felony and, upon conviction ~~thereof~~, shall be ~~imprisoned~~ confined in a state correctional facility for not less than three nor more than 15 years, fined not more than \$200,000, or both ~~imprisoned~~ confined and fined.

(b) Any person who knowingly and willfully traffics a minor, or who knowingly and willfully aids, assists, or abets in any manner in the trafficking of a minor, is guilty of a felony and, upon conviction ~~thereof~~, shall be ~~imprisoned~~ confined in a state correctional facility for not less than five nor more than 20 years, fined not more than \$300,000, or both ~~imprisoned~~ confined and fined.

§61-14-8. Immunity for minor victim of sex trafficking.

(a) In a prosecution or a juvenile prosecution for an offense of prostitution in violation of ~~subsection (b), section five, article eight of this chapter §61-8-5(b) of this code~~, a minor shall not be held criminally liable if the court determines that the minor is a victim of an offense under this article: *Provided*, That subject to proof, a minor so charged shall be rebuttably presumed to be a victim under the provisions of this article.

(b) This section does not apply in a prosecution or a juvenile proceeding for any of the other offenses under ~~subsection (b), section five, article eight of this chapter §61-8-5(b) of this code~~, including specifically soliciting, inducing, enticing, or procuring another to commit an act or offense of prostitution, unless it is determined by the court that the minor was coerced into the criminal behavior.

(c) A minor who, under subsection (a) or (b) of this section, is not subject to criminal liability or adjudication as a juvenile

delinquent is presumed to be an abused child, as defined in ~~section two hundred one, article one, chapter forty nine~~ §49-1-201 of this code, and may be eligible for services under chapter 49 of this code including, but not limited to, appropriate child welfare services including, but not limited to, comprehensive trauma-informed services that are specialized to the needs of child victims of sexual abuse and exploitation or child sex trafficking victims.

§61-14-9. Petition to vacate and expunge conviction or juvenile delinquency adjudication of sex trafficking victim.

(a) Notwithstanding the age and criminal history limitations set forth in ~~section twenty six, article eleven of this chapter~~ §61-11-26 of this code or the provisions in §49-4-103 of this code, an individual convicted of prostitution in violation of ~~subsection (b), section five, article eight of this chapter~~ §61-8-5(b) of this code as a direct result of being a victim of trafficking, may apply by petition to the circuit court in the county of conviction or juvenile adjudication to vacate the conviction or adjudication of juvenile delinquency and expunge the record of conviction or record of adjudication of juvenile delinquency. The court may grant the petition upon a finding that the individual's participation in the offense was a direct result of being a victim of trafficking.

(b) A victim of trafficking seeking relief under this section is not required to complete any type of rehabilitation in order to obtain expungement.

(c) A petition filed under subsection (a) of this section, any hearing conducted on the petition, and any relief granted are subject to the procedural requirements of ~~section twenty six, article eleven of this chapter~~ §61-11-26 of this code: *Provided*, That the age or criminal history limitations in that section and the provisions of §49-4-103 of this code are inapplicable to victims of human trafficking.”

And,

By amending the title of the bill to read as follows:

H. B. 2830 – “A Bill to amend and reenact §49-5-104 of the Code of West Virginia, 1931, as amended; to amend and reenact §61-8-5 of said code; and to amend and reenact §61-14-2, §61-14-8, and §61-14-9 of said code, all relating to strengthening sex trafficking laws; allowing for accessibility of juvenile adjudication records for child victims of sex trafficking; providing for immunity from prosecution for child victims of sex trafficking; providing for criminal liability of a person who aids, assists, or abets the trafficking of an adult or child; providing that a child victim of sex trafficking be eligible for comprehensive and specialized trauma-informed child welfare services; and allowing a child victim of sex trafficking to expunge records of conviction or juvenile delinquency adjudication; establishing penalties.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 537**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Booth, Gearheart and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2830) 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. 2842, Preventing cities from banning utility companies in city limits.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate:

On page one, section twenty-two, by striking out the section caption and inserting in lieu thereof a new section caption, to read as follows:

“§8-12-23. Limitations on municipalities, political subdivisions, and local governing bodies’ authority over energy usage and development.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 2842 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-12-23, relating to placing limitations on the authority of municipalities, political subdivisions, and local governing bodies generally; forbidding a municipality, political subdivision, or a local governing body to enact any code, ordinance, or land use regulation that would prohibit, have the effect of prohibiting, or regulate in any manner a public utility or department of public utilities from furnishing a utility service to a utility customer based on an energy source which is provided or used by a utility service; forbidding a municipality, political subdivision, or a local governing body to enact any code, ordinance, or land use regulation that would prohibit or regulate a customer of a public utility or department of public utilities from purchasing, using, or connecting or reconnecting to a utility service based on the energy source provided or used by a utility service, forbidding a municipality, political subdivision, or a local governing body to enact any code, ordinance, or land use regulation that would prohibit or regulate a public utility or department of public utilities from utilizing vehicles, equipment, machinery, or tools, to provide utility services to a utility customer based on the energy source used by or powering those vehicles, equipment, machinery, or tools used by the utility service; and defining terms.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 538**), and there were—yeas 93, nays 4, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barach, Pushkin, Thompson and Young.

Absent and Not Voting: Booth, Gearheart and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2842) 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. 2918, Relating to Family Drug Treatment Court.

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. 3254, Authorizing members of development authorities to accept federally authorized reimbursement for services which the members rendered on a voluntary basis.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 12. COUNTY AND MUNICIPAL DEVELOPMENT AUTHORITIES.

§7-12-5. Compensation of members; expenses; recusal of member from voting where conflict of interest involved.

(a) No member of the authority shall receive any compensation, whether in formal salary, per diem allowance or otherwise, in connection with his or her services as such member-

Each: *Provided*, That each member shall, however, be entitled to reimbursement by the authority for any necessary expenditures in connection with the performance of his or her general duties as such member-: *Provided however*, That each member may be reimbursed for his or her reasonable and necessary expenses, including but not limited to compensation, in connection with his or her performance of other duties as assigned by the authority in connection with the June 2016 flooding event in West Virginia, if such duties and such reimbursement is first approved by a vote of the authority, with the member to be reimbursed being recused from voting upon the question.

(b) Whenever a person associated with a public utility or bank as set out in section four of this article has a conflict of interest between the board and that public utility or bank, then he or she must recuse himself or herself from any vote, discussion or other activity associated with the board or its members that creates the conflict of interest.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-15. Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.

(a) It is unlawful for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control: *Provided*, That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or prevents or makes unlawful the

employment by any joint county and circuit clerk of his or her spouse.

(b) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

(c) Any person convicted of violating the provisions of subsection (a) of this section shall also be removed from his or her office and the certificate or certificates of any teacher, principal, supervisor or superintendent so convicted shall, upon conviction thereof, be immediately revoked: *Provided*, That no person may be removed from office and no certificate may be revoked for a violation of the provisions of this section unless the person has first been convicted of the violation.

(d) Any person, firm or corporation that offers or gives any compensation or thing of value or who forebears to perform an act to any of the persons named in subsection (a) of this section or to or for any other person with the intent to secure the influence, support or vote of the person for any contract, service, award or other matter as to which any county or school district becomes or may become the paymaster is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$2,500 and, in the court's discretion, the person or any member of the firm or, if it is a corporation, any agent or officer of the corporation offering or giving any compensation or other thing of value may, in addition to a fine, be confined in jail for a period not to exceed one year.

(e) The provisions of subsection (a) of this section do not apply to any person who is a salaried employee of a vendor or supplier under a contract subject to the provisions of said subsection if the employee, his or her spouse or child:

(1) Is not a party to the contract;

(2) Is not an owner, a shareholder, a director or an officer of a private entity under the contract;

(3) Receives no commission, bonus or other direct remuneration or thing of value by virtue of the contract;

(4) Does not participate in the deliberations or awarding of the contract; and

(5) Does not approve or otherwise authorize the payment for any services performed or supplies furnished under the contract.

(f) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a bank within the county serving or under consideration to serve as a depository of funds for the county or Board of Education, as the case may be, if the person does not participate in the deliberations or any ultimate determination of the depository of the funds.

(g) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a public utility which is subject to regulation by the Public Service Commission of this state.

(h) Where the provisions of subsection (a) of this section would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship or other substantial interference with the operation of a governmental body or agency, the affected governmental body or agency may make written application to the West Virginia Ethics Commission pursuant to subsection (d), section five, article two, chapter six-b of this code for an exemption from subsection (a) of this section.

(i) The provisions of this section do not apply to publications in newspapers required by law to be made.

(j) No school employee or school official subject to the provisions of subsection (a) of this section has an interest in the sale, proceeds or profits in any book or other thing used or to be used in the free school system of this state, as proscribed in section nine, article XII of the Constitution of West Virginia, if they qualify for the exceptions set forth in subsection (e), (f),(g) or (h) of this section.

(k) The provisions of subsection (a) of this section do not prevent or make unlawful the employment of the spouse of any member of a county commission as a licensed health care provider at government-owned hospitals or other government agencies who provide health care services: *Provided*, That the member of a county commission whose spouse is employed or to be employed may not:

(1) Serve on the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed;

(2) Vote on the appointment of members to the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed; or

(3) Seek to influence the hiring or promotion of his or her spouse by the government-owned hospital or other government agency who provides health care services.

(l) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official: *Provided*, That the elected county official may not:

(1) Directly supervise the spouse employee; or

(2) Set the salary of the spouse employee: *Provided*, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.

(m) The provisions of subsection (a) of this section do not prohibit reimbursement of a member of a development authority established under §7-12-1 *et seq.* of this code for:

(1) His or her necessary expenditures in connection with the performance of his or her general duties as such member, as permitted by §7-12-5(a) of this code; or

(2) His or her reasonable and necessary expenses, including but not limited to compensation, in connection with his or her performance of other duties as assigned by the authority in connection with the June 2016 flooding event in West Virginia, if such duties and such reimbursement is first approved by a vote of the authority, with the member to be reimbursed being recused from voting upon the question, as permitted by §7-12-5(a) of this code.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 3254 – “A Bill to amend and reenact §7-1-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-10-15 of said code, all relating to reimbursement of members of county and municipal development authorities; providing that a member of a county or municipal development authority may be reimbursed for certain necessary expenses in connection with his or her performance of certain other duties authorized by the authority; providing that such other duties and such reimbursement must first be approved by a vote of the authority with the member to be reimbursed being recused from voting on the question; and providing that the prohibition against certain public officers and officials with any voice, influence, or control with respect to certain contracts becoming pecuniarily interested in such contracts does not apply to certain members of a county or municipal development authority who receive certain reimbursements from such authority.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 539**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Booth, Gearheart and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3254) 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. 3286, Making a supplementary appropriation to the Division of Human Services – Child Care and Development.

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. 3287, Making a supplementary appropriation to the Department of Homeland Security.

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. 3289, Supplementary appropriation to the Department of Commerce, Geological and Economic Survey.

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. 3291, Making a supplementary appropriation to the Department of Homeland Security, Division of Administrative Services.

A message from the Senate, by

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

H. B. 3292, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of a concurrent resolution of the House of Delegates as follows:

H. C. R. 24, Urging Congress to extend federal tax incentives to participants in Jumpstart Savings programs that are similar to those that are currently provided to participants in College Savings plans, pursuant to 26 U.S.C. §529.

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. 387, Relating to drug screening of applicants for cash assistance.

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. 392, Creating penalty for impersonating law-enforcement officer or official.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates, with further amendment, and the passage, as amended, of

Com. Sub. for S. B. 626, Updating regulation for purchase of automobile catalytic converters.

On motion of Delegate Summers, the House concurred in the following amendment by the Senate:

On page four, section forty-nine, subsection (k), subdivision (1), after the words “accompanying the vehicle” by inserting the words “or motor vehicles”;

On page seven, section forty-nine-c, subsection (c), after the word “converter” by inserting the words “in this state”;

And,

On page seven, section forty-nine-c, subsection (c), by striking out the word “considered”.

The bill, as amended by the House, and further amended by the Senate, was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 540**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Hardy, Horst, Howell and Paynter.

Absent and Not Voting: Booth, Dean, Gearheart and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 626) passed.

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

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented communications from His Excellency, the Governor, advising that on April 8, 2021, he approved **Com. Sub. for S. B. 275** and **H. B. 2499**.

The following communications were laid before the House and reported by the Clerk as follows:

STATE OF WEST VIRGINIA
Jim Justice
Governor of West Virginia

April 8, 2021

Executive Message 2

2021 Regular Session

The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
State Capitol, Rm 228M
Charleston, WV 25305

Dear Mr. Speaker:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the following annual reports have been received in the Office of the Governor:

211, West Virginia; 2020 Impact Report

Administration, West Virginia Department of; Real Estate Division “2020 Real Property and Lease Report”

Administration, West Virginia Department of; “Comprehensive Annual Financial Report for the

Fiscal Year Ended June 30, 2020”

Administration, West Virginia Department of; State Building Commission Fund

Agriculture, West Virginia Department of; 2020 Annual Report

Agriculture, West Virginia Department of; Annual Report for the WV Farms-to Food Bank Tax Credit for calendar years 2019 and 2020

American Bar Foundation; 2019 Annual Report

Architects, West Virginia Board of; Annual Report FY 2020 & FY 2019

Attorney General's Office, West Virginia; "Seventy-Eighth Biennial Report and Official Opinions of the Attorney General of the State of West Virginia for the Fiscal Years Beginning July 1, 2018 and ending June 30, 2020"

Attorney General's Office, West Virginia; "2020 Annual Report on the Activities of the Consumer Protection and Antitrust Division"

Attorney General's Office, West Virginia; Annual Report 2020

Barbers and Cosmetologists, State of West Virginia Board of; 2020 Annual Report

Board of Pharmacy, West Virginia; Annual Report on the West Virginia Controlled Substances Monitoring Program

Broadband Enhancement Council, West Virginia; 2020 Annual Report

Chiropractic Examiners, State of West Virginia Board of; Biennium Report July 1, 2018 to June 30, 2020

Coal Mine Health and Safety, State of West Virginia Board of; 2020 Annual Report

Commerce, West Virginia Department of; Tourism Development Act Report 2020

Commerce, West Virginia Department of; FY20 TIF Annual Report

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; 2020 Annual Report

Community Action of South Eastern West Virginia, Inc. (CASEWV); 2021 CASEWV Annual Report for its Head Start and Early Head Start Programs

Consolidated Public Retirement Board; West Virginia State Police Disability Experience Annual Report Fiscal Year 2020

Consolidated Public Retirement Board, West Virginia; 2020 Comprehensive Annual Financial Report

Consumer Advocate, Office of the West Virginia; Consumer Advocate Division 2021 Annual Report

Counseling, State of West Virginia Board of Examiners in; Biennium Report July 1,2018-June 30, 2020

Dentistry, West Virginia Board of; Report of the Biennium for Fiscal Years 2019 & 2020

Development Office, West Virginia; Annual Report 2019

Development Office, West Virginia; FY 2019 Neighborhood Investment Program Annual Report

Development Office, West Virginia; 2018 Final Report on the Assessment 2015-2017

Engineers, West Virginia State Board of Registration for Professional; Annual Report FY2020

Environmental Protection, West Virginia Department of; 2020 Monthly and Year to Date OOG Permit Issuance Averages

Equal Employment Opportunity, West Virginia; 2020 Annual Report

Fire Commission, West Virginia State; FY 2020 Annual Report

Fire Marshal's Office, West Virginia State; FY 2020 Annual Report

Forestry, West Virginia Division of; Outdoor Heritage Conservation Funding Annual Report

Forestry, West Virginia Division of; 2020 Stewardship Projects Annual Report

Forestry, West Virginia Division of; Report on Managed Timberland Program

Government Accountability, Foundation for; 2019 Annual Report

Grievance Board, Public Employees; 2020 Annual Report

Health and Human Resources, West Virginia Department of; Annual Report on the Olmstead Plan July 1, 2019-June 30, 2020

Health and Human Resources, West Virginia Department of; "Family Protection Services Board 2020 Annual Report July 1, 2019-June 30, 2020"

Health and Human Resources, West Virginia Department of; Office of Maternal, Child and Family Health (West Virginia Birth Defects) Calendar Years 2018 and 2019 (January-December)

Health and Human Resources, West Virginia Department of; Bureau for Public Health- West Virginia Office of Medical Cannabis Biennial Report 2021

Health and Human Resources, West Virginia Department of; Bureau for Behavioral Health- West Virginia Family & Community Support Program FY 2020 Annual Report

Health and Human Resources, West Virginia Department of; West Virginia Women's Commission 2020 Annual Report

Highways, West Virginia Division of; Annual Report (The Complete Streets Advisory Board)

Homeland Security, West Virginia Department of; Accomplishments 2017-2020 Report

Human Rights Commission, West Virginia; Annual Report 2020

Independent Living Council, West Virginia Statewide; "The State of Education for Children with Disabilities in West Virginia-Education Task Force; Annual Report 2019-2020"

Insurance Commissioner, State of West Virginia Offices of the; Occupational Pneumoconiosis Board 2019-2020 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; West Virginia State Agency Workers' Compensation Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2019-2020 Annual Report

Insurance Commissioner, State of West Virginia Offices of the; Consumer Advocate Annual Report

Insurance Commissioner, State of West Virginia Offices of the; 2020 Annual Medical Malpractice Report

Judicial Compensation Commission, West Virginia; Report of the Judicial Compensation Commission 2020

Justice and Community Services, Division of Administrative; "Justice Reinvestment Initiative S.B. 371 July 1, 2019-June 30, 2020 Annual Report"

Justice and Community Services, Division of Administrative; "Juvenile Justice Subcommittee September 1, 2019-August 31, 2020 Annual Report"

Justice and Community Services, Division of Administrative; “Sexual Assault Forensic Examination (SAFE) Commission Annual Report September 1, 2019-August 31, 2020”

Justice and Community Services, Division of Administrative; “West Virginia Community Corrections Act July 1, 2019-June 30, 2020 Annual Report”

Justice and Community Services, Division of Administrative; “Law Enforcement Professional Standards (LEPS) Subcommittee/Program July 1,2019-June 30, 2020”

Land Trust, West Virginia; Annual Report 2019

Legislative Claims Commission, West Virginia; Supplemental Report December 2020

Legislative Claims Commission, West Virginia; November 2020 Report of the Legislative Claims Commission

Lottery, West Virginia; “Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2019 and 2018”

Lottery, West Virginia; 2020 Comprehensive Annual Financial Report for the Fiscal Years Ended June 30, 2020 and 2019

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 29, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending March 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending April 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending May 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending June 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending July 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending August 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending September 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending October 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending November 30, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending December 31, 2020

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending January 31, 2021

Lottery, West Virginia; Monthly Report on Lottery Operations Month Ending February 28, 2021

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; Annual Report 2020

Municipal Bond Commission, West Virginia; Annual Summary of Receipts and Disbursements July 1, 2019-June 30, 2020

National Coal Heritage Area Authority; 2020 Annual Report

Natural Resources, West Virginia Division of; 2019-2020 West Virginia Division of Natural Resources Annual Report

Nursing Home Administrators Licensing Board; Annual Report 2020

Occupational Therapy, West Virginia Board of; Annual Report 2019-2020

Osteopathic Medicine, West Virginia School of; Annual Report

Privacy Office, West Virginia State; 2018-2019 Annual Report

Psychologists, West Virginia Board of; 2019-2020 Annual Report

Public Service Commission, West Virginia; State of West Virginia Public Utility Assessments Tax Year 2021

Public Service Commission, West Virginia; 2020 Management Summary Report and the Electric and Natural Gas Utilities Supply-Demand Forecasts for 2021-2030

Public Transit, West Virginia Division of Transportation/Division; 2019 Annual State Safety Oversight Report to the Governor

Regional Councils, West Virginia Association of; 2019 Annual Report

Regional Intergovernmental Council; 2020 Annual Report Boone, Clay, Kanawha and Putnam

Risk and Insurance Management, State of West Virginia Department of Administration; BRIM Annual Report 2020

Ron Yost Personal Assistance Services; 2020 Annual Report

Southern States Energy Board; Annual Report 2020

Tax Department, West Virginia State; “Manufacturing Property Tax Adjustment Credit Report to the Joint Committee on Government and Finance July 1, 2020”

Tax Department, West Virginia State; Tax Credit Review and Accountability Report for the West Virginia Economic Opportunity Tax Credit and the West Virginia Manufacturing Investment Tax Credit

Tax Department, West Virginia State; West Virginia Tax Expenditure Study for 2021

Transportation, West Virginia Department of; Division of Public Transit- State Safety Oversight Program-2020 Annual Safety Report to the Governor

Transportation, West Virginia Department of; The Office of Administrative Hearings Annual Report Fiscal Year 2020

Transportation, West Virginia Department of; Aeronautics Commission 2020 Annual Report to the Governor

Treasurer, West Virginia State; Cash Management Improvement Act CIMA Annual Report for fiscal years 2020

Treasury Investments, West Virginia Board of; “Audited Financial Statements with Supplementary & Other Financial Information Year Ended 6/30/20”

Treasury Investments, West Virginia Board of; Comprehensive Annual Financial Report Fiscal Year Ended

Veterinary Medicine, West Virginia Board of; Biennium Report 2019 and 2020

Water Development Authority, West Virginia; 2020 Annual Report

Water Sanitation Commission, Ohio River Valley; Annual
Report

Sincerely,

Jim Justice,
Governor.

STATE OF WEST VIRGINIA
Jim Justice
Governor of West Virginia

April 8, 2021

EXECUTIVE MESSAGE NO. 3
2021 REGULAR SESSION

The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
State Capitol, Rm 228M
Charleston, WV 25305

Dear Mr. Speaker:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of March 7, 2020 through April 7, 2021.

Very truly yours,

Jim Justice,
Governor.

In the absence of objection, the House returned to the Seventh Order of Business for the purpose of introducing resolutions.

Resolutions Introduced

Delegate Linville offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 26 - “Requesting the Joint Committee on Government and Finance to study the extent to which the COVID-19 pandemic has revealed efficiencies and/or inefficiencies in the executive branch of government of West Virginia, particularly with respect to the manner by which state agencies may be able to reduce their physical footprint and invoke other cost-savings measures as a result of efficiencies and/or inefficiencies which were discovered as a result of the government’s response to the COVID-19 pandemic.”

Whereas, The COVID-19 pandemic has resulted in fewer government employees working out of government-leased and/or government-owned offices; and

Whereas, Certain state agencies have adopted and/or invested in technology which would allow certain employees to work remotely with the same level of integrity and efficiency as if they were working out of a state-run office; and

Whereas, The Legislature expects that certain classes of state jobs and positions could be classified as remote work positions without any loss in productivity or efficiency; and

Whereas, A reduction of certain state agency’s physical footprints would result in an overall cost savings to the citizens of West Virginia; therefore, be it

Resolved by the House of Delegates:

That the Joint Committee on Government and Finance shall undertake a study of efficiencies and/or inefficiencies which were discovered as a result of the various state agencies’ responses to the COVID-19 pandemic; and, be it

Further Resolved, That the Joint Committee on Government and Finance shall detail and report to the Legislature what efficiencies and/or inefficiencies state agencies have discovered as a result of their responses to the COVID-19 pandemic; and, be it

Further Resolved, That the Joint Committee on Government and Finance shall identify jobs and/or positions which could be

reclassified to remote work jobs and/or positions without any loss in productivity or integrity; and, be it

Further Resolved, That the Joint Committee on Government and Finance shall identify which state agencies' facilities were under 50 percent occupancy for more than 60 days; and, be it

Further Resolved, That the Joint Committee on Government and Finance shall endeavor to identify any other measures which the various state agencies of West Virginia have incorporated as a result of the COVID-19 pandemic and which measures could be extended permanently without any loss in productivity or integrity and at a cost savings to the citizens of West Virginia; and, be it

Further Resolved, That the Joint Committee on Government and Finance shall report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

Delegate Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 105 - "Requesting the Joint Committee on Government and Finance study the current process of involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes, as well as the effect of removing the requirement that a determination of medical stability be found prior to admission to a mental health facility."

Whereas, The overcrowding of West Virginia prisons, particularly those persons who struggle with mental health issues, is a problem that requires a hands-on approach for analysis, and

Whereas, Understanding the mental health crisis generally in West Virginia may help produce remedies to stopping this

overcrowding and how to better deal with those struggling with mental health issues, and

Whereas, A study of establishing certain time frames for evaluation and competency restoration, developing standards in judicial oversight of appropriate placement of persons found noncompetent and not restorable and not guilty because of mental illness shall be integral in examining this issue; and

Whereas, A study of the effect of the creation of a possible “Dangerousness Assessment Board” to be made up of professionals in psychiatry, psychology, the commission of behavioral health, the state forensic coordinator, a disability advocate, a department of corrections employee with expertise in classification, and a division of rehabilitation services employee with experience in independent living would help shed light on the possible benefits of such a board; and

Whereas, A study to examine the effect of removing the requirement that a licensed physician find an individual is medically stable prior to admission to a mental health facility in every case is also integral to understanding this issue; and

Whereas, Finally, a study of the effect of allowing a magistrate or mental hygiene commissioner to order that the individual be evaluated for a medical condition causing or contributing to the psychiatric presentation or which might significantly impair or preclude psychiatric evaluation or treatment is integral to understanding this issue; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the process of involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes, as well as the effect of removing the requirement that a determination of medical stability be found prior to admission to a mental health facility; and

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022,

on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

Delegate Summers offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 106 - “Requesting the Joint Committee on Government and Finance study the effect of empowering the West Virginia Sentencing Commission to study the effect of a criminal code rewrite that includes the updated classification of felonies and misdemeanors as drawn out in HB2017, as well as the modification or enactment of sentencing and correctional statutes which the commission finds necessary and advisable.”

Whereas, The House of Delegates passed House Bill 2017, generally known as the “Criminal Code Rewrite” bill, on March 31, 2021; and

Whereas, The Senate amended the bill to require the West Virginia Sentencing Commission to consider, but not be bound to adopt, the provisions of the Second Engrossment of the Committee Substitute for HB2017, as passed by the West Virginia House of Delegates on March 31, 2021, including classifications of felonies and misdemeanors in the proposed Article 17, Chapter 61 of the house bill; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance study the effect of empowering the West Virginia Sentencing Commission to study the effect of a criminal code rewrite that includes the updated classification of felonies and misdemeanors as drawn out in HB2017, as well as the modification or enactment of sentencing and correctional statutes which the commission finds necessary and advisable; and

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

Miscellaneous Business

The House of Delegates met after the evening floor session on Wednesday, April 7, 2021 for **Remarks by Members**, in accordance with House Rule 65. The Honorable Gary Howell, Speaker Pro Tempore, called the House to order and presided while several members proceeded to make remarks. At 5:55 p.m., Remarks by Members was adjourned.

At 4:41 p.m., the House of Delegates adjourned until 10:00 a.m., Friday, April 9, 2021.

Friday, April 9, 2021

FIFTY-NINTH DAY

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

The House of Delegates met 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, April 8, 2021, 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. 7, Com. Sub. for S. J. R. 9, Com. Sub. for S. J. R. 11 and Com. Sub. for S. B. 702, on Third reading, Special Calendar, had been transferred to the House Calendar; Com. Sub. for S. B. 492, on Third reading, Special Calendar, had been moved to the foot of all bills; Com. Sub. for S. B. 562, on Third reading, House Calendar, had been transferred to the Special Calendar; and Com. Sub. for S. B. 368 and Com. Sub. for S. B. 718, on House Calendar, Second reading, had been transferred to the Special Calendar.

Committee Reports

Delegate D. Jeffries, 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 8th day of April, 2021, 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. 2793, Permit out of state residents to obtain West Virginia concealed carry permits.

Delegate D. Jeffries, 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 8th day of April, 2021, 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:

S. B. 78, Relating to rehabilitative spousal support,

S. B. 89, Exempting certain kindergarten and preschool programs offered by private schools from registration requirements,

Com. Sub. for S. B. 377, Relating to extension for boil water advisories by water utility or public service district,

S. B. 437, Extending contingent increase of tax rate on certain eligible acute care hospitals

Com. Sub. for S. B. 514, Providing criteria for Natural Resource Commission appointment and compensation,

Com. Sub. for S. B. 518, Relating to grounds for administrative dissolution of certain companies, corporations, and partnerships,

And,

S. B. 644, Exempting certain persons pursuing degree in speech pathology and audiology from license requirements.

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 3295, Making a supplemental appropriation to Division of Human Services and Division of Health Central Office.

A message from the Senate, by

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

Com. Sub. for H. B. 3297, Making a supplemental appropriation to the Department of Veterans' Assistance - Veterans Home.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates, with further amendment, and the passage, as amended, of

S. B. 359, Informing landowners when fencing that may contain livestock is damaged due to accident.

On motion of Delegate Summers, the House of Delegates concurred in the following further amendment by the Senate:

On page one, section seventeen, after the word "land", by striking out the words "by immediately reporting the fence damage to dispatch to initiate an attempt".

The bill, as amended by the House, and further amended by the Senate, was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 541**), 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: Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 359) passed.

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

Resolutions Introduced

Delegate Linville offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. R. 27 - "Requesting the Joint Committee on Government and Finance to study the extent to which various federal, state, and local entities have dedicated or appropriated real and financial resources to expanding and improving broadband access in West Virginia over the next year."

Whereas, The Legislature recognizes that broadband improvement and expansion is critical to maintaining, improving, and diversifying West Virginia's economy; and

Whereas, The citizens of West Virginia have repeatedly expressed concern as to the inadequacy of broadband access throughout the state; and

Whereas, There have been various federal, state, and local initiatives aimed at improving broadband access to the citizens of West Virginia over the next year; and

Whereas, A study into the various federal, state, and local initiatives targeted toward expanding and improving broadband access in West Virginia over the next year would leave the Legislature better equipped to consider legislation responsive to the citizenry's needs during the second session of the 85th Legislature; therefore, be it

Resolved by the House of Delegates:

That the Joint Committee on Government and Finance shall undertake a study of any federal, state, and/or local initiatives dedicating or appropriating real and/or financial resources to expanding and improving broadband access in West Virginia over the next year; and, be it

Further Resolved, That the Joint Committee on Government and Finance shall report to the regular session of the Legislature, 2022, on its findings, conclusions, and recommendations, together with drafts of any legislation or resolutions 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 the legislative appropriations to the Joint Committee on Government and Finance.

Special Calendar

Unfinished Business

Com. Sub. for S. C. R. 3, Urging Congress reopen public lands in WV; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

S. C. R. 55, Supporting Atlantic Coast Pipeline; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

H. R. 22, Calling for the construction of an licensed Off Highway Vehicle (OHV) vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

Com. Sub. for H. R. 24, Urging the Governor of West Virginia to form a task force regarding Mylan Pharmaceuticals plant in Morgantown; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

H. R. 25, Support the signing of a Bilateral Trade Agreement (BTA) between the United States and the Republic of China (Taiwan); coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

H. C. R. 95, Requesting Joint Committee and Government and Finance study the effect losing a Congressional district would have on boards, commissions and others; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

H. C. R. 102, A resolution to study attracting and retaining remote workers in West Virginia; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

H. C. R. 103, Interim study to improve the education system in West Virginia; coming up in regular order, as unfinished business, was reported by the Clerk and adopted.

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

Third Reading

Com. Sub. for S. B. 34, Creating exemption to state sales and use tax for rental and leasing of equipment; on third reading, coming up in regular order, 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 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 34) 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. 34 - “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 certain business entities.”

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 543**), 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: Thompson.

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. 34) takes effect July 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. 332, Providing procedure for WV to select delegates to Article V Convention; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment, recommended by the Committee on the Judiciary was reported by the Clerk on page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 11A. AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES.”

§3-11A-1. Definitions.

For the purposes of this article:

‘Article V convention’ means a convention for proposing amendments as expressly provided in Article V of the Constitution of the United States of America.

‘Article V application’ means a joint resolution passed by the Legislature on the same subject, or containing the same proposed amendment text, as 33 other sovereign states requiring Congress to call an Article V convention by setting the time and place.

‘Delegate’ or ‘alternate’ means a person selected by the Legislature or any other method provided by law to represent the State of West Virginia at an Article V convention.

‘Legislative instructions’ mean instructions given by the Legislature to delegates and alternates before and during an Article V convention.

‘Unauthorized amendment’ means a proposed amendment that is outside the subject matter of the Article V application, the call, the commission, or any legislative instructions.

§3-11A-2. Committee of correspondence for Article V convention.

(a) The Legislature shall designate one or more legislative committees for purposes of communicating, exchanging information, and otherwise engaging in discussion and dialogue with the several states and the state’s congressional delegation regarding acts, resolutions, and issues that may be the subject of an Article V convention, and the rules, processes, potential amendments, procedures for proposing amendments, interstate compacts, common credentials, and instructions for delegates that may govern an Article V convention.

(b) The Legislature may vest this function in the Joint Committee on Government and Finance, in existing committees of each chamber, other legislative committees, or committees it may establish.

§3-11A-3. Prohibition against participation in Article V convention requiring proportional representation.

Delegates from West Virginia may only be authorized to attend an Article V convention for proposing amendments where each state has one equal vote. A delegate or alternate from West Virginia may not attend an Article V convention for the purpose of proposing amendments that require proportional representation of any state based on its respective populations.

§3-11A-4. Delegate duties and responsibilities.

(a) Every candidate for delegate or alternate from West Virginia to the Article V convention shall take the following oath: 'I do solemnly swear or affirm that, to the best of my abilities, I will, as a delegate or alternate to an Article V convention, uphold the constitution and laws of the United States of America and the State of West Virginia. I will not vote to allow consideration of or to approve any unauthorized amendment proposed for ratification to the United States of America Constitution. So help me God.'

(b) The Legislature, or an official or committee authorized pursuant to §3-11A-2(b) of this code, shall certify in writing to the Article V convention the delegates and alternates selected, the amendments a delegate or alternate is authorized to consider and vote to approve, the recall procedures set forth in subsection (c) of this section, and the mandatory nullification of any votes cast by a delegate or alternate on an unauthorized amendment.

(c) Delegates may not vote to allow consideration of, or vote to approve, an unauthorized amendment for ratification to the Constitution of the United States. Any such vote is an unauthorized vote and is void.

(d) Any delegate casting a vote to allow consideration or approval of an unauthorized amendment shall be immediately

recalled by an official or committee authorized pursuant to §3-11A-2(b) of this code and be replaced by an alternate.

(e) Any delegate or alternate is a public official, as that term is defined in §6B-1-3 of this code, and is subject to the requirements of the West Virginia Governmental Ethics Act.

§3-11A-5. Violation of oath; criminal penalty.

Any delegate who violates the oath set forth in §3-11A-4 of this code is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100,000 nor more than \$500,000 and be confined in a state correctional facility for not more than 10 years.”

Delegate Keaton moved to amend the amendment on page 12, line 11, by inserting the following new section:

“§3-11A-2. Issuance of call for Article V convention.

(a) By passage of this section in the 2021 Regular Legislative Session, the West Virginia Legislature hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, for the calling of a convention of the states.

(b) This Convention is to be limited to proposing amendments to the Constitution of the United States that

(1) impose fiscal restraints on the federal government,

(2) limit the power and jurisdiction of the federal government,
and

(3) limit the terms of office for its officials and for members of Congress.

Absolutely no other business will be authorized or permitted at this convention.

(c) This application constitutes a continuing application, in accordance with the provisions of Article V of the Constitution of the United States, until the legislatures of at least two thirds of the several states shall have made applications on the same subject.

(d) Upon enactment of this legislation, and authorization of the same by the Governor, the Clerk of the West Virginia House of Delegates and the Clerk of the West Virginia Senate, are hereby directed to jointly forward a copy of the engrossed and approved legislation

(1) as an application to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives,

(2) to transmit copies of the same to the members of West Virginia's congressional delegation, and

(3) to the presiding officers of each of the legislative houses in the several states requesting their cooperation.”

And,

By renumbering the remaining sections accordingly.

Delegate Lovejoy arose to a point of inquiry as to the germaneness of the amendment offered by Delegate Keaton.

The Speaker sustained the point raised by Delegate Lovejoy.

The Judiciary Committee amendment was then adopted.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 544**), and there were—yeas 82, nays 17, absent and not voting 1, with the yeas and the absent and not voting being as follows:

Nays: Barach, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, J. Kelly, Lovejoy, Pushkin, Rowe, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 332) 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. 334, Establishing license application process for needle exchange programs; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment, recommended by the Committee on the Judiciary was reported by the Clerk on page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 63. SYRINGE SERVICES PROGRAMS.

§16-63-1. Definitions.

As used in this article, the term:

‘Administrator’ means a person having the authority and responsibility for operation of the syringe services program and serves as the contact for communication with the director of the Harm Reduction Program.

‘Applicant’ means the entity applying for a license under this article.

‘Board of Review’ means the board established in §9-2-6(13) of this code.

‘Director’ means the Director of the Office of Health Facility Licensure and Certification.

‘Fixed site’ means a building or single location where syringe exchange services are provided.

‘Harm reduction program’ means a program that provides services intended to lessen the adverse consequences of drug use

and protect public health and safety, by providing direct access to or a referral to: syringe services program; substance use disorder treatment programs; screenings; vaccinations; education about overdose prevention; wound care; opioid antagonist distribution and education; and other medical services.

‘HIV’ means the etiologic virus of AIDS or Human Immunodeficiency Virus.

‘License’ means the document issued by the office authorizing the syringe services program to operate.

‘Local health department’ means a health department operated by local boards of health, created, established, and maintained pursuant to §16-2-1 *et seq.* of this code.

‘Location’ means a site within the service area of a local health department. A location can be a fixed site or a mobile site.

‘Mobile site’ means a location accessible by foot or vehicle that is not at a fixed indoor setting.

‘Syringe services program’ means a community based program that provides access to sterile syringes, facilitates safe disposal of used syringes, and is part of a harm reduction program.

‘Syringe stick injury’ means a penetrating wound from a syringe that may result in exposure to blood.

‘Syringe stick injury protocol’ means policies and procedures to prevent syringe stick injury to syringe exchange staff, including volunteers, community members, and to syringe exchange participants.

‘Service area’ means the territorial jurisdiction of the syringe services program.

‘Sharps waste’ means used syringes and lancets.

‘Staff’ means a person who provides syringe services or harm reduction services on behalf of a program.

'Syringe' means both the needle and syringe used to inject fluids into the body.

§16-63-2. Application for license to offer a syringe services program.

(a) All new and existing syringe services programs shall obtain a license from the Office for Health Facility Licensure and Certification.

(b) To be eligible for a license, a syringe services program shall:

(1) Submit an application on a form approved and provided by the office director;

(2) Provide the name of the program;

(3) Provide a description of the harm reduction program it is associated with and the harm reduction services provided in accordance with §16-2-3;

(4) Provide the contact information of the individual designated by the applicant as the administrator of the harm reduction program;

(5) Provide the hours of operation, location, and staffing. The description of hours of operation must include the specific days the syringe services program is open, opening and closing times, and frequency of syringe exchange services. The description of staffing must include number of staff, titles of positions, and descriptions of their functions;

(6) Provide a specific description of the applicant's ability to refer to or facilitate entry into substance use treatment;

(7) Provide a specific description of the applicant's ability to encourage usage of medical care and mental health services as well as social welfare and health promotion; and

(8) Pay an application fee in amount not to exceed \$500, to be determined by the director by legislative rule.

§16-63-3. Program requirements.

(a) To be approved for a license, a syringe services program shall be part of a harm reduction program which offers or refers an individual to the following services which shall be documented in the application:

(1) HIV, hepatitis and sexually transmitted diseases screening;

(2) Vaccinations;

(3) Birth control and long-term birth control;

(4) Behavioral health services;

(5) Overdose prevention supplies and education;

(6) Syringe collection and sharps disposal;

(7) Educational services related to disease transmission;

(8) Assist or refer an individual to a substance use treatment program;

(9) Refer to a health care practitioner or treat medical conditions; and

(10) Programmatic guidelines including a sharps disposal plan, a staff training plan, a data collection and program evaluation plan, and a community relations plan.

(b) A syringe services program:

(1) Shall offer services, at every visit, from a qualified licensed health care provider;

(2) Shall exclude minors from participation in the syringe exchange, but may provide minors with harm reduction services;

(3) Shall ensure a syringe is unique to the syringe services program;

(4) Shall distribute syringes with a goal of a 1:1 model;

(5) May substitute weighing the volume of syringes returned versus dispensed as specified. This substitution is only permissible if it can be done accurately and in the following manner:

(A) The syringes shall be contained in a see-through container; and

(B) A visual inspection of the container shall take place prior to the syringes being weighed;

(6) Shall distribute the syringe directly to the program recipient;

(7) Shall train staff on:

(A) The services and eligibility requirements of the program;

(B) The services provided by the program;

(C) The applicant's policies and procedures concerning syringe exchange transactions;

(D) Disposing of infectious waste;

(E) Sharps waste disposal education that ensures familiarity with the state law regulating proper disposal of home-generated sharps waste;

(F) Procedures for obtaining or making referrals;

(G) Opioid antagonist administration;

(H) Cultural diversity and sensitivity to protected classes under state and federal law; and

(I) Completion of attendance logs for participation in mandatory training.

(8) Maintain a program for the public the report syringe litter and shall endeavor to collect all syringe litter in the community.

(c) Each syringe services program shall have a syringe dispensing plan which includes, but is not limited to the following:

(1) Maintaining records of returned syringes by participants for two years;

(2) Preventing syringe stick injuries;

(3) Tracking the number of syringes dispensed;

(4) Tracking the number of syringes collected;

(5) Tracking the number of syringes collected as a result of community reports of syringe litter;

(6) Eliminating direct handling of sharps waste;

(7) Following a syringe stick protocol and plan;

(8) A budget for sharps waste disposal or an explanation if no cost is associated with sharps waste disposal; and

(9) A plan to coordinate with the continuum of care, including the requirements set forth in this section.

(d) If an applicant does not submit all of the documentation required in §16-63-2 of this code, the application shall be denied and returned to the applicant for completion.

(e) If an applicant fails to comply with the program requirements, the application shall be denied and returned to the applicant for completion.

(f) A license is effective for one year.

§16-63-4. Procedure for revocation or limitation of the syringe services programs.

(a) The director may revoke, suspend or limit a syringe services program's ability to offer services for the following reasons:

(1) The syringe services program provides false or misleading information to the director;

(2) An inspection indicates the syringe services programs is in violation of the law or legislative rule; or

(3) The syringe services program fails to cooperate with the director during a complaint investigation.

(b) The director shall send written notice to the syringe services program of revocation, suspension, or limitation of its operations. The written notice shall include the following:

(1) Effective date of the revocation, suspension, or limitation;

(2) The basis for the revocation, suspension or limitation;

(3) The location to which the revocation, suspension or limitation applies;

(4) The remedial measures the syringe services programs shall take, if any, to consider reinstatement of the program or removal of the limitation; and

(5) Steps to appeal of the decision.

§16-63-5. Administrative due process.

(a) A syringe services program who disagrees with an administrative decision may, within 30 days after receiving notice of the decision, appeal the decision to the department's board of review.

(b) All pertinent provisions of §29A-5-1 *et seq.* apply to and govern any hearing authorized by this statute.

(c) The filing of a request for a hearing does not stay or supersede enforcement of the final decision of the director. The director may, upon good cause shown, stay such enforcement.

§16-63-6. Administrative appeals and judicial review.

(a) A syringe services program who disagrees with the final administrative decision may, within 30 days after the date the appellant received notice of the decision of the board of review, appeal the decision to the Circuit Court of Kanawha County or in the county where the petitioner resides or does business.

(b) The filing of the petition for appeal does not stay or supersede enforcement of the final decision or order of the director. An appellant may apply to the circuit court for a stay of or to supersede the final decision or order for good cause shown.

(c) No circuit court has jurisdiction to consider a decision of the board if the petitioner has failed to file a request for review with the board of review within the time frame set forth in this article.

§16-63-7. Reporting requirements; renewal; rulemaking.

(a) A syringe services program shall renew its license annually on the anniversary date of license approval.

(b) A syringe services program shall file an annual report with the director. The report shall include:

(1) The total number of persons served;

(2) The total numbers and types of syringes and syringe s dispensed, collected, and disposed of;

(3) The total number of syringe stick injuries to non-participants;

(4) Statistics regarding the number of individuals entering substance use treatment; and

(5) The total and types of referrals made to substance use treatment and other services.

(c) The office shall promulgate and propose rules and regulations under §29A-1-1 *et seq.* of this code to carry out the intent and purposes of this article. Such rules and regulations shall be in accordance with evidence-based practices. The office shall promulgate an emergency rule by July 1, 2021, which shall require compliance of the provisions of this article by December 1, 2021. The emergency rule shall effectuate the provisions of this article in accordance with evidence-based practices.

§16-63-8. Immunity.

(a) Notwithstanding any provision of this code to the contrary, an employee, volunteer, or participant of a licensed syringe services program may not be arrested, charged with or prosecuted for possession of any of the following:

(1) Sterile or used syringes, hypodermic syringes, injection supplies obtained from or returned to a program, or other safer drug use materials obtained from a program established pursuant to this article, including testing supplies for illicit substances.

(2) Residual amounts of a controlled substance contained in a used syringe, used injection supplies obtained from or returned to a program.

(b) A law enforcement officer who, acting on good faith, arrests or charges a person who is thereafter determined to be entitled to immunity from prosecution under this section is not liable for the arrest or filing of charges.

(c) An individual who is wrongly detained, arrested or prosecuted under this section shall have the public record associated with the detainment, arrest or prosecution expunged.

(d) A health care professional, or an employee or volunteer of a licensed syringe services program is not subject to professional sanction, detainment, arrest, or prosecution for carrying out the provisions of this article.

§16-63-9. Civil penalties and injunctive relief.

(a) The Office of Health Facilities Licensure and Certification may assess an administrative penalty of not less than \$500 nor more than \$10,000 per violation of this article.

(b) The Office of Health Facilities Licensure and Certification may seek injunctive relief to enforce the provisions of this article.

§16-63-10. Coordination of care.

(a) A syringe service program shall coordinate with other health care providers in its services to render care to the individuals as set forth in the program requirements.

(b) In the event that the syringe services program is closed, the syringe services program shall notify the participant of the closure of the service, prior to closure, in a conspicuous location, and provide an individual with a transition care plan.

(c) The Bureau for Medical Services shall submit a state plan amendment to permit harm programs to be an eligible provider.”

An amendment recommended by the Committee on the Judiciary was reported by the Clerk, and adopted, amending the amendment on page 7, section 10, subsection (c), lines 10 and 11, by striking out everything after the word “amendment” and inserting in lieu thereof the following:

“to permit harm reduction programs to be an eligible provider, except that the syringe exchange services shall not be eligible for reimbursement under the state plan.”

Delegates Capito and Kessinger, respectively, were recognized to explain the following amendments to the committee amendment.

Delegate Capito moved to amend the bill on page 1, section 2, line 2 after the word “Certification.”, by inserting the following language:

“Upon receipt of an application for a syringe services program, the Office for Health Facility Licensure and Certification shall provide notice to the municipality or county commission, as applicable. A municipality or county commission may adopt an ordinance prohibiting syringe services programs in its jurisdiction. The municipality shall submit such ordinance to the Office for Health Facility Licensure and Certification. Upon receipt of such ordinance from a municipality or county commission, the Office for Health Facility Licensure and Certification shall not consider

applications for a syringe services program in such jurisdiction until such jurisdiction repeals the ordinance.”

And,

On page 7, section 9, line 16, by inserting a new subsection (e) to read as follows:

“(e) A business that has syringe litter on its property is immune from civil or criminal liability in any action relating to the needle on its property unless the business owner acted in reckless disregard for the safety of others.”

Delegate Kessinger offered an amendment for which the Delegate was recognized to explain as follows:

On page 2, section 2, line 17, by striking out the word “and”;

And,

On page 2, section 2, line 19, by striking out the period, inserting a semicolon and the following:

“and,

“(9) Provide a written statement from a majority of the members of the county commission and a majority of the members of a governing body of a municipality in which it is located or is proposing to locate.”

On page 4, section 4, line 5, by striking the word “or”;

On page 4, section 4, line 7 by striking the period and inserting and a semicolon and the following:

“or,

(4) Recission of the letter of approval from majority of the county commissioners or the governing body of a municipality.”

And,

On page 7, section 9, line 16, by inserting a new subsection (e) to read as follows:

“(e) A business that has syringe litter on its property is immune from civil or criminal liability in any action relating to the needle on its property unless the business owner acted in reckless disregard for the safety of others.”

On the adoption of the amendment to the amendment offered by Delegate Capito, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 545**), and there were—yeas 36, nays 62, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Yeas: Barach, Barrett, Bates, Boggs, Brown, Capito, Cooper, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hanna, Hansen, Higginbotham, Hornbuckle, D. Kelly, Lovejoy, Mallow, Nestor, L. Pack, Pethtel, Pushkin, Queen, Reed, Rowe, Skaff, Storch, Walker, Westfall, Williams, Young, Zukoff and Hanshaw (Mr. Speaker).

Absent and Not Voting: J. Kelly and Thompson.

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

The question then being on the adoption of the amendment to the amendment offered by Delegate Kessinger, the same was put and the amendment to the amendment was adopted.

The Judiciary Committee amendment, as amended, was then adopted.

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 546**), and there were—yeas 85, nays 13, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Doyle, Fleischauer, Foster, Hansen, Kimes, Miller, Pritt, Reed, Statler, Steele, Walker, Williams and Young.

Absent and Not Voting: McGeehan and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 334) passed.

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

Com. Sub. for S. B. 334 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-63-1, §16-63-2, §16-63-3, §16-63-4, §16-63-5, §16-63-6, §16-63-7, §16-63-8, §16-63-9, and §16-63-10, all relating to syringe services programs; defining terms; providing license application requirements and process; establishing program requirements; providing procedure for revocation or limitation of the syringe services programs; setting forth administrative due process; providing for administrative and judicial appeal; establishing reporting requirements and renewal provisions; providing for rulemaking; providing criminal immunity in certain circumstances; providing civil immunity in certain circumstances; providing for expungement; providing immunity from professional sanction, detainment, arrest, or prosecution in certain circumstances; providing for administrative penalties and allowing Office of Health Facilities Licensure and Certification to seek injunctive relief; requiring a syringe services program to coordinate with health care providers; requiring that a syringe services program that is closing to post notice and provide transition care plan for individuals; and requiring the Bureau of Medical Services to amend the state plan.”

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. 398, Limiting eligibility of certain employers to participate in PEIA plans; on third reading, coming up in regular order, was read a third time.

Delegate Boggs 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 and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 547**), and there were—yeas 91, nays 8, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Barach, Bates, Hornbuckle, Lovejoy, Pushkin, Rowe, Young and Zukoff.

Absent and Not Voting: Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 398) passed.

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

On this question, the yeas and nays were taken (**Roll No. 548**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Bates, Pushkin, Rowe and Zukoff.

Absent and Not Voting: Thompson.

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. 398) 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. 464, Requiring composting of organic materials and commercial composting products comply with WV Fertilizer Law; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 549**), and there were—yeas 89, nays 9, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Bridges, Burkhammer, Hanna, J. Jeffries, Keaton, Kimble, Mazzocchi, Paynter and Pritt.

Absent and Not Voting: Thompson and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 464) passed.

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

Com. Sub. for S. B. 470, Limiting release of certain personal information maintained by state agencies; on third reading, coming up in regular order, with amendment pending and the right to amend, was reported by the Clerk.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted on page 3, section 5A-8-24, line 33, by inserting “publicly” prior to the word “available”.

On page 4, section 5A-8-24, line 49, by inserting “publicly” prior to the word “available”.

On page 4, section 5A-8-24, line 56, by inserting “publicly” prior to the word “available”.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted on page 4, section

5A-8-24, line 50, by inserting “in violation of subparagraph (e)” following the word “association”

On page 4, section 5A-8-24, line 57, by inserting “in violation of subparagraph (e)” following the word “association”.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page 2, section 5A-8-24, line 4, by inserting “public defenders, defense counsel,” after the word “prosecutors”.

On page 3, section 5A-8-24, line 15, by inserting “public defenders, defense counsel,” after the word “prosecutor”.

On page 3, section 5A-8-24, line 31, by inserting “public defenders, defense counsel,” after the word “prosecutor.”

On page 4, section 5A-8-24, line 35, by inserting “public defenders, defense counsel,” after the word “prosecutor.”

On page 4, section 5A-8-24, line 40, by inserting “public defenders, defense counsel,” after the word “prosecutor.”

On page 4, section 5A-8-24, line 56, by inserting “public defenders, defense counsel,” after the word “prosecutor.”

And,

On page 5, section 5A-8-24, line 72, by inserting “public defenders, defense counsel,” after the word “prosecutor.”

Whereupon,

Delegate Capito obtained unanimous consent that the amendment be withdrawn and the following amendment offered in lieu thereof.

Whereupon,

On motion of Delegate Capito, the bill was amended on page 2, section 5A-8-24, line 4, by inserting “public defenders, assistant

public defenders, and panel attorneys as defined in Chapter 29, Article 21,” after the word “prosecutors”.

On page 3, section 5A-8-24, line 15, by inserting “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” after the word “prosecutors”.

On page 3, section 5A-8-24, line 31, by inserting “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” after the word “prosecutor.”

On page 4, section 5A-8-24, line 35, by inserting “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” after the word “prosecutor.”

On page 4, section 5A-8-24, line 40, by inserting “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” after the word “prosecutor.”

On page 4, section 5A-8-24, line 56, by inserting “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” after the word “prosecutor.”

And,

On page 5, section 5A-8-24, line 72, by inserting “public defenders, assistant public defenders, and panel attorneys as defined in Chapter 29, Article 21,” after the word “prosecutor”.

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. 550**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Miller.

Absent and Not Voting: Pinson, Thompson and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 470) 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. 478, Permitting use of established federal marketplace programs to purchase supplies; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 551**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Pinson, Thompson and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 478) 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. 485, Relating to use or presentation of firearm during commission of felony; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 552**), and there were—yeas 83, nays 15, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Nays: Bridges, Burkhammer, Ferrell, Fleischauer, Fluharty, Graves, Horst, J. Jeffries, Kimes, McGeehan, Phillips, Pritt, Pushkin, Walker and Young.

Absent and Not Voting: Thompson and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 485) 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. 502, Providing lifetime hunting, fishing, and trapping license to residents, adopted, and foster children under 15; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 553**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Thompson and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 502) passed.

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

On this question, the yeas and nays were taken (**Roll No. 554**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Thompson 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. 502) 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. 532, Limiting claims for state tax credits and rebates; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 555**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Doyle, Fleischauer and Pushkin.

Absent and Not Voting: Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 532) passed.

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 556**), 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: Conley and Thompson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 532) takes effect July 1, 2021.

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

S. B. 537, Relating generally to kidnapping; on third reading, coming up in 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 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Conley, Thompson and Wamsley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 537) passed.

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

Com. Sub. for S. B. 542, Relating generally to public electric utilities and facilities fuel supply for existing coal-fired plants; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Delegate Evans moved to amend the bill on page 3, following Section 21 after line 24, by inserting a new section to read as follows:

“§24-2-22. Coal community comeback planning required; Coal Community Comeback Advisory Committee established; Coal Community Comeback Plan.

(a) The West Virginia Public Service Commission shall facilitate a process to create a Coal Community Comeback Plan for the State of West Virginia, which shall include, at a minimum:

(1) The maintenance and development of water and wastewater, broadband, and other infrastructure needed to revitalize impacted communities;

(2) Opportunities to maintain and increase jobs in coal mines, coal-fired power plants, and other sectors that would diversify the economies of impacted communities;

(3) Grants and local, state, federal, and other sources of funding that will assist impacted communities, and recommendations to align and target existing local, state, and federal funding and leverage additional funding to support impacted communities and impacted workers;

(4) Other programs and activities that will assist impacted communities, and recommendations to align and target existing local, state, and federal programs and activities and establish additional programs and activities to support impacted communities and impacted workers;

(5) Recommendations for legislation, studies, and other activities, including but not limited to the creation of a fund to collect and distribute public revenue to address shortfalls in funding for counties, school systems, and municipalities in impacted communities;

(6) Planning of and facilitation of innovative land use and economic development activities that impacted communities can use to diversify their economies;

(7) Projected short-term and long-term costs and benefits to the state of each plan component;

(8) Potential fiscal, economic, workforce, and other implications of extending plan components to other sectors and industries affected by similar economic disruptions; and

(9) Which components can be implemented under existing authority and which require additional legislation.

(b) There is hereby created the Coal Community Comeback Advisory Committee to develop and recommend a Coal Community Comeback Plan for the State of West Virginia. It shall consist of the following members:

(1) The Chair of the West Virginia Public Service Commission or his or her designee, who shall serve as co-chairperson of the Committee;

(2) The Secretary of the Department of Economic Development or his or her designee, who shall also serve as co-chairperson of the Committee;

(3) One representative of the Office of the Governor;

(4) One member of the Senate appointed by the president of the Senate, and one member of the House of Delegates appointed by the Speaker of the House; and the following members, to be appointed by the Governor:

(A) Two representatives of labor unions;

(B) Three representatives of impacted workers from impacted communities;

(C) Two representatives with professional economic development or workforce retraining experience; and

(D) Two representatives of utilities that, on the effective date of this section, operated one or more coal-fueled electric generating units.

(c) (1) The West Virginia Public Service Commission shall provide administrative and logistical support to the work of the Committee.

(2) The Committee shall meet at least once every three months. The chairpersons may call such additional meetings as are necessary for the Committee to complete its duties.

(3) Each member of the Committee is entitled to receive reimbursement for actual and necessary expenses pursuant to §4-2A-6 of this code.

(4) The Committee may engage additional nonvoting members or advisors and provide additional expertise as needed.

(5) The Committee shall hold at least three public hearings in the state on the Coal Community Comeback Plan, with at least one hearing held in each congressional district of the state. On or before July 1, 2022, the Committee shall present its draft Coal Community Comeback Plan to the Chair of the West Virginia Public Service Commission. On or before December 31, 2022, the Committee shall present its final Coal Community Comeback Plan to the Governor and the Legislature. Unless otherwise extended by Act of the Legislature, the Committee shall expire effective January 1, 2023.

(d) As used in this section:

(1) ‘Coal-related employment’ means employment in the coal industry, or an industry dependent on coal production, consumption, or distribution;

(2) ‘Committee’ means the Coal Community Comeback Advisory Committee established pursuant to §24-2-22(b) of this code;

(3) ‘Impacted community’ means a county in which a coal mine or a coal-fired plant has closed after December 31, 1999, causing a loss of at least 200 jobs;

(4) ‘Impacted worker’ means a West Virginia worker laid off from coal-related employment who has not found employment with similar wages or benefits.”

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. 558**), and there were—yeas 49, nays 48, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Bridges, Bruce, Burkhammer, Criss, Espinosa, Ferrell, Forsht, Foster, Gearheart, Graves, Hamrick, Hanna, Hardy, Higginbotham, Horst, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, Keaton, Kimble, Kimes, Linville, Longanacre, Mallow, Mandt, Martin, Maynard, Mazzocchi, McGeehan, J. Pack, L. Pack, Phillips, Pinson, Pritt, Reynolds, Rowan, Smith, Steele, Summers, Sypolt, Tully, Wamsley, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Barrett, Reed and Thompson.

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

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 559**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: J. Jeffries, Linville and McGeehan.

Absent and Not Voting: Barrett and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 542) passed.

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

Com. Sub. for S. B. 542 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-1-1c; and to amend said code by adding thereto three new sections, designated §24-2-1q, §24-2-21 and §24-2-22, all relating to the Public Service Commission; making legislative findings; requiring that all public electric utilities maintain a contract for a 30-day aggregate fuel supply for the remainder of the life of existing coal-fired plants; requiring that public electric utilities provide advance notice of retirement, shutdown, or sale of electricity-generating units; establishing the Coal Community Comeback Advisory Committee; providing for appointment to the committee; providing for expense reimbursement to committee members; directing the committee to develop a plan and recommendations to revitalize coal communities in the state that address economic, workforce and other actions for revitalization of coal communities; providing for public hearings and other actions for the committee; providing for submission of a committee report; defining terms; and providing for expiration of committee.”

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. 562, Relating to juvenile competency proceedings; on third reading, coming up in regular order, with amendment pending, was read a third time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page 1, immediately following the enacting clause, by striking

out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 4. COURT ACTIONS.

§49-4-712. Intervention and services by the department pursuant to initial disposition for status offenders or juvenile found incompetent to stand trial; enforcement; further disposition; detention; out-of-home placement; department custody; least restrictive alternative; appeal; prohibiting placement of status offenders or a juvenile found incompetent to stand trial in a Division Bureau of Juvenile Services facility. ~~on or after January 1, 2016~~

(a) ~~The services~~ Services provided by the department to ~~for~~ juveniles adjudicated as status offenders shall be consistent with §49-2-1001 *et seq.* of this code. ~~and~~ Services provided by the department for juveniles adjudicated as status offenders pursuant to §49-4-711 of this code and juveniles found to be incompetent to stand trial and in need of services pursuant to §49-4-734(b)(2) of this code 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 §49-1-207 of this code, 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~~ the 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~~ that are 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 order providing disposition other than mandatory referral to the department for services is subject to appeal to the Supreme 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 or a juvenile found to be incompetent to stand trial ~~on or after January 1, 2016~~ may not be placed in a Bureau Division ~~of~~ Juvenile Services facility.

§49-4-727. Juvenile competency proceedings.

(a) Subject to the provisions of subsection (c) of this section, a juvenile's attorney, the prosecuting attorney, or the court may raise the issue of his or her competency to participate in the proceeding any time during proceedings under this article. Once competency is raised, all proceedings unrelated to competency shall be stayed until the issue of competency is resolved. A juvenile presumed incompetent under subsection (c) of this section shall not be adjudicated unless the presumption of incompetency has been rebutted as provided in subsections (b) and (c) of this section.

(b) In any delinquency proceeding pursuant to this article, a juvenile 14 years or older is presumed to be competent. A juvenile has the burden of proof to rebut this presumption by showing incompetency by a preponderance of the evidence.

(c) In any delinquency proceeding pursuant to this article, if the juvenile is under 14 years of age, there exists a rebuttable presumption that he or she is incompetent to proceed beyond the stage of the proceeding resolving the issue of competency, unless

judicially determined to be competent pursuant to the procedures set forth in §49-4-728 through §49-4-734 of this code. The state has the burden of proof to rebut this presumption by showing competency by a preponderance of the evidence.

(d) Regardless of the age of the juvenile, the court may dismiss the petition without ordering a competency evaluation or competency hearing if the prosecuting attorney, the juvenile's attorney, and the guardian ad litem, if previously appointed, agree that there is compelling evidence that the juvenile is not competent to participate in the proceedings: *Provided*, That a court may not order services authorized by §49-4-733 of this code without a competency evaluation.

(e) If and when the issue of a juvenile's competency is raised under subsection (a) or a rebuttable presumption of incompetency exists under subsection (c), the court shall appoint a guardian ad litem for the juvenile. The Supreme Court of Appeals is requested to establish a training program for persons acting as guardians ad litem in juvenile competency matters.

§49-4-728. Definitions for juvenile competency proceedings.

As used in §49-4-727 through §49-4-734 of this code:

'Competent' and 'competency' refer to whether or not a juvenile has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and has a rational as well as factual understanding of the proceedings against him or her. A juvenile is incompetent if, due to developmental disability, intellectual disability, or mental illness, the juvenile is presently incapable of understanding the nature and objective of proceedings against him or her or of assisting in his or her defense.

'Competency attainment services' means services provided to a juvenile to assist the juvenile in attaining competency.

'Department' means the Department of Health and Human Resources.

‘Developmental disability’ means a severe and chronic disability that is attributable to a mental or physical impairment, including, but not limited to, neurological conditions that lead to impairment of general intellectual functioning or adaptive behavior.

‘Developmental immaturity’ means a condition based on a juvenile’s chronological age and significant lack of developmental skills when the juvenile has no significant mental illness or intellectual disability.

‘Intellectual disability’ means a disability characterized by significant limitations both in intellectual functioning and in adaptive behavior as expressed in conceptual, social, and practical domains.

‘Mental illness’ means a manifestation in a person of significantly impaired capacity to maintain acceptable levels of functioning in the areas of intellect, emotion, and physical well-being.

‘Proceeding’ means any delinquency proceeding under this article.

‘Qualified forensic evaluator’ means a licensed psychologist or psychiatrist with the necessary education, training, and experience to perform juvenile competency evaluations, and who has been approved to render opinions for the court pursuant to the requirements of §49-4-729 of this code.

§49-4-729. Motion for determination of competency, time frames, order for evaluation.

(a) When the prosecuting attorney, the juvenile’s attorney, or the guardian ad litem has reasonable basis to believe that:

(1) A juvenile age 14 or older is incompetent to proceed in the delinquency action, that party shall file a motion for a determination of competency. The motion shall state any known facts to the movant of in support thereof. If the court raises the issue

sua sponte, it shall, by written order, set forth the basis for ordering a competency evaluation.

(2) A juvenile under the age of 14 is competent to proceed in the delinquency action, the prosecuting attorney shall file a motion for determination of competency. The motion shall state the basis to believe the juvenile is competent to proceed despite the presumption of incompetency due to age and shall state any known facts to the prosecuting attorney in support of the motion. If the court raises the issue sua sponte, the court by written order shall set forth the factual basis supporting the finding that the juvenile is competent to proceed.

(b) Within 10 judicial days after a motion is made, the court shall make one of the following determinations regardless of which presumption applies:

(1) Find that there is compelling evidence that the juvenile is not competent to participate in the proceedings and dismiss the case pursuant to §49-4-727(d) of this code;

(2) Without conducting a hearing, find that there exists a reasonable basis to conduct a competency evaluation; or

(3) Schedule a hearing to determine whether there exists a reasonable basis to conduct a competency evaluation. The hearing shall be held within 30 judicial days. The court's determination shall be announced no later than three judicial days after the conclusion of the hearing.

(c) If the court determines there is a reasonable basis to order a competency evaluation pursuant to §49-4-731 of this code, or if the prosecutor and the juvenile's attorney agree to the evaluation, the court shall order a competency evaluation. If the court orders a competency evaluation, the court shall order that the competency evaluation be conducted in the least restrictive environment, taking into account the public safety and the best interests of the juvenile.

(1) Notwithstanding any other provisions of this code, the court shall provide in its order that the qualified forensic evaluator shall have access to all relevant confidential and public records related

to the juvenile, including competency evaluations and reports conducted in prior delinquent proceedings. The court shall provide to the qualified forensic evaluator a copy of the petition and the names and contact information for the judge, prosecutor, juvenile's attorney, and parents or legal guardians.

(2) Within five judicial days after the court orders an evaluation, the prosecutor shall deliver to the evaluator copies of relevant police reports and other background information relevant to the juvenile that are in the prosecutor's possession.

(3) Within five judicial days after the court orders an evaluation, the juvenile's attorney shall deliver to the qualified forensic evaluator copies of police reports and other records including, but not limited to, educational, medical, psychological, and neurological records that are relevant to the evaluation and that are in the attorney's possession. Upon good cause shown, the court may extend the time frame to deliver these documents noting that time is of the essence.

§49-4-730. Juvenile competency qualified forensic evaluator; qualifications.

An evaluation ordered by the court shall be conducted by a qualified forensic evaluator.

(1) A qualified forensic evaluator shall have education and training in the following areas:

(A) Forensic evaluation procedures for juveniles, including accepted criteria used in evaluating competency;

(B) Evaluation, diagnosis, and treatment of children and adolescents with developmental disability, developmental immaturity, intellectual disability, or mental illness;

(C) Clinical understanding of child and adolescent development; and

(D) Familiarity with competency standards in this state.

(2) The department shall establish procedures for ensuring the training and qualifications of qualified forensic evaluators. Annually, the department shall provide a list of qualified forensic evaluators to the Administrative Office of the Supreme Court of Appeals of West Virginia.

§49-4-731. Juvenile competency evaluation.

(a) The qualified forensic evaluator shall file with the court a written competency evaluation report within 30 days after the date of entry of the order requiring the juvenile to be evaluated and appointing the qualified forensic evaluator. For good cause shown, the court may extend the time for filing for a period not to exceed an additional 30 days. The report shall include the evaluator's opinion as to whether or not a juvenile, due to developmental disability, intellectual disability, or mental illness, has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding and whether the juvenile has a rational as well as factual understanding of the proceedings against him or her. The report shall not include the evaluator's opinion as to whether the juvenile committed the alleged offense or recite or reference any self-incriminating or inculpatory statements as reported by the juvenile. A self-incrimination or inculpatory statement made by a juvenile during an evaluation or hearing conducted pursuant to this article shall not be admissible on the issue of responsibility or guilt in subsequent court proceedings, including adjudication and disposition or transfer hearings.

(b) A competency evaluation report shall include:

(1) A statement of the procedures used, including psychometric tests administered, records reviewed, and the identity of persons interviewed;

(2) Pertinent background information, including a history of educational performance, psychiatric or psychological history, developmental and family history;

(3) Results of the mental status examination;

(4) A diagnosis, if one has been made, which shall address any psychological or psychiatric conditions or cognitive deficiencies determined to exist; and

(5) An opinion as to the juvenile's developmental maturity or developmental immaturity as it would affect his or her ability to proceed.

(c) If the qualified forensic evaluator determines that the juvenile is not competent to participate in the proceedings, the competency evaluation report shall address the following questions:

(1) Whether the juvenile has a developmental disability, intellectual disability, or mental illness;

(2) Whether the juvenile has sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding;

(3) Whether a juvenile has a rational as well as factual understanding of the proceedings against him or her; and

(4) Whether the juvenile can attain competency in the foreseeable future if provided with a course of treatment, therapy, or training.

(d) If the qualified forensic evaluator determines that the juvenile is incompetent, but that there is a reasonable probability that he or she can attain competency within the periods set forth in §49-4-733(c)(3) of this code, the report shall include the following recommendations:

(1) A recommendation as to the treatment or therapy; and

(2) The least restrictive setting for juvenile competency attainment services consistent with the juvenile's ability to attain competency and the safety of both the juvenile and the public.

(e) The court shall provide a copy of each competency evaluation report it receives to the prosecutor, the juvenile's

attorney, and guardian ad litem and may provide a copy upon request to the juvenile's parents or legal guardian.

(f) The department shall pay qualified forensic evaluators for all matters related to conducting a court-ordered competency evaluation. The department shall develop and implement a process for prompt payment of qualified forensic evaluators including a rate schedule. The amount of payment for court-ordered evaluations shall reasonably compensate qualified forensic evaluators for the work performed in a particular case.

§49-4-732. Hearing to determine juvenile's competency to participate in the proceedings.

(a) Not more than 15 judicial days after receiving the evaluator's report, the court shall conduct a hearing to determine the juvenile's competency to participate in the proceedings. The court may continue the hearing for good cause shown.

(b) The competency evaluation report is admissible as evidence in the competency proceedings. The qualified forensic evaluator may be called as a witness and is subject to cross examination by all parties. If authorized by the court, hearings held pursuant to this section may be conducted by or participated in using teleconference or video conference technology. If the court contacts the qualified forensic evaluator to obtain clarification of the report contents, the court shall promptly inform all parties and allow each party to participate in each contact.

(c) In determining the competency of the juvenile to participate in the proceedings, the court shall consider the content of all competency evaluation reports admitted as evidence. The court may consider additional evidence introduced at the hearing by the prosecuting attorney, the juvenile's attorney, or guardian ad litem.

(d) (1) Except as otherwise provided, the court shall make a written determination as to the juvenile's competency based on a preponderance of the evidence within 10 judicial days after completion of the hearing. The applicable burden of proof shall be set forth in section 49-4-727, subsections (b) and (c).

(2) The court shall not find a juvenile competent to proceed solely because the juvenile is receiving or has received in-patient treatment or is receiving or has received psychotropic or other medication, even if the juvenile might become incompetent to proceed without that medication.

§49-4-733. Procedure after determination of juvenile's competency to participate in the proceedings.

(a) After a hearing pursuant to §49-4-732 of this code, if the court determines by a preponderance of the evidence that the juvenile is competent to proceed despite any presumption that may have applied, the delinquency proceedings shall resume as provided by law.

(b) If the court determines by a preponderance of the evidence that a juvenile is incompetent to proceed, but is likely to attain competency within a reasonable time with services, the court shall stay the proceedings and order the juvenile to receive services designated to assist the juvenile in attaining competency, based upon the recommendations in the competency evaluation report, unless the court makes specific findings that the recommended services are not justified. The court shall order the juvenile's parent or legal guardian to contact a court-designated provider by a specified date to arrange for services.

(1) The competency attainment services provided to a juvenile shall be based on the recommendations contained in the qualified forensic evaluator's report described in §49-4-731(d) of this code, and are subject to the conditions and time periods required pursuant to this section measured from the date the court approves the plan.

(2) The court shall order that the competency attainment services ordered are provided in the least restrictive environment, taking into account the public safety and the best interests of the juvenile. If the juvenile has been released on temporary orders and refuses or fails to cooperate with the service provider, the court may modify the orders to require a more appropriate setting for further services. A juvenile may not be placed in a Bureau of Juvenile Services facility to receive competency attainment

services. Additionally, a juvenile presumed incompetent under §49-4-727(c) of this code shall not be placed in a Bureau of Juvenile Services facility, except in compliance with §49-4-705 and §49-4-706 of this code, and corresponding Rules of Juvenile Procedure as adopted by the Supreme Court of Appeals of West Virginia.

(3) A juvenile shall not be required to participate in competency attainment services for longer than is necessary to attain competency or after the court determines that there is no reasonable likelihood that competency can be attained. The following maximum time limits apply to the participation of a juvenile:

(A) A juvenile charged with an act which would constitute a misdemeanor or nonviolent felony if committed by an adult shall not be required to participate in competency attainment services beyond his or her 19th birthday and there shall be a rebuttable presumption that competency is not attainable if the juvenile has not attained competency after 90 days of services.

(B) A juvenile charged with an act which would constitute a felony crime of violence if committed by an adult shall not be required to participate in competency attainment services beyond his or her 21st birthday and there shall be a rebuttable presumption that competency is not attainable if the juvenile has not attained competency after 180 days of services.

(4) Not later than 10 judicial days after the court orders competency attainment services, the department shall identify the appropriate entity and location to provide those services.

(5) Within 10 judicial days after the department identifies the appropriate entity and location, the provider responsible for the juvenile's competency attainment services shall commence. The court shall deliver to that provider:

(A) The name and address of the juvenile's counsel;

(B) A copy of the juvenile's petition;

(C) A copy of the competency evaluation report;

(D) The name, address, and phone number of the juvenile's parents or legal guardian;

(E) The name of the department's caseworker, if any; and

(F) Any other relevant documents or reports concerning the juvenile's health that have come to the attention of the court.

(c) The court shall order and conduct review hearings no less often than every 90 days as determined appropriate by the court. The multidisciplinary team shall meet prior to any review hearing and provide a written status report to the court prior to the hearing. Unless sooner ordered by the court, the qualified forensic evaluator shall submit a report to the court prior to any review hearing, and upon completion or termination of services, and shall include the following:

(1) The services provided to the juvenile, including medication, education, and counseling;

(2) The likelihood that the competency of the juvenile to proceed will be restored within the applicable period of time set forth in subdivision (3), subsection (b) of this section; and

(3) The progress made toward the goals and objectives for the restoration of competency identified in the recommendations from the competency evaluation adopted by the court.

(d) The provider responsible for the juvenile's competency attainment services shall report to the court within three judicial days if he or she determines that:

(1) The juvenile is failing to cooperate, and the lack of cooperation is significantly impeding or precluding the attainment of competency; or

(2) The current setting is no longer the least restrictive setting that is consistent with the juvenile's ability to attain competency taking into account public safety and the best interests of the

juvenile. The provider shall include in the report an assessment of the danger the juvenile poses to himself, herself or others and an assessment of the appropriateness of the placement.

(e) The provider responsible for the juvenile's competency attainment services shall request a subsequent evaluation when the provider has reason to believe:

(1) The juvenile has achieved the goals of the plan and would be able to understand the nature and objectives of the proceedings against him or her, to assist in his or her defense, and to understand and appreciate the consequences that may be imposed or result from the proceedings with or without reasonable accommodations; and

(2) The juvenile will not achieve the goals of the plan within the applicable period of time pursuant to subdivision (3), subsection (b) of this section.

(f) The evaluator shall assess the observation of the provider and provide a written report to the court within 10 days of receiving a report from the provider pursuant to subsection (e) of this section.

(g) The court shall provide copies of any report made by the provider to the prosecuting attorney, the juvenile's attorney, the juvenile's case worker, and the juvenile's guardian ad litem, if any. The court shall provide copies of any reports made by the provider to the juvenile's parents or legal guardians, unless the court finds that doing so is not in the best interest of the juvenile.

(h) Within 15 judicial days after receiving an evaluator's report, the court may hold a hearing to determine if new, additional, or further orders are necessary.

(i) If the court determines that the juvenile is not making progress toward competency or is so uncooperative that attainment services cannot be effective, the court may order a change in setting or services that would help the juvenile attain competency within the relevant period of time as set forth in subdivision (3), subsection (b) of this section.

§49-4-734. Disposition alternatives for incompetent juveniles.

(a) If the court determines that the juvenile has attained competency, the court shall proceed with the delinquent juvenile's proceeding in accordance with this article.

(b) After a hearing pursuant to §49-4-732 of this code, if the court determines by the preponderance of the evidence that the juvenile is incompetent to proceed and cannot attain competency within the period of time set forth in §49-4-733(b)(3) of this code, the court may dismiss the petition without prejudice, or may take the following actions or any combination thereof the court determines to be in the juvenile's best interest and the interest of protecting the public:

(1) Refer the matter to the department and request a determination on whether a child abuse or neglect petition, pursuant to §49-4-601 *et seq.* of this code, should be filed;

(2) Refer the juvenile to the department for services pursuant to §49-4-712 of this code. Services may include, but are not limited to, referral of the juvenile and his or her parents, guardians, or custodians and other family members to services for psychiatric or other medical care, or psychological, welfare, legal, education, or other social services, as appropriate to the needs of the juvenile and his or her family;

(3) Place the juvenile in the custody of his or her parents or other suitable person or private or public institution or agency under terms and conditions as determined to be in the best interests of the juvenile and the public, which conditions may include the provision of out-patient services by any suitable public or private agency; or

(4) Upon motion by the prosecuting attorney, stay the proceeding for no more than 20 days to allow the prosecuting attorney to initiate proceedings for civil commitment pursuant to §27-5-1 *et seq.* of this code if the juvenile has attained majority.

(c) A circuit court may, sua sponte or upon a motion by any party direct that a dangerous assessment be performed prior to directing the resolutions set forth in subsection (b) of this section.

§49-4-735. Stay of transfer to criminal jurisdiction.

If a juvenile is presumed incompetent under §49-4-727(c) of this code, or if the issue of the juvenile’s competency to participate in the proceedings is raised at any time during the proceedings for a juvenile presumed competent under §49-4-727(b) of this code, the procedures outlined in §49-4-727 through §49-4-734 of this code shall be used to determine the juvenile’s competency and if appropriate, restore the juvenile’s competency regardless of whether the case is to proceed under the court’s juvenile jurisdiction or transfer to adult criminal jurisdiction pursuant to §49-4-710 of this code and corresponding Rules of Juvenile Procedure adopted by the Supreme Court of Appeals of West Virginia.”

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 560**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle, Linville, Thompson and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 562) passed.

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

Com. Sub. for S. B. 562 – “A Bill to amend and reenact §49-4-712 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto nine new sections, designated §49-4-727, §49-4-728, §49-4-729, §49-4-730, §49-4-731, §49-4-732, §49-4-733, §49-4-734, and §49-4-735, all relating to juvenile

competency proceedings generally; creating a process to raise and resolve questions of a competency in juvenile delinquency matters; prohibiting a juvenile found to be incompetent to stand trial to be placed in Bureau of Juvenile Services facility; defining terms; creating a rebuttable presumption that juveniles 14 years of age and older are competent to proceed; creating a rebuttable presumption that juveniles under 14 years of age are incompetent to proceed; providing all proceedings stayed until competency resolved; requiring the appointment of a guardian ad litem when the issue of a juvenile's competency is raised or a rebuttable presumption of incompetency exists; establishing qualifications for qualified forensic evaluators; requiring written competency evaluation report; requesting the Supreme Court to establish a training program for guardians ad litem; establishing time frames for jurisdiction and competency attainment services; establishing procedures for competency hearings; and providing disposition alternatives for incompetent juveniles and staying transfer to criminal jurisdiction.”

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. 569, Relating to damages for medical monitoring; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

In the absence of objection, the House proceeded to consideration of the following strike and insert amendment:

Delegate Steele moved to amend the bill on page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-32. Limitations on medical monitoring damages.

(a) In any civil action where a plaintiff who does not allege a present physical injury or disease seeks to recover future medical monitoring costs as damages, a defendant cannot be required to pay

as damages or provide any other type of legal, injunctive or equitable relief for a plaintiff's future medical surveillance, screening tests or monitoring procedures unless the plaintiff proves to a reasonable degree of certainty all of the requirements for the underlying cause of action and that:

(1) He or she has been significantly exposed;

(2) To a proven hazardous substance;

(3) Through the tortious conduct of the defendant;

(4) As a proximate result of the exposure, the plaintiff has suffered a significantly increased risk of contracting a serious latent disease relative to the general population of more than one hundred percent;

(5) The increased risk of disease makes it objectively medically necessary for the plaintiff to undergo periodic diagnostic medical examinations and such periodic diagnostic medical examinations are different from what would be prescribed in the absence of the exposure;

(6) Monitoring procedures exist that make the early detection of a disease possible; and

(7) Early detection is beneficial, meaning that a treatment exists that can significantly decrease the risk of death or the severity of the disease, according to contemporary scientific principles.

(b) A claim under this section may be brought by a Plaintiff after birth based on a prenatal exposure, regardless of whether the prenatal exposure occurred prior to fetal viability, if the Plaintiff otherwise meets the requirements of this section.

(c) In any civil action in which a court orders a defendant to pay for a plaintiff's future medical surveillance, screening tests or monitoring procedures in the absence of a present physical injury or disease, no plaintiff shall be awarded or paid any moneys to cover the cost of his or her future medical surveillance, screening

tests or monitoring procedures until such surveillance, tests or monitoring procedures have been completed. With respect to payments for such damages in the future, the court shall order that the liable defendant make periodic payments into a fund established sufficient to timely pay the cost of future medical surveillance, screening tests or monitoring procedures that are required by the judgment of the court. The court shall determine how such fund will be administered. The court shall also determine the date after which such future medical surveillance, screening tests or monitoring procedures are no longer required, and, after that date, any moneys remaining in the fund that are not needed to pay for medical surveillance, screening tests or monitoring procedures completed prior to such termination date shall be repaid to the liable defendant who paid such amounts into the fund. If there are multiple such defendants, then repayments shall be made in proportion to the total contributions of each defendant into the fund.

(d) The damage award authorized by this section is not available in a civil action brought against an employer pursuant to paragraph (B), subdivision (2), subsection (d), section two, article four, chapter twenty-three of this code.

(e) No award of punitive damages shall be made with respect to damages awarded under this section.

(f) It is a defense to the award of damages authorized in this section that the benefits of medically monitoring the exposed population are outweighed by the costs of the monitoring. In making this determination, the finder of fact may consider:

(1) The number of people likely to benefit from the monitoring in relation to the population to be monitored;

(2) Whether early diagnosis of the latent disease is likely to lead to a better treatment outcome;

(3) Whether treatment currently exists for the disease that is the subject of medical monitoring or whether the condition diagnosed is an irreversible and untreatable disease; and

(4) Whether the assets of the defendant are limited such that the available funds should be reserved to compensate those who have or subsequently develop injury.

(g) Notwithstanding any provision of this code to the contrary, the venue for any civil action brought pursuant to the provisions of this section shall lie in the county where the significant exposure allegedly occurred.”

On motion of Delegate Fast, an amendment to the amendment was adopted on page 2, section 32, line 25 following the word “disease”, by striking out the following: “no plaintiff shall be awarded or paid any moneys to cover the cost of his or her future medical surveillance, screening tests or monitoring procedures until such surveillance, tests or monitoring procedures have been completed.”

Delegate J. Kelly 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 and directed the Member to vote.

On the adoption of the amendment offered by Delegate Steele, as amended, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 561**), and there were—yeas 50, nays 49, absent and not voting 1, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barnhart, Burkhammer, Capito, Clark, Conley, Cooper, Criss, Ellington, Espinosa, Ferrell, Forsht, Foster, Gearheart, Graves, Hamrick, Hanna, Hardy, Haynes, Higginbotham, Horst, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Keaton, D. Kelly, J. Kelly, Kessinger, Kimble, Kimes, Linville, Mandt, Martin, McGeehan, L. Pack, Pinson, Pritt, Queen, Reed, Riley, Rohrbach, Rowan, Storch, Summers, B. Ward, Westfall and Hanshaw (Mr. Speaker).

Absent and Not Voting: J. Pack.

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

Whereupon,

Delegate Fast obtained unanimous consent that the remaining amendments be withdrawn.

The bill 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 38, nays 62, absent and not voting none, with the yeas being as follows:

Yeas: Boggs, Booth, Bridges, Bruce, Capito, Cooper, Ellington, Espinosa, Forsht, Foster, Griffith, Hardy, Holstein, Householder, J. Jeffries, Keaton, Kessinger, Kimes, Longanacre, Mallow, Mazzocchi, McGeehan, Miller, Phillips, Pinson, Pritt, Reed, Reynolds, Smith, Steele, Summers, Sypolt, Toney, Tully, Wamsley, G. Ward, Worrell and Zatezalo.

So, a majority of the members present not having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 569) rejected.

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

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. 3300, Relating to reducing personal income tax rates generally.

Delegate Summers moved the House concur in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“CHAPTER 11. TAXATION.**ARTICLE 13A. SEVERANCE AND BUSINESS PRIVILEGE TAX ACT.****§11-13A-3. Imposition of tax on privilege of severing coal, limestone or sandstone, or furnishing certain health care services, effective dates therefor; reduction of severance rate for coal mined by underground methods based on seam thickness.**

(a) Imposition of tax. — Upon every person exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use coal, limestone or sandstone, or in the business of furnishing certain health care services, there is hereby levied and shall be collected from every person exercising such privilege an annual privilege tax.

(b) Rate and measure of tax. —

(1) Subject to the provisions of subsection (h) of this section, the tax imposed in subsection (a) of this section is five percent of the gross value of the natural resource produced or the health care service provided, as shown by the gross income derived from the sale or furnishing thereof by the producer or the provider of the health care service, except as otherwise provided in this article: *Provided*, That effective July 1, 2019, the tax rate imposed by this subsection on the gross value of thermal or steam coal produced shall be reduced incrementally over the next three tax years for a total reduction of two percent by July 1, 2021. That on July 1, 2019, the reduction shall occur at the rate of 35 percent of the two percent reduction, on July 1, 2020, the reduction shall occur at the rate of 65 percent of the two percent reduction, and on July 1, 2021, at the rate of 100 percent of the two percent reduction. In the case of coal, the rate of tax includes the thirty-five one hundredths of one percent additional severance tax on coal imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code and the additional severance tax on coal imposed by

the state for the benefit of coal-producing counties as provided in §11-13A-6a of this code.

(2) On and after January 1, 2022, and notwithstanding any other provision of this article, or this code, the rate of tax on the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use coal, shall be imposed and paid as follows. In the case of coal, the rate of tax includes the thirty-five one hundredths of one percent additional severance tax on coal imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code and the additional severance tax on coal imposed by the state for the benefit of coal-producing counties as provided in §11-13A-6a of this code: *Provided*, That effective January 1, 2022, the thirty-five one hundredths of one percent additional severance tax levied pursuant to this section shall be deposited into the fund created pursuant to §11B-2-32 of this code.

(A) For Metallurgical Coal and Coal not elsewhere classified:

<u>When the annualized gross value of coal per ton is:</u>	<u>The rate of tax on the gross value of the coal is:</u>
<u>Less than \$65.00</u>	<u>4.0%</u>
<u>\$65.00 to \$114.99</u>	<u>5.0%</u>
<u>\$115.00 to \$134.99</u>	<u>5.5%</u>
<u>\$135.00 to \$164.99</u>	<u>6.0%</u>
<u>\$165.00 to \$199.99</u>	<u>6.5%</u>
<u>\$200 or more</u>	<u>7.0%</u>

(B) For Steam Coal:**When the annualized gross
value of coal per ton is:****The rate of tax on
the gross value
of the coal is:**

Less than \$35.00	2.0%
\$35.00 to \$59.99	3.0%
\$60.00 to \$69.99	3.5%
\$70.00 to \$84.99	4.0%
\$85.00 to \$99.99	5.0%
\$100.00 to \$119.99	6.0%
\$120.00 or more.....	7.0%

**(C) For coal mined by underground methods from seams
with an average thickness of 37 inches to 45 inches:****When the annualized gross
value of coal per ton is:****The rate of tax on
the gross value
of the coal is:**

Less than \$65.00	1.5%
\$65.00 to \$114.99	2.0%
\$115.00 to \$134.99	2.5%
\$135.00 to \$164.99	3.0%
\$165.00 to \$199.99	4.0%
\$200.00 or more	5.0%

(D) For coal mined by underground methods from seams with an average thickness of less than 37 inches:

<u>When the annualized gross value of coal per ton is:</u>	<u>The rate of tax on the gross value of the coal is:</u>
Less than \$65.00	0.75%
\$65.00 to \$114.99	1.0%
\$115.00 to \$134.99	1.5%
\$135.00 to \$164.99	2.0%
\$165.00 to \$199.99	3.0%
\$200 or more	4.0%

(c) ‘Metallurgical coal’ means bituminous coal suitable for the manufacture of coke used or useable for the manufacture of iron or steel, or both.

(d) ‘Thermal or steam coal’ defined. - For purposes of this section the term ‘thermal or steam coal’ means coal sold for the purpose of generating electricity.

~~(d)~~ (e) ‘Certain health care services’ defined. — For purposes of this section, the term ‘certain health care services’ means, and is limited to, behavioral health services.

(f) ‘Annualized gross value’ defined. – For purposes of this section, the term ‘annualized gross value’ means, and is limited to, the average price of coal for a particular category provided in subdivision (2), subsection (b) of this section for the taxable year of the taxpayer derived by dividing the gross proceeds for the particular category by the amount of tons produced within that category.

~~(e)~~ (g) Tax in addition to other taxes. — The tax imposed by this section applies to all persons severing or processing, or both severing and processing, in this state natural resources enumerated

in subsection (a) of this section and to all persons providing certain health care services in this state as enumerated in subsection (d) of this section and shall be in addition to all other taxes imposed by law.

~~(f)~~ (h) Effective date. — This section, as amended in 1993, shall apply to gross proceeds derived after May 31, 1993. The language of this section, as in effect on January 1, 1993, shall apply to gross proceeds derived prior to June 1, 1993 and, with respect to such gross proceeds, shall be fully and completely preserved.

~~(g)~~ (i) Reduction of severance tax rate. — For tax years beginning after the effective date of this subsection, any person exercising the privilege of engaging within this state in the business of severing coal for the purposes provided in subsection (a) of this section shall be allowed a reduced rate of tax on coal mined by underground methods in accordance with the following:

(1) For coal mined by underground methods from seams with an average thickness of 37 inches to 45 inches, the tax imposed in subsection (a) of this section shall be two percent of the gross value of the coal produced. For coal mined by underground methods from seams with an average thickness of less than 37 inches, the tax imposed in subsection (a) of this section shall be one percent of the gross value of the coal produced. Gross value is determined from the sale of the mined coal by the producer. This rate of tax includes the thirty-five one hundredths of one percent additional severance tax imposed by the state for the benefit of counties and municipalities as provided in §11-13A-6 of this code.

(2) This reduced rate of tax applies to any new underground mine producing coal after the effective date of this subsection, from seams of less than 45 inches in average thickness or any existing mine that has not produced coal from seams 45 inches or less in thickness in the 180 days immediately preceding the effective date of this subsection.

(3) The seam thickness shall be based on the weighted average isopach mapping of actual coal thickness by mine as certified by a professional engineer.

~~(h)~~ (j)(1) Termination and expiration of the behavioral health severance and business privilege tax. — The tax imposed upon providers of health care services under the provisions of this article shall expire, terminate and cease to be imposed with respect to privileges exercised on or after July 1, 2016. Expiration of the tax as provided in this subsection does not relieve any person from payment of any tax imposed with respect to privileges exercised before the expiration date.

(2) Refunds made. — The Tax Commissioner shall issue a requisition on the Treasury for any amount finally, administratively or judicially determined to be an overpayment of the tax terminated under this subsection. The Auditor shall issue a warrant on the Treasurer for any refund requisitioned under this subsection payable to the taxpayer entitled to the refund, and the Treasurer shall pay the warrant out of the fund into which the amount refunded was originally paid.

~~(i)~~ (k) Termination and expiration of the privilege tax on limestone or sandstone. — The taxes imposed under this section for persons exercising the privilege of engaging or continuing within this state in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use limestone or sandstone shall cease, terminate and be of no further force or effect on and after July 1, 2019. Termination of the taxes imposed under this section do not relieve any person of any liability or duty to pay tax imposed under this article with respect to privileges exercised before the effective date of the termination.

§11-13A-3a. Imposition of tax on privilege of severing natural gas or oil Tax Commissioner to develop a uniform reporting form.

(a) *Imposition of tax.* — For the privilege of engaging or continuing within this state in the business of severing natural gas or oil for sale, profit or commercial use, there is levied and shall be collected from every person exercising the privilege an annual privilege tax at the rate and measure provided in subsection (b) of this section: *Provided*, That effective for all taxable periods beginning on or after January 1, 2000, there is an exemption from

the imposition of the tax provided in this article on the following: (1) Free natural gas provided to any surface owner; (2) natural gas produced from any well which produced an average of less than 5,000 cubic feet of natural gas per day during the calendar year immediately preceding a given taxable period; (3) oil produced from any oil well which produced an average of less than one-half barrel of oil per day during the calendar year immediately preceding a given taxable period; and (4) for a maximum period of 10 years, all natural gas or oil produced from any well which has not produced marketable quantities of natural gas or oil for five consecutive years immediately preceding the year in which a well is placed back into production and thereafter produces marketable quantities of natural gas or oil.

(b) *Rate and measure of tax.* — The tax imposed in subsection (a) of this section is five percent of the gross value of the natural gas or oil produced by the producer as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article: *Provided*, That effective for taxable periods beginning on or after January 1, 2020:

(1) For all natural gas produced from any well which produced an average in excess of 60,000 cubic feet of natural gas per day during the calendar year immediately preceding a given taxable year, and for oil produced from any well which produced an average in excess of 10 barrels of oil per day, during the calendar year immediately preceding the beginning date of a given taxable year, the rate of tax is five percent of the gross value of the natural gas or oil produced as shown by the gross proceeds derived from the sale thereof by the producer: *Provided*, That beginning on and after January 1, 2022, and notwithstanding any other provision of this article or this code:

(A) All natural gas produced from any well which produced an average in excess of 60,000 cubic feet of natural gas per day, and all natural gas produced from any well utilizing horizontal drilling techniques targeting shale formations which produced an average between 5,000 cubic feet of natural gas per day and 60,000 cubic feet of natural gas per day, during the calendar year immediately preceding a given taxable year, shall be subject to the following

rate of tax on the privilege of severing natural gas for sale, profit, or commercial use on wells:

<u>When the annualized gross value of natural gas per MCF is:</u>	<u>The rate of tax on the gross value of the natural gas produced is:</u>
Less than \$0.80	4.0%
\$0.80 to \$2.99	5.0%
\$3.00 to \$4.99	6.0%
\$5.00 to \$5.99	6.5%
\$6.00 or more.....	7.0%

(B) All oil produced from any well which produced an average in excess of 10 barrels of oil per day, and all oil produced from any well utilizing horizontal drilling techniques targeting shale formations which produced an average between one-half barrel per day and 10 barrels per day, during the calendar year immediately preceding a given taxable year, shall be subject to the following rate of tax on the privilege of severing oil for sale, profit, or commercial use on wells:

<u>When the annualized gross value of oil per barrel is:</u>	<u>The rate of tax on the gross value of the oil produced is:</u>
Less than \$20.00	4.0%
\$20.00 to \$69.99	5.0%
\$70.00 to \$89.99	6.0%
\$90.00 to \$109.99	6.5%
\$110.00 or more..	7.0%

(2) For all natural gas produced from any well, excluding wells utilizing horizontal drilling techniques targeting shale formations, which produced an average between 5,000 cubic feet of natural gas per day and 60,000 cubic feet of natural gas per day during the calendar year immediately preceding the beginning date of a given taxable year, and for oil produced from any well, excluding wells utilizing horizontal drilling techniques targeting shale formations, which produced an average between one-half barrel per day and 10 barrels per day, during the calendar year immediately preceding the beginning date of a given taxable year, the rate of tax is two and five tenths percent of the gross value of the natural gas or oil produced as shown by the gross proceeds derived from the sale thereof by the producer; and

~~(3) For all natural gas produced from wells utilizing horizontal drilling techniques targeting shale formations, which produced an average between 5,000 cubic feet of natural gas per day and 60,000 cubic feet of natural gas per day during the calendar year immediately preceding the beginning date of a given taxable year, and for oil produced from wells utilizing horizontal drilling techniques targeting shale formations, which produced an average between one-half barrel per day and 10 barrels per day, during the calendar year immediately preceding the beginning date of a given taxable year, the rate of tax is five percent of the gross value of the natural gas or oil produced as shown by the gross proceeds derived from the sale thereof by the producer.~~

(c) *Tax in addition to other taxes.* — The tax imposed by this section applies to all persons severing gas or oil in this state, and is in addition to all other taxes imposed by law.

(d) For purposes of this section, in determining the average amount of production of gas and oil in any given calendar year, a taxpayer must calculate the actual production of such well in the calendar year and divide the same by the number of days the well was in operation and producing gas or oil in such calendar year.

(e) ‘Annualized gross value’ defined. – For purposes of this section, the term ‘annualized gross value’ means, and is limited to:

(1) For natural gas, the total gross proceeds for sales of natural gas in the taxable year divided by the number of MCF produced for the taxable year, taking into account all wells from which natural gas was produced.

(2) For oil, the total gross proceeds for sales of oil in the taxable year divided by the number of barrels produced for the taxable year, taking into account all wells from which oil was produced.

~~(e)~~ (f) 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.

(g) Effective January 1, 2022, the additional severance tax levied pursuant to this section over and above the current rate of the severance tax shall be deposited into the fund created pursuant to §11B-2-32 of this code. The tax commission may promulgate procedural rules to effectuate the provisions of this subsection.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-2. Definitions.

(a) *General.* — When used in this article and article fifteen-a of this chapter, words defined in subsection (b) of this section have the meanings ascribed to them in this section, except in those instances where a different meaning is provided in this article or the context in which the word is used clearly indicates that a different meaning is intended by the Legislature.

(b) *Definitions.* —

(1) ‘Business’ includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, direct or indirect, and all activities of the state and its political subdivisions which involve sales of tangible personal property or the rendering of services when those service activities compete with or may compete with the activities of other persons.

(2) ‘Communication’ means all telephone, radio, light, light wave, radio telephone, telegraph and other communication or means of communication, whether used for voice communication, computer data transmission or other encoded symbolic information transfers and includes commercial broadcast radio, commercial broadcast television and cable television.

(3) ‘Contracting’:

(A) *In general.* — ‘Contracting’ means and includes the furnishing of work, or both materials and work, for another (by a sole contractor, general contractor, prime contractor, subcontractor or construction manager) in fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or for removal or demolition of a building or structure, or any part thereof, or for the alteration, improvement or development of real property. Contracting also includes services provided by a construction manager so long as the project for which the construction manager provides the services results in a capital improvement to a building or structure or to real property.

(B) *Form of contract not controlling.* — An activity that falls within the scope of the definition of contracting constitutes contracting regardless of whether the contract governing the activity is written or verbal and regardless of whether it is in substance or form a lump sum contract, a cost-plus contract, a time and materials contract, whether or not open-ended, or any other kind of construction contract.

(C) *Special rules.* — For purposes of this definition:

(i) The term ‘structure’ includes, but is not limited to, everything built up or composed of parts joined together in some definite manner and attached or affixed to real property or which adds utility to real property or any part thereof or which adds utility to a particular parcel of property and is intended to remain there for an indefinite period of time;

(ii) The term ‘alteration’ means, and is limited to, alterations which are capital improvements to a building or structure or to real property;

(iii) The term ‘repair’ means, and is limited to, repairs which are capital improvements to a building or structure or to real property;

(iv) The term ‘decoration’ means, and is limited to, decorations which are capital improvements to a building or structure or to real property;

(v) The term ‘improvement’ means, and is limited to, improvements which are capital improvements to a building or structure or to real property;

(vi) The term ‘capital improvement’ means improvements that are affixed to or attached to and become a part of a building or structure or the real property or which add utility to real property, or any part thereof, and that last or are intended to be relatively permanent. As used herein, ‘relatively permanent’ means lasting at least a year in duration without the necessity for regularly scheduled recurring service to maintain the capital improvement. ‘Regular recurring service’ means regularly scheduled service intervals of less than one year;

(vii) Contracting does not include the furnishing of work, or both materials and work, in the nature of hookup, connection, installation or other services if the service is incidental to the retail sale of tangible personal property from the service provider’s inventory: *Provided*, That the hookup, connection or installation of the foregoing is incidental to the sale of the same and performed by the seller thereof or performed in accordance with arrangements

made by the seller thereof. Examples of transactions that are excluded from the definition of contracting pursuant to this subdivision include, but are not limited to, the sale of wall-to-wall carpeting and the installation of wall-to-wall carpeting, the sale, hookup and connection of mobile homes, window air conditioning units, dishwashers, clothing washing machines or dryers, other household appliances, drapery rods, window shades, venetian blinds, canvas awnings, free-standing industrial or commercial equipment and other similar items of tangible personal property. Repairs made to the foregoing are within the definition of contracting if the repairs involve permanently affixing to or improving real property or something attached thereto which extends the life of the real property or something affixed thereto or allows or intends to allow the real property or thing permanently attached thereto to remain in service for a year or longer; and

(viii) The term ‘construction manager’ means a person who enters into an agreement to employ, direct, coordinate or manage design professionals and contractors who are hired and paid directly by the owner or the construction manager. The business activities of a ‘construction manager’ as defined in this subdivision constitute contracting, so long as the project for which the construction manager provides the services results in a capital improvement to a building or structure or to real property.

(4) ‘Directly used or consumed’ in the activities of manufacturing, transportation, transmission, communication or the production of natural resources means used or consumed in those activities or operations which constitute an integral and essential part of the activities, as contrasted with and distinguished from those activities or operations which are simply incidental, convenient or remote to the activities.

(A) Uses of property or consumption of services which constitute direct use or consumption in the activities of manufacturing, transportation, transmission, communication or the production of natural resources include only:

(i) In the case of tangible personal property, physical incorporation of property into a finished product resulting from manufacturing production or the production of natural resources;

(ii) Causing a direct physical, chemical or other change upon property undergoing manufacturing production or production of natural resources;

(iii) Transporting or storing property undergoing transportation, communication, transmission, manufacturing production or production of natural resources;

(iv) Measuring or verifying a change in property directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(v) Physically controlling or directing the physical movement or operation of property directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(vi) Directly and physically recording the flow of property undergoing transportation, communication, transmission, manufacturing production or production of natural resources;

(vii) Producing energy for property directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(viii) Facilitating the transmission of gas, water, steam or electricity from the point of their diversion to property directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(ix) Controlling or otherwise regulating atmospheric conditions required for transportation, communication, transmission, manufacturing production or production of natural resources;

(x) Serving as an operating supply for property undergoing transmission, manufacturing production or production of natural

resources, or for property directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(xi) Maintaining or repairing of property, including maintenance equipment, directly used in transportation, communication, transmission, manufacturing production or production of natural resources;

(xii) Storing, removal or transportation of economic waste resulting from the activities of manufacturing, transportation, communication, transmission or the production of natural resources;

(xiii) Engaging in pollution control or environmental quality or protection activity directly relating to the activities of manufacturing, transportation, communication, transmission or the production of natural resources and personnel, plant, product or community safety or security activity directly relating to the activities of manufacturing, transportation, communication, transmission or the production of natural resources; or

(xiv) Otherwise using as an integral and essential part of transportation, communication, transmission, manufacturing production or production of natural resources.

(B) Uses of property or services which do not constitute direct use or consumption in the activities of manufacturing, transportation, transmission, communication or the production of natural resources include, but are not limited to:

(i) Heating and illumination of office buildings;

(ii) Janitorial or general cleaning activities;

(iii) Personal comfort of personnel;

(iv) Production planning, scheduling of work or inventory control;

(v) Marketing, general management, supervision, finance, training, accounting and administration; or

(vi) An activity or function incidental or convenient to transportation, communication, transmission, manufacturing production or production of natural resources, rather than an integral and essential part of these activities.

(5) 'Directly used or consumed' in the activities of gas storage, the generation or production or sale of electric power, the provision of a public utility service or the operation of a utility business means used or consumed in those activities or operations which constitute an integral and essential part of those activities or operation, as contrasted with and distinguished from activities or operations which are simply incidental, convenient or remote to those activities.

(A) Uses of property or consumption of services which constitute direct use or consumption in the activities of gas storage, the generation or production or sale of electric power, the provision of a public utility service or the operation of a utility business include only:

(i) Tangible personal property, custom software or services, including equipment, machinery, apparatus, supplies, fuel and power and appliances, which are used immediately in production or generation activities and equipment, machinery, supplies, tools and repair parts used to keep in operation exempt production or generation devices. For purposes of this subsection, production or generation activities shall commence from the intake, receipt or storage of raw materials at the production plant site;

(ii) Tangible personal property, custom software or services, including equipment, machinery, apparatus, supplies, fuel and power, appliances, pipes, wires and mains, which are used immediately in the transmission or distribution of gas, water and electricity to the public, and equipment, machinery, tools, repair parts and supplies used to keep in operation exempt transmission or distribution devices, and these vehicles and their equipment as are specifically designed and equipped for those purposes are

exempt from the tax when used to keep a transmission or distribution system in operation or repair. For purposes of this subsection, transmission or distribution activities shall commence from the close of production at a production plant or wellhead when a product is ready for transmission or distribution to the public and shall conclude at the point where the product is received by the public;

(iii) Tangible personal property, custom software or services, including equipment, machinery, apparatus, supplies, fuel and power, appliances, pipes, wires and mains, which are used immediately in the storage of gas or water, and equipment, machinery, tools, supplies and repair parts used to keep in operation exempt storage devices;

(iv) Tangible personal property, custom software or services used immediately in the storage, removal or transportation of economic waste resulting from the activities of gas storage, the generation or production or sale of electric power, the provision of a public utility service or the operation of a utility business;

(v) Tangible personal property, custom software or services used immediately in pollution control or environmental quality or protection activity or community safety or security directly relating to the activities of gas storage, generation or production or sale of electric power, the provision of a public utility service or the operation of a utility business.

(B) Uses of property or services which would not constitute direct use or consumption in the activities of gas storage, generation or production or sale of electric power, the provision of a public utility service or the operation of a utility business include, but are not limited to:

- (i) Heating and illumination of office buildings;
- (ii) Janitorial or general cleaning activities;
- (iii) Personal comfort of personnel;

(iv) Production planning, scheduling of work or inventory control;

(v) Marketing, general management, supervision, finance, training, accounting and administration; or

(vi) An activity or function incidental or convenient to the activities of gas storage, generation or production or sale of electric power, the provision of public utility service or the operation of a utility business.

(6) 'Gas storage' means the injection of gas into a storage reservoir or the storage of gas for any period of time in a storage reservoir or the withdrawal of gas from a storage reservoir engaged in by businesses subject to the business and occupation tax imposed by sections two and two-e, article thirteen of this chapter.

(7) 'Generating or producing or selling of electric power' means the generation, production or sale of electric power engaged in by businesses subject to the business and occupation tax imposed by section two, two-d, two-m or two-n, article thirteen of this chapter.

(8) 'Gross proceeds' means the amount received in money, credits, property or other consideration from sales and services within this state, without deduction on account of the cost of property sold, amounts paid for interest or discounts or other expenses whatsoever. Losses may not be deducted, but any credit or refund made for goods returned may be deducted.

(9) 'Includes' and 'including', when used in a definition contained in this article, does not exclude other things otherwise within the meaning of the term being defined.

(10) 'Manufacturing' means a systematic operation or integrated series of systematic operations engaged in as a business or segment of a business which transforms or converts tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed.

(11) ‘Person’ means any individual, partnership, association, corporation, limited liability company, limited liability partnership or any other legal entity, including this state or its political subdivisions or an agency of either, or the guardian, trustee, committee, executor or administrator of any person.

(12) ‘Personal service’ includes those: (A) Compensated by the payment of wages in the ordinary course of employment; and (B) rendered to the person of an individual without, at the same time, selling tangible personal property, such as nursing, barbering, shoe shining, manicuring and similar services.

(13) ‘Prepaid wireless calling service’ means a telecommunications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, ~~including the download of digital products delivered electronically,~~ content and ancillary services, which must be paid for in advance that is sold in predetermined units or dollars of which the number decline with use in a known amount: Provided, That, effective January 1, 2022, notwithstanding any provision of this code to the contrary, the download of all digital products delivered electronically shall be taxable.

(14) Production of natural resources.

(A) ‘Production of natural resources’ means, except for oil and gas, the performance, by either the owner of the natural resources or another, of the act or process of exploring, developing, severing, extracting, reducing to possession and loading for shipment and shipment for sale, profit or commercial use of any natural resource products and any reclamation, waste disposal or environmental activities associated therewith and the construction, installation or fabrication of ventilation structures, mine shafts, slopes, boreholes, dewatering structures, including associated facilities and apparatus, by the producer or others, including contractors and subcontractors, at a coal mine or coal production facility.

(B) For the natural resources oil and gas, ‘production of natural resources’ means the performance, by either the owner of the natural resources, a contractor or a subcontractor, of the act or

process of exploring, developing, drilling, well-stimulation activities such as logging, perforating or fracturing, well-completion activities such as the installation of the casing, tubing and other machinery and equipment and any reclamation, waste disposal or environmental activities associated therewith, including the installation of the gathering system or other pipeline to transport the oil and gas produced or environmental activities associated therewith and any service work performed on the well or well site after production of the well has initially commenced.

(C) All work performed to install or maintain facilities up to the point of sale for severance tax purposes is included in the 'production of natural resources' and subject to the direct use concept.

(D) 'Production of natural resources' does not include the performance or furnishing of work, or materials or work, in fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or for the alteration, improvement or development of real property, by persons other than those otherwise directly engaged in the activities specifically set forth in this subdivision as 'production of natural resources'.

(15) 'Providing a public service or the operating of a utility business' means the providing of a public service or the operating of a utility by businesses subject to the business and occupation tax imposed by sections two and two-d, article thirteen of this chapter.

(16) 'Purchaser' means a person who purchases tangible personal property, custom software or a service taxed by this article.

(17) 'Sale', 'sales' or 'selling' includes any transfer of the possession or ownership of tangible personal property or custom software for a consideration, including a lease or rental, when the transfer or delivery is made in the ordinary course of the transferor's business and is made to the transferee or his or her agent for consumption or use or any other purpose. 'Sale' also includes the furnishing of a service for consideration.

Notwithstanding anything to the contrary in this code, effective after June 30, 2008, 'sale' also includes the furnishing of prepaid wireless calling service for consideration.

(18) 'Service' or 'selected service' includes all nonprofessional activities engaged in for other persons for a consideration, which involve the rendering of a service as distinguished from the sale of tangible personal property or custom software, but does not include contracting, personal services or the services rendered by an employee to his or her employer or any service rendered for resale: *Provided*, That the term 'service' or 'selected service' does not include payments received by a vendor of tangible personal property as an incentive to sell a greater volume of such tangible personal property under a manufacturer's, distributor's or other third party's marketing support program, sales incentive program, cooperative advertising agreement or similar type of program or agreement, and these payments are not considered to be payments for a 'service' or 'selected service' rendered, even though the vendor may engage in attendant or ancillary activities associated with the sales of tangible personal property as required under the programs or agreements.

(19) 'Streamlined Sales and Use Tax Agreement' or 'agreement', when used in this article, has the same meaning as when used in article fifteen-b of this chapter, except when the context in which the word 'agreement' is used clearly indicates that a different meaning is intended by the Legislature.

(20) 'Tax' includes all taxes, additions to tax, interest and penalties levied under this article or article ten of this chapter.

(21) 'Tax Commissioner' means the State Tax Commissioner or his or her delegate. The term 'delegate' in the phrase 'or his or her delegate', when used in reference to the Tax Commissioner, means any officer or employee of the state Tax ~~Division~~ Department duly authorized by the Tax Commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article or rules promulgated for this article.

(22) ‘Taxpayer’ means any person liable for the tax imposed by this article or additions to tax, penalties and interest imposed by article ten of this chapter.

(23) ‘Transmission’ means the act or process of causing liquid, natural gas or electricity to pass or be conveyed from one place or geographical location to another place or geographical location through a pipeline or other medium for commercial purposes.

(24) ‘Transportation’ means the act or process of conveying, as a commercial enterprise, passengers or goods from one place or geographical location to another place or geographical location.

(25) ‘Ultimate consumer’ or ‘consumer’ means a person who uses or consumes services or personal property.

(26) ‘Vendor’ means any person engaged in this state in furnishing services taxed by this article or making sales of tangible personal property or custom software. ‘Vendor’ and ‘seller’ are used interchangeably in this article.

(c) *Additional definitions.* — Other terms used in this article are defined in article fifteen-b of this chapter, which definitions are incorporated by reference into article fifteen of this chapter. Additionally, other sections of this article may define terms primarily used in the section in which the term is defined.

§11-15-3. Amount of tax; allocation of tax and transfers.

(a) *Vendor to collect.* — For the privilege of selling tangible personal property or custom software and for the privilege of furnishing certain selected services defined in sections two and eight of this article, the vendor shall collect from the purchaser the tax as provided under this article and article fifteen-b of this chapter, and shall pay the amount of tax to the Tax Commissioner in accordance with the provisions of this article or article fifteen-b of this chapter.

(b) *Amount of tax.* — The general consumer sales and service tax imposed by this article shall be at the rate of 6¢ on the dollar of

sales or services, excluding gasoline and special fuel sales, which remain taxable at the rate of 5¢ on the dollar of sales.

(c) *Calculation tax on fractional parts of a dollar until January 1, 2004.* — There shall be no tax on sales where the monetary consideration is 5¢ or less. The amount of the tax shall be computed as follows:

(1) On each sale, where the monetary consideration is from 6¢ to 16¢, both inclusive, 1¢.

(2) On each sale, where the monetary consideration is from 17¢ to 33¢, both inclusive, 2¢.

(3) On each sale, where the monetary consideration is from 34¢ to 50¢, both inclusive, 3¢.

(4) On each sale, where the monetary consideration is from 51¢ to 67¢, both inclusive, 4¢.

(5) On each sale, where the monetary consideration is from 68¢ to 84¢, both inclusive, 5¢.

(6) On each sale, where the monetary consideration is from 85¢ to \$1, both inclusive, 6¢.

(7) If the sale price is in excess of \$1, 6¢ on each whole dollar of sale price, and upon any fractional part of a dollar in excess of whole dollars as follows: 1¢ on the fractional part of the dollar if less than 17¢; 2¢ on the fractional part of the dollar if in excess of 16¢ but less than 34¢; 3¢ on the fractional part of the dollar if in excess of 33¢ but less than 51¢; 4¢ on the fractional part of the dollar if in excess of 50¢ but less than 68¢; 5¢ on the fractional part of the dollar if in excess of 67¢ but less than 85¢; and 6¢ on the fractional part of the dollar if in excess of 84¢. For example, the tax on sales from \$1.01 to \$1.16, both inclusive, 7¢; on sales from \$1.17 to \$1.33, both inclusive, 8¢; on sales from \$1.34 to \$1.50, both inclusive, 9¢; on sales from \$1.51 to \$1.67, both inclusive, 10¢; on sales from \$1.68 to \$1.84, both inclusive, 11¢ and on sales from \$1.85 to \$2, both inclusive, 12¢: *Provided*, That beginning January 1, 2004, tax due under this article shall be calculated as

provided in subsection (d) of this subsection and this subsection (c) does not apply to sales made after December 31, 2003.

(d) *Calculation of tax on fractional parts of a dollar after December 31, 2003.* — Beginning January 1, 2004, the tax computation under subsection (b) of this section shall be carried to the third decimal place, and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(e) *No aggregation of separate sales transactions, exception for coin-operated devices.* — Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of computation of the tax even though the sales are aggregated in the billing or payment therefor. Notwithstanding any other provision of this article, coin-operated amusement and vending machine sales shall be aggregated for the purpose of computation of this tax.

(f) *Rate of tax on certain mobile homes.* — Notwithstanding any provision of this article to the contrary, after December 31, 2003, the tax levied on sales of mobile homes to be used by the owner thereof as his or her principal year-round residence and dwelling shall be an amount equal to six percent of fifty percent of the sales price.

(g) *Construction; custom software.* — After December 31, 2003, whenever the words ‘tangible personal property’ or ‘property’ appear in this article, the same shall also include the words ‘custom software’.

(h) *Computation of tax on sales of gasoline and special fuel.* — The method of computation of tax provided in this section does not apply to sales of gasoline and special fuel.

(i) *Calculation of tax after January 1, 2022 - After January 1, 2022, the general consumer sales and service tax imposed by this*

article shall be at the rate of 8¢ on the dollar of sales or services, excluding gasoline and special fuel sales.

§11-15-3b. Exceptions to reduced rate of tax on food and food ingredients intended for human consumption; increased rate of taxation after January 1, 2022.

The reduced rate of tax provided on food and food ingredients intended for human consumption provided in section three-a of this article shall not apply to sales, purchases and uses by consumers of 'prepared food', as defined in ~~article fifteen b of this chapter §11-15b-1 et seq. of this code~~, which shall remain taxable at the general rate of tax specified in ~~section three of this article and section two, article fifteen a of this chapter §11-15-3 and §11-15b-2 of this code~~: *Provided*, That after June 30, 2007, the reduced rate of tax provided in ~~section three a of this article §11-15-3-a of this code~~ shall not apply to sales, purchases and uses by consumers of 'prepared food', 'food sold through vending machines' and 'soft drinks' as defined in ~~article fifteen b of this chapter §11-15b-1 et seq. of this code~~, which shall be taxed at the general rate of tax specified in ~~section three of this article and section two, article fifteen a of this chapter §11-15-3 and §11-15b-2 of this code~~: *Provided, however*, That effective January 1, 2022, the rate of tax specified in §11-15-3 and §11-15b-2 of this code shall not apply to sales, purchases and uses by consumers of 'prepared food', 'food sold through vending machines' and 'soft drinks' as defined §11-15b-1 et seq. of this code, those sales, purchases and uses by consumers shall be taxed at the rate of 8¢ per dollar.

§11-15-8. Furnishing of services included; exceptions.

(a) The provisions of this article apply not only to selling tangible personal property and custom software, but also to the furnishing of all services, except professional and personal services except as otherwise provided in this article, and except those services furnished by businesses subject to the control of the Public Service Commission when the service or the manner in which it is delivered is subject to regulation by the Public Service Commission.

(b) Notwithstanding any provision of this code to the contrary, on and after January 1, 2022, the sales of professional accounting services, sales of professional legal services, sales of professional engineering services, and sales of professional architect services shall be subject to a three percent excise tax: *Provided*, That notwithstanding any provision of this code to the contrary, any amount over \$1000 derived through the performance of legal services provided on a contingency fee basis that result in a legal settlement shall have an excise tax imposed on it at the rate of 8 percent of the amount derived.

(c) The proceeds from the additional tax on legal services provided on a contingency basis shall be deposited in the Stabilization and Future Economic Reform Fund as set forth in §11B-2-32 of this code.

§11-15-9. Exemptions.

(a) *Exemptions for which exemption certificate may be issued.*

— A person having a right or claim to any exemption set forth in this subsection may, in lieu of paying the tax imposed by this article and filing a claim for refund, execute a certificate of exemption, in the form required by the Tax Commissioner, and deliver it to the vendor of the property or service in the manner required by the Tax Commissioner. However, the Tax Commissioner may, by rule, specify those exemptions authorized in this subsection for which exemption certificates are not required. The following sales of tangible personal property and services are exempt as provided in this subsection:

(1) Sales of gas, steam, and water delivered to consumers through mains or pipes and sales of electricity;

(2) Sales of textbooks required to be used in any of the schools of this state or in any institution in this state which qualifies as a nonprofit or educational institution subject to the West Virginia Department of Education and the Arts, the Higher Education Policy Commission, or the Council for Community and Technical College Education for universities and colleges located in this state;

(3) Sales of property or services to this state, its institutions or subdivisions, governmental units, institutions, or subdivisions of other states: *Provided*, That the law of the other state provides the same exemption to governmental units or subdivisions of this state and to the United States, including agencies of federal, state, or local governments for distribution in public welfare or relief work;

(4) Sales of vehicles which are titled by the Division of Motor Vehicles and which are subject to the tax imposed by §11-15-3c of this code or like tax;

(5) Sales of property or services to churches which make no charge whatsoever for the services they render: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, food for meals, and materials directly used or consumed by these organizations and does not apply to purchases of gasoline or special fuel;

(6) Sales of tangible personal property or services to a corporation or organization which has a current registration certificate issued under §11-12-1 *et seq.* of this code, which is exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, and which is:

(A) A church or a convention or association of churches as defined in Section 170 of the Internal Revenue Code of 1986, as amended;

(B) An elementary or secondary school which maintains a regular faculty and curriculum and has a regularly enrolled body of pupils or students in attendance at the place in this state where its educational activities are regularly carried on;

(C) A corporation or organization which annually receives more than one half of its support from any combination of gifts, grants, direct or indirect charitable contributions, or membership fees;

(D) An organization which has no paid employees and its gross income from fundraisers, less reasonable and necessary expenses incurred to raise the gross income (or the tangible personal property

or services purchased with the net income), is donated to an organization which is exempt from income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended;

(E) A youth organization, such as the Girl Scouts of the United States of America, the Boy Scouts of America, or the YMCA Indian Guide/Princess Program and the local affiliates thereof, which is organized and operated exclusively for charitable purposes and has as its primary purpose the nonsectarian character development and citizenship training of its members;

(F) For purposes of this subsection:

(i) The term ‘support’ includes, but is not limited to:

(I) Gifts, grants, contributions, or membership fees;

(II) Gross receipts from fundraisers which include receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities in any activity which is not an unrelated trade or business within the meaning of Section 513 of the Internal Revenue Code of 1986, as amended;

(III) Net income from unrelated business activities, whether or not the activities are carried on regularly as a trade or business;

(IV) Gross investment income as defined in Section 509(e) of the Internal Revenue Code of 1986, as amended;

(V) Tax revenues levied for the benefit of a corporation or organization either paid to or expended on behalf of the organization; and

(VI) The value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in Section 170(c)(1) of the Internal Revenue Code of 1986, as amended, to an organization without charge. This term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset or

the value of an exemption from any federal, state, or local tax or any similar benefit;

(ii) The term ‘charitable contribution’ means a contribution or gift to or for the use of a corporation or organization, described in Section 170(c)(2) of the Internal Revenue Code of 1986, as amended; and

(iii) The term ‘membership fee’ does not include any amounts paid for tangible personal property or specific services rendered to members by the corporation or organization;

(G) The exemption allowed by this subdivision does not apply to sales of gasoline or special fuel or to sales of tangible personal property or services to be used or consumed in the generation of unrelated business income as defined in Section 513 of the Internal Revenue Code of 1986, as amended. The exemption granted in this subdivision applies only to services, equipment, supplies, and materials used or consumed in the activities for which the organizations qualify as tax-exempt organizations under the Internal Revenue Code and does not apply to purchases of gasoline or special fuel which are taxable as provided in §11-14C-1 *et seq.* of this code;

(7) An isolated transaction in which any taxable service or any tangible personal property is sold, transferred, offered for sale, or delivered by the owner of the property or by his or her representative for the owner’s account, the sale, transfer, offer for sale, or delivery not being made in the ordinary course of repeated and successive transactions of like character by the owner or on his or her account by the representative: *Provided*, That nothing contained in this subdivision may be construed to prevent an owner who sells, transfers, or offers for sale tangible personal property in an isolated transaction through an auctioneer from availing himself or herself of the exemption provided in this subdivision, regardless of where the isolated sale takes place. The Tax Commissioner may propose a legislative rule for promulgation pursuant to §29A-3-1 *et seq.* of this code which he or she considers necessary for the efficient administration of this exemption;

(8) Sales of tangible personal property or of any taxable services rendered for use or consumption in connection with the commercial production of an agricultural product the ultimate sale of which is subject to the tax imposed by this article or which would have been subject to tax under this article: *Provided*, That sales of tangible personal property and services to be used or consumed in the construction of or permanent improvement to real property and sales of gasoline and special fuel are not exempt: *Provided, however*, That nails and fencing may not be considered as improvements to real property;

(9) Sales of tangible personal property to a person for the purpose of resale in the form of tangible personal property: *Provided*, That sales of gasoline and special fuel by distributors and importers is taxable except when the sale is to another distributor for resale: *Provided, however*, That sales of building materials or building supplies or other property to any person engaging in the activity of contracting, as defined in this article, which is to be installed in, affixed to or incorporated by that person or his or her agent into any real property, building, or structure is not exempt under this subdivision;

(10) Sales of newspapers when delivered to consumers by route carriers;

(11) Sales of drugs, durable medical goods, mobility-enhancing equipment and prosthetic devices dispensed upon prescription and sales of insulin to consumers for medical purposes;

~~(12) Sales of radio and television broadcasting time, preprinted advertising circulars and newspaper, and outdoor advertising space for the advertisement of goods or services;~~

~~(13)~~ (12) Sales and services performed by day care centers;

~~(14)~~ (13) Casual and occasional sales of property or services not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of like character by a corporation or organization which is exempt from tax under

subdivision (6) of this subsection on its purchases of tangible personal property or services. For purposes of this subdivision, the term 'casual and occasional sales not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of like character' means sales of tangible personal property or services at fundraisers sponsored by a corporation or organization which is exempt, under subdivision (6) of this subsection, from payment of the tax imposed by this article on its purchases when the fundraisers are of limited duration and are held no more than six times during any 12-month period and 'limited duration' means no more than 84 consecutive hours: *Provided*, That sales for volunteer fire departments and volunteer school support groups, with duration of events being no more than 84 consecutive hours at a time, which are held no more than 18 times in a 12-month period for the purposes of this subdivision are considered 'casual and occasional sales not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of a like character';

~~(15)~~ (14) Sales of property or services to a school which has approval from the Higher Education Policy Commission or the Council for Community and Technical College Education to award degrees, which has its principal campus in this state and which is exempt from federal and state income taxes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended: *Provided*, That sales of gasoline and special fuel are taxable as provided in §11-15-18, §11-15-18b, and §11-14C-1 *et seq.* of this code;

~~(16)~~ (15) Sales of lottery tickets and materials by licensed lottery sales agents and lottery retailers authorized by the State Lottery Commission, under the provisions of §29-22-1 *et seq.* of this code;

~~(17)~~ (16) Leases of motor vehicles titled pursuant to the provisions of §17A-3-1 *et seq.* of this code to lessees for a period of 30 or more consecutive days;

~~(18)~~ (17) Notwithstanding the provisions of §11-15-18 or §11-15-18b of this code or any other provision of this article to the

contrary, sales of propane to consumers for poultry house heating purposes, with any seller to the consumer who may have prior paid the tax in his or her price, to not pass on the same to the consumer, but to make application and receive refund of the tax from the Tax Commissioner pursuant to rules which are promulgated after being proposed for legislative approval in accordance with chapter 29A of this code by the Tax Commissioner;

~~(19)~~ (18) Any sales of tangible personal property or services purchased and lawfully paid for with food stamps pursuant to the federal food stamp program codified in 7 U. S. C. §2011, *et seq.*, as amended, or with drafts issued through the West Virginia special supplement food program for women, infants, and children codified in 42 U. S. C. §1786;

~~(20)~~ (19) Sales of tickets for activities sponsored by elementary and secondary schools located within this state;

~~(21) Sales of electronic data processing services and related software: *Provided, That, for the purposes of this subdivision, 'electronic data processing services' means:*~~

~~(A) The processing of another's data, including all processes incident to processing of data such as keypunching, keystroke verification, rearranging, or sorting of previously documented data for the purpose of data entry or automatic processing and changing the medium on which data is sorted, whether these processes are done by the same person or several persons; and~~

~~(B) Providing access to computer equipment for the purpose of processing data or examining or acquiring data stored in or accessible to the computer equipment;~~

(22) (20) Tuition charged for attending educational summer camps;

(23) (21) Dispensing of services performed by one corporation, partnership, or limited liability company for another corporation, partnership, or limited liability company when the entities are members of the same controlled group or are related taxpayers as defined in Section 267 of the Internal Revenue Code. 'Control'

means ownership, directly or indirectly, of stock, equity interests, or membership interests possessing 50 percent or more of the total combined voting power of all classes of the stock of a corporation, equity interests of a partnership or membership interests of a limited liability company entitled to vote or ownership, directly or indirectly, of stock, equity interests or membership interests possessing 50 percent or more of the value of the corporation, partnership, or limited liability company;

~~(24)~~ (22) Food for the following are exempt:

(A) Food purchased or sold by a public or private school, school-sponsored student organizations, or school-sponsored parent-teacher associations to students enrolled in the school or to employees of the school during normal school hours; but not those sales of food made to the general public;

(B) Food purchased or sold by a public or private college or university or by a student organization officially recognized by the college or university to students enrolled at the college or university when the sales are made on a contract basis so that a fixed price is paid for consumption of food products for a specific period of time without respect to the amount of food product actually consumed by the particular individual contracting for the sale and no money is paid at the time the food product is served or consumed;

(C) Food purchased or sold by a charitable or private nonprofit organization, a nonprofit organization, or a governmental agency under a program to provide food to low-income persons at or below cost;

(D) Food sold by a charitable or private nonprofit organization, a nonprofit organization, or a governmental agency under a program operating in West Virginia for a minimum of five years to provide food at or below cost to individuals who perform a minimum of two hours of community service for each unit of food purchased from the organization;

(E) Food sold in an occasional sale by a charitable or nonprofit organization, including volunteer fire departments and rescue squads, if the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is actually expended for that purpose;

(F) Food sold by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose in selling the food is to obtain revenue for the functions and activities of the organization and the revenue obtained from selling the food is actually used in carrying out those functions and activities: *Provided*, That purchases made by the organizations are not exempt as a purchase for resale; or

(G) Food sold by volunteer fire departments and rescue squads that are exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, when the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is exempt from federal income tax and actually expended for that purpose;

~~(25)~~ (23) Sales of food by little leagues, midget football leagues, youth football or soccer leagues, band boosters, or other school, or athletic booster organizations supporting activities for grades kindergarten through 12 and similar types of organizations, including scouting groups and church youth groups, if the purpose in selling the food is to obtain revenue for the functions and activities of the organization and the revenues obtained from selling the food is actually used in supporting or carrying on functions and activities of the groups: *Provided*, That the purchases made by the organizations are not exempt as a purchase for resale;

~~(26)~~ (24) Charges for room and meals by fraternities and sororities to their members: *Provided*, That the purchases made by a fraternity or sorority are not exempt as a purchase for resale;

~~(27)~~ (25) Sales of or charges for the transportation of passengers in interstate commerce;

~~(28)~~ (26) Sales of tangible personal property or services to any person which this state is prohibited from taxing under the laws of the United States or under the Constitution of this state;

~~(29)~~ (27) Sales of tangible personal property or services to any person who claims exemption from the tax imposed by this article or §11-15A-1 *et seq.* of this code, or pursuant to the provision of any other chapter of this code;

~~(30)~~ (28) Charges for the services of opening and closing a burial lot;

~~(31)~~ (29) Sales of livestock, poultry, or other farm products in their original state by the producer of the livestock, poultry, or other farm products or a member of the producer's immediate family who is not otherwise engaged in making retail sales of tangible personal property; and sales of livestock sold at public sales sponsored by breeders or registry associations or livestock auction markets: *Provided*, That the exemptions allowed by this subdivision may be claimed without presenting or obtaining exemption certificates provided the farmer maintains adequate records;

~~(32)~~ (30) Sales of motion picture films to motion picture exhibitors for exhibition if the sale of tickets or the charge for admission to the exhibition of the film is subject to the tax imposed by this article and sales of coin-operated video arcade machines or video arcade games to a person engaged in the business of providing the machines to the public for a charge upon which the tax imposed by this article is remitted to the Tax Commissioner: *Provided*, That the exemption provided in this subdivision may be claimed by presenting to the seller a properly executed exemption certificate;

~~(33)~~ (31) Sales of aircraft repair, remodeling, and maintenance services when the services are to an aircraft operated by a certified or licensed carrier of persons or property, or by a governmental entity, or to an engine or other component part of an aircraft operated by a certificated or licensed carrier of persons or property, or by a governmental entity and sales of tangible personal property

that is permanently affixed or permanently attached as a component part of an aircraft owned or operated by a certificated or licensed carrier of persons or property, or by a governmental entity, as part of the repair, remodeling, or maintenance service and sales of machinery, tools, or equipment directly used or consumed exclusively in the repair, remodeling, or maintenance of aircraft, aircraft engines, or aircraft component parts for a certificated or licensed carrier of persons or property or for a governmental entity;

~~(34) Charges for memberships or services provided by health and fitness organizations relating to personalized fitness programs;~~

~~(35)~~ (32) Sales of services by individuals who babysit for a profit: *Provided*, That the gross receipts of the individual from the performance of baby-sitting services do not exceed \$5,000 in a taxable year;

~~(36)~~ (33) Sales of services by public libraries or by libraries at academic institutions or by libraries at institutions of higher learning;

~~(37)~~ (34) Commissions received by a manufacturer's representative;

~~(38)~~ (35) Sales of primary opinion research services when:

(A) The services are provided to an out-of-state client;

(B) The results of the service activities, including, but not limited to, reports, lists of focus group recruits and compilation of data are transferred to the client across state lines by mail, wire, or other means of interstate commerce, for use by the client outside the state of West Virginia; and

(C) The transfer of the results of the service activities is an indispensable part of the overall service.

For the purpose of this subdivision, the term 'primary opinion research' means original research in the form of telephone surveys, mall intercept surveys, focus group research, direct mail surveys,

personal interviews, and other data collection methods commonly used for quantitative and qualitative opinion research studies;

~~(39)~~ (36) Sales of property or services to persons within the state when those sales are for the purposes of the production of value-added products: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, and materials directly used or consumed by those persons engaged solely in the production of value-added products: *Provided, however*, That this exemption may not be claimed by any one purchaser for more than five consecutive years, except as otherwise permitted in this section.

For the purpose of this subdivision, the term ‘value-added product’ means the following products derived from processing a raw agricultural product, whether for human consumption or for other use. For purposes of this subdivision, the following enterprises qualify as processing raw agricultural products into value-added products: Those engaged in the conversion of:

(A) Lumber into furniture, toys, collectibles, and home furnishings;

(B) Fruits into wine;

(C) Honey into wine;

(D) Wool into fabric;

(E) Raw hides into semi-finished or finished leather products;

(F) Milk into cheese;

(G) Fruits or vegetables into a dried, canned, or frozen product;

(H) Feeder cattle into commonly accepted slaughter weights;

(I) Aquatic animals into a dried, canned, cooked, or frozen product; and

(J) Poultry into a dried, canned, cooked, or frozen product;

~~(40)~~ (37) Sales of music instructional services by a music teacher and artistic services or artistic performances of an entertainer or performing artist pursuant to a contract with the owner or operator of a retail establishment, restaurant, inn, bar, tavern, sports or other entertainment facility, or any other business location in this state in which the public or a limited portion of the public may assemble to hear or see musical works or other artistic works be performed for the enjoyment of the members of the public there assembled when the amount paid by the owner or operator for the artistic service or artistic performance does not exceed \$3,000: *Provided*, That nothing contained herein may be construed to deprive private social gatherings, weddings, or other private parties from asserting the exemption set forth in this subdivision. For the purposes of this exemption, artistic performance or artistic service means and is limited to the conscious use of creative power, imagination, and skill in the creation of aesthetic experience for an audience present and in attendance and includes, and is limited to, stage plays, musical performances, poetry recitations and other readings, dance presentation, circuses and similar presentations, and does not include the showing of any film or moving picture, gallery presentations of sculptural or pictorial art, nude or strip show presentations, video games, video arcades, carnival rides, radio or television shows, or any video or audio taped presentations, or the sale or leasing of video or audio tapes, air shows, or any other public meeting, display or show other than those specified herein: *Provided, however*, That nothing contained herein may be construed to exempt the sales of tickets from the tax imposed in this article. The State Tax Commissioner shall propose a legislative rule pursuant to §29A-3-1 *et seq.* of this code establishing definitions and eligibility criteria for asserting this exemption which is not inconsistent with the provisions set forth herein: *Provided further*, That nude dancers or strippers may not be considered as entertainers for the purposes of this exemption;

~~(41)~~ (38) Charges to a member by a membership association or organization which is exempt from paying federal income taxes under Section 501(c)(3) or (c)(6) of the Internal Revenue Code of 1986, as amended, for membership in the association or organization, including charges to members for newsletters

prepared by the association or organization for distribution primarily to its members, charges to members for continuing education seminars, workshops, conventions, lectures, or courses put on or sponsored by the association or organization, including charges for related course materials prepared by the association or organization or by the speaker or speakers for use during the continuing education seminar, workshop, convention, lecture, or course, but not including any separate charge or separately stated charge for meals, lodging, entertainment, or transportation taxable under this article: *Provided*, That the association or organization pays the tax imposed by this article on its purchases of meals, lodging, entertainment, or transportation taxable under this article for which a separate or separately stated charge is not made. A membership association or organization which is exempt from paying federal income taxes under Section 501(c)(3) or (c)(6) of the Internal Revenue Code of 1986, as amended, may elect to pay the tax imposed under this article on the purchases for which a separate charge or separately stated charge could apply and not charge its members the tax imposed by this article or the association or organization may avail itself of the exemption set forth in subdivision (9) of this subsection relating to purchases of tangible personal property for resale and then collect the tax imposed by this article on those items from its member;

~~(42)~~ (39) Sales of governmental services or governmental materials by county assessors, county sheriffs, county clerks, or circuit clerks in the normal course of local government operations;

~~(43)~~ (40) Direct or subscription sales by the Division of Natural Resources of the magazine currently entitled Wonderful West Virginia and by the Division of Culture and History of the magazine currently entitled Goldenseal and the journal currently entitled West Virginia History;

~~(44)~~ (41) Sales of soap to be used at car wash facilities;

~~(45)~~ (42) Commissions received by a travel agency from an out-of-state vendor;

~~(46)~~ (43) The service of providing technical evaluations for compliance with federal and state environmental standards provided by environmental and industrial consultants who have formal certification through the West Virginia Department of Environmental Protection or the West Virginia Bureau for Public Health, or both. For purposes of this exemption, the service of providing technical evaluations for compliance with federal and state environmental standards includes those costs of tangible personal property directly used in providing such services that are separately billed to the purchaser of such services and on which the tax imposed by this article has previously been paid by the service provider;

~~(47)~~ (44) Sales of tangible personal property and services by volunteer fire departments and rescue squads that are exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, if the sole purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is exempt from federal income tax and actually expended for that purpose;

~~(48)~~ (45) Lodging franchise fees, including royalties, marketing fees, reservation system fees, or other fees assessed that have been or may be imposed by a lodging franchiser as a condition of the franchise agreement;

~~(49)~~ (46) Sales of the regulation size United States flag and the regulation size West Virginia flag for display; and

~~(50)~~ (47) Sales of an aircraft sold in this state on or after July 1, 2020, as evidenced by a Federal Aviation Administration Bill of Sale AC Form 8050-2 and registered outside of this state as evidenced by Federal Aviation Administration Aircraft Registration AC Form 8050-1 shall be exempt, so long as the aircraft is removed from this state within 60 days of the date of purchase on the bill of sale. The time between the date of purchase and the removal of the aircraft shall not be counted for purposes of determining whether the aircraft is subject to use tax.

(b) *Refundable exemptions.* — Any person having a right or claim to any exemption set forth in this subsection shall first pay to the vendor the tax imposed by this article and then apply to the Tax Commissioner for a refund or credit, or as provided in §11-15-9d of this code give to the vendor his or her West Virginia direct pay permit number. The following sales of tangible personal property and services are exempt from tax as provided in this subsection:

(1) Sales of property or services to bona fide charitable organizations who make no charge whatsoever for the services they render: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, food, meals, and materials directly used or consumed by these organizations and does not apply to purchases of gasoline or special fuel;

(2) Sales of services, machinery, supplies, and materials directly used or consumed in the activities of manufacturing, transportation, transmission, communication, production of natural resources, gas storage, generation, or production or selling electric power, provision of a public utility service or the operation of a utility service or the operation of a utility business, in the businesses or organizations named in this subdivision and does not apply to purchases of gasoline or special fuel;

(3) Sales of property or services to nationally chartered fraternal or social organizations for the sole purpose of free distribution in public welfare or relief work: *Provided*, That sales of gasoline and special fuel are taxable;

(4) Sales and services, firefighting or station house equipment, including construction and automotive, made to any volunteer fire department organized and incorporated under the laws of the State of West Virginia: *Provided*, That sales of gasoline and special fuel are taxable; and

(5) Sales of building materials or building supplies or other property to an organization qualified under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, which are to be installed in, affixed to, or incorporated by, the organization or its agent into real property or into a building or

structure which is or will be used as permanent low-income housing, transitional housing, an emergency homeless shelter, a domestic violence shelter, or an emergency children and youth shelter if the shelter is owned, managed, developed, or operated by an organization qualified under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended.

(c) *Effective date.* – The amendments to this section in 2018 shall take effect beginning July 1, 2018, and apply to former sales made on and after that date: *Provided*, That the amendments to subdivision (6), subsection (b) of this section take effect upon passage of this act of the Legislature and shall be construed to prohibit on and after January 1, 2018, all transfers to the State Road Fund established in the State Treasury pursuant to section 52, article VI of the Constitution of West Virginia, of the taxes imposed by §11-15-1 *et seq.* and §11-15A-1 *et seq.* of this code.

~~§11-15-9h. Exemptions for sales of computer hardware and software directly incorporated into manufactured products; certain leases; sales of electronic data processing service; sales of computer hardware and software directly used in communication; sales of educational software; sales of Internet advertising; sales of high-technology business services directly used in fulfillment of a government contract; sales of tangible personal property for direct use in a high-technology business or Internet advertising business; definitions.~~

(a) In order to modernize the exemptions from tax contained in this article as a result of technological advances in computers and the expanded role of computers, the Internet and global instant communications in business and to encourage computer software developers, computer hardware designers, systems engineering firms, electronic data processing companies and other high-technology companies to locate and expand their businesses in West Virginia, the following sales of tangible personal property and software are exempt:

(1) Sales of computer hardware or software (including custom designed software) to be directly incorporated by a manufacturer

into a manufactured product. For purposes of this subsection, the payment of licensing fees for the right to incorporate hardware or software developed by persons other than the manufacturer into a manufactured product is exempt from the tax imposed by this article;

(2) Sales of computer hardware or software (including custom designed software) directly used in communication as defined in this article;

(3) Sales of electronic data processing services;

(4) Sales of educational software required to be used in any of the public schools of this state or in any institution in this state which qualifies as a nonprofit or educational institution subject to administration, regulation, certification or approval of the Department of Education, the ~~Department of Education and the Arts~~ or the Higher Education Policy Commission;

(5) Sales of Internet advertising of goods and services;

(6) Sales of high-technology business services to high-technology businesses which enter into contracts with this state, its institutions and subdivisions, governmental units, institutions or subdivisions of other states, or with the United States, including agencies of federal, state or local governments for direct use in fulfilling the government contract; and

(7) Sales of prewritten computer software, computers, computer hardware, servers and building materials and tangible personal property to be installed into a building or facility for direct use in a high-technology business or an Internet advertising business.

(b) *Definitions.* —

As used in this article, the following terms have the following meanings:

(1) ‘Computer hardware’ means a computer, as defined in article fifteen-b of this chapter, and the directly and immediately

connected physical equipment involved in the performance of data processing or communications functions, including data input, data output, data processing, data storage, and data communication apparatus that is directly and immediately connected to the computer. The term 'computer hardware' does not include computer software.

(2) 'High-technology business' means and is limited to businesses primarily engaged in the following activities: Computer hardware design and development; computer software design, development, customization and upgrade; computer systems design and development; website design and development; network design and development; design and development of new manufactured products which incorporate computer hardware and software; electronic data processing; network management, maintenance, engineering, administration and security services; website management, maintenance, engineering, administration and security services and computer systems management, maintenance, engineering, administration and security services. High-technology business as defined herein is intended to include businesses which engage in the activities enumerated in this definition as their primary business activity, and not as a secondary or incidental activity and not as an activity in support of or incidental to business activity not specifically enumerated in this definition.

(3) 'High-technology business services' means and is limited to computer hardware design and development; computer software design, development, customization and upgrade; computer systems design and development; website design and development; network design and development; electronic data processing; computer systems management; computer systems maintenance; computer systems engineering; computer systems administration and computer systems security services.

(4) 'Internet advertising business' means a for-profit business that is engaged, for monetary remuneration, in the primary business activity of announcing, or calling public attention to, goods or services in order to induce the public to purchase those goods or services, and which uses the Internet as its sole advertising

communications medium. For purposes of this definition, Internet advertising must be the primary business activity of the business and not a secondary or incidental activity and not an activity in support of or incidental to other business activity.

(5) 'Network' means a group of two or more computer systems linked together.

(6) 'Server' means a computer or device on a network that manages network resources.

(c) The amendments to this section made in the first extraordinary session of the Legislature in 2009 shall apply to purchases made on and after July 1, 2009.

(d) The provisions of this section shall terminate and shall not apply to any sales made on or after January 1, 2022.

ARTICLE 15A. USE TAX.

§11-15A-2. Imposition of tax; ~~six percent tax rate~~; inclusion of services as taxable; transition rules; allocation of tax and transfers.

(a) An excise tax is hereby levied and imposed on the use in this state of tangible personal property, custom software or taxable services, to be collected and paid as provided in this article or article fifteen-b of this chapter, at the rate of six percent of the purchase price of the property or taxable services, except as otherwise provided in this article: Provided, That effective January 1, 2022, for sales occurring and services provided the rate of taxation imposed by this article shall be 8% of the purchase price of the property or taxable services, unless provided otherwise in this article.

(b) *Calculation of tax on fractional parts of a dollar.* — The tax computation under subsection (a) of this section shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than four and rounded down to the lower whole cent whenever the third decimal place is four or less. The vendor may elect to compute the tax due

on a transaction on a per item basis or on an invoice basis provided the method used is consistently used during the reporting period.

(c) ‘Taxable services,’ for the purposes of this article, means services of the nature that are subject to the tax imposed by ~~article fifteen of this chapter~~ §11-15-1 et seq. of this code. In this article, wherever the words ‘tangible personal property’ or ‘property’ appear, the same shall include the words ‘or taxable services,’ where the context so requires.

(d) Use tax is hereby imposed upon every person using tangible personal property, custom software or taxable service within this state. That person’s liability is not extinguished until the tax has been paid. A receipt with the tax separately stated thereon issued by a retailer engaged in business in this state, or by a foreign retailer who is authorized by the Tax Commissioner to collect the tax imposed by this article, relieves the purchaser from further liability for the tax to which the receipt refers.

(e) Purchases of tangible personal property or taxable services made for the government of the United States or any of its agencies by ultimate consumers is subject to the tax imposed by this section. Industrial materials and equipment owned by the federal government within the State of West Virginia of a character not ordinarily readily obtainable within the state, is not subject to use tax when sold, if the industrial materials and equipment would not be subject to use taxes if sold outside of the state for use in West Virginia.

(f) This article does not apply to purchases made by counties or municipal corporations.

ARTICLE 17. TOBACCO PRODUCTS EXCISE TAX ACT.

§11-17-3. Levy of tax; ratio; dedication of proceeds.

(a) *Tax on cigarettes and tobacco products other than cigarettes.* — For the purpose of providing revenue for the General Revenue Fund of the state, an excise tax is hereby levied and

imposed on sales of cigarettes and tobacco products other than cigarettes.

(b) *Tax rate on cigarettes.* — Effective May 1, 2003, the excise tax rate levied and imposed on the sale of cigarettes is 55 cents on each 20 cigarettes or in like ratio on any part thereof: *Provided*, That on and after July 1, 2016, the excise tax rate levied and imposed on the sale of cigarettes is \$1.20 on each 20 cigarettes or in like ratio on any part thereof: *Provided, however*, That effective January 1, 2022, the excise tax rate levied and imposed on the sale of cigarettes is \$2.20 on each 20 cigarettes or in like ratio on any part thereof: *Provided, further*, That effective January 1, 2022, 12.5 percent of the excise tax levied pursuant to this section shall be deposited into the fund created pursuant to §11B-2-32 of this code. Only one sale of the same article shall be used in computing the amount of tax due under this subsection.

(c) *Tax on tobacco products other than cigarettes.* — Effective January 1, 2002, the excise tax levied and imposed on the sales or use of tobacco products other than cigarettes at the rate equal to seven percent of the wholesale price of each article or item of tobacco products other than cigarettes sold by the wholesaler or subjobber dealer, whether or not sold at wholesale, or if not sold, then at the same rate upon the use by the wholesaler or dealer: *Provided*, That on and after July 1, 2016, the excise tax rate levied and imposed on the sales or use of tobacco products other than cigarettes is at the rate equal to 12 percent of the wholesale price of each article or item of tobacco products other than cigarettes sold by the wholesaler or subjobber dealer, whether or not sold at wholesale, or if not sold, then at the same rate upon the use by the wholesaler or dealer: *Provided, however*, That on and after January 1, 2022, the excise tax rate levied and imposed on the sales or use of tobacco products other than cigarettes is at the rate equal to 19.5 percent of the wholesale price of each article or item of tobacco products other than cigarettes sold by the wholesaler or subjobber dealer, whether or not sold at wholesale, or if not sold, then at the same rate upon the use by the wholesaler or dealer: *Provided, further*, That effective January 1, 2022, 7.5 percent of the excise tax levied pursuant to this section shall be deposited into the fund

created pursuant to §11B-2-32 of this code. Only one sale of the same article shall be used in computing the amount of tax due under this subsection.

(d) *Effective date of amendments.* — Amendments to this section enacted in the year 2003 apply in determining tax imposed under this article from May 1, 2003, through June 30, 2016. Amendments to this section enacted in the year 2016 apply in determining tax imposed under this article effective on and after July 1, 2016.

§11-17-4b. Levy of tax on e-cigarette liquid; definitions; rate; invoice; report; payment; authority of the Tax Commissioner to inspect and examine witnesses; presumption; bond.

(a) *Definitions.* — When used in this section, words, terms and phrases defined in this subsection, and any variations thereof required by the context, have the meaning ascribed to them in this subsection, except where the context indicates a different meaning is intended.

(1) ‘E-cigarette’ means an electrical or electronic device that provides a smoke, vapor, fog, mist, gas or aerosol suspension of nicotine or another substance that, when used or inhaled, simulates the activity of smoking. The term e-cigarette includes, but is not limited to, a device that is composed of a heating element, battery or electrical or electronic circuit, or a combination of heating element, battery and electrical or electronic circuit, which works in combination with e-liquid to produce an inhalable product. The term e-cigarette includes, but is not limited to, any so designed, or similarly designed, product that is manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or under any other name or descriptor. The term ‘simulates the activity of smoking’, in the context of this definition, means replicating, mimicking or reproducing an experience similar to inhaling, or otherwise drawing into the mouth or nose, or exhaling the smoke or combustion product of burning tobacco or any other product or material that can be used in a similar fashion.

(2) 'E-cigarette liquid' means any of the liquids or liquid mixtures used in e-cigarettes and is also known as e-juice, e-fluid, e-liquid or e-liquid product. E-cigarette liquid includes e-cigarette liquid mixing kits and e-cigarette liquid mixing kit components. When used in, or with, an e-cigarette, e-cigarette liquid is vaporized or otherwise converted into an inhalable product. E-cigarette liquid may or may not include, without limitation, propylene glycol, vegetable glycerin, nicotine from any source or flavorings.

(b) *Levy of tax; rate.* —

(1) On and after July 1, 2016, an excise tax is levied and imposed on sales of e-cigarette liquid at the rate of 7.5 cents per milliliter or fraction thereof, or if not sold, then at the same rate upon the use by the wholesaler or dealer: Provided, That on and after January 1, 2022, the excise tax levied and imposed on the sales of e-cigarette liquid is at the rate of 23 percent of the wholesale price of each article or item, or if not sold, then at the same rate upon the use by the wholesaler or dealer: Provided, however, That effective January 1, 2022, revenues received from the first 90 percent of the excise tax levied pursuant to this section shall be deposited into the fund created pursuant to §11B-2-32 of this code. For purposes of this article, any distributor, dealer, subjobber, subjobber dealer, retailer or any other person that imports or transports e-cigarette liquids into this state, or that causes e-cigarette liquids to be imported or transported into this state, is hereby deemed to be a wholesaler for purposes of this section and is liable for the tax imposed under this article. No wholesaler or other person may purchase e-cigarette liquids from any seller not approved by the Tax Commissioner. E-cigarette liquid mixing kits and e-cigarette liquid mixing kit components shall be taxed in accordance with the amount of e-cigarette liquid, in milliliters, that can be produced by or from the kit or components thereof, as determined by the Tax Commissioner.

(2) Only one sale of e-cigarette liquid shall be used in computing the amount of tax due under this section.

(c) *How tax paid; invoice required; reports required; due date; records to be kept.* —

(1) The tax imposed in this section on e-cigarette liquid shall be paid using an invoice method prescribed by the Tax Commissioner.

(2) The tax will be paid on any and all e-cigarette liquid coming into the state for the purpose of sale or use in this state on and after July 1, 2016.

(3) *Contents of delivery ticket or invoice.* — Unless otherwise permitted in writing by the Tax Commissioner, each delivery ticket or invoice for each purchase or sale of e-cigarette liquid must be recorded upon a serially numbered invoice showing:

(A) The name and address of the seller and the purchaser;

(B) The point of delivery;

(C) The date;

(D) (i) The number of e-cigarette cartridges, apparatus, containers or other devices; (ii) the quantity in milliliters of each cartridge, apparatus, container or other device; (iii) the wholesale price of each e-cigarette cartridge, apparatus, container or other device delivered in this state; or (iv) if sold outside of a cartridge or other device or container, the total quantity in milliliters of e-cigarette liquid not in cartridges, apparatus or other device or container delivered in this state and the wholesale price of the e-cigarette liquid;

(E) The invoice must either set out the amount of tax imposed by this article separately on the invoice or the invoice may instead indicate that the tax imposed under this article is included in the total price; and

(F) Any other information required by the Tax Commissioner.

(4) *Reports and payments due date.* — On or before the 15th day of each month, manufacturers, importers, every place of

business as defined in this article, retail dealers, subjobbers, vending machine operators and wholesale dealers and their agents, shall file a report covering the business transacted in the previous month providing any information the Tax Commissioner determines necessary for the ascertainment or assessment of the taxes imposed by this article. Reports shall be signed under penalty of perjury and be in a form as prescribed by the Tax Commissioner. The amount of tax shown to be due on the monthly report, if any, shall be remitted on or before the due date of the monthly report. The first report due for e-liquid sales is August 15, 2016, for the sales completed in July 2016.

(5) *Reports required.* — The reports prescribed in this article are required, although a tax may not be due or no business transacted, for the period covered by the report. In the case of any failure to file a report on the date prescribed for filing when no tax is due, unless it is shown that the failure was due to reasonable cause, there is hereby imposed a penalty of \$25 for each month or fraction of a month that such report is delinquent, until the report is filed, in addition to any penalties imposed under section 19A of this article.

(6) *Records.* — Each person required to file a report shall make and keep the records necessary to substantiate the accuracy of the reports required by this section including, but not limited to, records of inventories, receipts, disbursements and sales. Records shall be retained for a period of time not less than three years from the time the report is due or the time when the report is filed, whichever is later.

(d) *Inspection of records and stocks; examination of witnesses; registration of e-cigarette sellers; presumption of nontax paid.* —

(1) The Tax Commissioner has the authority to inspect or examine the records, books and papers, and any equipment or e-cigarette apparatus, and any stock of e-cigarette liquid kept in or upon the premises of persons who sell, possess or store e-cigarette liquid, for the purpose of determining the quantity and value of e-cigarette liquid acquired, on hand or disbursed, to verify the truth and accuracy of any statement, return, form or report and to

ascertain whether the tax imposed by this article has been properly paid.

(2) In addition to the Tax Commissioner's powers set forth in article 10 of this chapter, the Tax Commissioner or the Tax Commissioner's agent may examine witnesses under oath in order to ascertain the amount of taxes and reports due under this article. If a witness or person fails or refuses to testify or grant access to records, books, papers, equipment or e-cigarette apparatus, or any stock of e-cigarette liquid, necessary or useful to ascertain the amount of taxes and reports due under this article, the Tax Commissioner shall certify the facts and names to the circuit court of the county having jurisdiction of the party and the court shall issue a summons to the party to appear before the Tax Commissioner at a place designated within the jurisdiction of the court, on a day fixed, to be continued as the occasion may require for good cause shown, to testify and give evidence and to produce for inspection any books, records and papers that may be required and to grant access to records, books, papers, equipment or e-cigarette apparatus, or any stock of e-cigarette liquid, for the purpose of ascertaining the amount of tax and reports due, if any.

(3) Each wholesale dealer of e-cigarette liquid must register with the Tax Commissioner and maintain a business registration certificate, showing the wholesale dealer of e-cigarette liquid to be registered as a seller of tobacco products or seller of both cigarettes and tobacco products prior to the sale or delivery of e-cigarette liquid to any retail dealer or subjobber in this state. A wholesale dealer may sell tax-paid e-cigarette liquid only to another wholesaler or a retail dealer or subjobber in this state. No person may purchase nontaxed e-cigarette liquid from any seller not approved by the Tax Commissioner.

(4) Whenever e-cigarette liquid is found in the place of business of any retail dealer, without evidence that the tax imposed by this section has been paid, it shall be presumed that the e-cigarette liquid is kept on the premises in violation of this article.

(e) *Bond.* — The Tax Commissioner may require wholesalers, subjobbers or retail dealers to file a continuous surety bond in an

amount to be fixed by the Tax Commissioner but no less than \$1,000. The bond shall be conditioned upon faithfully complying with the provisions of this article including the filing of the returns and payment of all taxes prescribed by this article.

(f) *Administration and enforcement.* — The provisions of this article and articles nine and 10 of this chapter apply to administration and enforcement of the excise tax on e-cigarette liquid in the same manner and to the same extent as they apply to administration and enforcement of the excise tax on tobacco products, as imposed under this article.

(g) *Criminal sanctions.* — The criminal sanctions imposed in section nineteen-a of this article are hereby imposed with equal force and application with relation to actions, transactions and responsibilities prescribed under this section and under this article. For the purpose of applying and interpreting the provisions of section nineteen-a of this article, the words ‘container of tobacco products’ shall be interpreted to mean and include the words ‘container of tobacco products or e-cigarette liquid’.

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-4g. Reduction and elimination of personal income tax.

(a). Findings.

(1) The Legislature finds that the state of West Virginia has suffered a tremendous loss of population over the past ten years. This loss in population is attributable to many factors including, in large part, the burdensome tax structure in West Virginia.

(2) There is a need to encourage the citizens to not only stay in West Virginia, but for those who may have left to return and for others to consider West Virginia an attractive alternative for relocation. Additionally, if West Virginia is seen as attractive to citizens, business may be more inclined to locate in the state.

(3) The Legislature is committed to taking necessary measures to tackle the issues which have created the drain in population. This includes reforming an overburdensome tax structure. As a result,

the Legislature is committed to reductions in the personal income tax and to ultimately reaching a complete elimination of that tax.

(4) This commitment to tax elimination should be done in a financially responsible manner to provide current and future citizens of the state greater personal income and a better quality of life.

(b). *Personal Income Tax Reduction Criteria.*

(1). Effective January 1, 2022, and thereafter, if the balance in the Stabilization and Future Economic Reform Fund as set forth in §11B-2-32 of this code is at or above \$100,000,000 at the end of any fiscal year, then the balance shall be transferred to the General Revenue Fund in increments of \$50,000,000 until the balance in the fund is less than or equal to \$100,000,000 but greater than or equal to \$50,000,000. For each \$50,000,000 incremental transfer the personal income tax shall be reduced by 12.5 basis points at the beginning of the next tax year.

(2) Effective January 1, 2022, and thereafter, there shall be a reduction in the personal income tax that is equal to the unappropriated amount of general revenue. For purposes of this section unappropriated revenue shall mean the difference between the total general revenue of the budget introduced by the Governor and the general revenue amount of the enacted budget. The reduction set forth in this subsection shall be directly proportionate to the amount each of the income brackets as set forth in §11-21-4e of this code contribute to the personal income tax collection in state fiscal year 2019. In those years in which there is no unappropriated amount of general revenue, there shall be no reduction in the personal income tax.

(3) Effective January 1, 2022, and thereafter, there shall be a dollar-for-dollar reduction in personal income tax for any increase in general revenue over the previous year's actual collections that are attributable to increases to existing revenue sources or newly created revenue sources. These revenue sources shall include, but are not limited to, increased, modifications, or additions to any tax proceeds collected pursuant to this chapter that are deposited into

the general revenue. The reduction set forth in this subsection shall be directly proportionate to the amount each of the income bracket as set forth in §11-21-4e of this code contributes to the personal income tax collection in state fiscal year 2019. In those years in which there is no increase in revenue from newly created revenue sources, there shall be no reduction in the personal income tax.

(c) *Further Legislative action required.* When the rate of taxation as set forth in this section has been reduced pursuant to the provisions of this section, that rate shall not again be raised without further action of the Legislature.

(d) *Past tax liabilities.* Tax liabilities, if any, arising for taxable periods prior to the date the tax is repealed, shall be determined, administered, assessed, and collected as if the tax imposed by this article had not been repealed, and the rights and duties of taxpayers and the state shall be fully and completely preserved.

(e) *Complete elimination.* Upon a complete elimination of the personal income tax, every provision of this article shall be repealed for all tax periods beginning on and after January 1 of the first year in which the rate of the personal income tax becomes zero percent.

(f) *Reporting.* The Tax Department shall prepare an annual report to the Joint Committee on Government and Finance detailing any changes to the personal income tax and increases in revenue from increases to existing revenue sources or newly created revenue sources.

(g) *Notification.* The Tax Department shall at least annually notify taxpayers of any changes in the personal income tax structure. This notice should come at the beginning of each tax year.

(h) *Rulemaking.* The Tax Department shall promulgate procedural rules to implement the provisions of this section. These rules include:

(1) *The process for a reduction of the personal income tax based upon the balance in the fund created pursuant to §11-21-4k;*

(2) The process for a reduction of the personal income tax based upon unappropriated amounts of general revenue;

(3) The process for a reduction of the personal income tax based upon increases in general revenue collections over previous years collections;

(4) A means to notify taxpayers of changes to their tax liability, including their tax rate and effective tax rate; and

(5) An annual report to the Joint Committee on Government and Finance of any changes to the personal income tax in the preceding tax year and any increases in collections attributable.

§11-21-25. Sales Tax Relief Credit.

(a) *Definitions* – As used in this section, the following terms shall have the meaning ascribed to them in this subsection, unless the context in which the term is used clearly requires a different meaning or a specific different definition is provided:

(1) ‘Household’ means the claimant and his or her spouse, if any, living in the same residence, as well any dependent children that may be claimed on the taxpayer’s federal income tax return. The household also includes any persons living in the same dwelling as the claimant and sharing its furnishings, facilities, and accommodation, but does not include bona fide lessees, tenants, or roomers and boarders on contract;

(2) ‘Household income’ means all income received by all persons of a household while members of the household;

(3) ‘Income’ means the sum of adjusted gross income as defined in the United States Internal Revenue Code, the modifications in §11-21-12(b), §11-21-12f and §11-21-12g of this Code increasing federal adjusted gross income, and all nontaxable income, including the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, cash public assistance and relief, not including relief granted under this chapter, the gross amount of any pension or annuity, including Railroad Retirement Act benefits and veterans’

disability pensions, all payments received under the federal social security and state reemployment assistance or unemployment insurance laws, nontaxable interest received from the federal government or any of its instrumentalities, workers' compensation, and the gross amount of loss of time insurance, but not including gifts from nongovernmental sources, food stamps, or surplus foods, or other relief in kind provided by a public agency;

(4) 'Tax year' or 'taxable year' means the calendar year used for computing household income under this chapter. A claimant's tax year is the same period as is covered by his federal income tax return.

(b) *Refundable Credit* – Subject to the requirements and limitations of this section, for tax years beginning on and after January 1, 2022, any resident having a gross household income equal to or less than \$35,000 for the tax year, shall be allowed a refundable credit against the taxes imposed by this article equal to the following amounts:

(1) For all residents having a household income of less than \$10,000, the amount of refundable credit shall be \$250.

(2) For all residents having a household income between \$10,001 and \$14,999, the amount of refundable credit shall be \$150.

(3) For all residents having a household income between \$15,000 and \$20,000, the amount of refundable credit shall be \$150.

(4) For all residents having a household income between \$20,001 and \$24,999, the amount of refundable credit shall be \$100.

(5) For all residents having a household income between \$25,000 and \$29,999, the amount of refundable credit shall be \$100.

(6) For all residents having a household income between \$30,000 and \$34,999, the amount of refundable credit shall be \$50.

(c) *One claim per household* - Notwithstanding any other provision of this section to the contrary, only one claimant per household per tax year shall be entitled to relief under this section.

(d) *Advance Refunds of Credit* – The amount of credit which would (but for this subsection) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under this subsection.

(1) *In General* – Each claimant who would have been an eligible resident based upon their household income in the year preceding the taxable year shall be allowed a prepayment of the credit: *Provided*, That any claim for prepayment of the credit must be made on or before April 15 of the tax year to which it relates.

(2) *Advanced refund amount* – For the 2022 calendar year, for purposes of subdivision (1) of this subsection, the advanced refund amount is the amount that would have been allowed as a credit under this section for the 2020 taxable year if this section had applied to such taxable year.

(3) *Timing and manner of payments* – The Commissioner shall, subject to the provisions of this article, pay any advance refund of credit under the following guidelines:

(i) 25% of the amount of prepayment by June 15 of the taxable year;

(ii) 25% of the amount of prepayment by September 15 of the taxable year;

(iii) 25% of the amount of prepayment by December 15 of the taxable year; and

(iv) 25% of the amount of prepayment by March 15 of the year following the taxable year.

(4) *Interest not accruable* - No interest shall be allowed on any prepayment attributable to this subsection.

(5) Delivery of payments – Notwithstanding any provision of this Code to the contrary, the Commissioner may certify and disburse refunds using any reasonable commercial means necessary.

(e) The Commissioner may prescribe such rules as may be necessary to carry out the purposes of this section.to increases to existing revenue sources or newly created revenue sources.

CHAPTER 11B. DEPARTMENT OF REVENUE.

ARTICLE 2. STATE BUDGET OFFICE.

§11B-2-20. Reduction of appropriations; powers of Governor; Revenue Shortfall Reserve Fund and permissible expenditures therefrom.

(a) Notwithstanding any provision of this section, the Governor may reduce appropriations according to any of the methods set forth in sections twenty-one and twenty-two of this article. The Governor may, in lieu of imposing a reduction in appropriations, request an appropriation by the Legislature from the Revenue Shortfall Reserve Fund established in this section.

(b) The Revenue Shortfall Reserve Fund is continued within the State Treasury. The Revenue Shortfall Reserve Fund shall be funded continuously and on a revolving basis in accordance with this subsection up to an aggregate amount not to exceed thirteen percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended. The Revenue Shortfall Reserve Fund shall be funded as set forth in this subsection from surplus revenues, if any, in the State Fund, General Revenue, as the surplus revenues may accrue from time to time.

Except as provided otherwise in this subsection, within sixty days of the end of each fiscal year, the secretary shall cause to be deposited into the Revenue Shortfall Reserve Fund such amount of the first ~~fifty percent~~ 50% of all surplus revenues, if any, determined to have accrued during the fiscal year just ended, as may be necessary to bring the balance of the Revenue Shortfall Reserve Fund to ~~thirteen percent of the total appropriations from~~

~~the State Fund, General Revenue, for the fiscal year just ended. If at the end of any fiscal year the Revenue Shortfall Reserve Fund is funded at an amount equal to or exceeding thirteen percent of the state's General Revenue Fund budget for the fiscal year just ended, then there shall be no further deposit by the secretary under the provisions of this section of any surplus revenues as set forth in this subsection until that time the Revenue Shortfall Reserve Fund balance is less than thirteen percent of the total appropriations from the State Fund, General Revenue.~~ when combined with the Revenue Shortfall Reserve Fund – Part B as set forth in subsection (f) of this section is equal to or is greater than 23% of a rolling average of the actual revenue collected in the immediately preceding seven fiscal years, the secretary shall deposit into the Stabilization and Future Economic Reform Fund as set forth in §11B-2-32 of this code 50% of the surplus after deducting any unappropriated balance which for the purposes of this section is the difference between the total general revenue of the budget introduced by the Governor and the general revenue amount of the enacted budget.

(c) Not earlier than November 1 of each calendar year, if the state's fiscal circumstances are such as to otherwise trigger the authority of the Governor to reduce appropriations under this section or §11B-2-21 or §11B-2-22 ~~of this article of this code~~, then in that event the Governor may notify the presiding officers of both houses of the Legislature in writing of his or her intention to convene the Legislature pursuant to section nineteen, article VI of the Constitution of West Virginia for the purpose of requesting the introduction of a supplementary appropriation bill or to request a supplementary appropriation bill at the next preceding regular session of the Legislature to draw money from the surplus Revenue Shortfall Reserve Fund to meet any anticipated revenue shortfall. If the Legislature fails to enact a supplementary appropriation from the Revenue Shortfall Reserve Fund during any special legislative session called for the purposes set forth in this section or during the next preceding regular session of the Legislature, then the Governor may proceed with a reduction of appropriations pursuant to §11B-2-21 or §11B-2-22 ~~of this article of this code~~. Should any amount drawn from the Revenue Shortfall Reserve Fund pursuant

to an appropriation made by the Legislature prove insufficient to address any anticipated shortfall, then the Governor may also proceed with a reduction of appropriations pursuant to sections twenty-one and twenty-two of this article.

(d) Upon the creation of the fund, the Legislature is authorized and may make an appropriation from the Revenue Shortfall Reserve Fund for revenue shortfalls, for emergency revenue needs caused by acts of God or natural disasters or for other fiscal needs as determined solely by the Legislature.

(e) Prior to October 31 in any fiscal year in which revenues are inadequate to make timely payments of the state's obligations, the Governor may, by executive order, after first notifying the presiding officers of both houses of the Legislature in writing, borrow funds from the Revenue Shortfall Reserve Fund: *Provided*, That for the fiscal year 2014, pursuant to this subsection and subject to all other conditions, requirements and limitations set forth in this section, the Governor may borrow funds from the Revenue Shortfall Reserve Fund prior to the first day of April. The amount of funds borrowed under this subsection shall not exceed one and one-half percent of the general revenue estimate for the fiscal year in which the funds are to be borrowed, or the amount the Governor determines is necessary to make timely payment of the state's obligations, whichever is less. Any funds borrowed pursuant to this subsection shall be repaid, without interest, and redeposited to the credit of the Revenue Shortfall Reserve Fund within ninety days of their withdrawal.

(f) The Revenue Shortfall Reserve Fund – Part B is continued within the State Treasury. The Revenue Shortfall Reserve Fund – Part B shall consist of moneys transferred from the West Virginia Tobacco Settlement Medical Trust Fund pursuant to the provisions of section two, article eleven-a, chapter four of this code, repayments made of the loan from the West Virginia Tobacco Settlement Medical Trust Fund to the Physician's Mutual Insurance Company pursuant to the provisions of article twenty-f, chapter thirty-three of this code and all interest and other return earned on the moneys in the Revenue Shortfall Reserve Fund – Part B. Moneys in the Revenue Shortfall Reserve Fund – Part B may be

expended solely for the purposes set forth in subsection (d) of this section, subject to the following conditions:

(1) No moneys in the Revenue Shortfall Reserve Fund – Part B nor any interest or other return earned thereon may be expended for any purpose unless all moneys in the Revenue Shortfall Reserve Fund described in subsection (b) of this section have first been expended, except that the interest or other return earned on moneys in the Revenue Shortfall Reserve Fund – Part B may be expended as provided in subdivision (2) of this subsection;

(2) Notwithstanding any other provision of this section to the contrary, the Legislature may appropriate any interest and other return earned thereon that may accrue on the moneys in the Revenue Shortfall Reserve Fund – Part B after June 30, 2025, for expenditure for the purposes set forth in §4-11a-3 of this code; and

(3) Any appropriation made from Revenue Shortfall Reserve Fund – Part B shall be made only in instances of revenue shortfalls or fiscal emergencies of an extraordinary nature.

(g) Subject to the conditions upon expenditures from the Revenue Shortfall Reserve Fund – Part B prescribed in subsection (f) of this section, in appropriating moneys pursuant to the provisions of this section, the Legislature may in any fiscal year appropriate from the Revenue Shortfall Reserve Fund and the Revenue Shortfall Reserve Fund – Part B a total amount up to, but not exceeding, ten percent of the total appropriations from the State Fund, General Revenue, for the fiscal year just ended.

(h) (1) Of the moneys in the Revenue Shortfall Reserve Fund, \$100 million, or such greater amount as may be certified as necessary by the Director of the Budget Office for the purposes of subsection (e) of this section, shall be made available to the West Virginia Board of Treasury Investments for management and investment of the moneys in accordance with the provisions of article six-c, chapter twelve of this code. All other moneys in the Revenue Shortfall Reserve Fund shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of

article six, chapter twelve of this code. Any balance of the Revenue Shortfall Reserve Fund, including accrued interest and other return earned thereon at the end of any fiscal year, does not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund for the purposes set forth in this section.

(2) All of the moneys in the Revenue Shortfall Reserve Fund – Part B shall be made available to the West Virginia Investment Management Board for management and investment of the moneys in accordance with the provisions of §12-6-1 *et seq.* of this code. Any balance of the Revenue Shortfall Reserve Fund – Part B, including accrued interest and other return earned thereon at the end of any fiscal year, shall not revert to the General Fund but shall remain in the Revenue Shortfall Reserve Fund – Part B for the purposes set forth in this section.

§11B-2-32. Stabilization and Future Economic Reform Fund.

(a) There is created in the State Treasury a special account, designated the “Stabilization and Future Economic Reform Fund”, which is an interest- and earnings-accumulating account administered by the State Treasurer in accordance with the provisions of this section.

(b) The purpose of the fund is to provide a long term smoothing mechanism for utilizing one time appropriations and volatile revenue sources for decreasing net taxation on the people of West Virginia and to provide long term financial security to the state and its citizens and to act as a means to avoid revenue shortfalls without the necessity of accessing the Revenue Shortfall Reserve Funds as set forth in §11B-2-20 of this code.

(c) The fund shall consist of the following funding sources:

(1) Appropriation by the Legislature;

(2) Income from investments;

(3) Deposits as required by §11B-2-20; and

(4) All other sums available for deposit to the account, public or private.

(d) Any balance remaining in the fund at the end of the fiscal year does not revert to the General Revenue Fund but remains in the fund and may be used in a manner consistent with this article.

(e) For fiscal years beginning on or after January 1, 2022, the Secretary of the Department of Tax and Revenue, with the written approval of the Governor, may transfer additional moneys to the fund to supplement the General Revenue Fund where budget shortfalls may have occurred. The Legislature may authorize transfers of moneys from the fund to stabilize the state's General Revenue Fund up to, but not more than, 50% of the fund's current balance as of the beginning of the fiscal year in which the transfer shall be authorized.

(f) The Stabilization and Future Economic Reform Fund may be invested in the manner permitted by §12-6-8 of this code and the Secretary of the Department of Tax and Revenue may contract with the West Virginia Investment Management Board, or the West Virginia Board of Treasury Investments, for any services with respect to fund investments that the secretary considers necessary and prudent.

(g) Upon the complete elimination of the state personal income tax as set forth in §11-21-4g of this code, the proceeds from the Stabilization and Future Economic Reform Fund may be utilized to reduce the fiscal impact of additional taxes including but not limited to, taxation on income that is not employee compensation such as interest, dividends, retirement income in the form of pensions or annuities, the manufacturing inventory and equipment tax, and to stabilize the state's annual budget.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 22. STATE LOTTERY ACT.

§29-22-9b. Personal income tax reduction instant lottery scratch-off game.

(a) Beginning January 1, 2022, the commission shall establish an instant lottery scratch-off game designated as the personal income tax reduction game, which is offered by the lottery.

(b) Notwithstanding the provisions of §29-22-18 of this code, all net profits received from the sale of personal income tax reduction benefit game lottery tickets, materials and games are deposited with the state Treasurer into the “Personal Income Tax Reduction Lottery Fund” created under subsection (c) of this section. These funds shall be transferred to the Stabilization and Future Economic Reform Fund as set forth in §11B-2-32 of this code upon written request of the Secretary of Tax and Revenue to the Investment Management Board and the state Treasurer in accordance with the provisions of this section. This transfer shall occur at least annually.

(c) There is created in the state treasury a special revenue fund designated and known as the “Personal Income Tax Reduction Lottery Fund” which shall consist of all revenues derived from the Personal Income Tax Reduction game and any appropriation to the fund by the Legislature and all interest or other returns earned by the investment of the fund.

(d) The commission shall change the design or theme of the personal income tax reduction game regularly so that the game remains competitive with the other instant lottery scratch-off games offered by the commission. The tickets for the instant lottery game created in this section shall clearly state that the profits derived from the game are being used to eliminate the personal income tax in this state.

And,

By amending the title of the bill to read as follows:

H. B. 3300 – “A Bill to amend and reenact §11-13A-3 and §11-13A-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §11-15-2, §11-15-3, §11-15-3b, §11-15-8, §11-15-9, and §11-15-9h; to amend and reenact §11-15A-2; to amend and reenact §11-17-3 and §11-17-4b; to amend said article by adding

thereto new sections, designated §11-21-4g and §11-21-25; to amend and reenact §11B-2-20; to amend said code by adding thereto a new section, designated §11B-2-32; and to amend said code by adding thereto a new section, designated §29-22-9B, all relating to optimizing economic efficiency and revenue efficiency of the West Virginia tax structure, across multiple facets of the tax system, and to modernize State taxation to reflect best practices, and standards for an integrated tax system; reducing the personal income tax; providing for revenue replacement measures; relating to the severance tax imposed on the privilege of severing coal, oil, and natural gas for sale, profit or commercial use; specifying classifications of certain natural resources; specifying tiered rates for certain classifications of natural resources; changing the rate of the consumer sales and service tax and use tax; modifying tax on prepared foods; relating to the imposition of the consumers sales and service and the use tax upon the provision of certain professional services; providing for an excise tax on professional legal, engineering, architectural, and accounting services; providing for an excise tax on legal settlements based on a contingency fee agreement; relating to the imposition of the consumer sales and service and use tax on advertising services, electronic data processing, personalized fitness services, and certain high technology services and equipment; modifying the use tax; relating to increasing the excise tax on cigarettes, other tobacco products, and e-cigarette liquid; to phase in a reduction in the rate of personal income tax; to provide that further action of the Legislature is necessary to raise the personal income tax following a reduction; to provide for elimination of the personal income tax upon the occurrence of certain events; providing findings; requiring notification to taxpayers of changes to personal income tax; requiring reporting to the legislature; allowing for inoperability of certain statutory provisions upon complete elimination of the personal income tax; to provide for tax liabilities that existed prior to elimination of personal income tax; providing a tax credit for low income households to offset the sales tax increase; providing for early payment of the credit; to establish Stabilization and Future Economic Reform Fund; to dedicate

certain funding sources to fund; allowing fund to be invested; reallocating surplus revenues to fund upon the occurrence of certain events; to allow budget surplus to be deposited into fund upon obtaining a certain balance in the state revenue shortfall funds; to provide for uses of fund following the elimination of the personal income tax; to provide that Secretary of Tax and Revenue has authority over fund; to allow Secretary of Tax and Revenue to deposit additional amounts into fund upon obtaining a specified balance in the fund; to allow for a reduction in personal income tax brackets upon occurrence of unappropriated revenue; providing for dollar for dollar reduction in personal income tax brackets upon increases in general revenue related to specified events; to allow Legislature to transfer from fund to General Revenue Fund upon the fund reaching a certain balance; to allow fund to be invested; to reallocate budget surplus at the end of a fiscal year; to allow a percentage of budget surplus to be directed to the fund; to require the Lottery Commission develop a new instant lottery scratch-off game; creating a special revenue account at the Lottery Commission; providing for a transfer of funds from the special revenue account to Stabilization and Future Economic Reform Fund; to allow Lottery Commission to change new instant lottery scratch-off game to allow it to remain competitive; making technical corrections; specifying effective dates; authorizing promulgation of rules; and defining terms.”

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. 563**), and there were—yeas none, nays 100, absent and not voting none.

So, a majority of the members present having voted in the negative, the motion was rejected.

The Speaker referred the bill to the Committee on Finance.

At 2:29 p.m., the House of Delegates recessed until 3:15 p.m.

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Afternoon Session

* * * * *

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

Special Calendar

Third Reading

-continued-

Com. Sub. for S. B. 641, Allowing counties to use severance tax proceeds for litter cleanup 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. 564**), and there were—yeas 91, nays 5, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Criss, Foster, J. Jeffries and Kimes.

Absent and Not Voting: Hamrick, Hornbuckle, Maynard and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 641) passed.

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 565**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: J. Jeffries.

Absent and Not Voting: Hamrick, Hornbuckle, Maynard and Thompson.

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. 641) takes effect July 1, 2021.

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

Com. Sub. for S. B. 642, Requiring legal advertisements by State Auditor be posted to central website; 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 and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 566**), and there were—yeas 64, nays 34, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barach, Barnhart, Boggs, Brown, Diserio, Doyle, Evans, Ferrell, Fleischauer, Fluharty, Garcia, Griffith, Hanna, Hansen, Hornbuckle, D. Kelly, J. Kelly, Longanacre, Lovejoy, Miller, Nestor, Paynter, Pethtel, Pushkin, Queen, Reynolds, Rowe, Skaff, Storch, Walker, Williams, Young and Zukoff.

Absent and Not Voting: Maynard and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 642) passed.

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

Com. Sub. for S. B. 655, Eliminating sunset and legislative audit provisions for certain PSC 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. 567**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Kimes.

Absent and Not Voting: Maynard and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 655) passed.

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

Com. Sub. for S. B. 657, Relating to free expression on state institution of higher education campuses; on third reading, coming up in 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 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Maynard and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 657) 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. 658, Requiring sheriff's departments to participate and utilize Handle With Care Program for trauma-inflicted children; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 569**), 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: Maynard and Thompson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 658) passed.

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

At 3:52 p.m., the House of Delegates recessed until 5:00 p.m.

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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. 660, Providing for cooperation between law-enforcement agencies and military authorities; on third reading, coming up in regular order, with amendments pending, was reported by the Clerk.

There being two strike and insert amendments explained on yesterday, Delegate Steele asked and obtained unanimous consent that his amendment offered yesterday be reformed as follows:

On page 1, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 10. COOPERATION BETWEEN LAW-ENFORCEMENT AGENCIES.

§15-10-7. Cooperation with military authorities.

(a) Unless otherwise prohibited by this code, the head of a law-enforcement agency or head of a campus police department, as those positions are defined in §15-10-3 of this code, may assign law-enforcement personnel under his or her command to provide assistance, cooperation, and information to the National Guard of this state or any service component of the United States Department of Defense located in this state upon the written request of the Adjutant General or the commanding officer of the unit or facility.

(b) The assistance authorized by subsection (a) of this section may be provided for:

(1) Alleged violations of the federal and state Codes of Military Justice;

(2) Alleged violations of the criminal laws of the United States and the State of West Virginia when those involve military property and personnel;

(3) Investigations and other actions related to reports of sexual assault or sexual harassment, to include any cases of reprisal or retaliation; and

(4) Violations of military directives, regulations, or instruction.

(c) The purpose of this section is to support the military by providing it objective, qualified, law-enforcement services.

(d) It shall be unlawful for any law enforcement officer employed by the State of West Virginia, or, by any municipality, or political subdivision, of the same, to cooperate with the National Guard of this state, or any other service component of the United States Department of Defense, to investigate, or enforce, any crimes relating to any federal act, law, order, rule, or regulation regarding a firearm, firearm accessory, or ammunition if the act,

law, order, rule, or regulation does not exist does under the laws of this state or is not substantially similar to a law of this state.

§15-10-8 Non-commandeering of civilian law enforcement agencies by military authorities.

(a) Other than compliance with an order of a court of this state, notwithstanding any law, regulation, rule, or order to the contrary, no agency of this state, political subdivision of this state, or employee of an agency or political subdivision of this state acting in his or her official capacity may not use agency or department moneys or personnel to investigate, interrogate, detain, detect, or aid the National Guard of this state, or any other service component of the United States Department of Defense in whole or in part or arrest persons for federal law enforcement purposes, including any of the following:

(1) Inquiring into an individual's ownership regarding a firearm, firearm accessory, or ammunition, if the act, law, order, rule, or regulation for which the individual is suspected to be in violation does not exist under the laws of this state nor is substantially similar to a law of this state;

(2) Detaining an individual on the basis of a hold request related solely to an alleged federal firearm violation;

(3) Providing personal information about an individual, including, but not limited to, the individual's home address or work address if that information is required for the purpose of furthering a federal firearm investigation into a violation of federal firearm law that is not otherwise unlawful in West Virginia, unless that information is available to the public;

(4) Making or intentionally participating in arrests based strictly on a federal firearm law that differs from or is not substantially similar to a West Virginia law;

(5) Performing the functions of an agent or officer of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives, whether pursuant to any other law, regulation, or policy, whether formal or informal, if such function is to knowingly and willingly

participate in any way in the enforcement of any federal act, law, order, rule, or regulation regarding a firearm accessory or ammunition if the act, law, order, rule or regulation does not exist in the laws of the State of West Virginia or is not substantially similar to a law of West Virginia;

(6) Placing law enforcement officers under the supervision of the National Guard of this state, or any other service component of the United States Department of Defense or employ law enforcement officers deputized as special federal officers or special federal deputies for purposes of federal firearm law enforcement unless the act, law, order, rule, or regulation for which such enforcement is sought is the same as or substantially similar to a law of West Virginia. All law enforcement officers remain subject to West Virginia law governing conduct of law enforcement officers and the policies of the employing agency;

(7) Providing office space exclusively dedicated for federal authorities for use within a municipal or county law enforcement facility for the purpose of federal firearms regulation enforcement;
or

(8) Utilizing any assets, state funds, or funds allocated by the state to local entities on or after the effective date of this article, in whole or in part, to engage in any activity that aids the National Guard of this state, or any other service component of the United States Department of Defense in the enforcement or any investigation pursuant to the enforcement of any federal act, law, order, rule, or regulation regarding a firearm, firearm accessory, or ammunition if the act, law, order, rule, or regulation does not exist under the laws of this state or is not substantially similar to a law of this state.

(b) Notwithstanding the limitations in subsection (a) of this section, this section does not prevent any West Virginia law enforcement agency from doing any of the following that does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:

(1) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of state law that is detected during an unrelated law enforcement activity.

(2) Responding to a request from the National Guard of this state, or any other service component of the United States Department of Defense for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information, or where otherwise permitted by state law.

(3) Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies, including the National Guard of this state, or any other service component of the United States Department of Defense for purposes of task force investigations, and shall serve as immunity for involved officers against prosecution so long as the following conditions are met:

(A) The primary purpose of the joint law enforcement task force is not federal firearm law enforcement; and

(B) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to federal firearm law enforcement.

§15-10-9 Severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this article, and to this end the provisions of this article are declared to be severable.

The question being on the adoption of the strike and insert amendment recommended by the Committee on the Judiciary, the same was put and did not prevail.

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

The yeas and nays having been ordered, they were taken (**Roll No. 570**), and there were—yeas 78, nays 22, absent and not voting none, with the nays being as follows:

Nays: Barach, Bates, Diserio, Doyle, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Hornbuckle, D. Kelly, Lovejoy, Pushkin, Rowe, Skaff, Storch, Thompson, Walker, Westfall, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the amendment was 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. 571**), and there were—yeas 82, nays 18, absent and not voting none, with the nays being as follows:

Nays: Barach, Diserio, Doyle, Fleischauer, Garcia, Griffith, Hansen, Hornbuckle, D. Kelly, Lovejoy, Pushkin, Rowe, Skaff, Walker, Westfall, Williams, Young and Zukoff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 660) passed.

S. B. 661, Permitting retailers to assume sales or use tax assessed on tangible personal property; on third reading, coming up in 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 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Jennings.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 661) passed.

Delegate Summers moved that the bill take effect July 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 573**), 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 (S. B. 661) takes effect July 1, 2021.

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

S. B. 674, Clarifying that unpaid restitution does not preclude person from obtaining driver's 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. 574**), and there were—yeas 90, nays 10, absent and not voting none, with the nays being as follows:

Nays: Barnhart, Burkhammer, Cooper, Fast, Foster, Griffith, Martin, Pinson, Steele and B. Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 674) passed.

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

Com. Sub. for S. B. 677, Relating generally to miners' safety, health, and training standards; on third reading, coming up in 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 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 677) passed.

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

Second Reading

Com. Sub. for S. B. 344, Relating to credit for qualified rehabilitated buildings investment; 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 on page 1, following the enacting clause, by striking out the remainder of the bill in its entirety and inserting in lieu thereof the following:

“§11-21-8a. Credit for qualified rehabilitated buildings investment.

A credit against the tax imposed by the provisions of this article is allowed as follows:

~~(a)~~ *Certified historic structures.* – For certified historic structures, the credit is equal to ten percent of qualified rehabilitation expenditures as defined in §47(c)(2), Title 26 of the United States Code, as amended: *Provided*, That for qualified rehabilitation expenditures made after December 31, 2017, pursuant to an historic preservation certification application, Part 2 – Description of Rehabilitation, received by the state historic preservation office after December 31, 2017, the credit allowed by this section is equal to twenty-five percent of the qualified rehabilitation expenditure, subject to the limitations and other provisions of ~~section twenty three a, article twenty four of this chapter~~ §11-24-23a of this code : *Provided, however*, That the credit authorized by this section for qualified rehabilitation expenditures made after December 31, 2017, may not be used to offset tax liabilities of the taxpayer prior to the tax year beginning on or after January 1, 2020: *Provided further*, That the taxpayer is not entitled to this credit if, when the applicant begins to claim the credit and throughout the time period within which the credit is claimed, the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of any local or municipal tax, or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax structure when the applicant

begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with ~~article three, chapter twenty nine a~~ §29A-3-1 et seq. of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division, is not delinquent in the payment of any local or municipal tax, nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure, and such other administrative requirements as the Tax Commissioner may specify. This credit is available for both residential and nonresidential buildings located in this state, that are reviewed by the West Virginia Division of Culture and History and designated by the National Park Service, United States Department of the Interior as ‘certified historic structures,’ and further defined as a ‘qualified rehabilitated building,’ as defined under §47(c)(1), Title 26 of the United States Code, as amended.

~~(b) The tax credit allowed by this section is eliminated after December 31, 2022: *Provided*, That any tax credits authorized by the state historic preservation officer and eligible to be claimed prior to January 1, 2023, shall continue to be eligible to be claimed subject to the provisions of law governing those tax credits that were in effect prior to January 1, 2023.~~

§11-24-23a. Credit for qualified rehabilitated buildings investment.

(a) A credit against the tax imposed by the provisions of this article shall be allowed as follows:

Certified historic structures. – For certified historic structures, the credit is equal to ten percent of qualified rehabilitation expenditures as defined in §47(c)(2), Title 26 of the United States Code, as amended: *Provided*, That for qualified rehabilitation expenditures made after December 31, 2017, pursuant to an historic preservation certification application, Part 2 – Description of Rehabilitation, received by the state historic preservation office after December 31, 2017, the credit allowed by this section is equal

to twenty-five percent of the qualified rehabilitation expenditure: *Provided, however,* That the credit authorized by this section for qualified rehabilitation expenditures made after December 31, 2017, may not be used to offset tax liabilities of the taxpayer prior to the tax year beginning on or after January 1, 2020: *Provided further,* That the taxpayer is not entitled to this credit if, when the applicant begins to claim the credit and throughout the time period within which the credit is claimed, the taxpayer is in arrears in the payment of any tax administered by the Tax Division or the taxpayer is delinquent in the payment of any local or municipal tax, or the taxpayer is delinquent in the payment of property taxes on the property containing the certified historic tax structure when the applicant begins to claim the credit and throughout the time period within which the credit is claimed. The Tax Commissioner shall promulgate procedural rules in accordance with ~~article three, chapter twenty-nine-a~~ §29A-3-1 et seq. of this code that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division, is not delinquent in the payment of any local or municipal tax, nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure, and such other administrative requirements as the Tax Commissioner may specify. This credit is available for both residential and nonresidential buildings located in this state that are reviewed by the West Virginia Division of Culture and History and designated by the National Park Service, United States Department of the Interior as ‘certified historic building’, and further defined as a ‘qualified rehabilitated building’, as defined under §47(c)(1), Title 26, of the United States Code, as amended.

(b) *Allocations and maximum amounts of tax credits per project and per fiscal year -*

(1) No more than \$10 million of the tax credits authorized by this section and section eight-a, article twenty-one of this chapter may be allocated, reserved or issued by the state historic preservation officer to any single certified rehabilitation.

(2) No more than \$30 million of the tax credits authorized by this section and section eight-a, article twenty-one of this chapter cumulatively may be issued by the state historic preservation officer for use in any given West Virginia state fiscal year, and any amount remaining up to \$30 million may not be carried over to a subsequent West Virginia state fiscal year.

(3) At the beginning of each fiscal year, no less than \$5 million of the tax credits authorized by this section and ~~section eight-a, article twenty-one of this chapter~~ §11-21-8a of this code shall be set aside for reservation and the issuance of tax credits for certified rehabilitation projects with proposed tax credits of \$500,000. The balance of any amount set aside for these projects that has not been reserved pursuant to the procedures in subsection (c) of this section by the end of the fiscal year shall be allocated by the state historic preservation officer for the projects in any amount of other pending applicants otherwise eligible for the issuance of tax credits under this section and ~~section eight-a, article twenty-one of this chapter~~ §11-21-8a of this code in the order that the applications for those projects were received.

(c) Procedure for issuance of tax credits reservations and certificates by the state historic preservation officer –

(1) Any claim for the tax credits authorized pursuant to this section and ~~section eight-a, article twenty-one of this chapter~~ §11-21-8a of this code shall be accompanied by a tax credit certificate issued by the state historic preservation officer.

(2) The tax credits will be awarded on a first come, first served basis. At the time the historic preservation certification application, Part 2 – Description of Rehabilitation, is received by the state historic preservation office, the project will be placed on a reservation list, which will reserve the tax credit amount listed on the application. The historic preservation certification application, Part 2 – Description of Rehabilitation, will be reviewed by the state historic preservation office for completion and submitted to the National Park Service for full review. At the time the historic preservation certification application, Part 2 – Description of Rehabilitation, is submitted to the National Park Service, the state

historic preservation officer shall send a request for the fee prescribed in subsection (e) of this section to the property owner. Upon approval of the historic preservation certification application, Part 2 – Description of Rehabilitation, from the National Park Service, including approval with conditions, that the project will meet the Secretary of the Interior’s standards for rehabilitation, the owner of the building will receive guarantee of the tax credits from the state historic preservation office.

(3) The state historic preservation officer shall issue tax credit certificates for certified rehabilitation projects that the National Park Service has determined have met the Secretary of the Interior standards for rehabilitation based on the issuance of an approved historic preservation certification application, Part 3 – Request for Certification of Completed Work.

(4) Once the state historic preservation officer has allocated and reserved the maximum tax credits authorized for any given West Virginia state fiscal year, the state historic preservation officer then shall allocate and reserve tax credits against the maximum tax credits authorized for use in the succeeding West Virginia state fiscal year.

(5) If an applicant for tax credits that receives a reservation for tax credits for any given West Virginia state fiscal year fails to submit an approved historic preservation certification application, Part 3 – Request for Certification of Completed Work in the instance of a certified rehabilitation within thirty-six (36) months of the date of the approved historic preservation certification application, Part 2 – Description of Rehabilitation, therefor or in the instance of a phased project as determined by the National Park Service within sixty (60) months of the date of the advisory determination by the National Park Service therefor that such phase has been completed in accordance with the Secretary of the Interior standards for rehabilitation then the state historic preservation officer may reallocate part or all of the tax credits reserved therefor to other applicants in the order their applications were received.

(d) The state historic preservation officer shall prescribe and publish a form and instructions for an application for reservation and issuance of the tax credits authorized by this section and

~~section eight a, article twenty one of this chapter §11-21-8a of this code.~~

(e) *Application fee* - Each application for tax credits authorized pursuant to this section and ~~section eight a, article twenty one of this chapter §11-21-8a of this code~~ shall require a fee payable to the state historic preservation officer equal to the lesser of (1) 0.5% of the amount of the tax credits requested for in such application and (2) \$10,000. The state historic preservation officer shall review and act on all such applications within thirty days of receipt.

Fees collected under this subsection shall be deposited into a special revenue account which is hereby created. The fund shall be administered by the state historic preservation officer and expended for the purposes of administering the provisions of this section and section eight-a, article twenty-one of this chapter.

~~(f) The tax credit allowed by this section is eliminated after December 31, 2022: *Provided*, That any tax credits authorized by the state historic preservation officer and eligible to be claimed prior to January 1, 2023, shall continue to be eligible to be claimed subject to the provisions of law governing those tax credits that were in effect prior to January 1, 2023.”~~

The bill was then ordered to third reading.

Com. Sub. for S. B. 368, Authorizing DEP to develop Reclamation of Abandoned and Dilapidated Properties Program; 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:

“CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 15. SOLID WASTE MANAGEMENT ACT.

§22-15-11. Solid waste assessment fee; penalties.

(a) *Imposition.* —

(1) A solid waste assessment fee is hereby imposed upon the disposal of solid waste at any solid waste disposal facility in this state in the amount of \$1.75 per ton or part thereof of solid waste. The fee imposed by this section is in addition to all other fees and taxes levied by law and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility.

(2) Effective July 1, 2021, in addition to the fee set forth in subdivision (1) of this subsection, an additional solid waste assessment fee shall be levied and imposed upon the disposal of solid waste at any solid waste landfill disposal facility in this state. This additional fee shall be in the amount of 20 cents per ton beginning July 1, 2021, 40 cents per ton beginning July 1, 2022, 60 cents per ton beginning July 1, 2023, 80 cents per ton beginning July 1, 2024, and \$1.00 per ton beginning July 1, 2025, thereafter or like ratio on any part of a ton of solid waste. The additional fee set forth in this subdivision shall be distributed as follows:

(A) 25% of the additional fee shall be distributed equally to each county or regional solid waste authority; and

(B) 75% of the additional fee shall be distributed on a per capita basis to each county or regional solid waste authority based on the most recent population projections from the United States Census Bureau.

The proceeds from this fee are to be expended for the reasonable costs of administration of the county or regional solid waste authority including the necessary and reasonable expenses of its members, and any other expenses incurred from refuse cleanup, recycling programs, litter control programs, or any other locally important solid waste programs deemed necessary to fulfill its duties. The Tax Commissioner may promulgate interpretive rules to provide for the distribution of funds as provided by this subdivision.

(b) *Collection, return, payment, and records.* — The person disposing of solid waste at the solid waste disposal facility shall pay the ~~fee~~ fees imposed by this section, whether or not such person

owns the solid waste, and the ~~fee~~ fees shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner.

(1) The ~~fee~~ fees imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility.

(2) The operator shall remit the ~~fee~~ fees imposed by this section to the Tax Commissioner on or before the 15th day of the month next succeeding the month in which the ~~fee~~ fees accrued. Upon remittance of the ~~fee~~ fees, the operator is required to file returns on forms and in the manner as prescribed by the Tax Commissioner.

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until remitted to the Tax Commissioner.

(4) If any operator fails to collect the ~~fee~~ fees imposed by this section, he or she is personally liable for such amount as he or she failed to collect, plus applicable additions to tax, penalties, and interest imposed by §11-10-1 *et seq.* of this code.

(5) Whenever any operator fails to collect, truthfully account for, remit the ~~fee~~ fees, or file returns with the ~~fee~~ fees as required in this section, the Tax Commissioner may serve written notice requiring such operator to collect the fees which become collectible after service of such notice, to deposit such fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner and to keep the amount of such fees in such account until remitted to the Tax Commissioner. Such notice remains in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner.

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the ~~fee~~ fees imposed by this section and the owner is secondarily liable for remittance of the ~~fee~~ fees imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are

jointly and severally responsible and liable for compliance with the provisions of this section.

(7) If the operator or owner responsible for collecting the ~~fee~~ fees imposed by this section is an association or corporation, the officers thereof are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the ~~fee~~ fees and any additions to tax, penalties, and interest imposed by §11-10-1 *et seq.* of this code may be enforced against them as against the association or corporation which they represent.

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the ~~fee~~ fees imposed by this section shall keep complete and accurate records in such form as the Tax Commissioner may require in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The ~~fee~~ fees imposed by this section and §7-5-22 of this code is considered a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under chapter 24A of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within 14 days, reflect the cost of said ~~fee~~ fees in said motor carrier's rates for solid waste removal service. In calculating the amount of said ~~fee~~ fees to said motor carrier, the commission shall use the national average of pounds of waste generated per person per day as determined by the United States Environmental Protection Agency.

(d) *Definition of 'solid waste disposal facility'.* — For purposes of this section, the term "solid waste disposal facility" means any approved solid waste facility or open dump in this state, and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste disposal facility within this state that collects the ~~fee~~ fees imposed by this section. Nothing herein authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the ~~fee~~ fees imposed by this section:

(1) Disposal of solid waste at a solid waste facility: ~~by (A) By~~ the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or (B) by persons utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30-day aggregate basis;~~

(2) Reuse or recycling of any solid waste;

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on such days and times as designated by the secretary is exempt from the solid waste assessment ~~fee~~ fees; and

(4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which disposes of 30 percent or less of the total waste it processes for recycling. In order to qualify for this exemption each commercial recycler must keep accurate records of incoming and outgoing waste by weight. Such records must be made available to the appropriate inspectors from the division, upon request.

(f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* of this code shall apply to the ~~fee~~ fees imposed by this section with like effect as if said act were applicable only to the ~~fee~~ fees imposed by this section and were set forth in extenso herein.

(g) *Criminal penalties.* — Notwithstanding §11-9-2 of this code, sections three through seventeen, article nine, chapter eleven of this code shall apply to the ~~fee~~ fees imposed by this section with like effect as if said sections were applicable only to the ~~fee~~ fees imposed by this section and were set forth in extenso herein.

(h) *Dedication of proceeds.* – Except as provided in subdivision (2), subsection (a) of this section, ~~The~~ the net proceeds of the ~~fee fees~~ collected by the Tax Commissioner pursuant to this section shall be deposited at least monthly in an account designated by the secretary. The secretary shall allocate \$0.25 for each ton of solid waste disposed of in this state upon which the ~~fee fees~~ imposed by this section is collected and shall deposit the total amount so allocated into the Solid Waste Reclamation and Environmental Response Fund to be expended for the purposes hereinafter specified. The first \$1 million dollars of the net proceeds of the ~~fee fees~~ imposed by this section collected in each fiscal year shall be deposited in the Solid Waste Enforcement Fund and expended for the purposes hereinafter specified. The next \$250,000 of the net proceeds of the ~~fee fees~~ imposed by this section collected in each fiscal year shall be deposited in the Solid Waste Management Board Reserve Fund, and expended for the purposes hereinafter specified: *Provided*, That in any year in which the Water Development Authority determines that the Solid Waste Management Board Reserve Fund is adequate to defer any contingent liability of the fund, the Water Development Authority shall so certify to the secretary and the secretary shall then cause no less than \$50,000 nor more than \$250,000 to be deposited to the fund: *Provided, however*, That in any year in which the Water Development Authority determines that the Solid Waste Management Board Reserve Fund is inadequate to defer any contingent liability of the fund, the Water Development Authority shall so certify to the secretary and the secretary shall then cause not less than \$250,000 nor more than \$500,000 to be deposited in the fund: *Provided further*, That if a facility owned or operated by the State of West Virginia is denied site approval by a county or regional solid waste authority, and if such denial contributes, in whole or in part, to a default, or drawing upon a reserve fund, on any indebtedness issued or approved by the Solid Waste Management Board, then in that event the Solid Waste Management Board or its fiscal agent may withhold all or any part of any funds which would otherwise be directed to such county or regional authority and shall deposit such withheld funds in the appropriate reserve fund. The secretary shall allocate the remainder, if any, of said net proceeds among the following three

special revenue accounts for the purpose of maintaining a reasonable balance in each special revenue account, which are hereby continued in the State Treasury:

(1) The Solid Waste Enforcement Fund which shall be expended by the secretary for administration, inspection, enforcement, and permitting activities established pursuant to this article;

(2) The Solid Waste Management Board Reserve Fund which shall be exclusively dedicated to providing a reserve fund for the issuance and security of solid waste disposal revenue bonds issued by the solid waste management board pursuant to §22C-3-1 *et seq.* of this code;

(3) The Solid Waste Reclamation and Environmental Response Fund which may be expended by the secretary for the purposes of reclamation, cleanup, and remedial actions intended to minimize or mitigate damage to the environment, natural resources, public water supplies, water resources and the public health, safety, and welfare which may result from open dumps or solid waste not disposed of in a proper or lawful manner.

(i) *Findings.* — In addition to the purposes and legislative findings set forth in §22-15-1 of this code, the Legislature finds as follows:

(1) In-state and out-of-state locations producing solid waste should bear the responsibility of disposing of said solid waste or compensate other localities for costs associated with accepting such solid waste;

(2) The costs of maintaining and policing the streets and highways of the state and its communities are increased by long distance transportation of large volumes of solid waste; and

(3) Local approved solid waste facilities are being prematurely depleted by solid waste originating from other locations.

(j) The Gas Field Highway Repair and Horizontal Drilling Waste Study Fund is hereby created as a special revenue fund in

the State Treasury to be administered by the West Virginia Division of Highways and to be expended only on the improvement, maintenance, and repair of public roads of three lanes or less located in the county where the waste is generated watershed from which the revenue was received through the Division of Highways county office in that county that are identified by the Commissioner of the Division of Highways as having been damaged by trucks and other traffic associated with horizontal well drilling sites or the disposal of waste generated by such sites, and that experience congestion caused, in whole or in part, by such trucks and traffic that interferes with the use of said roads by residents in the vicinity of such roads: *Provided*, That up to \$750,000 from such fund shall be made available to the Department of Environmental Protection from the same fund to offset contracted costs incurred by the Department of Environmental Protection while undertaking the horizontal drilling waste disposal studies mandated by the provisions of §22-15-8(j) of this code. Any balance remaining in the special revenue account at the end of any fiscal year shall not revert to the General Revenue Fund but shall remain in the special revenue account and shall be used solely in a manner consistent with this section. The fund shall consist of the fee provided for in subsection (k) of this section.

(k) *Horizontal drilling waste assessment fee.* — An additional solid waste assessment fee is hereby imposed upon the disposal of drill cuttings and drilling waste generated by horizontal well sites in the amount of \$1 per ton, which fee is in addition to all other fees and taxes levied by this section or otherwise and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility: *Provided*, That the horizontal drilling waste assessment fee shall be collected and administered in the same manner as the solid waste assessment fee imposed by this section, but shall be imposed only upon the disposal of drill cuttings and drilling waste generated by horizontal well sites.

**ARTICLE 15A. THE A. JAMES MANCHIN
REHABILITATION ENVIRONMENTAL ACTION
PLAN.**

§22-15A-1. Legislative findings and purpose.

(a) The Legislature finds that litter is a public nuisance and distracts from the beauty of the state and its natural resources. It is therefore necessary to establish and implement a litter control program to coordinate public and private litter control efforts; to establish penalties for littering; to provide for litter pickup programs; to create education programs; and to provide assistance to local solid waste authority litter control efforts.

(b) The Legislature further finds that the improper management of commercial and residential solid waste and the unlawful disposal of such waste ~~creates~~ create open dumps that adversely ~~impacts~~ impact the state's natural resources, public water supplies, and the public health, safety, and welfare of the citizens of the state. It is therefore necessary to establish a program to promote pollution prevention and to eliminate and remediate open dumps.

(c) The Legislature further finds that waste tire piles are a direct product of state citizens' use and enjoyment of state roads and highways, and proper tire waste disposal is a necessary component of maintenance of the transportation system. The accumulation of waste tires has also become a significant environmental and public health hazard to the state, and the location and number of waste tires are directly related to the efficiency of travel, by citizens, visitors, and commerce, along public highways in West Virginia. In particular, the Legislature recognizes that waste tires are widespread in location and in number throughout the state; waste tires physically touch and concern public highways, including, but not limited to, state roads, county roads, park roads, secondary routes, and orphan roads, all of which interferes with the efficiency of public highways; and further that the existence of waste tires along and near public highways is sometimes accompanied by other hazards and, in turn, adversely impacts the proper maintenance and efficiency of public highways for citizens.

(d) The Legislature also recognizes and declares that waste tires are a public nuisance and hazard; that waste tires serve as harborage and breeding places for rodents, mosquitoes, fleas, ticks, and other insects and pests injurious to the public health, safety, and general welfare; that waste tires collected in large piles pose an excessive risk to public health, safety, and welfare from disease or

fire; that the environmental, economic, and societal damage resulting from fires in waste tire piles can be avoided by removing the piles; and that tire pile fires cause extensive pollution of the air and surface and groundwater for miles downwind and downstream from the fire.

(e) Therefore, in view of the findings relating to waste tires, the Legislature declares it to be the public policy of the State of West Virginia to eliminate the present danger resulting from discarded or abandoned waste tires and to eliminate the visual pollution resulting from waste tire piles and that in order to provide for the public health, safety, welfare, and quality of life, and to reverse the adverse impacts to the proper maintenance and efficiency of public highways, it is necessary to enact legislation to those ends by providing expeditious means and methods for effecting the disposal of waste tires.

(f) The Legislature further finds that abandoned and dilapidated structures statewide have become a significant hazard and can result in the formation of open dumps or solid waste not disposed of in a proper or lawful manner. In particular, the Legislature recognizes that damage to the environment, natural resources, and the public health, safety, and welfare may result from abandoned and dilapidated structures. Abandoned and dilapidated structures are widespread in location and in number throughout the state; and further, that the existence of abandoned and dilapidated structures along and near public highways is sometimes accompanied by other hazards and, in turn, adversely impacts the proper maintenance and efficiency of public highways for citizens.

(g) In view of the findings relating to abandoned and dilapidated structures, the Legislature declares it to be the public policy of the State of West Virginia to establish a program to eliminate and remediate abandoned and dilapidated structures.

(f) (h) The Legislature finds that many citizens desire a recycling program in order to conserve limited natural resources, reduce litter, recycle valuable materials, extend the useful life of solid waste landfills, reduce the need for new landfills, and create

markets for recyclable materials. It is therefore necessary to establish goals for recycling solid waste; to require certain municipalities to implement recycling programs; to authorize counties to adopt comprehensive recycling programs; to encourage source separation of solid waste; to increase the purchase of recycled products by the various agencies and instrumentalities of government; and to educate the public concerning the benefits of recycling.

~~(g)~~ (i) The Legislature finds that the effectiveness of litter control, open dump, tire cleanup programs and recycling programs have been made less efficient by fragmented implementation of the various programs by different agencies. It is therefore necessary to coordinate all such programs under one program managed by the department to ensure that all current and future litter, open dump, waste tire, and recycling issues are managed and addressed efficiently and effectively.

~~(h)~~ (j) This article implements the A. James Manchin Rehabilitation Environmental Action Plan, a coordinated effort to address litter, waste, open dump, tire cleanup, and recycling programs.

§22-15A-19. Recycling assessment fee; regulated motor carriers; dedication of proceeds; criminal penalties.

(a) *Imposition.* — A recycling assessment fee is hereby levied and imposed upon the disposal of solid waste at all solid waste disposal facilities in this state, to be collected at the rate of \$2 per ton or part of a ton of solid waste. The fee imposed by this section is in addition to all other fees levied by law.

(b) *Collection, return, payment, and records.* — The person disposing of solid waste at the solid waste disposal facility shall pay the fee imposed by this section, whether or not that person owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner:

(1) The fee imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility;

(2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or before the 15th day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator shall file returns on forms and in the manner as prescribed by the Tax Commissioner;

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until they are remitted to the Tax Commissioner;

(4) If any operator fails to collect the fee imposed by this section, he or she is personally liable for the amount that he or she failed to collect, plus applicable additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code;

(5) Whenever any operator fails to collect, truthfully account for, remit the fee or file returns with the fee as required in this section, the Tax Commissioner may serve written notice requiring the operator to collect the fees which become collectible after service of the notice, to deposit the fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner, and to keep the amount of the fees in the account until remitted to the Tax Commissioner. The notice remains in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner;

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the fee imposed by this section and the owner is secondarily liable for remittance of the fee imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are jointly and severally responsible and liable for compliance with the provisions of this section;

(7) If the operator or owner responsible for collecting the fee imposed by this section is an association or corporation, the officers of the association or corporation are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the fee and any additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code may be enforced against them and against the association or corporation which they represent; and

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the fee imposed by this section shall keep complete and accurate records in the form required by the Tax Commissioner in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under §24A-1-1 *et seq.* of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within 14 days, reflect the cost of the fee in the motor carrier's rates for solid waste removal service. In calculating the amount of the fee to the motor carrier, the Commission shall use the national average of pounds of waste generated per person per day as determined by the United States Environmental Protection Agency.

(d) *Definition.* — For purposes of this section, “solid waste disposal facility” means any approved solid waste facility or open dump in this state and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste facility within this state that collects the fee imposed by this section.

Nothing in this section authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the fee imposed by this section:

(1) Disposal of solid waste at a solid waste facility: ~~by (A) By~~ the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or (B) by persons utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30-day aggregate basis;~~

(2) Reuse or recycling of any solid waste; and

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on the days and times designated by the secretary by rule as exempt from the fee imposed pursuant to §22-15-11 of this code.

(f) *Procedure and administration.* — Notwithstanding the provisions of §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* of this code applies to the fee imposed by this section with like effect as if the act were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(g) *Criminal penalties.* — Notwithstanding §11-9-2 ~~of this code~~ and §11-9-3 through §11-9-17, inclusive, of this code apply to the fee imposed by this section with like effect as if the sections were the only fee imposed by this section and were set forth in extenso in this section.

(h) *Dedication of proceeds.* — The proceeds of the fee collected pursuant to this section shall be deposited by the Tax Commissioner, at least monthly, in a special revenue account designated as the Recycling Assistance Fund which is hereby continued and transferred to the Department of Environmental Protection. The secretary shall allocate the proceeds of the fund as follows:

(1) Fifty percent of the total proceeds shall be provided in grants to assist municipalities, counties, and other interested parties

in the planning and implementation of recycling programs, public education programs and recycling market procurement efforts, established pursuant to this article. The secretary shall promulgate rules, in accordance with ~~§29A-1-1 et seq.~~ §29A-3-1 et seq. of this code, containing application procedures, guidelines for eligibility, reporting requirements, and other matters considered appropriate: *Provided*, That persons responsible for collecting, hauling, or disposing of solid waste who do not participate in the collection and payment of the solid waste assessment fee imposed by this section in addition to all other fees and taxes levied by law for solid waste generated in this state which is destined for disposal, are not eligible to receive grants under the provisions of this article;

(2) Twelve and one-half percent of the total proceeds shall be expended for personal services and benefit expenses of full-time salaried natural resources police officers;

(3) Twelve and one-half percent of the total proceeds shall be directly allocated to the solid waste planning fund;

(4) Twelve and one-half percent of the total proceeds shall be transferred to the Solid Waste Reclamation and Environmental Response Fund, established pursuant to §22-15-11 of this code, to be expended by the Department of Environmental Protection to assist in the funding of the pollution prevention and open dumps program (PPOD) which encourages recycling, reuse, waste reduction, and clean-up activities; and

(5) Twelve and one-half percent of the total proceeds shall be deposited in the Hazardous Waste Emergency Response Fund established in §22-19-1 *et seq.* of this code.

§22-15A-30. Reclamation of Abandoned and Dilapidated Properties Program.

(a) To assist county commissions or municipalities in their efforts to remediate abandoned and dilapidated structures as provided by §7-1-3ff and §8-38-5 of this code, the Department of Environmental Protection may develop a program called the Reclamation of Abandoned and Dilapidated Properties Program.

Using the fund established in subsection (b) of this section, the Department of Environmental Protection may work with county commissions or municipalities and implement redevelopment plans which will, at a minimum, establish prioritized inventories of structures eligible to participate in the program, offer reuse options for high-priority sites, and recommend actions county commissions or municipalities may take to remediate abandoned and dilapidated structures in their communities.

(b) There is created in the State Treasury a special revenue fund known as the Reclamation of Abandoned and Dilapidated Properties Program Fund. The fund shall be comprised of any money granted by charitable foundations, allocated by the Legislature, allocated from federal agencies, and earned from the investment of money held in the fund, and all other money designated for deposit to the fund from any source, public or private. The fund shall operate as a special revenue fund and all deposits and payments into the fund do not expire to the General Revenue Fund but shall remain in the account and be available for expenditure in succeeding fiscal years.

(c) The fund, to the extent that money is available, may be used solely to assist county commissions or municipalities in remediating abandoned and dilapidated structures in their communities by demolishing or deconstructing them and other activities as authorized by a charitable grant or legislative appropriation. The fund may also be used to defray costs incurred by the Department of Environmental Protection in administering the provisions of this section. However, no more than five percent of money transferred from the Solid Waste Facility Closure Cost Assistance Fund may be used for administrative purposes.

(d) The Department of Environmental Protection may promulgate rules, in accordance with the provisions of §29A-3-1 *et seq.* of this code, to govern the disbursement of money from the fund, establish the Reclamation of Abandoned and Dilapidated Properties Program, direct the distribution of money from the fund, and establish criteria for eligibility to receive money from the fund.

(e) Nothing in this section shall be construed to limit, restrain, or otherwise discourage this state and its political subdivisions from disposing of abandoned and dilapidated structures in any other manner provided by the laws of this state.

ARTICLE 16. SOLID WASTE LANDFILL CLOSURE ASSISTANCE PROGRAM.

§22-16-4. Solid waste assessment fee; penalties.

(a) *Imposition.* — A solid waste assessment fee is levied and imposed upon the disposal of solid waste at any solid waste disposal facility in this state in the amount of ~~\$3.50~~ \$3.30 per ton beginning July 1, 2021, \$3.10 per ton beginning July 1, 2022, \$2.90 per ton beginning July 1, 2023, \$2.70 per ton beginning July 1, 2024, and \$2.50 per ton beginning July 1, 2025, and thereafter or like ratio on any part of a ton of solid waste, except as provided in subsection (e) of this section: *Provided*, That any solid waste disposal facility may deduct from this assessment fee an amount, not to exceed the fee, equal to the amount that the facility is required by the Public Service Commission to set aside for the purpose of closure of that portion of the facility required to close by article fifteen of this chapter. The fee imposed by this section is in addition to all other fees and taxes levied by law and shall be added to and constitute part of any other fee charged by the operator or owner of the solid waste disposal facility.

(b) *Collection, return, payment, and records.* — The person disposing of solid waste at the solid waste disposal facility shall pay the fee imposed by this section, whether or not that person owns the solid waste, and the fee shall be collected by the operator of the solid waste facility who shall remit it to the Tax Commissioner:

(1) The fee imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility;

(2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or before the 15th day of the month next succeeding the month in which the fee accrued. Upon remittance

of the fee, the operator shall file returns on forms and in the manner prescribed by the Tax Commissioner;

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until they are remitted to the Tax Commissioner;

(4) If any operator fails to collect the fee imposed by this section, he or she is personally liable for the amount he or she failed to collect, plus applicable additions to tax, penalties, and interest imposed by §11-10-1 *et seq.* of this code;

(5) Whenever any operator fails to collect, truthfully account for, remit the fee, or file returns with the fee as required in this section, the Tax Commissioner may serve written notice requiring the operator to collect the fees which become collectible after service of the notice, to deposit the fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner, and to keep the amount of the fees in the account until remitted to the Tax Commissioner. The notice shall remain in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner;

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the fee imposed by this section and the owner is secondarily liable for remittance of the fee imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are jointly and severally responsible and liable for compliance with the provisions of this section;

(7) If the operator or owner responsible for collecting the fee imposed by this section is an association or corporation, the officers of the association or corporation are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the fee and any additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code may

be enforced against them as against the association or corporation which they represent; and

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the fee imposed by this section shall keep complete and accurate records in the form required by the Tax Commissioner in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under chapter 24A of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within 14 days, reflect the cost of the fee in the motor carrier's rates for solid waste removal service. In calculating the amount of the fee to the motor carrier, the commission shall use the national average of pounds of waste generated per person per day as determined by the United States environmental protection agency.

(d) *Definitions.* — For purposes of this section, the term “solid waste disposal facility” means any approved solid waste facility or open dump in this state, and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste facility within this state that collects the fee imposed by this section. Nothing in this section authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the fee imposed by this section:

(1) Disposal of solid waste at a solid waste facility: ~~by~~ (A) By the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; or (B) by persons utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and

which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30-day aggregate basis;

(2) Reuse or recycling of any solid waste;

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on the days and times designated by the director as exempt from the solid waste assessment fee; and

(4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which disposes of 30 percent or less of the total waste it processes for recycling. In order to qualify for this exemption each commercial recycler shall keep accurate records of incoming and outgoing waste by weight. The records shall be made available to the appropriate inspectors from the division, upon request.

(f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* of this code applies to the fee imposed by this section with like effect as if the act were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(g) *Criminal penalties.* — Notwithstanding §11-9-2 ~~of this code,~~ and §11-9-3 through §11-9-17 of this code apply to the fee imposed by this section with like effect as if the sections were applicable only to the fee imposed by this section and were set forth in extenso in this section.

(h) *Dedication of proceeds.* — (1) The proceeds of the fee collected pursuant to this section shall be deposited in the closure cost assistance fund established pursuant to §22-16-12 of this code: *Provided,* That the director may transfer up to 50 cents for each ton of solid waste disposed of in this state upon which the fee imposed by this section is collected on or after July 1, 1998, to the solid waste enforcement fund established pursuant to §22-15-11 of this code.

(2) Fifty percent of the proceeds of the fee collected pursuant to this article in excess of 30,000 tons per month from any landfill which is permitted to accept in excess of 30,000 tons per month pursuant to §22-15-9 of this code shall be remitted, at least monthly, to the county commission in the county in which the landfill is located. The remainder of the proceeds of the fee collected pursuant to this section shall be deposited in the closure cost assistance fund established pursuant to §22-16-12 of this code.

§22-16-12. Solid Waste Facility Closure Cost Assistance Fund; closure extension; reporting requirements.

(a) The Solid Waste Facility Closure Cost Assistance Fund continues as a special revenue account in the State Treasury. The fund operates as a special fund in which all deposits and payments do not expire to the General Revenue Fund, but remain in the account and are available for expenditure in the succeeding fiscal year. Separate subaccounts may be established within the special account for the purpose of identification of various revenue resources and payment of specific obligations.

(b) Interest earned on any money in the fund shall be deposited to the credit of the fund.

(c) The fund consists of the following:

(1) Moneys collected and deposited in the State Treasury which are specifically designated by Acts of the Legislature for inclusion in the fund, including moneys collected and deposited into the fund pursuant to §22-16-4 of this code;

(2) Contributions, grants, and gifts from any source, both public and private, which may be used by the secretary for any project or projects;

(3) Amounts repaid by permittees pursuant to §22-15-18 of this code; and

(4) All interest earned on investments made by the state from moneys deposited in this fund.

(d) The Solid Waste Management Board, upon written approval of the secretary, has the authority to pledge all or part of the revenues paid into the Solid Waste Facility Closure Cost Assistance Fund as needed to meet the requirements of any revenue bond issue or issues of the Solid Waste Management Board authorized by this article, including the payment of principal of, interest and redemption premium, if any, on the revenue bonds and the establishing and maintaining of a reserve fund or funds for the payment of the principal of, interest and redemption premium, if any, on the revenue bond issue or issues where other moneys pledged may be insufficient. Any pledge of moneys in the Solid Waste Facility Closure Cost Assistance Fund for revenue bonds is a prior and superior charge on the fund over the use of any of the moneys in the fund to pay for the cost of any project on a cash basis. Expenditures from the fund, other than for the retirement of revenue bonds, may only be made in accordance with this article.

(e) The amounts deposited in the fund may be expended only on the cost of projects as provided in §22-16-3 and §22-16-15 of this code, as provided in subsection (f) of this section, and for payment of bonds and notes issued pursuant to §22-16-5 of this code. No more than two percent of the annual deposits to the fund may be used for administrative purposes.

(f) Notwithstanding any provision of this article, upon request of the Solid Waste Management Board, and with the approval of the projects by the Secretary of the Department of Environmental Protection, the secretary may pledge and place into escrow accounts up to an aggregate of \$2 million of the fund to satisfy two years debt service requirement that ~~permittees~~ permittees of publicly owned landfills and transfer stations are required to meet in order to obtain loans. Pledges shall be made on a project-by-project basis, may not exceed \$500,000 for a project, and are made available after loan commitments are received. The secretary may pledge funds for a loan only when the following conditions are met:

(1) The proceeds of the loan are used only to perform construction of a transfer station or a composite liner system that is required to meet Title 47, Series 38, Solid Waste Management Rules;

(2) The permittee dedicates all yearly debt service revenue, as determined by the Public Service Commission, to meet the repayment schedule of the loan, before it uses available revenue for any other purpose; and

(3) That any funds pledged may only be paid to the lender if the permittee is in default on the loan.

(g) Notwithstanding any provision of this code to the contrary, the Elkins-Randolph County Landfill, located in Randolph County, and the Webster County Landfill, located in Webster County, are eligible for funds from the Solid Waste Facility Closure Cost Assistance Fund necessary to complete their closure upon the filing of appropriate application. Upon the filing of an appropriate application, the Department of Environmental Protection shall work with the applicant to ensure the application meets the department's requirements.

(h) The Department of Environmental Protection is required to file, by January 1 of each year, an annual report with the Joint Committee on Government and Finance providing details on the manner in which the landfill closure assistance funds were expended for the prior fiscal year.

(i) The Prichard Landfill in Wayne County is eligible for funds from the Solid Waste Facility Closure Cost Assistance Fund necessary to complete post-closure maintenance and monitoring upon the filing of an appropriate application. In the event of a permit transfer, neither the state nor the Wayne County Economic Development Authority or entity may assume any liability from the private landfill other than post-closure maintenance and monitoring costs.

(j)(1) Notwithstanding any other provision of this code, upon completion of the landfill closure-related services at all eligible landfills pursuant to §22-16-3 of this code, the secretary may transfer excess money from the Solid Waste Facility Closure Cost Assistance Fund to the Reclamation of Abandoned and Dilapidated Properties Program Fund created by §22-15A-30 of this code. However, the secretary may not transfer moneys from the Solid

Waste Facility Closure Cost Assistance Fund that are required to be maintained so that the department can conduct post-closure activities authorized by this article and the legislative rules promulgated thereunder. The department shall maintain in the Solid Waste Facility Closure Cost Assistance Fund a minimum balance of twice the total cost of post-closure expenses projected for the fiscal year as a buffer for unanticipated necessary post-closure activities.

(2) Contingent upon the Department of Environmental Protection securing private foundation funding to establish the Reclamation of Abandoned and Dilapidated Properties Program, and prior to the completion of the landfill closure-related services at all eligible landfills, the secretary may expend money from the Solid Waste Facility Closure Cost Assistance Fund for pilot projects conducted by the Department of Environmental Protection demonstrating the function of the Reclamation of Abandoned and Dilapidated Properties Program.

CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS, AND COMPACTS.

ARTICLE 4. COUNTY AND REGIONAL SOLID WASTE AUTHORITIES.

§22C-4-30. Solid waste assessment interim fee; regulated motor carriers; dedication of proceeds; criminal penalties.

(a) *Imposition.* — Effective July 1, 1989, a solid waste assessment fee is hereby levied and imposed upon the disposal of solid waste at any solid waste disposal facility in this state to be collected at the rate of \$1 per ton or part thereof of solid waste. The fee imposed by this section is in addition to all other fees levied by law.

(b) *Collection, return, payment, and record.* — The person disposing of solid waste at the solid waste disposal facility shall pay the fee imposed by this section, whether or not such person owns the solid waste, and the fee shall be collected by the operator

of the solid waste facility who shall remit it to the Tax Commissioner.

(1) The fee imposed by this section accrues at the time the solid waste is delivered to the solid waste disposal facility.

(2) The operator shall remit the fee imposed by this section to the Tax Commissioner on or before the 15th day of the month next succeeding the month in which the fee accrued. Upon remittance of the fee, the operator is required to file returns on forms and in the manner as prescribed by the Tax Commissioner.

(3) The operator shall account to the state for all fees collected under this section and shall hold them in trust for the state until they are remitted to the Tax Commissioner.

(4) If any operator fails to collect the fee imposed by this section, he or she is personally liable for such amount as he or she failed to collect, plus applicable additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code.

(5) Whenever any operator fails to collect, truthfully account for, remit the fee, or file returns with the fee as required in this section, the Tax Commissioner may serve written notice requiring such operator to collect the fees which become collectible after service of such notice, to deposit such fees in a bank approved by the Tax Commissioner, in a separate account, in trust for and payable to the Tax Commissioner, and to keep the amount of such fees in such account until remitted to the Tax Commissioner. Such notice remains in effect until a notice of cancellation is served on the operator or owner by the Tax Commissioner.

(6) Whenever the owner of a solid waste disposal facility leases the solid waste facility to an operator, the operator is primarily liable for collection and remittance of the fee imposed by this section and the owner is secondarily liable for remittance of the fee imposed by this section. However, if the operator fails, in whole or in part, to discharge his or her obligations under this section, the owner and the operator of the solid waste facility are jointly and

severally responsible and liable for compliance with the provisions of this section.

(7) If the operator or owner responsible for collecting the fee imposed by this section is an association or corporation, the officers thereof are liable, jointly and severally, for any default on the part of the association or corporation, and payment of the fee and any additions to tax, penalties and interest imposed by §11-10-1 *et seq.* of this code may be enforced against them as against the association or corporation which they represent.

(8) Each person disposing of solid waste at a solid waste disposal facility and each person required to collect the fee imposed by this section shall keep complete and accurate records in such form as the Tax Commissioner may require in accordance with the rules of the Tax Commissioner.

(c) *Regulated motor carriers.* — The fee imposed by this section and §7-5-22 of this code is a necessary and reasonable cost for motor carriers of solid waste subject to the jurisdiction of the Public Service Commission under §24A-1-1 *et seq.* of this code. Notwithstanding any provision of law to the contrary, upon the filing of a petition by an affected motor carrier, the Public Service Commission shall, within 14 days, reflect the cost of said fee in said motor carrier's rates for solid waste removal service. In calculating the amount of said fee to said motor carrier, the commission shall use the national average of pounds of waste generated per person per day as determined by the United States Environmental Protection Agency.

(d) *Definition of solid waste disposal facility.* — For purposes of this section, the term "solid waste disposal facility" means any approved solid waste facility or open dump in this state and includes a transfer station when the solid waste collected at the transfer station is not finally disposed of at a solid waste facility within this state that collects the fee imposed by this section. Nothing herein authorizes in any way the creation or operation of or contribution to an open dump.

(e) *Exemptions.* — The following transactions are exempt from the fee imposed by this section:

(1) Disposal of solid waste at a solid waste facility: ~~by (A)~~ By the person who owns, operates, or leases the solid waste disposal facility if it is used exclusively to dispose of waste originally produced by that person in his or her regular business or personal activities; ~~or (B)~~ by persons utilizing the facility on a cost-sharing or nonprofit basis; or (C) by a mixed waste processing and resource recovery facility as those facilities are defined in code or rule and which processes a minimum of 70 percent of the material brought to the facility on any given day on a 30-day aggregate basis;

(2) Reuse or recycling of any solid waste;

(3) Disposal of residential solid waste by an individual not in the business of hauling or disposing of solid waste on such days and times as designated by the director of the Division of Environmental Protection as exempt from the fee imposed pursuant to §22-15-11 of this code; and

(4) Disposal of solid waste at a solid waste disposal facility by a commercial recycler which disposes of 30 percent or less of the total waste it processes for recycling. In order to qualify for this exemption each commercial recycler must keep accurate records of incoming and outgoing waste by weight. Such records must be made available to the appropriate inspectors from the Division of Environmental Protection of solid waste authority, upon request.

(f) *Procedure and administration.* — Notwithstanding §11-10-3 of this code, each and every provision of the West Virginia Tax Procedure and Administration Act set forth in §11-10-1 *et seq.* of this code applies to the fee imposed by this section with like effect as if said act were applicable only to the fee imposed by this section and were set forth in extenso herein.

(g) *Criminal penalties.* — Notwithstanding §11-9-2 and §11-9-3 through §11-9-17, inclusive, of this code apply to the fee imposed by this section with like effect as if said sections were the only fee imposed by this section and were set forth in extenso herein.

(h) *Dedication of proceeds.* — The net proceeds of the fee collected by the Tax Commissioner pursuant to this section shall be deposited, at least monthly, in a special revenue account known as the Solid Waste Planning Fund which is hereby continued. The solid waste management board shall allocate the proceeds of the said fund as follows:

(1) Fifty percent of the total proceeds shall be divided equally among, and paid over, to, each county solid waste authority to be expended for the purposes of this article: *Provided*, That where a regional solid waste authority exists, such funds shall be paid over to the regional solid waste authority to be expended for the purposes of this article in an amount equal to the total share of all counties within the jurisdiction of said regional solid waste authority; and

(2) Fifty percent of the total proceeds shall be expended by the solid waste management board for:

(A) Grants to the county or regional solid waste authorities for the purposes of this article; and

(B) Administration, technical assistance, or other costs of the solid waste management board necessary to implement the purposes of this article and §22C-3-1 *et seq.* of this code.

(i) *Effective date.* — This section is effective on July 1, 1990. The amendment and reenactment of this section in 2021 is effective on July 1, 2021.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1m. Commission jurisdiction does not extend to materials recovery facilities, mixed waste processing facilities, and ~~oil and natural gas solid waste disposal~~ certain mixed waste processing and resource recovery facilities.

Notwithstanding any other provision of this code, the jurisdiction of the commission does not extend to materials

recovery facilities or mixed waste processing facilities as defined by §22-15-2 of this code, except within a 35 mile radius of a facility sited in a county that is, in whole or in part, within a karst region as determined by the West Virginia Geologic and Economic Survey that has been permitted and classified by the ~~WVDEP~~ West Virginia Department of Environmental Protection as a mixed waste processing resource recovery facility and has received a certificate of need by July 1, 2016: *Provided*, That nothing in this section shall affect the requirements of §24A-2-5 and §24A-3-3 of this code: *Provided, however*, That the jurisdiction of the commission does not extend to any mixed waste processing and resource recovery facility that processes a minimum of 70 percent of the material brought to the facility on any given day on a 30-day aggregate basis.”

The bill was ordered to third reading.

S. B. 718, Relating generally to Coal Severance Tax Rebate; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Unanimous consent having been obtained, the House returned to further consideration of **Com. Sub. for S. B. 660**, Providing for cooperation between law-enforcement agencies and military authorities.

An amendment to the title of the bill, offered by Delegate Capito, was reported by the Clerk.

Whereupon,

Delegate Capito obtained unanimous consent that the amendment be withdrawn.

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

Com. Sub. for S. B. 660 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto three new sections, designated §15-10-7, §15-10-8, and §15-10-9, all relating generally to providing for cooperation between civilian law-

enforcement agencies and military authorities to facilitate objective independent investigations of possible offenses; authorizing assistance for certain instances; prohibiting any civilian law enforcement officer from assisting military authorities to investigate or enforce crimes relating to federal firearms laws; prohibiting civilian law enforcement from being commandeered by military authorities to investigate certain crimes relating to firearms; permitting local law enforcement to enforce policies of the law enforcement agency and any local law or policy; and clarifying that the provisions are severable.”

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

Third Reading

Com. Sub. for S. B. 492, Establishing program for bonding to reclaim abandoned wind and solar generation facilities; on third reading coming up in regular order, with amendments pending and the right to amend, was reported by the Clerk.

On motion of Delegate Summers the bill was postponed one day.

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

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. C. R. 105, Requesting the Joint Committee on Government and Finance study the current process of involuntary hospitalization, competency, and criminal responsibility of persons charged or convicted of certain crimes,

H. C. R. 106, Requesting the Joint Committee on Government and Finance study the effect of empowering the West Virginia Sentencing Commission to study the effect of a criminal code rewrite,

H. R. 26, Requesting the Joint Committee on Government and Finance to study the extent to which the COVID-19 pandemic has revealed efficiencies and/or inefficiencies in the executive branch of government in West Virginia,

And,

S. C. R. 53, Encouraging certain facilities improve palliative care programs,

And reports the same back with the recommendation that they each be adopted.

Delegate D. Jeffries, 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 9th day of April, 2021, 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. 3292, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health.

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. 3317, Making supplementary appropriation to West Virginia Commuter Rail Access 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 (H. B. 3317) was taken up for immediate consideration, read a first time and ordered to second 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. 576**), and there were—yeas 92, nays 8, absent and not voting none, with the nays being as follows:

Nays: Howell, J. Jeffries, Jennings, Kimes, McGeehan, Paynter, Phillips and Zatezalo.

So, four fifths of the members present having voted in the affirmative, the constitutional rule was dispensed with.

The bill was then read a second time and ordered to engrossment and third reading. Having been engrossed, the bill was read a third time and put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 577**), and there were—yeas 92, nays 8, absent and not voting none, with the nays being as follows:

Nays: Dean, Hamrick, Howell, J. Jeffries, Kimes, McGeehan, Paynter and Phillips.

So, a majority of the members present and voting in the affirmative, the Speaker declared the bill (H. B. 3317) passed.

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 94, nays 6, absent and not voting none, with the nays being as follows:

Nays: Dean, Howell, J. Jeffries, Kimes, McGeehan and Paynter.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3317) takes effect from its passage.

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3288, Supplementing and amending appropriations by decreasing and increasing existing items of appropriation in the DHHR.

On motion of Delegate Kessinger 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:

That the total appropriation for the fiscal year ending June 30, 2021, to fund 0101, fiscal year 2021, organization 0100, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

EXECUTIVE

5 – Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2021 Org 0100

	Appro- p-riation		General Revenue Fund
2 Current Expenses (R).....	13000	\$	65,000

And, That the total appropriation for the fiscal year ending June 30, 2021, to fund 0101, fiscal year 2021, organization 0100, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

EXECUTIVE

5 – Governor’s Office

(WV Code Chapter 5)

Fund 0101 FY 2021 Org 0100

	Appro- p-riation		General Revenue Fund
3a Equipment.....	07000	\$	65,000

And, That the total appropriation for the fiscal year ending June 30, 2021, to fund 0403, fiscal year 2021, organization 0511, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

61 – Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2021 Org 0511

	Appropriation		General Revenue Fund
5 Medical Services.....	18900	\$	4,660,595

And, That the total appropriation for the fiscal year ending June 30, 2021, to fund 0407, fiscal year 2021, organization 0506, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

57 – Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2021 Org 0506

	Appropriation		General Revenue Fund
19 Primary Care Support	62800	\$	3,040,040

And, That the total appropriation for the fiscal year ending June 30, 2021, to fund 0403, fiscal year 2021, organization 0511, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES*61 –Division of Human Services –*

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2021 Org 0511

	Appro- priation	General Revenue Fund
25 Medical Services		
Administrative Costs	78900	\$ 7,700,635

With the further title amendment, sponsored by Delegates Summers and Householder, being as follows:

H. B. 3288 - “A Bill supplementing and amending appropriations of public moneys out of the Treasury in the State Fund, General Revenue, by decreasing an existing item of appropriation and adding a new item of appropriation to Executive, Governor’s Office, fund 0101, fiscal year 2021, organization 0100, by decreasing existing items of appropriation from the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2021, organization 0511 and from the Department of Health and Human Resources, Division of Health – Central Office, fund 0407, fiscal year 2021, organization 0506 and increasing an existing item of appropriation to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2021, organization 0511, by supplementing and amending appropriations for the fiscal year ending June 30, 2021.”

The bill, as amended by the Senate, and further amended by the House of Delegates, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 579**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Booth.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3288) passed.

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

On this question, the yeas and nays were taken (**Roll No. 580**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Hardy.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3288) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 3293, Relating to single-sex participation in interscholastic athletic events.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25d. Clarifying participation for sports events to be based on biological sex of the athlete at birth.

(a) The Legislature hereby finds:

(1) There are inherent differences between biological males and biological females, and that these differences are cause for celebration, as determined by the Supreme Court of the United States in *United States v. Virginia* (1996);

(2) These inherent differences are not a valid justification for sex-based classifications that make overbroad generalizations or perpetuate the legal, social, and economic inferiority of either sex. Rather, these inherent differences are a valid justification for sex-based classifications when they realistically reflect the fact that the sexes are not similarly situated in certain circumstances, as recognized by the Supreme Court of the United States in *Michael M. v. Sonoma County, Superior Court* (1981) and the Supreme Court of Appeals of West Virginia in *Israel v. Secondary Schools Act. Com'n* (1989);

(3) In the context of sports involving competitive skill or contact, biological males and biological females are not in fact similarly situated. Biological males would displace females to a substantial extent if permitted to compete on teams designated for biological females, as recognized in *Clark v. Ariz. Interscholastic Ass'n* (9th Cir. 1982);

(4) Although necessarily related, as concluded by the United States Supreme Court in *Bostock v. Clayton County* (2020), gender identity is separate and distinct from biological sex to the extent that an individual's biological sex is not determinative or indicative of the individual's gender identity. Classifications based on gender identity serve no legitimate relationship to the State of West Virginia's interest in promoting equal athletic opportunities for the female sex; and

(5) Classification of teams according to biological sex is necessary to promote equal athletic opportunities for the female sex.

(b) Definitions. - As used in this section, the following words have the meanings ascribed to them unless the context clearly implies a different meaning:

(1) ‘Biological sex’ means an individual’s physical form as a male or female based solely on the individual’s reproductive biology and genetics at birth.

(2) ‘Female’ means an individual whose biological sex determined at birth is female. As used in this section, ‘women’ or ‘girls’ refers to biological females.

(3) ‘Male’ means an individual whose biological sex determined at birth is male. As used in this section, ‘men’ or ‘boys’ refers to biological males.

(c) Designation of Athletic Teams. —

(1) Interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by any public secondary school or a state institution of higher education, including a state institution that is a member of the National Collegiate Athletic Association (NCAA), National Association of Intercollegiate Athletics (NAIA), or National Junior College Athletic Association (NJCAA), shall be expressly designated as one of the following based on biological sex:

(A) Males, men, or boys;

(B) Females, women, or girls; or

(C) Coed or mixed.

(2) Athletic teams or sports designated for females, women, or girls shall not be open to students of the male sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport.

(3) Nothing in this section shall be construed to restrict the eligibility of any student to participate in any interscholastic, intercollegiate, or intramural athletic teams or sports designated as ‘males,’ ‘men,’ or ‘boys’ or designated as ‘coed’ or ‘mixed’: *Provided*, That selection for a team may still be based on those who try out and possess the requisite skill to make the team.

(d) Cause of Action. —

(1) Any student aggrieved by a violation of this section may bring an action against a county board of education or state institution of higher education alleged to be responsible for the alleged violation. The aggrieved student may seek injunctive relief and actual damages, as well as reasonable attorney’s fee and court costs, if the student substantially prevails.

(2) In any private action brought pursuant to this section, the identity of a minor student shall remain private and anonymous.

(e) The State Board of Education shall promulgate rules, including emergency rules, pursuant to §29A-3B-1 *et. seq.* of this code to implement the provisions of this section. The Higher Education Policy Commission and the Council for Community and Technical College Education shall promulgate emergency rules and propose rules for legislative approval pursuant to §29A-3A-1 *et. seq.* of this code to implement the provisions of this section.”

And,

By amending the title of the bill to read as follows:

Com. Sub. for H. B. 3293 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25d, relating to designation of athletic teams or sports sponsored by any public secondary school or state institution of higher education according to biological sex; providing legislative findings; defining ‘biological sex’, ‘female’, and ‘male’; providing for designation of athletic teams as ‘males, men, or boys’, ‘females, women, or girls’, or ‘coed or mixed’; prohibiting biological males from participating on athletic teams or sports designated for biological females where competitive skill or contact is involved; clarifying that eligibility of any student to participate on athletic teams or sports designated for biological males is not restricted; providing cause of action for student aggrieved by violation of this section; requiring identity of minor student related to such action to remain anonymous; requiring promulgation of rules by the State Board of Education; and

requiring proposal of legislative rules by the Higher Education Policy Commission and Council for Community and Technical College Education.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 581**), and there were—yeas 80, nays 20, absent and not voting none, with the nays being as follows:

Nays: Barach, Diserio, Doyle, Evans, Fleischauer, Fluharty, Garcia, Griffith, Hansen, Higginbotham, Hornbuckle, Lovejoy, Pushkin, Rowe, Skaff, Thompson, Walker, Williams, Young and Zukoff.

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. 3293) 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, and changed effective date, to take effect from passage, a bill of the House of Delegates, as follows:

H. B. 3310, Relating to the jurisdiction of the Public Service Commission.

On motion of Delegate Kessinger, the House concurred in the following amendment of the bill by the Senate:

“ARTICLE 1. GENERAL PROVISIONS.

§24-1-1c. Legislative findings.

The Legislature finds:

(1) Helping retail electric customers invest in and install solar photovoltaic energy facilities of their choice on their properties is in the public interest;

(2) Free-market financing may provide more customers with opportunities to install solar photovoltaic energy facilities;

(3) Installation of solar photovoltaic energy facilities will stabilize long-term energy costs making the state more attractive for industry and commercial investment;

(4) Financing arrangements, including those in which payments are based on the performance and output of the solar photovoltaic energy facility installed on the property of a retail electric customer, will help reduce or eliminate upfront costs involved in the investments and installation by the customers; and

(5) Individuals and entities which offer or receive these types of financing arrangements should not be considered or treated as public utilities.

§24-1-2. Definitions.

Except where a different meaning clearly appears from the context, the words “public utility”, when used in this chapter, shall mean and include any person or persons, or association of persons, however associated, whether incorporated or not, including municipalities, engaged in any business, whether herein enumerated or not, which is, or shall hereafter be held to be, a public service: Provided, That “public utility” does not include individuals or entities owning a solar photovoltaic energy facility located on and designed to meet only the electrical needs of the premises of a retail electric customer, the output of which is subject to a power purchase agreement with the retail electric customer, subject to §24-2-1(a) of this code. Whenever in this chapter the words “commission” or “Public Service Commission” occur, such word or words shall, unless a different intent clearly appears from the context, be taken to mean the Public Service Commission of West Virginia. Whenever used in this chapter, “customer” shall mean and include any person, firm, corporation, municipality,

public service district or any other entity who purchases a product or services of any utility and shall include any such person, firm, corporation, municipality, public service district or any other entity who purchases such services or product for resale. Whenever in this chapter the words “governing body” occur, such word or words shall, unless a different intent clearly appears from the context, be taken to mean the municipal body charged with the authority and responsibility of enacting ordinances of the municipality, as defined in section two, article one, chapter eight §8-1-2 of this code, or a public service board of a public service district, as defined in section three, article thirteen-a, chapter sixteen §16-13A-3 of this code.

Except where a different meaning clearly appears from the context, the following words when used in this chapter, shall mean:

“Commission” or “Public Service Commission” means the Public Service Commission of West Virginia.

“Customer” means any person, firm, corporation, municipality, public service district, or any other entity who purchases a product or services of any utility and shall include any person, firm, corporation, municipality, public service district, or any other entity who purchases the services or product for resale.

“Governing body” means the municipal body charged with the authority and responsibility of enacting ordinances of the municipality, as defined in §8-1-2 of this code, or a public service board of a public service district, as defined in §16-13A-3 of this code.

“Public utility” means any person or persons, or association of persons, however associated, whether incorporated or not, including municipalities, engaged in any business, whether herein enumerated or not, which is, or shall hereafter be held to be, a public service: *Provided*, That “public utility” does not include individuals or entities owning a solar photovoltaic energy facility located on and designed to meet only the electrical needs of the premises of a retail electric customer, the output of which is subject

to a power purchase agreement with the retail electric customer, subject to §24-2-1(a) of this code.

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 extends to all public utilities in this state and shall include includes 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 the residential service: *Provided further*, That upon request of any of the

customers of 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 the producer and for such length of time as the commission may consider to be proper.

(1) common carriage of passengers or goods, whether by air, railroad, street railroad, motor, or otherwise, by express or otherwise, by land, water, or air, whether wholly or partly by land, water, or air;

(2) transportation of oil, gas, or water by pipeline;

(3) transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline;

(4) sleeping car or parlor car services;

(5) transmission of messages by telephone, telegraph, or radio;

(6) generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility;

(7) supplying water, gas, or electricity by municipalities or others: (A) *Provided*, That natural gas producers who provide natural gas service to not more than 25 residential customers are exempt from the jurisdiction of the commission with regard to the provisions of the residential service; (B) *Provided however*, That upon request of any of the customers of the natural gas producers, the commission may, upon good cause being shown, exercise authority as the commission may consider appropriate over the operation, rates, and charges of the producer and for the length of time determined proper by the commission; (C) *Provided further*, That the provision of a solar photovoltaic energy facility located on and designed to meet only the electrical needs of the premises of a retail electric customer, the output of which is subject to a power purchase agreement (PPAs) with the retail electric customer, shall not constitute a public service, subject to the following conditions and limitations:

(i) PPAs must be 11 point font or larger.

(ii) the aggregate of all PPAs and net metering arrangements in the state for any utility shall not exceed three percent (3%) of the utility's aggregate customer peak demand in the state during the previous year;

(iii) there shall be individual customer on-site generator limits of designing the photovoltaic energy facility to meet only the electrical needs of the premises of the retail electric customer and which in no case shall exceed 25kW for residential customers, 500 kW for commercial customers, and 2,000 kW for industrial customers;

(iv) customers who enter into PPAs relating to photovoltaic facilities are to notify the utility of its intent to enter into a transaction. In response, the utility shall notify within 30 days if any of the caps have been reached. If the utility does not respond within 30 days, the generator may proceed and the caps will be presumed not to have been reached; and

(v) the Public Service Commission may promulgate rules to govern and implement the provisions of interconnections for PPAs, except the PSC does not have authority over the power rates for the arrangements between the on-site generator and the customer;

(8) sewer systems servicing 25 or more persons or firms other than the owner of the sewer systems; *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission, regardless of the number of customers served by the innovative, alternative method;

(9) any public service district created under the provisions of §16-13A-1 *et seq.* of this code, except that the Public Service Commission has no jurisdiction over the provision of stormwater services by a public service district;

(10) toll bridges located more than five miles from a toll-free bridge which crosses the same body of water or obstacle, wharves, ferries; solid waste facilities;

(11) and any other public service.

(b) The jurisdiction of the commission over political subdivisions of this state providing separate or combined water and/or sewer services and having at least 4,500 customers and annual combined gross revenues of \$3 million or more that are political subdivisions of the state is limited to:

(1) General supervision of public utilities, as granted and described in §24-2-5 of this code;

(2) Regulation of measurements, practices, acts, or services, as granted and described in §24-2-7 of this code;

(3) Regulation of a system of accounts to be kept by a public utility that is a political subdivision of the state, as granted and described in §24-2-8 of this code;

(4) Submission of information to the commission regarding rates, tolls, charges, or practices, as granted and described in §24-2-9 of this code;

(5) Authority to subpoena witnesses, take testimony, and administer oaths to any witness in any proceeding before or conducted by the commission, as granted and described in §24-2-10 of this code; and

(6) Investigation and resolution of disputes between a political subdivision of the state providing wholesale water and/or wastewater treatment or other services, whether by contract or through a tariff, and its customer or customers, including, but not limited to, rates, fees, and charges, service areas and contested utility combinations: *Provided*, That any request for an investigation related to 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 the dispute within 120 days of filing.

The 120-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the rates, fees, and charges or other information as required by 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 an order respecting the same as shall be that is 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) 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 any redress as that will bring the accounts to current status or otherwise resolve the breached covenant, and the The commission shall have has jurisdiction to fully resolve the alleged deficiency or breach.

(c) The commission may, upon application, waive its jurisdiction and allow a utility operating in an adjoining state to provide service in West Virginia when:

(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;

(2) The area can be provided with utility service by a utility which operates in a state adjoining West Virginia;

(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility is duly authorized to may charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

(d) Any other provisions of this chapter to the contrary notwithstanding:

(1) An owner or operator of an electric generating facility located or to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, and for which such the facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, is subject to §24-2-11c(e) through §24-2-11c(j) of this code as if the certificate of public convenience and necessity for the facility were a siting certificate

issued under §24-2-11c of this code, and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(2) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be 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 is subject to §24-2-11c(e) through §24-2-11c(j) of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, is not subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility, regardless of whether the facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable

federal law: *Provided*, That the owner or operator is subject to §24-2-1(d)(5) of this code if a material modification of the facility is made or constructed.

(4) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code, and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of §24-2-11c of this code, in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of §24-2-11 of this code and, except for the provisions of §24-2-11c of this code, is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to §24-2-11 of this code, to construct an electric generating facility described in this subsection or to make or construct a material modification of the electric generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order 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 do not affect or limit the commission's jurisdiction over contracts or arrangements between the owner or operator of the facility and any affiliated public utility subject to the provisions of this chapter.

(e) The commission does not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(1) "Internet protocol-enabled service" means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data, or video.

(2) "Voice-over Internet protocol service" means any service that:

(i) Enables real-time, two-way voice communications that originate or terminate from the user's location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user's location.

(3) The term "voice-over Internet protocol service" includes any service that permits users to receive calls that originate on the

public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission has does not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to §24-2-12 and §24-2-12a of this code, if all entities involved in the transaction are under common ownership.

(g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power systems are most fairly and effectively regulated by the local governing body. Therefore, notwithstanding any other provisions of this article, the commission has does not have jurisdiction over the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the jurisdiction of the Public Service Commission over municipal power systems is limited to that granted specifically in this code.”

And,

By amending the title of the bill to read as follows:

On page one, by striking out the title and substituting therefor a new title, to read as follows:

H. B. 3310 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-1-1c; to amend and reenact §24-1-2 of said code; and to amend and reenact §24-2-1 of said code; all generally relating to jurisdiction of the Public Service Commission; making legislative findings; defining terms; creating exception to the term public utility for certain solar photovoltaic energy facilities on the premises of a retail electric customer, the output of which is subject to solar power purchase agreements; providing for rulemaking; and limiting jurisdiction of the Public Service Commission.”

The bill, as amended by the Senate, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 582**), and there were—yeas 87, nays 13, absent and not voting none, with the nays being as follows:

Nays: Barnhart, Brown, Burkhammer, Dean, J. Jeffries, Kimes, Martin, McGeehan, Miller, Paynter, Phillips, Reynolds and Zatezalo.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3310) passed.

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

On this question, the yeas and nays were taken (**Roll No. 583**), and there were—yeas 94, nays 6, absent and not voting none, with the nays being as follows:

Nays: Bridges, Brown, Burkhammer, Dean, J. Jeffries and Paynter.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3310) takes effect from its passage.

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

At 6:36 p.m., the House of Delegates recessed for fifteen minutes.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2022, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution.

On motion of Delegate Summers, the House concurred in the following amendment by the Senate, with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

TITLE I – GENERAL PROVISIONS.

Section 1. General policy. – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2022.

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

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

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

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

The “fiscal year 2022” shall mean the period from July 1, 2021, through June 30, 2022.

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

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

“From collections” shall mean that part of the total appropriation which must be collected by the spending unit to be available for expenditure. If the authorized amount of collections is not collected, the total appropriation for the spending unit shall be reduced automatically by the amount of the deficiency in the

collections. If the amount collected exceeds the amount designated “from collections,” the excess shall be set aside in a special surplus fund and may be expended for the purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

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

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

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

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

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

“BRIM Premiums” shall mean the amount charged as consideration for insurance protection and includes the present value of projected losses and administrative expenses. Premiums

are assessed for coverages, as defined in the applicable policies, for claims arising from, inter alia, general liability, wrongful acts, property, professional liability, and automobile exposures.

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

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

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

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

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

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

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

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

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

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: *Provided, however*, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a “personal services and employee benefits” appropriation unless the source funds are also wholly from a “personal services and employee benefits” line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further*, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to “personal services and employee benefits,” “current expenses,” “repairs and alterations,” “equipment,” “other assets,” “land,” and “buildings” to other appropriations within the same account and no funds from other appropriations shall be transferred to the “personal services and employee benefits” or the “unclassified” appropriation except that during Fiscal Year 2022, and upon approval from the State Budget Office, agencies with the appropriation “Salary and Benefits of Cabinet Secretary and

Agency Heads” may transfer between this appropriation and the appropriation “Personal Services and Employee Benefits” an amount to cover annualized salaries and employee benefits for the fiscal year ending June 30,2022, as provided by W.V. Code §6-7-2a: *And provided further*, That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature consolidates, reorganizes or terminates agencies, boards or functions, within any fiscal year the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part of the item may be allocated, in order to implement such consolidation, reorganization or termination. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

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

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

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

TITLE II – APPROPRIATIONS.

ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 11. Special revenue appropriations.
- SECTION 12. State improvement fund appropriations.
- SECTION 13. Specific funds and collection accounts.
- SECTION 14. Appropriations for refunding erroneous payment.
- SECTION 15. Sinking fund deficiencies.
- SECTION 16. Appropriations for local governments.
- SECTION 17. Total appropriations.
- SECTION 18. General school fund.

Section 1. Appropriations from general revenue. – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2022.

LEGISLATIVE

I - Senate

Fund 0165 FY 2022 Org 2100

	Appro-	General
	priation	Revenue
		Fund
Compensation of Members (R).....	00300	\$ 1,010,000
Compensation and Per Diem of Officers and Employees (R)	00500	4,011,332
Current Expenses and Contingent Fund (R)	02100	276,392
Repairs and Alterations (R)	06400	35,000
Computer Supplies (R)	10100	80,000
Computer Systems (R).....	10200	0
Printing Blue Book (R)	10300	125,000
Expenses of Members (R).....	39900	370,000
BRIM Premium (R)	91300	<u>44,482</u>
Total.....		\$ 5,952,206

The appropriations for the Senate for the fiscal year 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances so reappropriated may be transferred and credited to the fiscal year 2021 accounts.

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

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

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

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

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

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

2 - House of Delegates

Fund 0170 FY 2022 Org 2200

Compensation of Members (R).....	00300	\$	3,000,000
Compensation and Per Diem of Officers and Employees (R)	00500		575,000
Current Expenses and Contingent Fund (R)	02100		4,399,031
Expenses of Members (R)	39900		1,350,000
BRIM Premium (R)	91300		<u>80,000</u>
Total		\$	<u>9,404,031</u>

The appropriations for the House of Delegates for the fiscal year 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances so reappropriated may be transferred and credited to the fiscal year 2021 accounts.

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

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

The Speaker of the House of Delegates shall have authority to employ such staff personnel during and between sessions of the

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

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

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

3 - *Joint Expenses*

(WV Code Chapter 4)

Fund 0175 FY 2022 Org 2300

Joint Committee on Government		
and Finance (R).....	10400	\$ 7,725,138
Legislative Printing (R).....	10500	260,000
Legislative Rule-Making		
Review Committee (R).....	10600	147,250
Legislative Computer System (R).....	10700	1,447,500
Legislative Fees & Dues (R).....	10701	600,000
BRIM Premium (R)	91300	<u>60,569</u>
Total.....		\$ 10,240,457

The appropriations for the Joint Expenses for the fiscal year 2021 are to remain in full force and effect and are hereby

reappropriated to June 30, 2022. Any balances reappropriated may be transferred and credited to the fiscal year 2021 accounts.

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

JUDICIAL

4 - *Supreme Court* –

General Judicial

Fund 0180 FY 2022 Org 2400

Personal Services and		
Employee Benefits (R)	00100	\$ 115,126,000
Current Expenses (R)	13000	19,911,000
Repairs and Alterations (R)	06400	40,000
Equipment (R).....	07000	1,800,000
Military Service Members Court (R)...	09002	300,000
Judges' Retirement System (R)	11000	742,000
Buildings (R).....	25800	10,000
Other Assets (R).....	69000	200,000
BRIM Premium (R)	91300	<u>834,000</u>
Total.....		\$ 138,963,000

The appropriations to the Supreme Court of Appeals for the fiscal years 2019, 2020 and 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 accounts.

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

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

EXECUTIVE

5 - Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2022 Org 0100

Personal Services and		
Employee Benefits.....	00100	\$ 3,250,758
Current Expenses (R).....	13000	800,000
Repairs and Alterations.....	06400	25,000
National Governors Association.....	12300	60,700
Herbert Henderson Office of		
Minority Affairs.....	13400	396,726
Community Food Program	18500	1,000,000
Office of Resiliency (R).....	18600	596,157
BRIM Premium.....	91300	<u>183,645</u>
Total.....		\$ 6,312,986

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), Current Expenses (fund 0101, appropriation 13000) and Office of Resiliency (fund 0101, appropriation 18600) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

6 - Governor's Office –

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2022 Org 0100

Personal Services and

Employee Benefits.....	00100	\$	381,293
Current Expenses (R).....	13000		183,158
Repairs and Alterations.....	06400		<u>5,000</u>
Total.....		\$	569,451

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

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

(WV Code Chapter 5)

Fund 0105 FY 2022 Org 0100

Public Health Emergency

Response Fund.....	21201	\$	0
Milton Flood Wall (R).....	75701		<u>7,000,000</u>
Total.....		\$	7,000,000

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood Wall (fund 0105, appropriation 75701), Milton Flood Wall – Surplus (fund 105, appropriation 75799) and Natural

Disasters – Surplus (fund 0105, appropriation 76400) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

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

8 - Auditor’s Office –

General Administration

(WV Code Chapter 12)

Fund 0116 FY 2022 Org 1200

Personal Services and

Employee Benefits.....00100	\$	2,377,589
Current Expenses (R).....13000		13,429
BRIM Premium.....91300		<u>12,077</u>
Total.....	\$	2,403,095

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

9 - Treasurer’s Office

(WV Code Chapter 12)

Fund 0126 FY 2022 Org 1300

Personal Services and		
Employee Benefits.....	00100	\$ 2,570,242
Unclassified.....	09900	31,463
Current Expenses (R).....	13000	572,684
Abandoned Property Program.....	11800	41,794
Other Assets.....	69000	10,000
ABLE Program.....	69201	150,000
BRIM Premium.....	91300	59,169
Total.....		<u>\$ 3,435,352</u>

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 6,298,229
Current Expenses (R).....	13000	848,115
Animal Identification Program.....	03900	131,942
State Farm Museum.....	05500	87,759
Gypsy Moth Program (R).....	11900	1,003,440
WV Farmers Market.....	12801	150,467
Black Fly Control.....	13700	453,698
HEMP Program.....	13701	350,000
Donated Foods Program.....	36300	45,000
Veterans to Agriculture Program (R)...	36301	255,624
Predator Control (R).....	47000	176,400
Bee Research.....	69100	70,634
Microbiology Program.....	78500	99,828
Moorefield Agriculture Center.....	78600	975,284

2021]	HOUSE OF DELEGATES	3281
Chesapeake Bay Watershed.....	83000	112,427
Livestock Care Standards Board.....	84300	8,820
BRIM Premium.....	91300	138,905
State FFA-FHA Camp and Conference Center	94101	638,554
Threat Preparedness	94200	73,122
WV Food Banks.....	96900	426,000
Senior's Farmers' Market Nutrition Coupon Program	97000	<u>55,835</u>
Total.....		\$ 12,400,083

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

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

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

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

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 794,191
Unclassified.....	09900	77,059
Current Expenses (R).....	13000	317,848
Soil Conservation Projects (R).....	12000	9,634,709
BRIM Premium.....	91300	<u>34,428</u>
Total.....		\$ 10,858,235

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000) and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

12 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 0135 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 668,030
Unclassified.....	09900	7,090
Current Expenses	13000	<u>82,605</u>
Total.....		\$ 757,725

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

13 - Department of Agriculture –

Agricultural Awards Fund

(WV Code Chapter 19)

Fund 0136 FY 2022 Org 1400

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

14 - Department of Agriculture –

West Virginia Agricultural Land Protection Authority

(WV Code Chapter 8A)

Fund 0607 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 99,547
Unclassified.....	09900	<u>950</u>
Total.....		\$ 100,497

15 - Attorney General

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

Fund 0150 FY 2022 Org 1500

Personal Services and		
Employee Benefits (R)	00100	\$ 2,818,788
Unclassified (R)	09900	24,428
Current Expenses (R).....	13000	687,795
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	1,000
Criminal Convictions and		
Habeas Corpus Appeals (R).....	26000	946,078
Better Government Bureau	74000	279,412
BRIM Premium.....	91300	<u>120,654</u>
Total.....		\$ 4,879,155

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000),

Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

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

16 - Secretary of State

(WV Code Chapters 3, 5, and 59)

Fund 0155 FY 2022 Org 1600

Personal Services and		
Employee Benefits.....	00100	\$ 118,794
Unclassified (R)	09900	8,352
Current Expenses (R)	13000	781,584
BRIM Premium.....	91300	<u>34,500</u>
Total.....		\$ 943,230

Any unexpended balances remaining in the appropriations for Unclassified (fund 0155, appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2022 Org 1601

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

DEPARTMENT OF ADMINISTRATION

18 - Department of Administration –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0186 FY 2022 Org 0201

Personal Services and		
Employee Benefits.....	00100	\$ 438,584
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	168,000
Unclassified.....	09900	9,177
Current Expenses	13000	85,009
Repairs and Alterations	06400	100
Equipment.....	07000	1,000
Financial Advisor (R)	30400	27,546
Lease Rental Payments	51600	14,850,000
Design-Build Board	54000	4,000
Other Assets	69000	100
BRIM Premium.....	91300	<u>6,736</u>
Total.....		\$ 15,590,252

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2022 Org 0205

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the retirement costs for their respective divisions. When specific appropriations are not made, such payments may be made from the balances in the various special revenue funds in excess of specific appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2022 Org 0209

Personal Services and		
Employee Benefits.....	00100	\$ 64,696
Unclassified.....	09900	1,400
Current Expenses	13000	60,721
GAAP Project (R).....	12500	612,666
BRIM Premium.....	91300	<u>13,517</u>
Total.....		\$ 753,000

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2022 Org 0211

Personal Services and		
Employee Benefits.....	00100	\$ 2,722,499
Unclassified.....	09900	20,000
Current Expenses	13000	1,148,349
Repairs and Alterations.....	06400	500
Equipment.....	07000	5,000
Fire Service Fee	12600	14,000
Preservation and Maintenance of		
Statues and Monuments		
on Capitol Grounds.....	37100	68,000
Capital Outlay, Repairs and		
Equipment (R)	58900	23,174,656
BRIM Premium.....	91300	<u>129,983</u>
Total.....		\$ 27,282,987

Any unexpended balances remaining in the appropriations for Buildings (fund 0230, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land (fund 0230, appropriation 73000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

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

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2022 Org 0213

Personal Services and		
Employee Benefits.....	00100	\$ 1,039,163
Unclassified.....	09900	144
Current Expenses	13000	1,285
Repairs and Alterations.....	06400	200
BRIM Premium.....	91300	<u>6,922</u>
Total.....		\$ 1,047,714

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

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2022 Org 0215

Personal Services and		
Employee Benefits.....	00100	\$ 802,363
Unclassified.....	09900	12,032
Current Expenses	13000	440,247
Repairs and Alterations.....	06400	1,000
Equipment	07000	5,000
Buildings (R).....	25800	100
Other Assets.....	69000	<u>100</u>
Total.....		\$ 1,260,842

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2022 Org 0217

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	119,000
Unclassified.....	09900	333,300
Current Expenses	13000	12,740
Public Defender Corporations.....	35200	21,188,435
Appointed Counsel Fees (R).....	78800	12,148,048
BRIM Premium.....	91300	<u>10,575</u>
Total.....		\$ 35,592,581

Any unexpended balance remaining in the appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

28 - Committee for the Purchase of

Commodities and Services from the Handicapped

(WV Code Chapter 5A)

Fund 0233 FY 2022 Org 0224

Personal Services and

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

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2022 Org 0225

PEIA Subsidy.....	80100	\$ 20,620,366
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The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or

commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2022 Org 0228

Forensic Medical Examinations (R) 68300	\$	141,579
Federal Funds/Grant Match (R)..... 74900		<u>105,074</u>
Total.....	\$	246,653

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557, appropriation 74900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2022 Org 0233

Personal Services and		
Employee Benefits..... 00100	\$	681,101
Unclassified..... 09900		1,000
Current Expenses 13000		137,381
Repairs and Alterations..... 06400		100

Equipment.....	07000	2,500
BRIM Premium.....	91300	<u>9,784</u>
Total.....		\$ 831,866

DEPARTMENT OF COMMERCE

32 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2022 Org 0305

Personal Services and		
Employee Benefits.....	00100	\$ 4,579,781
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	111,674
Unclassified.....	09900	21,435
Current Expenses.....	13000	555,963
Repairs and Alterations.....	06400	80,000
Equipment (R).....	07000	2,061
BRIM Premium.....	91300	<u>98,754</u>
Total.....		\$ 5,449,668

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, appropriation 07000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

33 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2022 Org 0306

Personal Services and		
Employee Benefits.....	00100	\$ 1,575,695
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	112,753

Unclassified.....	09900	27,678
Current Expenses	13000	51,524
Repairs and Alterations.....	06400	968
Mineral Mapping System (R)	20700	1,090,234
BRIM Premium.....	91300	<u>24,486</u>
Total.....		\$ 2,883,338

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

34 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 0260 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 1,537,028
Current Expenses	13000	227,000
Repairs and Alterations.....	06400	28,000
Equipment.....	07000	15,000
BRIM Premium.....	91300	<u>8,500</u>
Total.....		\$ 1,815,528

35 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2022 Org 0310

Personal Services and		
Employee Benefits.....	00100	\$ 16,618,675
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	113,188

Unclassified.....	09900	184,711
Current Expenses	13000	140,236
Repairs and Alterations.....	06400	100
Equipment.....	07000	100
Buildings (R).....	25800	100
Capital Outlay – Parks (R).....	28800	3,000,000
Litter Control Conservation Officers ...	56400	144,781
Upper Mud River Flood Control.....	65400	162,319
Other Assets	69000	100
Land (R).....	73000	100
Law Enforcement.....	80600	2,514,699
BRIM Premium.....	91300	45,141
Total.....		\$ 22,924,250

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

36 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2022 Org 0314

Personal Services and		
Employee Benefits.....	00100	\$ 9,375,243
Unclassified.....	09900	111,016
Current Expenses	13000	1,396,141
Coal Dust and Rock Dust Sampling	27000	315,990
BRIM Premium.....	91300	80,668
Total.....		\$ 11,279,058

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

37 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2022 Org 0319

Personal Services and		
Employee Benefits.....	00100	\$ 233,981
Unclassified.....	09900	3,480
Current Expenses	13000	<u>112,804</u>
Total.....		\$ 350,265

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

38 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2022 Org 0323

Personal Services and		
Employee Benefits.....	00100	\$ 51,433
Unclassified.....	09900	593
Current Expenses	13000	<u>6,447</u>
Total.....		\$ 58,473

39 - Department of Commerce –

Office of the Secretary

(WV Code Chapter 19)

Fund 0606 FY 2022 Org 0327

Personal Services and

Employee Benefits.....	00100	\$	465,122
Salary and Benefits of Cabinet			
Secretary and Agency Heads.....	00201		153,750
Unclassified.....	09900		1,490
Current Expenses	13000		131,847
Directed Transfer	70000		<u>500,000</u>
Total.....		\$	1,252,209

The above appropriation for Directed Transfer (fund 0606, appropriation 70000) shall be transferred to the Broadband Enhancement Fund (fund 3013).

40 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 0310 FY 2022 Org 0932

Personal Services and			
Employee Benefits.....	00100	\$	11,459,977
Current Expenses	13000		558,815
Independent Living Services.....	00900		429,418
Workshop Development	16300		1,817,427
Supported Employment			
Extended Services.....	20600		77,960
Ron Yost Personal Assistance			
Fund	40700		333,828
Employment Attendant Care			
Program.....	59800		131,575
BRIM Premium.....	91300		<u>77,464</u>
Total.....		\$	14,886,464

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

DEPARTMENT OF TOURISM*41 - Department of Tourism –**Office of the Secretary*

(WV Code Chapter 5B)

Fund 0246 FY 2022 Org 0304

Tourism – Brand Promotion (R).....	61803	\$	5,000,000
Tourism – Public Relations (R)	61804		750,000
Tourism – Events and Sponsorships (R).....	61805		250,000
Tourism – Industry Development (R).....	61806		250,000
State Parks and Recreation Advertising (R).....	61900		<u>750,000</u>
Total.....		\$	7,000,000

Any unexpended balances remaining in the appropriations for Tourism – Brand Promotion (fund 0246, appropriation 61803), Tourism – Public Relations (fund 0246, appropriation 61804), Tourism – Events and Sponsorships (fund 0246, appropriation 61805), Tourism – Industry Development (fund 0246, appropriation 61806), and State Parks and Recreation Advertising (fund 0246, appropriation 61900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

DEPARTMENT OF ECONOMIC DEVELOPMENT*42 - Department of Economic Development –**Office of the Secretary*

(WV Code Chapter 5B)

Fund 0256 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 4,500,420
Unclassified.....	09900	108,055
Current Expenses	13000	3,381,014
National Youth Science Camp.....	13200	241,570
Local Economic Development		
Partnerships (R)	13300	1,250,000
ARC Assessment	13600	152,585
Guaranteed Work Force Grant (R).....	24200	976,579
Directed Transfer	70000	0
Mainstreet Program.....	79400	167,467
Local Economic Development		
Assistance (R).....	81900	0
BRIM Premium.....	91300	3,157
Hatfield McCoy Recreational Trail.....	96000	<u>198,415</u>
Total.....		\$ 10,979,262

Any unexpended balances remaining in the appropriations for Sales and Marketing Enhancement – Surplus (fund 0256, appropriation 05099, Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund 0256, appropriation 24200), and Industrial Park Assistance (fund 0256, appropriation 48000), at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriation for Current Expenses (fund 0256, appropriation 13000) \$50,000 shall be used for the Western Potomac Economic Partnership.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the Department of Economic Development for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.Va. Code §5B-2-14. The Department of Economic Development shall award the funding assistance through a

matching grant program, based upon a formula whereby funding assistance may not exceed \$34,000 per county served by an economic development or redevelopment corporation or authority.

43 - Department of Economic Development –

Office of Energy

(WV Code Chapter 5B)

Fund 0612 FY 2022 Org 0328

Personal Services and		
Employee Benefits.....	00100	\$ 198,299
Unclassified.....	09900	12,395
Current Expenses	13000	1,011,015
BRIM Premium.....	91300	<u>3,894</u>
Total.....		\$ 1,225,603

From the above appropriation for Current Expenses (fund 0612, appropriation 13000), \$558,247 is for West Virginia University and \$308,247 is for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

DEPARTMENT OF EDUCATION

44 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 348,042
Current Expenses	13000	<u>2,118,865</u>
Total.....		\$ 2,466,907

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

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 4,598,523
Unclassified (R)	09900	420,000
Current Expenses (R).....	13000	4,580,000
Teachers' Retirement Savings		
Realized	09500	34,747,000
Center for Professional		
Development (R)	11500	150,000
Increased Enrollment	14000	22,800,000
Safe Schools.....	14300	4,550,424
Attendance Incentive Bonus (R).....	15001	2,056,717
National Teacher Certification (R)	16100	300,000
Jobs & Hope – Childhood		
Drug Prevention Education.....	21901	5,000,000
Allowance for County Transfer	26400	119,087
Technology Repair and		
Modernization.....	29800	951,003
HVAC Technicians	35500	516,791
Early Retirement Notification		
Incentive	36600	300,000
MATH Program	36800	336,532
Assessment Programs (R)	39600	3,865,593
Benedum Professional		
Development Collaborative (R).....	42700	429,775
Governor's Honors Academy (R).....	47800	1,059,270
21 st Century Fellows	50700	274,899
English as a Second Language.....	52800	96,000
Teacher Reimbursement	57300	297,188
Hospitality Training	60000	272,775
Youth in Government	61600	100,000
High Acuity Special Needs (R).....	63400	1,500,000
Foreign Student Education.....	63600	100,294

State Board of Education		
Administrative Costs	68400	277,403
IT Academy (R)	72100	500,000
Early Literacy Program.....	75600	5,705,624
School Based Truancy		
Prevention (R).....	78101	2,032,238
Communities in Schools (R).....	78103	4,900,000
Mastery Based Education	78104	125,000
Mountain State Digital		
Literacy Program	86401	415,500
21 st Century Learners (R).....	88600	1,756,470
BRIM Premium.....	91300	342,859
21 st Century Assessment and Professional Development	93100	2,006,978
21 st Century Technology		
Infrastructure Network		
Tools and Support (R)	93300	9,636,586
Special Olympic Games.....	96600	25,000
Educational Program Allowance	99600	<u>516,250</u>
Total.....		\$ 116,438,193

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

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

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), Center for Professional Development (fund 0313, appropriation 11500), Attendance Incentive Bonus (fund 0313, appropriation 15001), National Teacher Certification (fund 0313, appropriation 16100), Assessment Programs (fund 0313, appropriation 39600), Benedum Professional Development Collaborative (fund 0313, appropriation 42700), Governor's Honors Academy (fund 0313, appropriation 47800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), School

Based Truancy Prevention (fund 0313, appropriation 78101), Communities in Schools (fund 0313, appropriation 78103), 21st Century Learners (fund 0313, appropriation 88600), and 21st Century Technology Infrastructure Network Tools and Support (fund 0313, appropriation 93300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

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

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

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

46 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2022 Org 0402

Special Education – Counties 15900 \$ 7,271,757

Special Education – Institutions.....	16000	3,968,631
Education of Juveniles Held in Predispositional Juvenile Detention Centers	30200	662,300
Education of Institutionalized Juveniles and Adults (R).....	47200	<u>20,520,405</u>
Total.....		\$ 32,423,093

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

47 - State Board of Education –

State Aid to Schools

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2022 Org 0402

Other Current Expenses	02200	\$ 161,739,678
Advanced Placement.....	05300	670,151
Professional Educators.....	15100	869,082,617
Service Personnel.....	15200	291,835,429
Fixed Charges	15300	101,669,823
Transportation.....	15400	69,193,341
Improved Instructional Programs	15600	51,974,496
Professional Student Support Services	65500	59,608,039
21 st Century Strategic Technology Learning Growth.....	93600	26,443,757
Teacher and Leader Induction.....	93601	<u>5,478,876</u>
Basic Foundation Allowances.....		1,637,540,693
Less Local Share		(476,260,743)
Adjustments		<u>(3,254,844)</u>
Total Basic State Aid		1,158,025,106

Public Employees' Insurance		
Matching.....	01200	206,938,256
Teachers' Retirement System	01900	60,784,000
School Building Authority (R).....	45300	24,000,000
Retirement Systems – Unfunded		
Liability.....	77500	<u>302,844,000</u>
Total.....		\$ 1,752,591,362

Any unexpended balances remaining in the appropriations for School Building Authority (fund 0317, appropriation 45300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

48 - State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 1,339,713
Unclassified.....	09900	268,800
Current Expenses	13000	883,106
Wood Products – Forestry		
Vocational Program.....	14600	81,252
Albert Yanni Vocational Program	14700	132,123
Vocational Aid.....	14800	24,443,275
Adult Basic Education	14900	5,365,530
Jobs & Hope.....	14902	0
Program Modernization	30500	884,313
High School Equivalency		
Diploma Testing (R).....	72600	803,397
FFA Grant Awards.....	83900	11,496
Pre-Engineering Academy		
Program.....	84000	<u>265,294</u>
Total.....		\$ 34,478,299

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0390, appropriation 14901) and High School

Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

49 - State Board of Education –

West Virginia Schools for the Deaf and the Blind

(WV Code Chapters 18, and 18A)

Fund 0320 FY 2022 Org 0403

Personal Services and		
Employee Benefits.....	00100	\$ 11,379,675
Unclassified.....	09900	110,000
Current Expenses	13000	2,250,696
Repairs and Alterations.....	06400	164,675
Equipment.....	07000	77,000
Buildings (R).....	5800	45,000
Capital Outlay and		
Maintenance (R)	75500	520,000
BRIM Premium.....	91300	<u>130,842</u>
Total.....		\$ 14,677,888

Any unexpended balances remaining in the appropriations for Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

50 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2022 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 3,343,487
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	120,106

Unclassified (R)	09900	28,483
Current Expenses	13000	600,609
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	1
WV Humanities Council.....	16800	250,000
Mountain Stage	24900	0
Buildings (R).....	25800	1
Other Assets.....	69000	1
Educational Enhancements	9500	573,500
Land (R).....	73000	1
Culture and History Programming.....	3200	231,573
Capital Outlay and Maintenance (R)	75500	19,600
Historical Highway Marker Program.....	84400	57,548
BRIM Premium.....	91300	<u>39,337</u>
Total.....		\$ 5,565,147

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

From the above appropriation for Educational Enhancements (fund 0293, appropriation 69500), \$500,000 shall be used for Save the Children and \$73,500 shall be used for the Clay Center.

51 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2022 Org 0433

Personal Services and		
Employee Benefits.....	00100	\$ 1,070,613
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	112,000
Current Expenses	13000	139,624
Repairs and Alterations.....	06400	6,500
Services to Blind & Handicapped.....	18100	161,717
BRIM Premium.....	91300	<u>18,205</u>
Total.....		\$ 1,508,659

52 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2022 Org 0439

Personal Services and		
Employee Benefits.....	00100	\$ 3,144,106
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	120,106
Current Expenses	13000	118,344
Mountain Stage	24900	295,500
Capital Outlay and		
Maintenance (R)	75500	49,250
BRIM Premium.....	91300	<u>47,727</u>
Total.....		\$ 3,775,033

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

DEPARTMENT OF ENVIRONMENTAL PROTECTION*53 - Environmental Quality Board*

(WV Code Chapter 20)

Fund 0270 FY 2022 Org 0311

Personal Services and		
Employee Benefits.....	00100	\$ 82,539
Current Expenses	13000	28,453
Repairs and Alterations.....	06400	800
Equipment.....	07000	500
Other Assets.....	69000	400
BRIM Premium.....	91300	791
Total.....		<u>\$ 113,483</u>

54 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 4,005,460
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	168,000
Unclassified.....	09900	0
Current Expenses	13000	85,816
Repairs and Alterations.....	06400	0
Water Resources Protection and		
Management	06800	576,278
Dam Safety.....	60700	237,824
West Virginia Stream Partners		
Program.....	63700	77,396
Meth Lab Cleanup.....	65600	91,888
WV Contributions to River		
Commissions.....	77600	148,485
Office of Water Resources		
Non-Enforcement Activity	85500	<u>1,009,855</u>
Total.....		<u>\$ 6,401,002</u>

55 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2022 Org 0325

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

DEPARTMENT OF HEALTH AND HUMAN RESOURCES*56 - Department of Health and Human Resources –**Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2022 Org 0501

Personal Services and		
Employee Benefits.....	00100	\$ 384,638
Unclassified.....	09900	6,459
Current Expenses	13000	50,613
Commission for the Deaf and		
Hard of Hearing	70400	<u>215,534</u>
Total.....		\$ 657,244

Any unexpended balance remaining in the appropriation for the Women's Commission (fund 0400, appropriation 19100) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

*57 - Division of Health –**Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 12,544,773
Unclassified.....	09900	671,795
Current Expenses	13000	5,343,444
Chief Medical Examiner (R).....	04500	8,714,647
State Aid for Local and		
Basic Public Health Services	18400	14,160,490
Safe Drinking Water Program (R)	18700	1,891,323
Women, Infants and Children	21000	38,621
Early Intervention	22300	8,134,060
Cancer Registry.....	22500	206,306
Office of Drug Control Policy (R)	35401	545,153
Statewide EMS Program		
Support (R)	38300	1,695,271
Office of Medical Cannabis (R).....	42001	1,459,989
Black Lung Clinics	46700	170,885
Vaccine for Children.....	55100	338,235
Tuberculosis Control.....	55300	314,256
Maternal and Child Health		
Clinics, Clinicians Medical		
Contracts and Fees (R).....	57500	5,892,707
Epidemiology Support	62600	1,497,192
Primary Care Support	62800	1,223,666
Sexual Assault Intervention		
and Prevention	72300	800,000
Health Right Free Clinics.....	72700	4,250,000
Capital Outlay and		
Maintenance (R)	75500	70,000
Healthy Lifestyles	77800	890,000
Maternal Mortality Review	83400	49,933
Diabetes Education and Prevention	87300	97,125
BRIM Premium.....	91300	169,791
State Trauma and Emergency		
Care System.....	91800	1,889,212
WVU Charleston Poison		

Control Hotline	94400	<u>712,942</u>
Total.....		\$ 73,771,816

Any unexpended balances remaining in the appropriations for Chief Medical Examiner (fund 0407, appropriation 04500), Safe Drinking Water Program (fund 0407, appropriation 18700), Office of Drug Control Policy (fund 0407, appropriation 35401), Office of Drug Control Policy – Surplus (fund 0407, appropriation 35402), Statewide EMS Program Support (fund 0407, appropriation 38300), Office of Medical Cannabis (fund 0407, appropriation 42001), Medical Cannabis Surplus (fund 0407, appropriation 42099), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500), Capital Outlay, Repairs and Equipment Surplus (fund 0525, appropriation 67700), Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200), and Tobacco Education Program (fund 0407, appropriation 90600) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be expended for the West Virginia Aids Coalition; \$100,000 is for Adolescent Immunization Education; \$73,065 is for informal dispute resolution relating to nursing home administrative appeals; and \$1,000,000 shall be used for the administration of the Telestroke program.

From the above appropriation for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500) up to \$400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and \$11,000 is for the Marshall County Health Department for dental services.

58 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 1,632,588
Current Expenses	13000	14,113
Jobs & Hope.....	14902	0
Behavioral Health Program (R)	21900	71,671,175
Institutional Facilities		
Operations (R)	33500	147,729,180
Substance Abuse Continuum		
of Care (R)	35400	1,840,000
Capital Outlay and		
Maintenance (R)	75500	950,000
BRIM Premium.....	91300	<u>1,296,098</u>
Total.....		\$ 225,133,154

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0525, appropriation 14901), Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), and Capital Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the

above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

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

The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) contains prior year salary increases due to the Hartley court order in the amount of \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for Mildred Mitchel-Bateman Hospital.

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

Additional funds have been appropriated in fund 5156, fiscal year 2022, organization 0506, for the operation of the institutional facilities. The secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities Operations appropriation to facilitate cost effective and cost saving services at the community level.

59 - Division of Health –

West Virginia Drinking Water Treatment

(WV Code Chapter 16)

Fund 0561 FY 2022 Org 0506

West Virginia Drinking Water

Treatment Revolving

Fund-Transfer	68900	\$	647,500
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The above appropriation for Drinking Water Treatment Revolving Fund – Transfer shall be transferred to the West Virginia Drinking Water Treatment Revolving Fund or appropriate bank depository and the Drinking Water Treatment Revolving – Administrative Expense Fund as provided by Chapter 16 of the Code.

60 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2022 Org 0510

Personal Services and		
Employee Benefits.....	00100	\$ 961,553
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	112,000
Unclassified.....	09900	4,024
Current Expenses	13000	331,304
BRIM Premium.....	91300	<u>10,764</u>
Total.....		\$ 1,419,645

61 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 50,342,424
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	87,031
Unclassified.....	09900	5,688,944
Current Expenses	13000	11,583,240
Child Care Development.....	14400	3,102,718
Medical Services.....	18900	312,973,309
Social Services.....	19500	226,138,785
Family Preservation Program	19600	1,565,000
Family Resource Networks.....	27400	1,762,464
Domestic Violence Legal		
Services Fund.....	38400	400,000

James "Tiger" Morton Catastrophic		
Illness Fund.....	45500	18,664
I/DD Waiver.....	46600	108,541,736
Child Protective Services		
Case Workers.....	46800	27,843,073
Title XIX Waiver for Seniors.....	53300	13,593,620
WV Teaching Hospitals		
Tertiary/Safety Net	54700	6,356,000
In-Home Family Education.....	68800	1,000,000
WV Works Separate		
State Program.....	69800	135,000
Child Support Enforcement	70500	6,458,806
Temporary Assistance for Needy		
Families/Maintenance of Effort.....	70700	25,819,096
Child Care – Maintenance of		
Effort Match.....	70800	5,693,743
Grants for Licensed Domestic		
Violence Programs and		
Statewide Prevention	75000	2,500,000
Capital Outlay and		
Maintenance (R)	75500	11,875
Community Based Services		
and Pilot Programs		
for Youth.....	75900	1,000,000
Medical Services Administrative Costs	78900	43,568,141
Traumatic Brain Injury Waiver.....	83500	800,000
Indigent Burials (R)	85100	1,550,000
CHIP Administrative Costs.....	85601	700,000
CHIP Services.....	85602	6,390,665
BRIM Premium.....	91300	892,642
Rural Hospitals Under 150 Beds.....	94000	2,596,000
Children's Trust Fund – Transfer.....	95100	220,000
PATH	95400	<u>7,162,452</u>
Total.....		\$ 876,495,421

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100) at the close

of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

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

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

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

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

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

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

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

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

DEPARTMENT OF HOMELAND SECURITY

62 - Department of Homeland Security –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0430 FY 2022 Org 0601

Personal Services and		
Employee Benefits.....	00100	\$ 516,426
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	168,000
Unclassified (R)	09900	30,000
Current Expenses	13000	145,886
Repairs and Alterations.....	6400	500
Equipment.....	07000	500
Fusion Center (R).....	46900	2,683,140
Other Assets.....	69000	500
Directed Transfer	70000	32,000
BRIM Premium.....	91300	22,563
WV Fire and EMS Survivor		
Benefit (R)	93900	<u>200,000</u>
Total.....		\$ 3,799,515

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation 95300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

63 - Division of Emergency Management

(WV Code Chapter 15)

Fund 0443 FY 2022 Org 0606

Personal Services and		
Employee Benefits.....	00100	\$ 2,128,644
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	61,250
Unclassified.....	09900	21,022
Current Expenses	13000	51,065
Repairs and Alterations.....	06400	600
Radiological Emergency		
Preparedness	55400	17,052
SIRN.....	55401	600,000
Federal Funds/Grant Match (R).....	74900	1,409,145
Mine and Industrial Accident		
Rapid Response Call Center	78100	451,911
Early Warning Flood System (R)	87700	1,220,448
BRIM Premium.....	91300	<u>96,529</u>
Total.....		\$ 6,057,666

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700),

and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

64 - Division of Corrections and Rehabilitation –

West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2022 Org 0608

Personal Services and		
Employee Benefits.....	00100	\$ 307,843
Unclassified.....	09900	10,000
Current Expenses	13000	344,440
Salaries of Members of		
West Virginia Parole Board.....	22700	707,056
BRIM Premium.....	91300	<u>6,149</u>
Total.....		\$ 1,365,488

The above appropriation for Salaries of Members of West Virginia Parole Board (fund 0440, appropriation 22700) includes funding for salary, annual increment (as provided for in W.Va. Code §5-5-1), and related employee benefits of board members.

65 - Division of Corrections and Rehabilitation –

Central Office

(WV Code Chapter 15A)

Fund 0446 FY 2022 Org 0608

Personal Services and		
Employee Benefits.....	00100	\$ 450,577
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	126,000
Current Expenses	13000	<u>2,400</u>
Total.....		\$ 578,977

66 - Division of Corrections and Rehabilitation –

Correctional Units

(WV Code Chapter 15A)

Fund 0450 FY 2022 Org 0608

Employee Benefits	01000	\$	1,258,136
Unclassified.....	09900		1,578,800
Current Expenses (R).....	13000		47,751,798
Children’s Protection Act (R)	09000		838,437
Facilities Planning and			
Administration (R).....	38600		1,274,200
Charleston Correctional Center.....	45600		3,400,402
Beckley Correctional Center	49000		2,518,874
Anthony Correctional Center	50400		6,096,779
Huttonsville Correctional Center	51400		21,920,001
Northern Correctional Center.....	53400		8,018,685
Inmate Medical Expenses (R).....	53500		21,226,064
Pruntytown Correctional Center	54300		8,597,911
Corrections Academy.....	56900		1,925,980
Information Technology Services	59901		2,759,052
Martinsburg Correctional Center	66300		4,348,990
Parole Services.....	68600		5,850,564
Special Services	68700		6,477,777
Investigative Services	71600		3,394,070
Capital Outlay and			
Maintenance (R)	75500		2,000,000
Salem Correctional Center	77400		11,455,381
McDowell County Correctional			
Center.....	79000		2,542,590
Stevens Correctional Center	79100		7,863,195
Parkersburg Correctional Center.....	82800		3,927,845
St. Mary’s Correctional Center	88100		14,497,534
Denmar Correctional Center	88200		5,189,043
Ohio County Correctional Center	88300		2,147,492
Mt. Olive Correctional Complex	88800		22,357,432
Lakin Correctional Center.....	89600		10,711,864
BRIM Premium.....	91300		<u>2,527,657</u>

Total..... \$ 234,456,553

Any unexpended balances remaining in the appropriations for Children’s Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund 0450, appropriation 75500), Security System Improvements – Surplus (fund 0450, appropriation 75501), and Roof Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The Commissioner of Corrections and Rehabilitation shall have the authority to transfer between individual correctional unit appropriations as specified above and may transfer funds from the individual correctional unit appropriations as specified above to Current Expenses (fund 0450, appropriation 13000) or Inmate Medical Expenses (fund 0450, appropriation 53500).

From the above appropriation to Current Expenses (fund 0450, appropriation 13000) payment shall be made to house Division of Corrections and Rehabilitation inmates in federal, county, and /or regional jails.

Any realized savings from Energy Savings Contract may be transferred to Facilities Planning and Administration (fund 0450, appropriation 38600).

67 - Division of Corrections and Rehabilitation –

Bureau of Juvenile Services

(WV Code Chapter 15A)

Fund 0570 FY 2022 Org 0608

Statewide Reporting Centers.....	26200	\$	7,358,529
Robert L. Shell Juvenile Center	26700		2,519,068
Resident Medical Expenses (R)	53501		3,604,999
Central Office.....	70100		2,167,320
Capital Outlay and			
Maintenance (R)	75500		250,000
Gene Spadaro Juvenile Center	79300		2,692,984
BRIM Premium.....	91300		115,967
Kenneth Honey Rubenstein			
Juvenile Center (R)	98000		5,808,523
Vicki Douglas Juvenile Center	98100		2,389,494
Northern Regional Juvenile Center	98200		2,876,302
Lorrie Yeager Jr. Juvenile Center	98300		2,422,880
Sam Perdue Juvenile Center	98400		2,614,497
Tiger Morton Center	98500		2,633,060
Donald R. Kuhn Juvenile Center	98600		5,060,657
J.M. "Chick" Buckbee			
Juvenile Center	98700		<u>2,527,617</u>
Total.....		\$	<u>45,041,897</u>

Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), Roof Repairs and Mechanical System Upgrades (fund 0570, appropriation 75502), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The Director of Juvenile Services shall have the authority to transfer between appropriations to the individual juvenile centers above including statewide reporting centers and central office and may transfer funds from the individual juvenile centers to Resident Medical Expenses (fund 0570, appropriation 53501).

68 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2022 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 62,115,935
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	139,300
Children’s Protection Act	09000	1,009,529
Current Expenses	13000	10,384,394
Repairs and Alterations	06400	450,523
Trooper Class	52100	3,207,832
Barracks Lease Payments	55600	237,898
Communications and Other		
Equipment (R)	55800	1,070,968
Trooper Retirement Fund.....	60500	9,592,923
Handgun Administration Expense	74700	77,892
Capital Outlay and		
Maintenance (R)	75500	250,000
Retirement Systems – Unfunded		
Liability.....	77500	19,156,000
Automated Fingerprint		
Identification System.....	89800	2,211,693
BRIM Premium.....	91300	<u>5,743,921</u>
Total.....		\$ 115,648,808

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800) and Capital Outlay and Maintenance (fund 0453, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriation for Personal Services and Employee Benefits (fund 0453, appropriation 00100), an amount not less than \$25,000 shall be expended to offset the costs associated with providing police services for the West Virginia State Fair.

69 - *Fire Commission*

(WV Code Chapter 29)

Fund 0436 FY 2022 Org 0619

Current Expenses	13000	\$	63,061
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70 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2022 Org 0622

Personal Services and			
Employee Benefits.....	00100	\$	2,972,946
Unclassified (R)	09900		21,991
Current Expenses	13000		422,981
Repairs and Alterations.....	06400		8,500
Equipment (R).....	07000		64,171
BRIM Premium.....	91300		<u>32,602</u>
Total.....		\$	3,523,191

Any unexpended balances remaining in the appropriations for Equipment (fund 0585, appropriation 07000) and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

71 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2022 Org 0623

Personal Services and			
Employee Benefits.....	00100	\$	570,979
Current Expenses	13000		233,360
Repairs and Alterations.....	06400		1,804
Child Advocacy Centers (R).....	45800		2,206,954
Community Corrections (R)	56100		4,595,222
Statistical Analysis Program.....	59700		49,819
Sexual Assault Forensic			
Examination Commission (R)	71400		77,525
Qualitative Analysis and			
Training for Youth Services (R)	76200		163,724
Law Enforcement Professional			

Standards.....	83800	164,272
Justice Reinvestment Initiative (R).....	89501	2,332,101
BRIM Premium.....	91300	<u>2,123</u>
Total.....		\$ 10,397,883

Any unexpended balances remaining in the appropriations for Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual Assault Forensic Examination Commission (fund 0546 appropriation 71400), Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200) and Justice Reinvestment Initiative (fund 0546, appropriation 89501) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriation for Current Expenses (fund 0546, appropriation 13000), \$100,000 shall be used for Court Appointed Special Advocates.

From the above appropriation for Child Advocacy Centers (fund 0546, appropriation 45800), the division may retain an amount not to exceed four percent of the appropriation for administrative purposes.

72 - Division of Administrative Services

(WV Code Chapter 15A)

Fund 0619 FY 2022 Org 0623

Personal Services and		
Employee Benefits.....	00100	\$ 2,306,255
Current Expenses	13000	<u>305,000</u>
Total.....		\$ 2,611,255

DEPARTMENT OF REVENUE

73 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2022 Org 0701

Personal Services and		
Employee Benefits.....	00100	\$ 348,906
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	168,000
Unclassified.....	09900	437
Current Expenses.....	13000	81,594
Repairs and Alterations.....	06400	1,262
Equipment.....	07000	8,000
Other Assets.....	69000	500
Total.....		<u>\$ 608,699</u>

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

74 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2022 Org 0702

Personal Services and		
Employee Benefits (R).....	00100	\$ 18,136,041
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	136,500
Unclassified (R).....	09900	174,578
Current Expenses (R).....	13000	5,823,635
Repairs and Alterations.....	06400	10,150
Equipment.....	07000	54,850
Tax Technology Upgrade.....	09400	3,700,000
Multi State Tax Commission.....	65300	77,958
Other Assets.....	69000	10,000
BRIM Premium.....	91300	15,579
Total.....		<u>\$ 28,139,291</u>

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation

09900), Current Expenses (fund 0470, appropriation 13000), and Integrated Tax Assessment System (fund 0470, appropriation 29200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

75 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2022 Org 0703

Personal Services and		
Employee Benefits.....	00100	\$ 794,942
Unclassified (R)	09900	9,200
Current Expenses	13000	<u>119,449</u>
Total.....		\$ 923,591

Any unexpended balance remaining in the appropriation for Unclassified (fund 0595, appropriation 09900) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

76 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2022 Org 0709

Personal Services and		
Employee Benefits.....	00100	\$ 452,106
Unclassified.....	09900	5,255
Current Expenses (R).....	13000	93,022
BRIM Premium.....	91300	<u>3,062</u>
Total.....		\$ 553,445

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

77 - Division of Professional and Occupational Licenses –

State Athletic Commission

(WV Code Chapter 29)

Fund 0523 FY 2022 Org 0933

Personal Services and		
Employee Benefits.....	00100	\$ 7,200
Current Expenses	13000	<u>29,611</u>
Total.....		\$ 36,811

DEPARTMENT OF TRANSPORTATION

78 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2022 Org 0804

Personal Services and		
Employee Benefits.....	00100	\$ 361,627
Current Expenses	13000	287,707
Other Assets (R).....	69000	1,270,019
BRIM Premium.....	91300	<u>201,541</u>
Total.....		\$ 2,120,894

Any unexpended balance remaining in the appropriation for Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

79 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2022 Org 0805

Equipment (R).....	07000	\$ 25,000
Current Expenses (R).....	13000	2,104,044
Buildings	25800	50,000

Other Assets (R).....	69000	<u>50,000</u>
Total.....		\$ 2,229,044

Any unexpended balances remaining in the appropriations for Equipment (fund 0510, appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510, appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

80 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2022 Org 0807

Personal Services and		
Employee Benefits.....	00100	\$ 223,740
Current Expenses (R).....	13000	579,537
Repairs and Alterations.....	06400	100
BRIM Premium.....	91300	<u>4,438</u>
Total.....		\$ 807,815

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

DEPARTMENT OF VETERANS' ASSISTANCE

81 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2022 Org 0613

Personal Services and		
Employee Benefits.....	00100	\$ 1,931,772
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	110,880
Unclassified.....	09900	20,000
Current Expenses.....	13000	161,450

Repairs and Alterations.....	06400	5,000
Veterans' Field Offices	22800	405,550
Buildings (R).....	25800	7,000,000
Veterans' Nursing Home (R).....	28600	6,861,472
Veterans' Toll Free Assistance Line.....	32800	2,015
Veterans' Reeducation Assistance (R).....	32900	40,000
Veterans' Grant Program (R).....	34200	560,000
Veterans' Grave Markers	47300	10,000
Veterans' Cemetery	80800	389,215
BRIM Premium.....	91300	50,000
Total.....		\$ 17,547,354

Any unexpended balances remaining in the appropriations for Veterans' Nursing Home (fund 0456, appropriation 28600), Veterans' Reeducation Assistance (fund 0456, appropriation 32900), Veterans' Grant Program (fund 0456, appropriation 34200), Veterans' Bonus – Surplus (fund 0456, appropriation 34400), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

82 - Department of Veterans' Assistance –

Veterans' Home

(WV Code Chapter 9A)

Fund 0460 FY 2022 Org 0618

Personal Services and Employee Benefits.....	00100	\$ 1,217,096
Current Expenses (R).....	13000	46,759
Veterans Outreach Programs	61700	200,740
Total.....		\$ 1,464,595

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0460, appropriation 13000) at the close of

fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

BUREAU OF SENIOR SERVICES

83 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2022 Org 0508

Current Expenses	13000	\$	0
Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens.....	53900		<u>29,950,955</u>
Total.....		\$	29,950,955

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 0420, appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

The above appropriation is in addition to funding provided in fund 5405 for this program.

WEST VIRGINIA COUNCIL FOR COMMUNITY

AND TECHNICAL COLLEGE EDUCATION

84 - West Virginia Council for

Community and Technical College Education –

Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2022 Org 0420

West Virginia Council for Community and Technical Education (R).....	39200	\$	3,727,871
Transit Training Partnership	78300		34,293
Community College Workforce Development (R)	87800		2,786,925
College Transition Program.....	88700		278,222
West Virginia Advance Workforce Development (R)	89300		3,118,960
Technical Program Development (R)	89400		1,800,735
WV Invests Grant Program (R)	89401		<u>7,034,748</u>
Total.....		\$	18,781,754

Any unexpended balances remaining in the appropriations for West Virginia Council for Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements – Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund 0596, appropriation 87800), West Virginia Advance Workforce Development (fund 0596, appropriation 89300), Technical Program Development (fund 0596, appropriation 89400), and WV Invests Grant Program (fund 0596, appropriation 89401) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

85 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2022 Org 0444

Mountwest Community and Technical College	48700	\$	6,391,967
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86 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2022 Org 0445

New River Community and
 Technical College 35800 \$ 5,776,913

87 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2022 Org 0446

Pierpont Community and
 Technical College 93000 \$ 7,820,129

88 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2022 Org 0447

Blue Ridge Community and
 Technical College 88500 \$ 7,713,379

89 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2022 Org 0464

West Virginia University –
 Parkersburg 47100 \$ 10,164,495

90 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2022 Org 0487

Southern West Virginia
 Community and
 Technical College 44600 \$ 8,118,196

91 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2022 Org 0489

West Virginia Northern Community and Technical College	44700	\$	7,176,538
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92 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2022 Org 0492

Eastern West Virginia Community and Technical College	41200	\$	2,147,213
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93 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2022 Org 0493

BridgeValley Community and Technical College	71700	\$	7,977,329
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HIGHER EDUCATION POLICY COMMISSION

94 - Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2022 Org 0441

Personal Services and Employee Benefits	00100	\$	2,669,502
Current Expenses	13000		1,096,902
RHI Program and Site Support – RHEP Program Administration	03700		80,000
Mental Health Provider Loan Repayment (R).....	11301		330,000

Higher Education Grant Program	16400	40,619,864
Tuition Contract Program (R).....	16500	1,225,120
Underwood-Smith Scholarship Program-Student Awards.....	16700	628,349
Facilities Planning and Administration	38600	1,760,254
Higher Education System Initiatives	48801	1,630,000
PROMISE Scholarship – Transfer.....	80000	18,500,000
HEAPS Grant Program (R).....	86700	5,014,728
Health Professionals’ Student Loan Program	86701	400,000
BRIM Premium.....	91300	<u>17,817</u>
Total.....		\$ 73,972,536

Any unexpended balances remaining in the appropriations for Tuition Contract Program (fund 0589, appropriation 16500), HEAPS Grant Program (fund 0589, appropriation 86700), Health Professionals’ Student Loan Program (fund 0589, appropriation 86701), Mental Health Provider Loan Repayment (fund 0589, appropriation 11301), RHI Program and Site Support – RHEP Program Administration (fund 0589, 03700) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The above appropriation for Facilities Planning and Administration (fund 0589, appropriation 38600) is for operational expenses of the West Virginia Education, Research and Technology Park between construction and full occupancy.

The above appropriation for Higher Education Grant Program (fund 0589, appropriation 16400) shall be transferred to the Higher Education Grant Fund (fund 4933, org 0441) established by W.Va. Code §18C-5-3.

The above appropriation for Underwood-Smith Scholarship Program Student Awards (fund 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teacher Scholarship and Loan Assistance Fund (4922, org 0441) established by W.Va. Code §18C-4-1.

The above appropriation for PROMISE Scholarship-Transfer (fund 0589, appropriation 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

95 - *West Virginia University –*

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2022 Org 0463

WVU School of Health		
Science – Eastern Division	05600	\$ 2,201,822
WVU – School of Health Sciences	17400	14,830,524
WVU – School of Health		
Sciences – Charleston Division	17500	2,252,410
Rural Health Outreach		
Programs (R).....	37700	164,517
West Virginia University School		
of Medicine BRIM Subsidy.....	46000	<u>1,203,087</u>
Total.....		\$ 20,652,360

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

96 - *West Virginia University –*

General Administrative Fund

(WV Code Chapter 18B)

Fund 0344 FY 2022 Org 0463

West Virginia University	45900	\$ 95,562,690
Jackson's Mill (R).....	46100	491,458
West Virginia University		
Institute of Technology.....	47900	8,020,938

State Priorities – Brownfield

Professional Development (R).....	53100	316,556
Energy Express (R).....	86100	382,935
West Virginia University –		
Potomac State	99400	<u>4,512,711</u>
Total.....		\$ 98,742,558

Any unexpended balances remaining in the appropriations for Jackson’s Mill (fund 0344, appropriation 46100), State Priorities – Brownfield Professional Development (fund 0344, appropriation 53100), and Energy Express (fund 0344, appropriation 86100) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

*97 - Marshall University –**School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2022 Org 0471

Marshall Medical School	17300	\$ 12,051,542
Rural Health Outreach		
Programs (R).....	37700	156,022
Forensic Lab (R)	37701	227,415
Center for Rural Health (R)	37702	157,096
Marshall University		
Medical School BRIM		
Subsidy	44900	<u>872,612</u>
Total.....		\$ 13,464,687

Any unexpended balances remaining in the appropriations for Rural Health Outreach Program (fund 0347, appropriation 37700), Forensic Lab (fund 0347, appropriation 37701), and Center for Rural Health (fund 0347, appropriation 37702) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

*98 - Marshall University –**General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2022 Org 0471

Marshall University	44800	\$	46,059,781
Luke Lee Listening Language and Learning Lab (R).....	44801		149,015
Vista E-Learning (R).....	51900		229,019
State Priorities – Brownfield Professional Development (R).....	53100		309,606
Marshall University Graduate College Writing Project (R).....	80700		25,412
WV Autism Training Center (R)	93200		<u>1,808,381</u>
Total.....		\$	43,282,632

Any unexpended balances remaining in the appropriations for Luke Lee Listening Language and Learning Lab (fund 0348, appropriation 44801), Vista E-Learning (fund 0348, appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348, appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

99 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2022 Org 0476

West Virginia School of Osteopathic Medicine	17200	\$	8,746,107
Rural Health Outreach Programs (R).....	37700		166,111
West Virginia School of			

Osteopathic Medicine BRIM		
Subsidy	40300	153,405
Rural Health Initiative – Medical		
Schools Support	58100	<u>397,592</u>
Total		\$ 9,463,215

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

100 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2022 Org 0482

Bluefield State College	40800	\$ 6,287,473
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101 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2022 Org 0483

Concord University	41000	\$ 10,319,269
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102 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2022 Org 0484

Fairmont State University	41400	\$ 18,600,341
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103 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2022 Org 0485

Glenville State College	42800	\$ 6,350,238
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104 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2022 Org 0486

Shepherd University.....	43200	\$	12,493,572
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105 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2022 Org 0488

West Liberty University.....	43900	\$	8,966,122
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106 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2022 Org 0490

West Virginia State University	44100	\$	11,172,374
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West Virginia State University			
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Land Grant Match.....	95600		<u>2,950,192</u>
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Total.....		\$	14,122,566
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From the above appropriation for West Virginia State University (fund 0373, appropriation 44100), \$300,000 shall be for the Healthy Grandfamilies program.

*107 - Higher Education Policy Commission –**Administration -**West Virginia Network for Educational Telecomputing (WVNET)*

(WV Code Chapter 18B)

Fund 0551 FY 2022 Org 0495

WVNET	16900	\$	1,721,609
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MISCELLANEOUS BOARDS AND COMMISSIONS*108 - Adjutant General –**State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2022 Org 0603

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	\$	189,000
Unclassified (R)	09900		106,798
College Education Fund.....	23200		4,000,000
Civil Air Patrol.....	23400		249,664
Armory Board Transfer.....	70015		2,317,555
Mountaineer ChalleNGe Academy.....	70900		3,200,000
Military Authority (R).....	74800		6,071,251
Drug Enforcement and Support	74801		<u>1,500,000</u>
Total.....		\$	17,634,268

Any unexpended balances remaining in the appropriations for Unclassified (fund 0433, appropriation 09900), Military Authority (fund 0433, appropriation 74800), and Military Authority – Surplus (fund 0433, appropriation 74899) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriations an amount approved by the Adjutant General may be transferred to the State Armory Board for operation and maintenance of National Guard Armories.

The adjutant general shall have the authority to transfer between appropriations.

From the above appropriation and other state and federal funding, the Adjutant General shall provide an amount not less than \$3,200,000 to the Mountaineer ChalleNGe Academy to meet anticipated program demand.

109 - Adjutant General –

Military Fund

(WV Code Chapter 15)

Fund 0605 FY 2022 Org 0603

Personal Services and		
Employee Benefits.....	00100	\$ 100,000
Current Expenses	13000	<u>55,408</u>
Total.....		\$ 155,408
Total TITLE II, Section 1 – General Revenue (Including claims against the state).....		<u>\$ 4,494,904,337</u>

Sec. 2. Appropriations from state road fund. — From the state road fund there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2022.

DEPARTMENT OF TRANSPORTATION

110 - Division of Motor Vehicles

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2022 Org 0802

	Appropriation	State Road Fund
Personal Services and		
Employee Benefits.....	00100	\$ 25,867,939
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	129,500
Current Expenses	13000	16,176,540
Repairs and Alterations.....	06400	144,000
Equipment.....	07000	1,080,000
Buildings.....	25800	10,000

Other Assets.....	69000	8,154,000
BRIM Premium.....	91300	<u>89,940</u>
Total.....		\$ 51,651,919

111 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2022 Org 0803

Salary and Benefits of Cabinet

Secretary and Agency Heads.....	00201	\$ 200,000
Debt Service.....	04000	89,000,000
Maintenance.....	23700	540,567,146
Inventory Revolving	27500	4,000,000
Equipment Revolving	27600	22,000,000
General Operations	27700	157,300,000
Interstate Construction.....	27800	140,000,000
Other Federal Aid Programs	27900	320,000,000
Appalachian Programs.....	28000	100,000,000
Highway Litter Control.....	28200	1,650,000
Courtesy Patrol.....	28201	<u>5,000,000</u>
Total.....		\$ 1,379,717,146

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the code.

The Commissioner of Highways shall have the authority to operate revolving funds within the State Road Fund for the operation and purchase of various types of equipment used directly and indirectly in the construction and maintenance of roads and for the purchase of inventories and materials and supplies.

There is hereby appropriated in addition to the above appropriations, sufficient money for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with Sections 17 and 18, Article 2, Chapter 14 of the code.

It is the intent of the Legislature to capture and match all federal funds available for expenditure on the Appalachian highway

system at the earliest possible time. Therefore, should amounts in excess of those appropriated be required for the purposes of Appalachian programs, funds in excess of the amount appropriated may be made available upon recommendation of the commissioner and approval of the Governor. Further, for the purpose of Appalachian programs, funds appropriated by appropriation may be transferred to other appropriations upon recommendation of the commissioner and approval of the Governor.

112 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2022 Org 0808

Personal Services and		
Employee Benefits.....	00100	\$ 44,600
Current Expenses	13000	100
Repairs and Alterations.....	06400	100
Equipment.....	07000	100
BRIM Premium.....	91300	100
Total.....		<u>\$ 45,000</u>
Total TITLE II, Section 2 –		
State Road Fund (Including		
claims against the state).....		<u>\$ 1,432,035,830</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 2022.

LEGISLATIVE

113 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2022 Org 2300

Appropriation	Other Funds
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Personal Services and		
Employee Benefits.....	00100	\$ 498,020
Current Expenses	13000	133,903
Repairs and Alterations.....	06400	1,000
Economic Loss Claim		
Payment Fund	33400	2,000,000
Other Assets.....	69000	<u>3,700</u>
Total.....		\$ 2,636,623

JUDICIAL

114 - Supreme Court –

Court Advanced Technology Subscription Fund

(WV Code Chapter 51)

Fund 1704 FY 2022 Org 2400

Current Expenses	13000	\$ 100,000
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115 - Supreme Court –

Adult Drug Court Participation Fund

(WV Code Chapter 62)

Fund 1705 FY 2022 Org 2400

Current Expenses	13000	\$ 200,000
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116 - Supreme Court –

Family Court Fund

(WV Code Chapter 51)

Fund 1763 FY 2022 Org 2400

Current Expenses	13000	\$ 1,050,000
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EXECUTIVE*117 - Governor's Office –**Minority Affairs Fund*

(WV Code Chapter 5)

Fund 1058 FY 2022 Org 0100

Personal Services and		
Employee Benefits.....00100	\$	177,737
Current Expenses 13000		503,200
Martin Luther King, Jr.		
Holiday Celebration.....03100		<u>8,926</u>
Total.....	\$	689,863

*118 - Auditor's Office –**Land Operating Fund*

(WV Code Chapters 11A, 12, and 36)

Fund 1206 FY 2022 Org 1200

Personal Services and		
Employee Benefits.....00100	\$	799,211
Unclassified.....09900		15,139
Current Expenses 13000		715,291
Repairs and Alterations.....06400		2,600
Equipment.....07000		426,741
Cost of Delinquent Land Sales 76800		<u>1,841,168</u>
Total.....	\$	3,800,150

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the necessary amount for the expenditure of funds other than Personal Services and Employee Benefits to enable the division to pay the direct expenses relating to land sales as provided in Chapter 11A of the West Virginia Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

119 - Auditor's Office –

Local Government Purchasing Card Expenditure Fund

(WV Code Chapter 6)

Fund 1224 FY 2022 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 627,779
Current Expenses	13000	282,030
Repairs and Alterations.....	06400	6,000
Equipment.....	07000	10,805
Other Assets.....	69000	50,000
Statutory Revenue Distribution.....	74100	<u>3,500,000</u>
Total.....		\$ 4,476,614

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer of revenue distribution requirements to provide a proportionate share of rebates back to the general fund of local governments based on utilization of the program in accordance with W.Va. Code §6-9-2b.

120 - Auditor's Office –

Securities Regulation Fund

(WV Code Chapter 32)

Fund 1225 FY 2022 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 2,487,017
Unclassified.....	09900	31,866
Current Expenses	13000	1,463,830
Repairs and Alterations.....	06400	12,400
Equipment.....	07000	394,700
Other Assets.....	69000	<u>900,000</u>

Total..... \$ 5,289,813

121 - Auditor's Office – Technology Support and Acquisition Fund

(WV Code Chapter 12)

Fund 1233 FY 2022 Org 1200

Current Expenses	13000	\$	10,000
Other Assets	69000		<u>5,000</u>
Total.....		\$	15,000

Fifty percent of the deposits made into this fund shall be transferred to the Treasurer's Office – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the purposes described in W.Va. Code §12-3-10c.

122 - Auditor's Office –

Purchasing Card Administration Fund

(WV Code Chapter 12)

Fund 1234 FY 2022 Org 1200

Personal Services and			
Employee Benefits.....	00100	\$	2,824,837
Current Expenses	13000		2,303,622
Repairs and Alterations.....	06400		5,500
Equipment.....	07000		650,000
Other Assets.....	69000		308,886
Statutory Revenue Distribution.....	74100		<u>8,000,000</u>
Total.....		\$	14,092,845

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer and revenue distribution requirements to the Purchasing Improvement Fund (fund 2264), the Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

*123 - Auditor's Office –**Chief Inspector's Fund*

(WV Code Chapter 6)

Fund 1235 FY 2022 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 3,583,096
Current Expenses	13000	765,915
Equipment.....	07000	<u>50,000</u>
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 2022 Org 1200

Volunteer Fire Department		
Workers' 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 2022 Org 1300

Personal Services and		
Employee Benefits.....	00100	\$ 810,372
Unclassified.....	09900	14,000
Current Expenses	13000	<u>897,559</u>
Total.....		\$ 1,721,931

126 - Department of Agriculture –

Agriculture Fees Fund

(WV Code Chapter 19)

Fund 1401 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 2,425,446
Unclassified.....	09900	37,425
Current Expenses	13000	1,856,184
Repairs and Alterations.....	06400	158,500
Equipment.....	07000	436,209
Other Assets.....	69000	<u>10,000</u>
Total.....		\$ 4,923,764

127 - Department of Agriculture –

West Virginia Rural Rehabilitation Program

(WV Code Chapter 19)

Fund 1408 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 78,251
Unclassified.....	09900	10,476
Current Expenses	13000	<u>2,200,000</u>
Total.....		\$ 2,288,727

128 - Department of Agriculture –

General John McCausland Memorial Farm Fund

(WV Code Chapter 19)

Fund 1409 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 71,937
Unclassified.....	09900	2,100

Current Expenses	13000	89,500
Repairs and Alterations	06400	36,400
Equipment	07000	<u>15,000</u>
Total		\$ 214,937

The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.

129 - Department of Agriculture –

Farm Operating Fund

(WV Code Chapter 19)

Fund 1412 FY 2022 Org 1400

Personal Services and		
Employee Benefits	00100	\$ 868,492
Unclassified	09900	15,173
Current Expenses	13000	1,367,464
Repairs and Alterations	06400	388,722
Equipment	07000	399,393
Other Assets	69000	<u>20,000</u>
Total		\$ 3,059,244

130 - Department of Agriculture –

Capital Improvements Fund

(WV Code Chapter 19)

Fund 1413 FY 2022 Org 1400

Unclassified	09900	20,000
Current Expenses	13000	510,000
Repairs and Alterations	06400	250,000
Equipment	07000	350,000
Building Improvements	25800	670,000
Other Assets	69000	<u>200,000</u>
Total		\$ 2,000,000

131 - Department of Agriculture –

Donated Food Fund

(WV Code Chapter 19)

Fund 1446 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 1,030,451
Unclassified.....	09900	45,807
Current Expenses	13000	3,410,542
Repairs and Alterations.....	06400	128,500
Equipment.....	07000	10,000
Other Assets.....	69000	27,000
Land	73000	<u>250,000</u>
Total.....		\$ 4,902,300

132 - Department of Agriculture –

Integrated Predation Management Fund

(WV Code Chapter 7)

Fund 1465 FY 2022 Org 1400

Current Expenses	13000	\$ 125,000
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133 - Department of Agriculture –

West Virginia Spay Neuter Assistance Fund

(WV Code Chapter 19)

Fund 1481 FY 2022 Org 1400

Current Expenses	13000	\$ 500,000
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134 - Department of Agriculture –

Veterans and Warriors to Agriculture Fund

(WV Code Chapter 19)

Fund 1483 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 222,569
Current Expenses	13000	54,615
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	<u>1,000</u>
Total.....		\$ 279,184

138 - Attorney General –

Preneed Funeral Guarantee Fund

(WV Code Chapter 47)

Fund 1514 FY 2022 Org 1500

Current Expenses	13000	\$ 901,135
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139 - Secretary of State –

Service Fees and Collection Account

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2022 Org 1600

Personal Services and		
Employee Benefits.....	00100	\$ 1,065,106
Unclassified.....	09900	4,524
Current Expenses	13000	<u>8,036</u>
Total.....		\$ 1,077,666

140 - Secretary of State –

General Administrative Fees Account

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2022 Org 1600

Personal Services and		
Employee Benefits.....	00100	\$ 2,947,630
Unclassified.....	09900	25,529
Current Expenses	13000	976,716

Technology Improvements	59900	<u>720,000</u>
Total.....		\$ 4,669,875

DEPARTMENT OF ADMINISTRATION

141 - Department of Administration –

Office of the Secretary –

Tobacco Settlement Fund

(WV Code Chapter 4)

Fund 2041 FY 2022 Org 0201

Tobacco Settlement

Securitization Trustee

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 2022 Org 0201

Current Expenses 13000 \$ 33,028,000

The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – Teachers’ Accumulation Fund (fund 2600).

143 - Department of Administration –

Division of Finance –

Shared Services Section Fund

(WV Code Chapter 5A)

Fund 2020 FY 2022 Org 0209

Personal Services and		
Employee Benefits.....	00100	\$ 1,500,000
Current Expenses	13000	<u>500,000</u>
Total.....		\$ 2,000,000

144 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2022 Org 0210

Personal Services and		
Employee Benefits.....	00100	\$ 22,464,463
Unclassified.....	09900	382,354
Current Expenses	13000	13,378,766
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	2,050,000
Other Assets.....	69000	<u>1,045,000</u>
Total.....		\$ 39,321,583

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Division of Information Services and Communications as provided by law.

Each spending unit operating from the General Revenue Fund, from special revenue funds or receiving reimbursement for postage from the federal government shall be charged monthly for all postage meter service and shall reimburse the revolving fund monthly for all such amounts.

145 - Division of Purchasing –

Vendor Fee Fund

(WV Code Chapter 5A)

Fund 2263 FY 2022 Org 0213

Personal Services and		
Employee Benefits.....	00100	\$ 566,589
Unclassified.....	09900	2,382
Current Expenses	13000	109,115

2021] HOUSE OF DELEGATES 3357

Repairs and Alterations.....	06400	5,000
Equipment.....	07000	2,500
Other Assets.....	69000	2,500
BRIM Premium.....	91300	810
Total.....		<u>\$ 688,896</u>

146 - Division of Purchasing –

Purchasing Improvement Fund

(WV Code Chapter 5A)

Fund 2264 FY 2022 Org 0213

Personal Services and		
Employee Benefits.....	00100	\$ 953,176
Unclassified.....	09900	5,562
Current Expenses	13000	492,066
Repairs and Alterations.....	06400	500
Equipment.....	07000	500
Other Assets.....	69000	500
BRIM Premium.....	91300	850
Total.....		<u>\$ 1,453,154</u>

147 - Travel Management –

Aviation Fund

(WV Code Chapter 5A)

Fund 2302 FY 2022 Org 0215

Unclassified.....	09900	\$ 1,000
Current Expenses	13000	149,700
Repairs and Alterations.....	06400	875,237
Equipment.....	07000	1,000
Buildings.....	25800	100
Other Assets.....	69000	100
Land	73000	100
Total.....		<u>\$ 1,027,237</u>

148 - Fleet Management Division Fund

(WV Code Chapter 5A)

Fund 2301 FY 2022 Org 0216

Personal Services and		
Employee Benefits.....00100	\$	757,145
Unclassified.....09900		4,000
Current Expenses13000		11,630,614
Repairs and Alterations.....06400		12,000
Equipment.....07000		800,000
Other Assets.....69000		<u>2,000</u>
Total.....	\$	13,205,759

149 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2022 Org 0222

Personal Services and		
Employee Benefits.....00100	\$	4,638,183
Salary and Benefits of Cabinet		
Secretary and Agency Heads00201		122,500
Unclassified.....09900		51,418
Current Expenses13000		1,262,813
Repairs and Alterations.....06400		5,000
Equipment.....07000		20,000
Other Assets.....69000		<u>60,000</u>
Total.....	\$	6,159,914

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

150 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2022 Org 0228

Personal Services and		
Employee Benefits.....	00100	\$ 132,663
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	119,000
Unclassified.....	09900	4,023
Current Expenses	13000	297,528
Repairs and Alterations	06400	600
Equipment.....	07000	500
Other Assets.....	69000	500
Total.....		<u>\$ 554,814</u>

151 - Office of Technology –

Chief Technology Officer Administration Fund

(WV Code Chapter 5A)

Fund 2531 FY 2022 Org 0231

Personal Services and		
Employee Benefits.....	00100	\$ 414,722
Unclassified.....	09900	6,949
Current Expenses	13000	227,116
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	50,000
Other Assets.....	69000	10,000
Total.....		<u>\$ 709,787</u>

From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit expenditures in excess of the funds authorized for expenditure herein.

DEPARTMENT OF COMMERCE

152 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2022 Org 0305

Personal Services and		
Employee Benefits.....	00100	\$ 1,574,177

Current Expenses	13000	282,202
Repairs and Alterations	06400	53,000
Equipment	07000	<u>300,000</u>
Total		\$ 2,209,379

153 - Division of Forestry –

Timbering Operations Enforcement Fund

(WV Code Chapter 19)

Fund 3082 FY 2022 Org 0305

Personal Services and Employee Benefits	00100	\$ 239,244
Current Expenses	13000	87,036
Repairs and Alterations	06400	<u>11,250</u>
Total		\$ 337,530

154 - Division of Forestry –

Severance Tax Operations

(WV Code Chapter 11)

Fund 3084 FY 2022 Org 0305

Personal Services and Employee Benefits	00100	\$ 859,626
Current Expenses	13000	<u>435,339</u>
Total		\$ 1,294,965

155 - Geological and Economic Survey –

Geological and Analytical Services Fund

(WV Code Chapter 29)

Fund 3100 FY 2022 Org 0306

Personal Services and Employee Benefits	00100	\$ 37,966
Unclassified	09900	2,182

Current Expenses	13000	141,631
Repairs and Alterations	06400	50,000
Equipment	07000	20,000
Other Assets	69000	<u>10,000</u>
Total		\$ 261,779

The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

156 - Division of Labor –

West Virginia Jobs Act Fund

(WV Code Chapter 21)

Fund 3176 FY 2022 Org 0308

Current Expenses	13000	75,000
Equipment	07000	<u>25,000</u>
Total		\$ 100,000

157 - Division of Labor –

HVAC Fund

(WV Code Chapter 21)

Fund 3186 FY 2022 Org 0308

Personal Services and		
Employee Benefits	00100	\$ 300,000
Unclassified	09900	4,000
Current Expenses	13000	82,000
Repairs and Alterations	06400	4,500
Buildings	25800	1,000
BRIM Premium	91300	<u>8,500</u>
Total		\$ 400,000

158 - Division of Labor –

Contractor Licensing Board Fund

(WV Code Chapter 21)

Fund 3187 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 2,532,000
Unclassified.....	09900	21,000
Current Expenses	13000	500,000
Repairs and Alterations.....	06400	10,000
BRIM Premium.....	91300	<u>8,500</u>
Total.....		\$ 3,071,500

*159 - Division of Labor –**Elevator Safety Fund*

(WV Code Chapter 21)

Fund 3188 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 293,682
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	104,180
Unclassified.....	09900	2,261
Current Expenses	13000	94,712
Repairs and Alterations.....	06400	2,000
Buildings	25800	1,000
BRIM Premium.....	91300	<u>8,500</u>
Total.....		\$ 506,335

*160 - Division of Labor –**Steam Boiler Fund*

(WV Code Chapter 21)

Fund 3189 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 77,716
Unclassified.....	09900	1,000

*163 - Division of Labor –**State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 289,199
Unclassified.....	09900	1,847
Current Expenses	13000	43,700
Repairs and Alterations.....	06400	1,000
Buildings.....	25800	1,000
BRIM Premium.....	91300	<u>3,404</u>
Total.....		\$ 340,150

*164 - Division of Labor –**Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2022 Org 0308

Unclassified.....	09900	\$ 1,200
Current Expenses	13000	93,000
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
BRIM Premium.....	91300	<u>7,000</u>
Total.....		\$ 121,200

*165 - Division of Labor –**Bedding and Upholstery Fund*

(WV Code Chapter 21)

Fund 3198 FY 2022 Org 0308

Personal Services an		
Employee Benefits.....	00100	\$ 150,000

*168 - Division of Natural Resources –**Natural Resources Game Fish and Aquatic Life Fund*

(WV Code Chapter 22)

Fund 3202 FY 2022 Org 0310

Current Expenses	13000	\$	125,000
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*169 - Division of Natural Resources –**Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2022 Org 0310

Personal Services and			
Employee Benefits.....	00100	\$	688,103
Current Expenses	13000		201,810
Equipment.....	07000		<u>106,615</u>
Total.....		\$	996,528

*170 - Division of Natural Resources –**Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2022 Org 0310

Personal Services and			
Employee Benefits.....	00100	\$	457,738
Current Expenses	13000		257,864
Repairs and Alterations.....	06400		15,016
Equipment.....	07000		8,300
Buildings.....	25800		8,300
Other Assets.....	69000		1,900,000
Land	73000		<u>31,700</u>
Total.....		\$	2,678,918

*171 - Division of Natural Resources –**State Parks and Recreation Endowment Fund*

(WV Code Chapter 20)

Fund 3211 FY 2022 Org 0310

Current Expenses	13000	\$	6,000
Repairs and Alterations.....	06400		3,000
Equipment.....	07000		2,000
Buildings.....	25800		3,000
Other Assets.....	69000		4,000
Land	73000		<u>2,000</u>
Total.....		\$	20,000

*172 - Division of Natural Resources –**Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2022 Org 0310

Personal Services and			
Employee Benefits.....	00100	\$	67,641
Current Expenses	13000		64,778
Equipment.....	07000		1,297
Buildings.....	25800		<u>6,969</u>
Total.....		\$	140,685

*173 - Division of Natural Resources –**Whitewater Advertising and Promotion Fund*

(WV Code Chapter 20)

Fund 3256 FY 2022 Org 0310

Unclassified.....	09900	\$	200
Current Expenses	13000		<u>19,800</u>
Total.....		\$	20,000

*174 - Division of Miners' Health, Safety and Training –**Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2022 Org 0314

Personal Services and		
Employee Benefits.....	00100	\$ 501,228
Unclassified.....	09900	40,985
Current Expenses	13000	1,954,557
WV Mining Extension Service	02600	150,000
Buildings	25800	2,481,358
Land	73000	<u>1,000,000</u>
Total.....		\$ 6,128,128

*175 - Department of Commerce –**Office of the Secretary –**Broadband Enhancement Fund*Fund 3013 FY 2022 Org 0327

Personal Services and		
Employee Benefits.....	00100	\$ 131,682
Current Expenses	13000	<u>51,648,318</u>
Total.....		\$ 51,780,000

*176 - State Board of Rehabilitation –**Division of Rehabilitation Services –**West Virginia Rehabilitation Center Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2022 Org 0932

Personal Services and		
Employee Benefits.....	00100	\$ 119,738
Current Expenses	13000	1,180,122

Repairs and Alterations.....	06400	85,500
Equipment.....	07000	220,000
Buildings.....	25800	150,000
Other Assets.....	69000	<u>150,000</u>
Total.....		\$ 1,905,360

DEPARTMENT OF ECONOMIC DEVELOPMENT

177 - Department of Economic Development –

Office of the Secretary –

Marketing and Communications Operating Fund

(WV Code Chapter 5B)

Fund 3002 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 2,069,353
Unclassified.....	09900	30,000
Current Expenses	13000	1,315,078
Equipment.....	07000	<u>36,000</u>
Total.....		\$ 3,450,431

178 - Department of Economic Development –

Office of the Secretary –

Entrepreneurship and Innovation Investment Fund

(WV Code Chapter 5B)

Fund 3014 FY 2022 Org 0307

Entrepreneurship and		
Innovation Investment Fund.....	70301	\$ 500,000

179 - Department of Economic Development –

Office of the Secretary –

Office of Coalfield Community Development

(WV Code Chapter 5B)

Fund 3162 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 435,661
Unclassified.....	09900	8,300
Current Expenses	13000	<u>399,191</u>
Total.....		\$ 843,152

*180 - Department of Economic Development –**Office of Energy –**Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2022 Org 0328

Energy Assistance – Total	64700	\$ 7,211
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DEPARTMENT OF EDUCATION*181 - State Board of Education –**Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 134,000
Unclassified.....	09900	1,000
Current Expenses	13000	<u>765,000</u>
Total.....		\$ 900,000

*182 - State Board of Education –**School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3952 FY 2022 Org 0404

SBA Construction Grants	24000	\$	35,845,818
Directed Transfer	70000		<u>1,371,182</u>
Total.....		\$	37,217,000

The above appropriation for Directed Transfer (fund 3951, appropriation 70000) shall be transferred to the School Building Authority Fund (fund 3959) for the administrative expenses of the School Building Authority.

183 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2022 Org 0404

Personal Services and			
Employee Benefits.....	00100	\$	1,134,522
Current Expenses	13000		244,100
Repairs and Alterations.....	06400		13,150
Equipment.....	07000		<u>26,000</u>
Total.....		\$	1,417,772

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

184 - Division of Culture and History –

Public Records and Preservation Revenue Account

(WV Code Chapter 5A)

Fund 3542 FY 2022 Org 0432

Personal Services and			
Employee Benefits.....	00100	\$	226,624
Current Expenses	13000		862,241
Equipment.....	07000		75,000
Buildings.....	25800		1,000
Other Assets.....	69000		52,328
Land	73000		<u>1,000</u>
Total.....		\$	1,218,193

DEPARTMENT OF ENVIRONMENTAL PROTECTION*185 - Solid Waste Management Board*

(WV Code Chapter 22C)

Fund 3288 FY 2022 Org 0312

Personal Services and		
Employee Benefits.....	00100	\$ 842,305
Current Expenses	13000	2,060,457
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	5,000
Other Assets.....	69000	4,403
Total.....		<u>\$ 2,913,165</u>

*186 - Division of Environmental Protection –**Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 779,766
Unclassified.....	09900	8,072
Current Expenses	13000	155,969
Repairs and Alterations.....	06400	500
Equipment.....	07000	1,505
Other Assets.....	69000	2,000
Total.....		<u>\$ 947,812</u>

*187 - Division of Environmental Protection –**Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 950,135
Unclassified.....	09900	14,647
Current Expenses	13000	1,026,863
Repairs and Alterations.....	06400	13,000
Equipment.....	07000	53,105
Other Assets.....	69000	<u>20,000</u>
Total.....		\$ 2,077,750

188 - Division of Environmental Protection –

Special Reclamation Fund

(WV Code Chapter 22)

Fund 3321 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 1,627,573
Current Expenses	13000	16,185,006
Repairs and Alterations.....	06400	79,950
Equipment.....	07000	130,192
Other Assets.....	69000	<u>32,000</u>
Total.....		\$ 18,054,721

189 - Division of Environmental Protection –

Oil and Gas Reclamation Fund

(WV Code Chapter 22)

Fund 3322 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 543,906
Current Expenses	13000	<u>1,956,094</u>
Total.....		\$ 2,500,000

190 - Division of Environmental Protection –

Oil and Gas Operating Permit and Processing Fund

(WV Code Chapter 22)

Fund 3323 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 2,141,500
Unclassified.....	09900	15,700
Current Expenses	13000	932,300
Repairs and Alterations.....	06400	9,500
Equipment.....	07000	500
Other Assets.....	69000	500
Total.....		<u>\$ 3,100,000</u>

*191 - Division of Environmental Protection –**Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 3,566,280
Unclassified.....	09900	920
Current Expenses	13000	2,202,231
Repairs and Alterations.....	06400	60,260
Equipment.....	07000	83,000
Other Assets.....	69000	57,500
Total.....		<u>\$ 5,970,191</u>

*192 - Division of Environmental Protection –**Underground Storage Tank**Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 476,417

Total.....		\$	4,511,448
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195 - Division of Environmental Protection –

Solid Waste Enforcement Fund

(WV Code Chapter 22)

Fund 3333 FY 2022 Org 0313

Personal Services and			
Employee Benefits.....	00100	\$	3,274,054
Unclassified.....	09900		31,145
Current Expenses	13000		940,229
Repairs and Alterations.....	06400		30,930
Equipment.....	07000		23,356
Other Assets.....	69000		<u>25,554</u>
Total.....		\$	4,325,268

196 - Division of Environmental Protection –

Air Pollution Control Fund

(WV Code Chapter 22)

Fund 3336 FY 2022 Org 0313

Personal Services and			
Employee Benefits.....	00100	\$	5,934,859
Unclassified.....	09900		70,572
Current Expenses	13000		1,469,467
Repairs and Alterations.....	06400		84,045
Equipment.....	07000		103,601
Other Assets.....	69000		<u>52,951</u>
Total.....		\$	7,715,495

197 - Division of Environmental Protection –

Environmental Laboratory

Certification Fund

(WV Code Chapter 22)

Fund 3340 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 352,834
Unclassified.....	09900	1,120
Current Expenses	13000	201,146
Repairs and Alterations.....	06400	1,000
Other Assets.....	69000	<u>163,000</u>
Total.....		\$ 719,100

*198 - Division of Environmental Protection –**Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2022 Org 0313

Current Expenses	13000	\$ 5,182,076
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*199 - Division of Environmental Protection –**Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2022 Org 0313

Current Expenses	13000	\$ 60,000
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*200 - Division of Environmental Protection –**Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 660,575
Unclassified.....	09900	400

Current Expenses	13000	2,754,258
Repairs and Alterations	06400	800
Equipment	07000	500
Other Assets	69000	<u>2,500</u>
Total		\$ 3,419,033

201 - Division of Environmental Protection –

Mountaintop Removal Fund

(WV Code Chapter 22)

Fund 3490 FY 2022 Org 0313

Personal Services and		
Employee Benefits	00100	\$ 1,250,562
Unclassified	09900	1,180
Current Expenses	13000	642,934
Repairs and Alterations	06400	30,112
Equipment	07000	23,500
Other Assets	69000	<u>11,520</u>
Total		\$ 1,959,808

202 - Division of Environmental Protection –

Wind and Solar Decommissioning Fund

(WV Code Chapter 22)

Fund 3490 FY 2022 Org 0313

Personal Services and		
Employee Benefits	00100	\$ 53,600

203 - Oil and Gas Conservation Commission –

Special Oil and Gas Conservation Fund

(WV Code Chapter 22C)

Fund 3371 FY 2022 Org 0315

Personal Services and		
Employee Benefits.....	00100	\$ 162,161
Current Expenses	13000	161,225
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	9,481
Other Assets.....	69000	<u>1,500</u>
Total.....		\$ 335,367

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

204 - Division of Health –

Ryan Brown Addiction Prevention and Recovery Fund

(WV Code Chapter 19)

Fund 5111 FY 2022 Org 0506

Current Expenses	13000	\$ 10,667,392
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205 - Division of Health –

The Vital Statistics Account

(WV Code Chapter 16)

Fund 5144 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 938,484
Unclassified.....	09900	15,500
Current Expenses	13000	<u>2,757,788</u>
Total.....		\$ 3,711,772

206 - Division of Health –

Hospital Services Revenue Account

Special Fund

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2022 Org 0506

Institutional Facilities Operations	33500	\$ 35,555,221
Medical Services Trust Fund –		
Transfer.....	51200	<u>27,800,000</u>
Total.....		\$ 63,355,221

The total amount of these appropriations shall be paid from the Hospital Services Revenue Account Special Fund created by W.Va. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities.

Additional funds have been appropriated in fund 0525, fiscal year 2022, organization 0506, for the operation of the institutional facilities. The Secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the appropriation for Institutional Facilities Operations to facilitate cost effective and cost saving services at the community level.

Necessary funds from the above appropriation may be used for medical facilities operations, either in connection with this fund or in connection with the appropriation designated Institutional Facilities Operations in the Consolidated Medical Service Fund (fund 0525, organization 0506).

207 - Division of Health –

Laboratory Services Fund

(WV Code Chapter 16)

Fund 5163 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 936,712
Unclassified.....	09900	18,114
Current Expenses	13000	<u>2,209,105</u>
Total.....		\$ 3,163,931

208 - Division of Health –

The Health Facility Licensing Account

(WV Code Chapter 16)

Fund 5172 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 645,446
Unclassified.....	09900	7,113
Current Expenses	13000	<u>98,247</u>
Total.....		\$ 750,806

*209 - Division of Health –**Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2022 Org 0506

Current Expenses	13000	\$ 9,740
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*210 - Division of Health –**Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 19,100
Unclassified.....	09900	373
Current Expenses	13000	<u>17,875</u>
Total.....		\$ 37,348

*211 - Division of Health –**West Virginia Birth-to-Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 691,978
Unclassified.....	09900	223,999
Current Expenses	13000	<u>30,134,400</u>
Total.....		\$ 31,050,377

212 - Division of Health –

Tobacco Control Special Fund

(WV Code Chapter 16)

Fund 5218 FY 2022 Org 0506

Current Expenses	13000	\$ 7,579
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213 - Division of Health –

Medical Cannabis Program Fund

(WV Code Chapter 16A)

Fund 5420 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 509,658
Current Expenses	13000	<u>2,046,040</u>
Total.....		\$ 2,555,698

214 - West Virginia Health Care Authority –

Health Care Cost Review Fund

(WV Code Chapter 16)

Fund 5375 FY 2022 Org 0507

Personal Services and		
Employee Benefits.....	00100	\$ 1,345,380
Unclassified.....	09900	20,100
Current Expenses	13000	<u>785,445</u>
Total.....		\$ 2,150,925

The above appropriation is to be expended in accordance with and pursuant to the provisions of W.Va. Code §16-29B and from the special revolving fund designated Health Care Cost Review Fund.

215 - West Virginia Health Care Authority –

Certificate of Need Program Fund

(WV Code Chapter 16)

Fund 5377 FY 2022 Org 0507

Personal Services and		
Employee Benefits.....	00100	\$ 829,798
Current Expenses	13000	<u>474,967</u>
Total.....		\$ 1,304,765

216 - Division of Human Services –

Health Care Provider Tax –

Medicaid State Share Fund

(WV Code Chapter 11)

Fund 5090 FY 2022 Org 0511

Medical Services.....	18900	\$ 213,594,315
Medical Services Administrative		
Costs	78900	<u>242,287</u>
Total.....		\$ 213,836,602

The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation 78900) shall be transferred to a special revenue account in the treasury for use by the Department of Health and Human Resources for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the Medical Services Program Fund (fund 5084).

*217 - Division of Human Services –**Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 24,809,509
Unclassified.....	09900	380,000
Current Expenses	13000	<u>12,810,491</u>
Total.....		\$ 38,000,000

*218 - Division of Human Services –**Medical Services Trust Fund*

(WV Code Chapter 9)

Fund 5185 FY 2022 Org 0511

Medical Services.....	18900	\$ 75,000,000
Medical Services Administrative		
Costs	78900	<u>602,486</u>
Total.....		\$ 75,602,486

The above appropriation to Medical Services shall be used to provide state match of Medicaid expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a. Expenditures from the fund are limited to the following: payment of backlogged billings, funding for services to future federally mandated population groups and payment of the required state match for Medicaid disproportionate share payments. The remainder of all moneys deposited in the fund shall be transferred to the Division of Human Services accounts.

*219 - Division of Human Services –**James “Tiger” Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2022 Org 0511

Current Expenses	13000		<u>25,000</u>
Total.....		\$	35,000

DEPARTMENT OF HOMELAND SECURITY

224 - Department of Homeland Security –

Office of the Secretary –

Law-Enforcement, Safety and Emergency Worker

Funeral Expense Payment Fund

(WV Code Chapter 15)

Fund 6003 FY 2022 Org 0601

Current Expenses	13000	\$	32,000
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225 - Division of Emergency Management –

Statewide Interoperable Radio Network Account

(WV Code Chapter 15)

Fund 6208 FY 2022 Org 0606

Current Expenses	13000	\$	80,000
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226 - Division of Emergency Management –

West Virginia Interoperable Radio Project

(WV Code Chapter 24)

Fund 6295 FY 2022 Org 0606

Unclassified.....	09900	\$	20,000
Current Expenses	13000		1,480,000
Repairs and Alterations.....	06400		250,000
Equipment.....	07000		<u>250,000</u>
Total.....		\$	2,000,000

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 6295, appropriation 09600) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

227 - Division of Corrections and Rehabilitation –

Parolee Supervision Fees

(WV Code Chapter 15A)

Fund 6362 FY 2022 Org 0608

Personal Services and		
Employee Benefits.....	00100	\$ 1,118,697
Unclassified.....	09900	9,804
Current Expenses	13000	758,480
Equipment.....	07000	30,000
Other Assets.....	69000	<u>40,129</u>
Total.....		\$ 1,957,110

228 - Division of Corrections and Rehabilitation –

Regional Jail and Correctional Facility Authority

(WV Code Chapter 15A)

Fund 6675 FY 2022 Org 0608

Personal Services and		
Employee Benefits.....	00100	\$ 544,798
Debt Service.....	04000	9,000,000
Current Expenses	13000	<u>245,472</u>
Total.....		\$ 9,790,270

229 - West Virginia State Police –

Motor Vehicle Inspection Fund

(WV Code Chapter 17C)

Fund 6501 FY 2022 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 1,907,726
Current Expenses	13000	1,488,211
Repairs and Alterations.....	06400	204,500
Equipment	07000	3,770,751
Buildings.....	25800	534,000
Other Assets.....	69000	5,000
BRIM Premium.....	91300	<u>302,432</u>
Total.....		\$ 8,212,620

The total amount of these appropriations shall be paid from the special revenue fund out of fees collected for inspection stickers as provided by law.

230 - West Virginia State Police –

Forensic Laboratory Fund

(WV Code Chapter 15)

Fund 6511 FY 2022 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 1,600,000
Current Expenses	13000	90,000
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	<u>545,000</u>
Total.....		\$ 2,240,000

231 - West Virginia State Police –

Drunk Driving Prevention Fund

(WV Code Chapter 15)

Fund 6513 FY 2022 Org 0612

Current Expenses	13000	\$ 1,327,000
Equipment.....	07000	3,491,895
BRIM Premium.....	91300	<u>154,452</u>
Total.....		\$ 4,973,347

The total amount of these appropriations shall be paid from the special revenue fund out of receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund account in the State Treasury.

232 - West Virginia State Police –

Surplus Real Property Proceeds Fund

(WV Code Chapter 15)

Fund 6516 FY 2022 Org 0612

Buildings	25800	\$	1,022,778
Land	73000		1,000
BRIM Premium.....	91300		<u>77,222</u>
Total.....		\$	1,101,000

233 - West Virginia State Police –

Surplus Transfer Account

(WV Code Chapter 15)

Fund 6519 FY 2022 Org 0612

Current Expenses	13000	\$	225,000
Repairs and Alterations	06400		20,000
Equipment	07000		250,000
Buildings	25800		40,000
Other Assets	69000		45,000
BRIM Premium.....	91300		<u>5,000</u>
Total.....		\$	585,000

234 - West Virginia State Police –

Central Abuse Registry Fund

(WV Code Chapter 15)

Fund 6527 FY 2022 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 256,629
Current Expenses	13000	376,443
Repairs and Alterations.....	06400	500
Equipment.....	07000	300,500
Other Assets.....	69000	300,500
BRIM Premium.....	91300	<u>18,524</u>
Total.....		\$ 1,253,096

235 - West Virginia State Police –

Bail Bond Enforcer Account

(WV Code Chapter 15)

Fund 6532 FY 2022 Org 0612

Current Expenses	13000	\$ 8,300
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236 - West Virginia State Police –

State Police Academy Post Exchange

(WV Code Chapter 15)

Fund 6544 FY 2022 Org 0612

Current Expenses	13000	\$ 160,000
Repairs and Alterations.....	06400	<u>40,000</u>
Total.....		\$ 200,000

237 - Fire Commission –

Fire Marshal Fees

(WV Code Chapter 29)

Fund 6152 FY 2022 Org 0619

Personal Services and		
Employee Benefits.....	00100	\$ 3,480,533
Unclassified.....	09900	3,800
Current Expenses	13000	1,246,550

Repairs and Alterations.....	06400	58,500
Equipment.....	07000	140,800
BRIM Premium.....	91300	<u>65,000</u>
Total.....		\$ 4,995,183

238 - Division of Administrative Services –

WV Community Corrections Fund

(WV Code Chapter 62)

Fund 6386 FY 2022 Org 0623

Personal Services and		
Employee Benefits.....	00100	\$ 161,923
Unclassified.....	09900	750
Current Expenses	13000	1,846,250
Repairs and Alterations.....	06400	<u>1,000</u>
Total.....		\$ 2,009,923

239 - Division of Administrative Services –

Court Security Fund

(WV Code Chapter 51)

Fund 6804 FY 2022 Org 0623

Personal Services and		
Employee Benefits.....	00100	\$ 23,840
Current Expenses	13000	<u>1,478,135</u>
Total.....		\$ 1,501,975

240 - Division of Administrative Services –

Second Chance Driver's License Program Account

(WV Code Chapter 17B)

Fund 6810 FY 2022 Org 0623

Current Expenses	13000	\$ 125,000
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DEPARTMENT OF REVENUE*241 - Division of Financial Institutions*

(WV Code Chapter 31A)

Fund 3041 FY 2022 Org 0303

Personal Services and		
Employee Benefits.....	00100	\$ 2,584,057
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	119,000
Current Expenses	13000	650,475
Equipment.....	07000	<u>8,500</u>
Total.....		\$ 3,362,032

*242 - Office of the Secretary –**State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2022 Org 0701

Retirement Systems –		
Unfunded Liability.....	77500	\$ 20,000,000

The above appropriation for Retirement System – Unfunded Liability shall be transferred to the Consolidated Public Retirement Board – West Virginia Teachers Retirement System Employers School Aid Formula Funds Holding Account Fund (fund 2606).

243 - Home Rule Board Operations

(WV Code Chapter 8)

Fund 7010 FY 2022 Org 0701

Personal Services and		
Employee Benefits.....	00100	\$ 25,000
Unclassified.....	09900	680
Current Expenses	13000	42,000

Current Expenses	13000		<u>5,406</u>
Total.....		\$	274,379

247 - Tax Division –

Reduced Cigarette Ignition Propensity

Standard and Fire Prevention Act Fund

(WV Code Chapter 47)

Fund 7092 FY 2022 Org 0702

Current Expenses	13000	\$	35,000
Equipment.....	07000		<u>15,000</u>
Total.....		\$	50,000

248 - Tax Division –

Local Sales Tax and Excise Tax

Administration Fund

(WV Code Chapter 11)

Fund 7099 FY 2022 Org 0702

Personal Services and'			
Employee Benefits.....	00100	\$	1,543,527
Unclassified.....	09900		10,000
Current Expenses	13000		784,563
Repairs and Alterations.....	06400		1,000
Equipment.....	07000		<u>5,000</u>
Total.....		\$	2,344,090

249 - State Budget Office –

Public Employees Insurance Reserve Fund

(WV Code Chapter 11B)

Fund 7400 FY 2022 Org 0703

Public Employees Insurance

Reserve Fund – Transfer.....	90300	\$	6,800,000
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The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical Services Trust Fund (fund 5185, org 0511) for expenditure.

*250 - Insurance Commissioner –**Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2022 Org 0704

Personal Services and

Employee Benefits.....	00100	\$	748,764
Current Expenses	13000		1,357,201
Repairs and Alterations.....	06400		3,000
Equipment.....	07000		81,374
Buildings.....	25800		8,289
Other Assets.....	69000		11,426
Total.....		\$	2,210,054

*251 - Insurance Commissioner –**Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2022 Org 0704

Personal Services and

Employee Benefits.....	00100	\$	571,976
Current Expenses	13000		202,152
Repairs and Alterations.....	06400		5,000
Equipment.....	07000		34,225
Buildings.....	25800		4,865
Other Assets.....	69000		19,460
Total.....		\$	837,678

252 - Insurance Commissioner –

Insurance Commission Fund

(WV Code Chapter 33)

Fund 7152 FY 2022 Org 0704

Personal Services and		
Employee Benefits.....	00100	\$ 24,032,521
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	136,500
Current Expenses	13000	8,797,758
Repairs and Alterations.....	06400	68,614
Equipment.....	07000	1,728,240
Buildings.....	25800	25,000
Other Assets.....	69000	<u>340,661</u>
Total.....		\$ 35,129,294

253 - Insurance Commissioner –

Insurance Fraud Prevention Fund

(WV Code Chapter 33)

Fund 7153 FY 2022 Org 0704

Current Expenses	13000	\$ 15,000
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254 - Insurance Commissioner –

Workers' Compensation Old Fund

(WV Code Chapter 23)

Fund 7162 FY 2022 Org 0704

Employee Benefits	01000	\$ 50,000
Current Expenses	13000	<u>250,500,000</u>
Total.....		\$ 250,550,000

255 - Insurance Commissioner –

Workers' Compensation Uninsured Employers' Fund

(WV Code Chapter 23)

Fund 7163 FY 2022 Org 0704

Current Expenses	13000	\$	15,000,000
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256 - Insurance Commissioner –

Self-Insured Employer Guaranty Risk Pool

(WV Code Chapter 23)

Fund 7164 FY 2022 Org 0704

Current Expenses	13000	\$	9,000,000
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257 - Insurance Commissioner –

Self-Insured Employer Security Risk Pool

(WV Code Chapter 23)

Fund 7165 FY 2022 Org 0704

Current Expenses	13000	\$	14,000,000
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258 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2022 Org 0706

Personal Services and			
Employee Benefits.....	00100	\$	309,502
Current Expenses	13000		154,344
Equipment.....	07000		100
Total.....		\$	463,946

259 - *Racing Commission –*

Relief Fund

(WV Code Chapter 19)

Fund 7300 FY 2022 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.

260 - *Racing Commission –*

Administration and Promotion Account

(WV Code Chapter 19)

Fund 7304 FY 2022 Org 0707

Personal Services and		
Employee Benefits.....00100	\$	264,564
Current Expenses13000		85,433
Other Assets.....69000		<u>5,000</u>
Total.....	\$	354,997

261 - *Racing Commission –*

General Administration

(WV Code Chapter 19)

Fund 7305 FY 2022 Org 0707

Personal Services and		
Employee Benefits.....00100	\$	2,303,863

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	48,443
Current Expenses	13000	497,284
Repairs and Alterations	06400	5,000
Other Assets	69000	40,000
Total		\$ 2,894,590

262 - Racing Commission –

*Administration, Promotion, Education, Capital Improvement
and Greyhound Adoption Programs
to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2022 Org 0707

Personal Services and

Employee Benefits	00100	\$ 918,781
Current Expenses	13000	160,099
Other Assets	69000	200,000
Total		\$ 1,278,880

263 - Alcohol Beverage Control Administration –

Wine License Special Fund

(WV Code Chapter 60)

Fund 7351 FY 2022 Org 0708

Personal Services and

Employee Benefits	00100	\$ 147,213
Current Expenses	13000	54,186
Repairs and Alterations	06400	7,263
Equipment	07000	10,000
Buildings	25800	100,000
Transfer Liquor Profits and Taxes	42500	30,750
Other Assets	69000	100
Total		\$ 349,512

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

264 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2022 Org 0708

Personal Services and		
Employee Benefits.....	00100	\$ 5,668,074
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	122,500
Current Expenses	13000	2,890,577
Repairs and Alterations.....	06400	91,000
Equipment.....	07000	108,000
Buildings.....	25800	375,100
Purchase of Supplies for Resale.....	41900	76,500,000
Transfer Liquor Profits and Taxes	42500	21,200,000
Other Assets.....	69000	125,100
Land	73000	100
Total.....		\$ 107,080,451

The total amount of these appropriations shall be paid from a special revenue fund out of liquor revenues and any other revenues available.

The above appropriations include the salary of the commissioner and the salaries, expenses, and equipment of administrative offices, warehouses, and inspectors.

The above appropriations include funding for the Tobacco/Alcohol Education Program.

There is hereby appropriated from liquor revenues, in addition to the above appropriations as needed, the necessary amount for the purchase of liquor as provided by law and the remittance of profits and taxes to the General Revenue Fund.

265 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2022 Org 0933

Personal Services and		
Employee Benefits.....	00100	\$ 12,000
Current Expenses	13000	<u>28,000</u>
Total.....		\$ 40,000

DEPARTMENT OF TRANSPORTATION*266 - Division of Motor Vehicles –**Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2022 Org 0802

Current Expenses	13000	\$ 189,000
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*267 - Division of Motor Vehicles –**Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2022 Org 0802

Personal Services and		
Employee Benefits.....	00100	\$ 3,733,074
Current Expenses	13000	4,357,773
Repairs and Alterations.....	06400	16,000
Equipment.....	07000	75,000
Other Assets.....	69000	10,000
BRIM Premium.....	91300	<u>89,939</u>
Total.....		\$ 8,281,786

*268 - Division of Highways –**A. James Manchin Fund*

(WV Code Chapter 22)

Fund 8319 FY 2022 Org 0803

Current Expenses 13000 \$ 2,500,000

269 - State Rail Authority -

West Virginia Commuter Rail Access Fund

(WV Code Chapter 29)

Fund 8402 FY 2022 Org 0804

Current Expenses 13000 \$ 600,000

DEPARTMENT OF VETERANS' ASSISTANCE

270 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2022 Org 0613

Current Expenses 13000 \$ 1,654,234

Other Assets 69000 10,000

Total..... \$ 1,664,234

271 - Department of Veterans' Assistance -

WV Veterans' Home -

Special Revenue Operating Fund

(WV Code Chapter 9A)

Fund 6754 FY 2022 Org 0618

Current Expenses 13000 \$ 289,400

Repairs and Alterations 06400 10,600

Total..... \$ 300,000

BUREAU OF SENIOR SERVICES*272 - Bureau of Senior Services –**Community Based Service Fund**(WV Code Chapter 29)**Fund 5409 FY 2022 Org 0508*

Personal Services and		
Employee Benefits.....	00100	\$ 95,433
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	65,450
Current Expenses	13000	<u>10,348,710</u>
Total.....		\$ 10,509,593

The total amount of these appropriations are funded from annual table game license fees to enable the aged and disabled citizens of West Virginia to stay in their homes through the provision of home and community-based services.

HIGHER EDUCATION POLICY COMMISSION*273 - 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 2022 Org 0442*

Debt Service.....	04000	\$ 27,713,123
General Capital Expenditures	30600	5,000,000
Facilities Planning and		
Administration	38600	<u>441,111</u>
Total.....		\$ 33,154,234

The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for Debt Service, may be transferred to special revenue funds for capital improvement projects at the institutions.

274 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2022 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.

The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.

275 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2022 Org 0442

Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

The total amount of this appropriation shall be paid from the sale of the Series 2017 Community and Technical College Capital Improvement Refunding Revenue Bonds and anticipated interest earnings.

276 - West Virginia University –

West Virginia University Health Sciences Center

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2022 Org 0463

Personal Services and		
Employee Benefits.....	00100	\$ 10,764,347
Current Expenses	13000	4,524,300
Repairs and Alterations.....	06400	425,000
Equipment.....	07000	512,000
Buildings.....	25800	150,000
Other Assets.....	69000	<u>50,000</u>
Total.....		\$ 16,425,647

MISCELLANEOUS BOARDS AND COMMISSIONS

277 - Board of Barbers and Cosmetologists –

Barbers and Beauticians Special Fund

(WV Code Chapters 16 and 30)

Fund 5425 FY 2022 Org 0505

Personal Services and		
Employee Benefits.....	00100	\$ 543,993
Current Expenses	13000	234,969
Repairs and Alterations.....	06400	<u>5,000</u>
Total.....		\$ 783,962

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Board of Barbers and Cosmetologists as provided by law.

278 - Hospital Finance Authority –

Hospital Finance Authority Fund

(WV Code Chapter 16)

Fund 5475 FY 2022 Org 0509

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	\$	93,279
Unclassified.....	09900		1,501
Current Expenses	13000		<u>55,328</u>
Total.....		\$	150,108

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by Article 29A, Chapter 16 of the Code.

279 - State Armory Board –

General Armory Fund

(WV Code Chapter 15)

Fund 6057 FY 2022 Org 0603

Personal Services and

Employee Benefits.....	00100	\$	1,681,247
Current Expenses	13000		650,000
Repairs and Alterations.....	06400		385,652
Equipment.....	07000		250,000
Buildings.....	25800		520,820
Other Assets.....	69000		350,000
Land	73000		<u>200,000</u>
Total.....		\$	4,037,719

From the above appropriations, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant General may transfer funds between appropriations, except no funds may be transferred to Personal Services and Employee Benefits (fund 6057, appropriation 00100).

280 - WV State Board of Examiners for Licensed Practical Nurses –

Licensed Practical Nurses

(WV Code Chapter 30)

Fund 8517 FY 2022 Org 0906

Personal Services and		
Employee Benefits.....	00100	\$ 495,505
Current Expenses	13000	<u>107,700</u>
Total.....		\$ 603,205

281 - WV Board of Examiners for Registered Professional Nurses –

Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2022 Org 0907

Personal Services and		
Employee Benefits.....	00100	\$ 1,300,612
Current Expenses	13000	312,655
Repairs and Alterations.....	06400	3,000
Equipment.....	07000	25,000
Other Assets.....	69000	<u>4,500</u>
Total.....		\$ 1,645,767

282 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2022 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 12,274,721
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	207,200
Unclassified.....	09900	147,643
Current Expenses	13000	2,507,202
Repairs and Alterations.....	06400	390,000

Equipment.....	07000	160,000
Buildings.....	25800	10
PSC Weight Enforcement.....	34500	4,605,652
Debt Payment/Capital Outlay	52000	350,000
Land	73000	10
BRIM Premium.....	91300	<u>172,216</u>
Total.....		\$ 20,814,654

The total amount of these appropriations shall be paid from a special revenue fund out of collections for special license fees from public service corporations as provided by law.

The Public Service Commission is authorized to transfer up to \$500,000 from this fund to meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

283 - Public Service Commission –

Gas Pipeline Division –

Public Service Commission Pipeline Safety Fund

(WV Code Chapter 24B)

Fund 8624 FY 2022 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 286,958
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	7,700
Unclassified.....	09900	3,851
Current Expenses	13000	93,115
Repairs and Alterations.....	06400	<u>4,000</u>
Total.....		\$ 395,624

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over pipeline companies as provided by law.

*284 - Public Service Commission –**Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2022 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 2,333,484
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	44,030
Unclassified.....	09900	29,233
Current Expenses	13000	577,557
Repairs and Alterations.....	06400	23,000
Equipment.....	07000	50,000
Total.....		\$ 3,057,304

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as provided by law.

*285 - Public Service Commission –**Consumer Advocate Fund*

(WV Code Chapter 24)

Fund 8627 FY 2022 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 876,994
Current Expenses	13000	386,472
Equipment.....	07000	9,872
BRIM Premium.....	91300	4,660
Total.....		\$ 1,277,998

The total amount of these appropriations shall be supported by cash from a special revenue fund out of collections made by the Public Service Commission.

286 - Real Estate Commission –

Real Estate License Fund

(WV Code Chapter 30)

Fund 8635 FY 2022 Org 0927

Personal Services and		
Employee Benefits.....	00100	\$ 607,098
Current Expenses	13000	293,122
Repairs and Alterations.....	06400	2,500
Equipment.....	07000	<u>5,000</u>
Total.....		\$ 907,720

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

287 - WV Board of Examiners for Speech-Language

Pathology and Audiology –

Speech-Language Pathology and Audiology Operating Fund

(WV Code Chapter 30)

Fund 8646 FY 2022 Org 0930

Personal Services and		
Employee Benefits.....	00100	\$ 91,513
Current Expenses	13000	<u>63,499</u>
Total.....		\$ 155,012

288 - WV Board of Respiratory Care –

Board of Respiratory Care Fund

(WV Code Chapter 30)

Fund 8676 FY 2022 Org 0935

Personal Services and		
Employee Benefits.....	00100	\$ 85,878

292 - West Virginia Enterprise Resource Planning Board –

Enterprise Resource Planning System Fund

(WV Code Chapter 12)

Fund 9080 FY 2022 Org 0947

Personal Services and		
Employee Benefits.....	00100	\$ 6,856,239
Unclassified.....	09900	182,000
Current Expenses	13000	13,662,210
Repairs and Alterations.....	06400	300
Equipment.....	07000	352,000
Buildings.....	25800	2,000
Other Assets.....	69000	<u>203,500</u>
Total.....		\$ 21,258,249

293 - Board of Treasury Investments –

Board of Treasury Investments Fee Fund

(WV Code Chapter 12)

Fund 9152 FY 2022 Org 0950

Personal Services and		
Employee Benefits.....	00100	\$ 832,889
Unclassified.....	09900	14,850
Current Expenses	13000	605,714
BRIM Premium.....	91300	31,547
Fees of Custodians, Fund		
Advisors and Fund Managers	93800	<u>3,500,000</u>
Total.....		\$ 4,985,000

There is hereby appropriated from this fund, in addition to the above appropriation if needed, an amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses of custodians, fund advisors and fund managers for the consolidated fund of the State as provided in Article 6C, Chapter 12 of the Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

Total TITLE II, Section 3 –

Other Funds (Including claims against the state) \$ 1,495,588,382

Sec. 4. Appropriations from lottery net profits. — Net profits of the lottery are to be deposited by the Director of the Lottery to the following accounts in the amounts indicated. The Director of the Lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the Director of the Lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 for that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery shall deposit the reimbursement amounts to the following accounts as required by this section.

294 - Education, Arts, Sciences and Tourism –

Debt Service Fund

(WV Code Chapter 5)

Fund 2252 FY 2022 Org 0211

	Appro-	Lottery
	priation	Funds
Debt Service – Total	31000	\$ 10,000,000

*295 - Department of Tourism –**Office of the Secretary*

(WV Code Chapter 5B)

Fund 3067 FY 2022 Org 0304

Tourism – Telemarketing Center	46300	\$	82,080
Tourism – Advertising (R).....	61800		2,422,407
Tourism – Operations (R)	66200		<u>4,227,938</u>
Total.....		\$	6,732,425

Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund 3067, appropriation 61800) and Tourism – Operations (fund 3067, appropriation 66200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

296 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2022 Org 0310

Personal Services and			
Employee Benefits.....	00100	\$	2,428,178
Current Expenses	13000		26,900
Pricketts Fort State Park.....	32400		106,560
Non-Game Wildlife (R)	52700		386,935
State Parks and Recreation			
Advertising (R)	61900		<u>494,578</u>
Total.....		\$	3,443,151

Any unexpended balances remaining in the appropriations for Unclassified (fund 3267, appropriation 09900), Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267, appropriation 61900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

297 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2022 Org 0402

FBI Checks.....	37200	\$	116,548
Vocational Education Equipment Replacement.....	39300		800,000
Assessment Program (R).....	39600		490,439
Literacy Project.....	89900		350,000
21 st Century Technology Infrastructure Network Tools and Support (R)	93300		<u>12,600,383</u>
Total.....		\$	14,357,370

Any unexpended balances remaining in the appropriations for Unclassified (fund 3951, appropriation 09900), Current Expenses (fund 3951, appropriation 13000), Assessment Program (fund 3951, appropriation 39600), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 93300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

*298 - State Department of Education –**School Building Authority –**Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2022 Org 0404

Debt Service – Total	31000	\$	15,320,363
Directed Transfer	70000		<u>2,679,637</u>
Total.....		\$	18,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18.

The above appropriation for Directed Transfer (fund 3963, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.

299 - Division of Culture and History –

Lottery Education Fund

(WV Code Chapter 29)

Fund 3534 FY 2022 Org 0432

Huntington Symphony	02700	\$	59,058
Preservation West Virginia (R).....	09200		491,921
Fairs and Festivals (R)	12200		1,346,814
Commission for National and Community Service (R)	19300		374,980
Archeological Curation/Capital Improvements (R).....	24600		36,276
Historic Preservation Grants (R).....	31100		417,933
West Virginia Public Theater.....	31200		120,019
Greenbrier Valley Theater	42300		115,000
Theater Arts of West Virginia.....	46400		90,000
Marshall Artists Series	51800		36,005
Grants for Competitive Arts Program (R)	62400		811,500
West Virginia State Fair.....	65700		31,241
Save the Music.....	68000		40,000
Contemporary American Theater Festival.....	81100		57,281
Independence Hall	81200		27,277
Mountain State Forest Festival	86400		38,187
WV Symphony.....	90700		59,058
Wheeling Symphony.....	90800		59,058
Appalachian Children’s Chorus.....	91600		54,554
Total.....		\$	4,266,162

From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) \$2,673, Arts Monongahela (Monongalia) \$11,881, Barbour County Arts and Humanities Council (Barbour) \$891, Beckley Main Street (Raleigh) \$2,970, Buffalo Creek Memorial (Logan) \$2,970, Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society (Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188, Ceredo Museum (Wayne) \$720, Children's Theatre of Charleston (Kanawha) \$3,127, Chuck Mathena Center (Mercer) \$62,532, Collis P. Huntington Railroad Historical Society (Cabell) \$5,941, Country Music Hall of Fame and Museum (Marion) \$4,159, First Stage Children's Theater Company (Cabell) \$1,188, Flannigan Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$891, Fort New Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970, General Adam Stephen Memorial Foundation (Berkeley) \$11,006, Grafton Mother's Day Shrine Committee (Taylor) \$8,749, Hardy County Tour and Crafts Association (Hardy) \$11,881, Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267, Historic Middleway Conservancy (Jefferson) \$594, Jefferson County Black History Preservation Society (Jefferson) \$2,970, Jefferson County Historical Landmark Commission (Jefferson) \$4,753, Maddie Carroll House (Cabell) \$4,455, Marshall County Historical Society (Marshall) \$5,049, McCoy Theater (Hardy) \$11,881, Memorial Day Patriotic Exercise (Taylor) \$20,000, Morgantown Theater Company (Monongalia) \$11,881, Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera House Theater Company (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881, Pocahontas Historic Opera House (Pocahontas) \$3,564, Raleigh County All Wars Museum (Raleigh) \$5,941, Rhododendron Girl's State (Ohio) \$5,941, Roane County 4-H and FFA Youth Livestock Program (Roane) \$2,970, Society for the Preservation of McGrew House (Preston) \$2,079, Southern West Virginia Veterans' Museum (Raleigh) \$3,393, Summers County Historic Landmark Commission (Summers) \$2,970, Those Who Served War Museum (Mercer) \$2,376, Three Rivers Avian

Center (Summers) \$5,311, Veterans Committee for Civic Improvement of Huntington (Wayne) \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern West Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$720.

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to the A Princeton 4th (Mercer) \$1,800, African-American Cultural Heritage Festival (Jefferson) \$2,970, Alderson 4th of July Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas) \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683, American Civil War (Grant) \$3,127, American Legion Post 8 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle Show (Lewis) \$891, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938, Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apple Butter Festival (Morgan) \$3,564, Arkansaw Homemaker's Heritage Weekend (Hardy) \$2,079, Armed Forces Day-South Charleston (Kanawha) \$1,782, Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe) \$2,448, Back Home Festival (Wetzel) \$5,000, Barbour County Fair (Barbour) \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Battelle District Fair (Monongalia) \$2,970, Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant Memorial Committee (Mason) \$2,970, Belle Town Fair (Kanawha) \$2,673, Belleville Homecoming (Wood) \$11,881, Bergoo Down Home Days (Webster) \$1,485, Berkeley County Youth Fair (Berkeley) \$10,990, Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blast from the Past (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Boone County Fair (Boone) \$5,940, Boone County Labor Day Celebration (Boone) \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Bramwell Labor Day (Mercer) \$5,000, Brandonville Heritage Day (Preston) \$1,048, Braxton County Fair (Braxton) \$6,832, Braxton County Monster Fest / West Virginia Autumn Festival (Braxton) \$1,485, Brooke County

Fair (Brooke) \$2,079, Bruceton Mills Good Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston) \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo October Fest (Putnam) \$3,240, Burlington Apple Harvest Auxiliary (Mineral) \$13,821, Burlington Pumpkin Harvest Festival (Raleigh) \$2,970, Burlington Fire and Rescue Carnival (Mineral) \$4,000, Burnsville Freedom Festival (Braxton) \$1,407, Cabell County Fair (Cabell) \$5,940, Calhoun County Wood Festival (Calhoun) \$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485, Cape Coalwood Festival Association (McDowell) \$1,485, Capon River Fest (Hampshire) \$2,500, Capon Bridge Founders Day Festival (Hampshire) \$1,188, Capon Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684, Celebration of America (Monongalia) \$3,564, Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville Fire Department 4th of July (Logan) \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970, Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas) \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July Festivities (Hancock) \$2,970, Chief Logan State Park-Civil War Celebration (Logan) \$4,752, Chilifest West Virginia State Chili Championship (Cabell) \$1,563, Christmas In Our Town (Marion) \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376, Christmas in the Park (Brooke) \$2,970, Christmas in the Park (Logan) \$14,851, City of Dunbar Critter Dinner (Kanawha) \$5,940, City of Logan Polar Express (Logan) \$4,456, City of New Martinsville Festival of Memories (Wetzel) \$6,534, Clay County Golden Delicious Apple Festival (Clay) \$4,158, Clay District Fair (Monongalia) \$1,080, Coal Field Jamboree (Logan) \$20,792, Coalton Days Fair (Randolph) \$4,158, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079, Doddridge County Fair (Doddridge) \$4,158, Dorcas Ice Cream Social (Grant) \$3,564, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion Festival (McDowell) \$891, Fairview 4th of July Celebration (Marion) \$684, Farm Safety Day (Preston) \$1,188, Farmer's Day Festival (Monroe) \$2,330, Fenwick Mountain Old Time Community Festival (Nicholas) \$2,880,

FestivALL Charleston (Kanawha) \$11,881, Flemington Days Fair and Festival (Taylor) \$2,079, Follansbee Community Days (Brooke) \$4,900, Fort Gay Mountain Heritage Days (Wayne) \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio) \$1,563, Fort New Salem Spirit of Christmas Festival (Harrison) \$2,432, Frankford Autumnfest (Greenbrier) \$2,970, Franklin Fishing Derby (Pendleton) \$6,456, Freshwater Folk Festival (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Frontier Fest (Taylor) \$1,500, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,485, Gassaway Days Celebration (Braxton) \$2,970, Gilbert Elementary Fall Blast (Mingo) \$2,188, Gilbert Spring Fling (Mingo) \$3,595, Gilmer County Farm Show (Gilmer) \$2,376, Grant County Arts Council (Grant) \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940, Greater Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration Days (Hampshire) \$684, Hampshire County 4th of July Celebration (Hampshire) \$11,881, Hampshire County Fair (Hampshire) \$5,002, Hampshire Highlands Art & Music Festival (Hampshire) \$4,252, Hancock County Oldtime Fair (Hancock) \$2,970, Hardy County Commission - 4th of July (Hardy) \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln) \$2,970, Heritage Craft Festival (Monroe) \$1,044, Heritage Days Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop Festival of Lights (McDowell) \$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River Festival (Webster) \$891, Hometown Mountain Heritage Festival (Fayette) \$2,432, Hundred 4th of July (Wetzel) \$4,307, Hurricane 4th of July Celebration (Putnam) \$2,970, Jaeger Town Fair (McDowell) \$891, Irish Heritage Festival of West Virginia (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County Fair (Jackson) \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and Crafts Fair (Lewis) \$684, Jefferson County Fair Association (Jefferson) \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days Festival (Monroe)

\$4,698, Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown Community Fair (Harrison) \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970, Kingwood Downtown Street Fair and Heritage Days (Preston) \$1,188, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$2,970, Last Blast of Summer (McDowell) \$2,970, Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival (Lincoln) \$4,752, Lincoln County Winterfest (Lincoln) \$2,970, Lindsie Veterans' Day Parade (Monroe) \$720, Little Levels Heritage Festival (Pocahontas) \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$2,813, Malden Salt Fest (Kanawha) \$2,000, Mannington District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph) \$684, Marion County FFA Farm Fest (Marion) \$1,485, Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall County Antique Power Show (Marshall) \$1,485, Marshall County Fair (Marshall) \$5,000, Mason County Fair (Mason) \$2,970, Matewan Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County (McDowell) \$11,881, McGrew House History Day (Preston) \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow Bridge Hometown Festival (Fayette) \$743, Meadow River Days Festival (Greenbrier) \$1,782, Mercer County Fair (Mercer) \$1,188, Mercer County Heritage Festival (Mercer) \$3,474, Milton Christmas in the Park (Cabell) \$1,485, Milton Old Timey Days (Cabell) \$1,485, Mineral County Fair (Mineral) \$1,040, Mineral County Veterans Day Parade (Mineral) \$891, Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion) \$3,752, Moon Over Mountwood Fishing Festival (Wood) \$1,782, Morgan County Fair-History Wagon (Morgan) \$891, Moundsville Bass Festival (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount

Liberty Fall Festival (Barbour) \$1,485, Mountain Fest (Monongalia) \$11,881, Mountain Festival (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks District VFD (Upshur) \$1,278, New Cumberland Christmas Parade (Hancock) \$1,782, New Cumberland 4th of July (Hancock) \$2,970, New River Bridge Day Festival (Fayette) \$23,762, Nicholas County Fair (Nicholas) \$2,970, Nicholas County Potato Festival (Nicholas) \$2,079, Oak Leaf Festival (Fayette) \$6,253, Oceana Heritage Festival (Wyoming) \$3,564, Oglebay City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County Country Fair (Ohio) \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio Valley Beef Association (Ohio) \$1,485, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old Central City Fair (Cabell) \$2,970, Old Tyme Christmas (Jefferson) \$1,425, Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Patty Fest (Monongalia) \$1,188, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970, Pendleton County 4-H Weekend (Pendleton) \$1,188, Pendleton County Committee for Arts (Pendleton) \$8,910, Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg 4th of July Celebration (Grant) \$11,881, Petersburg HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$891, Pine Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County Agriculture Youth Fair (Pleasants) \$2,970, Poca Heritage Days (Putnam) \$1,782, Pocahontas County Pioneer Days (Pocahontas) \$4,159, Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall Festival (Kanawha) \$1,485, Princeton Autumnfest (Mercer) \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County Fair (Putnam) \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127, Rand Community Center Festival (Kanawha) \$1,485, Randolph County Community Arts Council (Randolph) \$1,782, Randolph County Fair (Randolph) \$4,158,

Randolph County Ramp and Rails (Randolph) \$2,188, Ranson Christmas Festival (Jefferson) \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier) \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition (Ritchie) \$2,970, Ritchie County Pioneer Days (Ritchie) \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day (Roane) \$1,782, Rock the Park (Kanawha) \$3,240, Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage Days (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier) \$2,970, Rowlesburg Labor Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782, South Charleston Summerfest (Kanawha) \$5,940, Southern Wayne County Fall Festival (Wayne) \$684, Spirit of Grafton Celebration (Taylor) \$5,940, St. Albans City of Lights - December (Kanawha) \$2,970, Sternwheel Festival (Wood) \$1,782, Stoco Reunion (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200, Strawberry Festival (Upshur) \$17,821, Sylvester Big Coal River Festival (Boone) \$1,944, Tacy Fair (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor County Fair (Taylor) \$3,267, The Gathering at Sweet Creek (Wood) \$1,782, Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$7,000, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town of Fayetteville Heritage Festival (Fayette) \$4,456, Town of Rivesville 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam County Homecoming (Putnam) \$3,240, St. Albans Train Fest (Kanawha) \$6,120, Treasure Mountain Festival (Pendleton) \$16,851, Tri-County Fair (Grant) \$22,548, Tucker County Arts Festival and Celebration (Tucker) \$10,692, Tucker County Fair (Tucker) \$2,821, Tucker County Health Fair (Tucker) \$1,188, Turkey Festival (Hardy) \$1,782, Tyler County Fair (Tyler) \$3,088, Tyler County Fireworks Celebration (Tyler) \$2,000, Union Community Irish Festival (Barbour) \$648, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian Festival (Ohio) \$7,128, Valley District Fair (Preston) \$2,079, Veterans

Welcome Home Celebration (Cabell) \$938, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970, Wayne County Fair (Wayne) \$2,970, Wayne County Fall Festival (Wayne) \$2,970, Webster County Fair (Webster) \$3,600, Webster County Wood Chopping Festival (Webster) \$8,910, Webster Wild Water Weekend (Webster) \$1,188, Weirton July 4th Celebration (Hancock) \$11,881, Welcome Home Family Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg Apple Festival of Brooke County (Brooke) \$2,970, West Virginia Blackberry Festival (Harrison) \$2,970, West Virginia Chestnut Festival (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia Coal Show (Mercer) \$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800, West Virginia Fair and Exposition (Wood) \$4,812, West Virginia Fireman's Rodeo (Fayette) \$1,485, West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$3,240, West Virginia Polled Hereford Association (Braxton) \$891, West Virginia Pumpkin Festival (Cabell) \$5,940, West Virginia Rivers and Rails Festival (Pleasants) \$1,099, West Virginia State Folk Festival (Gilmer) \$2,970, West Virginia Water Festival - City of Hinton (Summers) \$9,144, Weston VFD 4th of July Firemen Festival (Lewis) \$1,188, Wetzel County Autumnfest (Wetzel) \$3,267, Wetzel County Town and Country Days (Wetzel) \$10,098, Wheeling Celtic Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752, Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat Regatta (Ohio) \$11,881, Whipple Community Action (Fayette) \$1,485, Wine Festival and Mountain Music Event (Harrison) \$2,970, Wirt County Fair (Wirt) \$1,485, Wirt County Pioneer Days (Wirt) \$1,188, Wyoming County Civil War Days (Wyoming) \$1,296, Youth Stockman Beef Expo (Lewis) \$1,188

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), Commission for National and Community Service (fund 3534, appropriation

19300), Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100), Grants for Competitive Arts Program (fund 3534, appropriation 62400), and Project ACCESS (fund 3534, appropriation 86500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Any Fairs & Festivals awards shall be funded in addition to, and not in lieu of, individual grant allocations derived from the Arts Council and the Cultural Grant Program allocations.

300 - Library Commission –

Lottery Education Fund

(WV Code Chapter 10)

Fund 3559 FY 2022 Org 0433

Books and Films	17900	\$	360,784
Services to Libraries	18000		550,000
Grants to Public Libraries	18200		9,439,571
Digital Resources	30900		219,992
Infomine Network.....	88400		<u>943,353</u>
Total.....		\$	11,513,700

Any unexpended balance remaining in the appropriation for Libraries – Special Projects (fund 3559, appropriation 62500) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

301 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 3587 FY 2022 Org 0439

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

302 - Higher Education Policy Commission –

Lottery Education –

Higher Education Policy Commission –

Control Account

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2022 Org 0441

RHI Program and Site Support (R)..... 03600	\$	1,912,491
RHI Program and Site Support –		
RHEP Program Administration 03700		146,653
RHI Program and Site Support –		
Grad Med Ed and		
Fiscal Oversight (R)..... 03800		88,913
Minority Doctoral Fellowship (R) 16600		129,604
Health Sciences Scholarship (R)..... 17600		225,527
Vice Chancellor for Health		
Sciences – Rural Health		
Residency Program (R)..... 60100		62,725
WV Engineering, Science, and		
Technology Scholarship		
Program..... 86800		452,831
Total.....	\$	3,018,744

Any unexpended balances remaining in the appropriations for RHI Program and Site Support (fund 4925, appropriation 03600), RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (fund 4925, appropriation 03800), Minority Doctoral Fellowship (fund 4925, appropriation 16600), Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, appropriation 60100) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (fund 4925, appropriation

86800) shall be transferred to the West Virginia Engineering, Science and Technology Scholarship Fund (fund 4928, org 0441) established by W.Va. Code §18C-6-1.

303 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2022 Org 0442

Debt Service – Total	31000	\$	5,000,000
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Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, appropriation 84700) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

304 - Higher Education Policy Commission –

Lottery Education –

West Virginia University – School of Medicine

(WV Code Chapter 18B)

Fund 4185 FY 2022 Org 0463

WVU Health Sciences –

RHI Program and Site Support (R)	03500	\$	1,181,728
MA Public Health Program and Health Science Technology (R).....	62300		52,445
Health Sciences Career Opportunities Program (R)	86900		336,987
HSTA Program (R)	87000		1,761,948
Center for Excellence in Disabilities (R).....	96700		<u>313,517</u>
Total.....		\$	3,646,625

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and Health Science Technology (fund 4185, appropriation 62300), Health Sciences Career Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

305 - Higher Education Policy Commission –

Lottery Education –

Marshall University – School of Medicine

(WV Code Chapter 18B)

Fund 4896 FY 2022 Org 0471

Marshall Medical School –

RHI Program and Site

Support (R)	03300	\$	427,075
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Vice Chancellor for Health

Sciences – Rural Health

Residency Program (R).....	60100		<u>171,361</u>
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Total.....		\$	598,436
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Any unexpended balances remaining in the appropriations for Marshall Medical School – RHI Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4896, appropriation 60100) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

306 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2022 Org 0508

Personal Services and		
Employee Benefits.....	00100	\$ 144,190
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	65,450
Current Expenses	13000	332,284
Repairs and Alterations.....	06400	1,000
Local Programs Service		
Delivery Costs	20000	2,435,250
Silver Haired Legislature	20200	18,500
Transfer to Division of Human		
Services for Health Care and		
Title XIX Waiver for		
Senior Citizens.....	53900	4,615,503
Roger Tompkins Alzheimer's		
Respite Care.....	64300	2,302,016
WV Alzheimer's Hotline	72400	45,000
Regional Aged and Disabled		
Resource Center.....	76700	425,000
Senior Services Medicaid Transfer	87100	16,400,070
Legislative Initiatives for		
the Elderly.....	90400	9,671,239
Long Term Care Ombudsman	90500	297,226
BRIM Premium.....	91300	7,718
In-Home Services and		
Nutrition for Senior Citizens	91700	<u>8,095,941</u>
Total.....		\$ 44,856,387

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000), is funding to support an in-home direct care workforce registry.

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (appropriation 53900) along with the federal moneys generated

thereby shall be used for reimbursement for services provided under the program.

Total TITLE II, Section 4 –

Lottery Revenue..... \$ 125,433,000

Sec. 5. Appropriations from state excess lottery revenue fund. — In accordance with W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following appropriations shall be deposited and disbursed by the Director of the Lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are sufficient to meet all the appropriations required made pursuant to this section, then the Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

307 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2022 Org 0100

	Excess
Appropriation	Lottery
	Funds

Any unexpended balance remaining in the appropriation for Publication of Papers and Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

308 - Office of Technology

(WV Code Chapter 5A)

Fund 2532 FY 2022 Org 0231

Any unexpended balances remaining in the appropriations for Cyber Security (fund 2532, appropriation 99001), Enterprise Data Center (fund 2532, appropriation 99002), and Enterprise Telephony Modernization (fund 2532, appropriation 99003) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

*309 - Department of Economic Development –**Office of the Secretary –**West Virginia Development Office*

(WV Code Chapter 5B)

Fund 3170 FY 2022 Org 0307

Any unexpended balance remaining in the appropriation for Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

*310 - Division of Natural Resources –**State Park Improvement Fund*Fund 3277 FY 2022 Org 0310

Current Expenses (R).....	13000	\$	23,300
Repairs and Alterations (R)	06400		161,200
Equipment (R).....	07000		200,000
Buildings (R).....	25800		100,000
Other Assets (R).....	69000		<u>1,020,500</u>
Total.....		\$	1,505,000

Any unexpended balances remaining in the appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600), Unclassified (fund 3277, appropriation 09900), Current Expenses (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation 25800), and Other Assets (fund 3277, appropriation 69000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

311 - West Virginia Infrastructure Council –

West Virginia Infrastructure Transfer Fund

Fund 3390 FY 2022 Org 0316

Directed Transfer	70000	\$	46,000,000
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The above appropriation shall be allocated pursuant to W.Va. Code §29-22-18d and §31-15-9.

312 - Department of Education –

School Building Authority

Fund 3514 FY 2022 Org 0404

Debt Service - Total	31000	\$	18,999,900
Direct Transfer	70000		<u>100</u>
Total.....		\$	19,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18a.

The above appropriation for Direct Transfer (fund 3514, appropriation 7000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.

*313 - Higher Education Policy Commission –**Education Improvement Fund*Fund 4295 FY 2022 Org 0441

PROMISE Scholarship – Transfer..... 80000 \$ 29,000,000

The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 044) established by W.Va. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the limits of available appropriations.

*314 - Higher Education Policy Commission –**Higher Education Improvement Fund*Fund 4297 FY 2022 Org 0441

Directed Transfer 70000 \$ 15,000,000

The above appropriation shall be transferred to fund 4903, org 0442 as authorized by Senate Concurrent Resolution No. 41.

*315 - Higher Education Policy Commission –**Administration –**Control Account*Fund 4932 FY 2022 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

316 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2022 Org 0511

Medical Services..... 18900 \$ 16,302,960

*317 - Division of Corrections and Rehabilitation –**Correctional Units*

(WV Code Chapter 15A)

Fund 6283 FY 2022 Org 0608

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

*318 - Lottery Commission –**General Purpose Account*Fund 7206 FY 2022 Org 0705

General Revenue Fund – Transfer 70011 \$ 65,000,000

The above appropriation shall be transferred to the General Revenue Fund as determined by the Director of the Lottery in accordance with W.Va. Code §29-22-18a.

*319 - Lottery Commission –**Refundable Credit*Fund 7207 FY 2022 Org 0705

Directed Transfer 70000 \$ 10,000,000

The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit

allowable under W.Va. Code §11-21-21. The amount of the required transfer shall be determined solely by the State Tax Commissioner and shall be completed by the Director of the Lottery upon the commissioner's request.

320 - Lottery Commission –

Distributions to Statutory Funds and Purposes

Fund 7213 FY 2022 Org 0705

Parking Garage Fund – Transfer.....	70001	\$	500,000
2004 Capitol Complex			
Parking Garage			
Fund – Transfer.....	70002		216,478
Capitol Dome and Improvements			
Fund – Transfer.....	70003		1,796,256
Capitol Renovation and			
Improvement Fund – Transfer	70004		2,381,252
Development Office Promotion			
Fund – Transfer.....	70005		1,298,864
Research Challenge Fund –			
Transfer.....	70006		1,731,820
Tourism Promotion Fund –			
Transfer.....	70007		4,808,142
Cultural Facilities and Capitol			
Resources Matching Grant			
Program Fund – Transfer.....	70008		1,250,535
State Debt Reduction Fund –			
Transfer.....	70010		20,000,000
General Revenue Fund – Transfer	70011		1,167,799
West Virginia Racing			
Commission Racetrack			
Video Lottery Account	70012		3,463,637
Historic Resort Hotel Fund	70013		24,010
Licensed Racetrack Regular			
Purse Fund	70014		<u>22,383,247</u>
Total.....		\$	61,022,040

321 - Racing Commission

Fund 7308 FY 2022 Org 0707

Special Breeders Compensation

(WVC §29-22-18a,

subsection (I)).....21800 \$ 2,000,000

322 - Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2022 Org 0944

Debt Service – Total31000 \$ 19,000,000

Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the economic development project fund pursuant to section four of this title and W.Va. Code §29-22-18, subsection (f).

323 - Economic Development Authority –

Cacapon and Beech Fork State Parks –

Lottery Revenue Debt Service

Fund 9067 FY 2022 Org 0944

Debt Service.....04000 \$ 2,032,000

324 - Economic Development Authority –

State Parks Lottery Revenue Debt Service Fund

Fund 9068 FY 2022 Org 0944

Debt Service.....04000 \$ 4,395,000

Total TITLE II, Section 5 –

Excess Lottery Funds..... \$ 290,257,000

Sec. 6. Appropriations of federal funds. — In accordance with Article 11, Chapter 4 of the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2022.

LEGISLATIVE

325 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2022 Org 2300

	Appro- piation		Federal Funds
Economic Loss Claim			
Payment Fund	33400	\$	1,100,000

JUDICIAL

326 - Supreme Court

Fund 8867 FY 2022 Org 2400

Personal Services and			
Employee Benefits	00100	\$	1,813,000
Current Expenses	13000		1,557,000
Repairs and Alterations	06400		100,000
Equipment	07000		250,000
Other Assets	69000		280,000
Total		\$	4,000,000

EXECUTIVE

327 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 2,628,780
Unclassified.....	09900	50,534
Current Expenses	13000	6,828,661
Repairs and Alterations.....	06400	650,000
Equipment.....	07000	910,500
Buildings.....	25800	1,000,000
Other Assets.....	69000	550,000
Land	73000	<u>500,000</u>
Total.....		\$ 13,118,475

328 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 8737 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 658,571
Unclassified.....	09900	8,755
Current Expenses	13000	136,012
Repairs and Alterations.....	06400	5,500
Equipment.....	07000	<u>114,478</u>
Total.....		\$ 923,316

329 - Department of Agriculture –

State Conservation Committee

(WV Code Chapter 19)

Fund 8783 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 97,250
Current Expenses	13000	<u>15,599,974</u>
Total.....		\$ 15,697,224

330 - Department of Agriculture –

*Land Protection Authority*Fund 8896 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....00100	\$	46,526
Unclassified.....09900		5,004
Current Expenses13000		<u>448,920</u>
Total.....	\$	500,450

331 - Attorney General –

*Medicaid Fraud Unit*Fund 8882 FY 2022 Org 1500

Personal Services and		
Employee Benefits.....00100	\$	1,257,042
Unclassified.....09900		15,336
Current Expenses13000		456,638
Repairs and Alterations.....06400		4,313
Equipment.....07000		7,500
Other Assets.....69000		<u>11,336</u>
Total.....	\$	1,752,165

332 - Secretary of State –

State Election Fund

(WV Code Chapter 3)

Fund 8854 FY 2022 Org 1600

Personal Services and		
Employee Benefits.....00100	\$	210,240
Unclassified.....09900		7,484
Current Expenses13000		415,727
Repairs and Alterations.....06400		15,000
Other Assets.....69000		<u>100,000</u>
Total.....	\$	748,451

DEPARTMENT OF COMMERCE*333 - Division of Forestry*

(WV Code Chapter 19)

Fund 8703 FY 2022 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

334 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2022 Org 0306

Personal Services and		
Employee Benefits.....	00100	\$ 54,432
Unclassified.....	09900	2,803
Current Expenses	13000	195,639
Repairs and Alterations	06400	5,000
Equipment.....	07000	7,500
Other Assets.....	69000	<u>15,000</u>
Total.....		\$ 280,374

335 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 409,251
Unclassified.....	09900	5,572
Current Expenses	13000	167,098

Repairs and Alterations.....	06400		<u>500</u>
Total.....		\$	582,421

336 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2022 Org 0310

Personal Services and			
Employee Benefits.....	00100	\$	10,064,006
Unclassified.....	09900		107,693
Current Expenses	13000		7,887,660
Repairs and Alterations.....	06400		566,250
Equipment.....	07000		2,126,141
Administration	15500		50,325
Buildings.....	25800		951,000
Other Assets.....	69000		7,088,880
Land	73000		<u>2,893,920</u>
Total.....		\$	31,735,875

337 - Division of Miners' Health,

Safety and Training

(WV Code Chapter 22)

Fund 8709 FY 2022 Org 0314

Personal Services and			
Employee Benefits.....	00100	\$	642,799
Current Expenses	13000		<u>150,000</u>
Total.....		\$	792,799

338 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2022 Org 0323

Unclassified.....	09900	\$	5,127
Current Expenses	13000		507,530

Reed Act 2002 – Unemployment		
Compensation	62200	2,850,000
Reed Act 2002 – Employment		
Services.....	63000	<u>1,650,000</u>
Total.....		\$ 5,012,657

Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration of the state’s unemployment insurance program or job service activities, subject to each and every restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

339 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 8734 FY 2022 Org 0932

Personal Services and		
Employee Benefits.....	00100	\$ 11,725,244
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	138,000
Current Expenses	13000	34,440,940
Repairs and Alterations.....	06400	350,400
Equipment.....	07000	<u>1,275,870</u>
Total.....		\$ 47,930,454

340 - State Board of Rehabilitation –

Division of Rehabilitation Services –

Disability Determination Services

(WV Code Chapter 18)

Fund 8890 FY 2022 Org 0932

Personal Services and		
Employee Benefits.....	00100	\$ 12,476,122
Current Expenses	13000	13,383,206
Repairs and Alterations.....	06400	1,100
Equipment.....	07000	<u>83,350</u>
Total.....		\$ 25,943,778

DEPARTMENT OF ECONOMIC DEVELOPMENT

341 - Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 8705 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 1,039,921
Unclassified.....	09900	50,000
Current Expenses	13000	<u>4,504,019</u>
Total.....		\$ 5,593,940

342 - Department of Economic Development –

Office of the Secretary –

Office of Economic Opportunity

(WV Code Chapter 5)

Fund 8901 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 497,289
Repairs and Alterations.....	06400	250
Equipment.....	07000	6,000
Unclassified.....	09900	106,795
Current Expenses	13000	<u>10,069,166</u>
Total.....		\$ 10,679,500

343 - Department of Economic Development –

Office of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2022 Org 0328

Personal Services and		
Employee Benefits.....	00100	\$ 426,385
Unclassified.....	09900	7,350
Current Expenses	13000	<u>2,816,076</u>
Total.....		\$ 3,249,811

DEPARTMENT OF EDUCATION

344 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 5,785,359
Unclassified.....	09900	2,000,000
Current Expenses	13000	1,434,146,008
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
Other Assets.....	69000	<u>10,000</u>
Total.....		\$ 1,441,961,367

345 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 1,881,766

Unclassified.....	09900	1,150,500
Current Expenses	13000	148,281,265
Repairs and Alterations.....	06400	20,000
Equipment.....	07000	100,000
Other Assets.....	69000	<u>25,000</u>
Total.....		\$ 151,458,531

346 - State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 1,896,249
Unclassified.....	09900	155,000
Current Expenses	13000	17,820,081
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
Other Assets.....	69000	<u>10,000</u>
Total.....		\$ 19,901,330

347 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 3,477,006
Unclassified.....	09900	1,000,000
Current Expenses	13000	123,346,390
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
Other Assets.....	69000	<u>10,000</u>
Total.....		\$ 127,853,396

DEPARTMENT OF ARTS, CULTURE, AND HISTORY*348 - Division of Culture and History*

(WV Code Chapter 29)

Fund 8718 FY 2022 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 810,436
Current Expenses	13000	1,947,372
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	1,000
Buildings	25800	1,000
Other Assets	69000	1,000
Land	73000	<u>360</u>
Total.....		\$ 2,762,168

349 - Commission for National and Community Service

(WV Code Chapter 5F)

Fund 8841 FY 2022 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 437,040
Current Expenses	13000	5,587,325
Repairs and Alterations.....	06400	<u>1,000</u>
Total.....		\$ 6,025,365

350 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2022 Org 0433

Personal Services and		
Employee Benefits.....	00100	\$ 353,396
Current Expenses	13000	1,076,162
Equipment.....	07000	<u>543,406</u>
Total.....		\$ 1,972,964

351 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2022 Org 0439

Equipment.....	07000	\$	200,000
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DEPARTMENT OF ENVIRONMENTAL PROTECTION*352 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 8708 FY 2022 Org 0313

Personal Services and			
Employee Benefits.....	00100	\$	31,406,529
Unclassified.....	09900		1,923,580
Current Expenses	13000		153,850,118
Repairs and Alterations.....	06400		739,783
Equipment.....	07000		1,712,238
Other Assets.....	69000		2,177,261
Land	73000		<u>80,000</u>
Total.....		\$	191,889,509

DEPARTMENT OF HEALTH AND HUMAN RESOURCES*353 - Consolidated Medical Service Fund*

(WV Code Chapter 16)

Fund 8723 FY 2022 Org 0506

Personal Services and			
Employee Benefits.....	00100	\$	1,532,219
Unclassified.....	09900		73,307
Current Expenses	13000		<u>81,583,302</u>
Total.....		\$	83,188,828

*354 - Division of Health –**Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 14,610,947
Unclassified.....	09900	856,614
Current Expenses	13000	69,201,885
Equipment.....	07000	456,972
Buildings.....	25800	155,000
Other Assets.....	69000	<u>380,000</u>
Total.....		\$ 85,661,418

*355 - Division of Health –**West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2022 Org 0506

West Virginia Drinking Water Treatment Revolving Fund – Transfer.....	68900	\$ 16,000,000
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356 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2022 Org 0510

Personal Services and		
Employee Benefits.....	00100	\$ 449,874
Unclassified.....	09900	5,050
Current Expenses	13000	<u>64,950</u>
Total.....		\$ 519,874

357 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 76,720,133
Unclassified.....	09900	22,855,833
Current Expenses	13000	112,181,984
Medical Services.....	18900	3,860,302,514
Medical Services		
Administrative Costs	78900	132,247,536
CHIP Administrative Costs.....	85601	4,539,496
CHIP Services.....	85602	49,752,412
Federal Economic Stimulus	89100	<u>5,000,000</u>
Total.....		\$ 4,263,599,908

DEPARTMENT OF HOMELAND SECURITY

358 - Office of the Secretary

(WV Code Chapter 5F)

Fund 8876 FY 2022 Org 0601

Unclassified.....	09900	\$ 5,000
Current Expenses	13000	<u>495,000</u>
Total.....		\$ 500,000

359 - Division of Emergency Management

(WV Code Chapter 15)

Fund 8727 FY 2022 Org 0606

Personal Services and		
Employee Benefits.....	00100	\$ 1,199,172
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	61,250
Current Expenses	13000	20,429,281
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	<u>100,000</u>
Total.....		\$ 21,794,703

360 - Division of Corrections and Rehabilitation

(WV Code Chapters 15A)

Fund 8836 FY 2022 Org 0608

Unclassified.....	09900	\$	1,100
Current Expenses	13000		<u>108,900</u>
Total.....		\$	110,000

361 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2022 Org 0612

Personal Services and			
Employee Benefits.....	00100	\$	2,480,877
Current Expenses	13000		2,125,971
Repairs and Alterations.....	06400		42,000
Equipment.....	07000		2,502,285
Buildings.....	25800		750,500
Other Assets.....	69000		144,500
Land	73000		<u>500</u>
Total.....		\$	8,046,633

362 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2022 Org 0619

Current Expenses	13000	\$	80,000
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363 - Division of Administrative Services

(WV Code Chapter 15)

Fund 8803 FY 2022 Org 0623

Personal Services and			
Employee Benefits.....	00100	\$	1,222,258
Unclassified.....	09900		25,185
Current Expenses	13000		75,381,973
Repairs and Alterations.....	06400		<u>1,750</u>
Total.....		\$	76,631,166

DEPARTMENT OF REVENUE*364 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2022 Org 0704

Current Expenses	13000	\$	3,000,000
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DEPARTMENT OF TRANSPORTATION*365 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2022 Org 0802

Personal Services and			
Employee Benefits.....	00100	\$	551,394
Current Expenses	13000		5,448,106
Repairs and Alterations.....	06400		500
Total.....		\$	6,000,000

366 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2022 Org 0805

Personal Services and			
Employee Benefits.....	00100	\$	1,010,320
Current Expenses	13000		20,913,149
Repairs and Alterations.....	06400		2,500
Equipment.....	07000		2,801,714
Buildings.....	25800		1,250,000
Other Assets.....	69000		100,000
Total.....		\$	26,077,683

367 - Aeronautics Commission

(WV Code Chapter 29)

Fund 8831 FY 2022 Org 0807

Current Expenses	13000	\$	400,000
Other Assets	69000		<u>100</u>
Total.....		\$	400,100

DEPARTMENT OF VETERANS' ASSISTANCE

368 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 8858 FY 2022 Org 0613

Personal Services and			
Employee Benefits.....	00100	\$	2,890,365
Salary and Benefits of Cabinet			
Secretary and Agency Heads	00201		57,120
Current Expenses	13000		2,840,300
Repairs and Alterations.....	06400		20,000
Equipment.....	07000		25,000
Buildings.....	25800		250,000
Land	73000		500
Veterans' Cemetery	80800		<u>175,000</u>
Total.....		\$	6,258,285

369 - Department of Veterans' Assistance –

Veterans' Home

(WV Code Chapter 9A)

Fund 8728 FY 2022 Org 0618

Personal Services and			
Employee Benefits.....	00100	\$	906,850
Current Expenses	13000		595,700
Repairs and Alterations.....	06400		60,500
Equipment.....	07000		10,500
Buildings.....	25800		500
Other Assets.....	69000		6,500
Land	73000		<u>100</u>
Total.....		\$	1,580,650

BUREAU OF SENIOR SERVICES*370 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 8724 FY 2022 Org 0508

Personal Services and		
Employee Benefits.....	00100	\$ 761,414
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	5,950
Current Expenses	13000	13,811,853
Repairs and Alterations.....	06400	<u>3,000</u>
Total.....		\$ 14,582,217

MISCELLANEOUS BOARDS AND COMMISSIONS*371 - Adjutant General –**State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2022 Org 0603

Unclassified.....	09900	\$ 982,705
Mountaineer ChalleNGe Academy	70900	7,200,000
Martinsburg Starbase	74200	439,622
Charleston Starbase.....	74300	424,685
Military Authority.....	74800	<u>91,380,274</u>
Total.....		\$ 100,427,286

The Adjutant General shall have the authority to transfer between appropriations.

*372 - Adjutant General –**West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2022 Org 0603

Personal Services and		
Employee Benefits.....	00100	\$ 1,350,000
Current Expenses	13000	150,000
Repairs and Alterations.....	06400	50,000
Equipment.....	07000	200,000
Buildings.....	25800	100,000
Other Assets.....	69000	100,000
Land.....	73000	50,000
Total.....		<u>\$ 2,000,000</u>

373 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8743 FY 2022 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 1,352,576
Current Expenses	13000	368,953
Repairs and Alterations.....	06400	39,000
Equipment.....	07000	413,400
Total.....		<u>\$ 2,173,929</u>

374 - Public Service Commission –

Gas Pipeline Division

(WV Code Chapter 24B)

Fund 8744 FY 2022 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 621,039
Unclassified.....	09900	4,072
Current Expenses	13000	124,628
Equipment.....	07000	3,000
Total.....		<u>\$ 752,739</u>

375 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2022 Org 0941

Personal Services and		
Employee Benefits.....	00100	\$ 163,405
Current Expenses	13000	242,195
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	3,000
Other Assets.....	69000	<u>2,000</u>
Total.....		\$ 415,600

Total TITLE II, Section 6 –

Federal Funds..... \$ 6,842,455,104

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 2022.

*376 - Department of Economic Development –**Office of the Secretary –**Community Development*Fund 8746 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 10,658,978
Unclassified.....	09900	2,375,000
Current Expenses	13000	<u>224,476,883</u>
Total.....		\$ 237,510,861

*377 - Department of Economic Development –**Office of the Secretary –**Office of Economic Opportunity –**Community Services*Fund 8902 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 362,389
Unclassified.....	09900	125,000
Current Expenses	13000	12,002,111
Repairs and Alterations.....	06400	1,500
Equipment.....	07000	9,000
Total.....		\$ 12,500,000

378 - WorkForce West Virginia –

Workforce Investment Act

Fund 8749 FY 2022 Org 0323

Personal Services and		
Employee Benefits.....	00100	\$ 2,875,479
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	124,018
Unclassified.....	09900	23,023
Current Expenses	13000	39,263,511
Repairs and Alterations.....	06400	1,600
Equipment.....	07000	500
Buildings.....	25800	1,100
Total.....		\$ 42,289,231

379 - Division of Health –

Maternal and Child Health

Fund 8750 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 2,268,209
Unclassified.....	09900	81,439
Current Expenses	13000	5,794,267
Total.....		\$ 8,143,915

380 - Division of Health –

Preventive Health

Fund 8753 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 268,337
Unclassified.....	09900	22,457
Current Expenses	13000	1,895,366
Equipment.....	07000	<u>165,642</u>
Total.....		\$ 2,351,802

381 - Division of Health –

Substance Abuse Prevention and Treatment

Fund 8793 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 657,325
Unclassified.....	09900	115,924
Current Expenses	13000	<u>10,853,740</u>
Total.....		\$ 11,626,989

382 - Division of Health –

Community Mental Health Services

Fund 8794 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 551,368
Unclassified.....	09900	33,533
Current Expenses	13000	<u>4,883,307</u>
Total.....		\$ 5,468,208

383 - Division of Human Services –

Energy Assistance

Fund 8755 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 1,860,574
Unclassified.....	09900	350,000
Current Expenses	13000	<u>38,182,151</u>
Total.....		\$ 40,392,725

384 - Division of Human Services –
Social Services

Fund 8757 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 8,806,005
Unclassified.....	09900	171,982
Current Expenses	13000	<u>8,870,508</u>
Total.....		\$ 17,848,495

385 - Division of Human Services –
Temporary Assistance for Needy Families

Fund 8816 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 20,604,174
Unclassified.....	09900	1,250,000
Current Expenses	13000	<u>105,871,588</u>
Total.....		\$ 127,725,762

386 - Division of Human Services –
Child Care and Development

Fund 8817 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 2,797,226
Unclassified.....	09900	350,000
Current Expenses	13000	<u>47,000,307</u>
Total.....		\$ 50,147,533

Total TITLE II, Section 7 –		
Federal Block Grants		<u>\$ 556,005,521</u>

Sec. 8. Awards for claims against the state. — There are hereby appropriated for fiscal year 2022, from the fund as designated, in the amounts as specified, general revenue funds in

the amount of \$4,310,008, special revenue funds in the amount of \$68,539, and state road funds in the amount of \$621,765 for payment of claims against the state.

Sec. 9. Appropriations from general revenue fund surplus accrued. — The following item is hereby appropriated from the state fund, general revenue, and is to be available for expenditure during the fiscal year 2022 out of surplus funds only, accrued from the fiscal year ending June 30, 2021, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus as of July 31, 2021 from the fiscal year ending June 30, 2021, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2021, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available as of the date mandated to meet the appropriation in this section and shall be allocated first to provide the necessary funds to meet the first appropriation of this section and each subsequent appropriation in the order listed in this section.

387 - Governor's Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2022 Org 0100

Milton Flood Wall - Surplus	75799	\$	14,000,000
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388 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2022 Org 0511

Medical Services - Surplus	63000	\$	8,038,904
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389 - Department of Tourism –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0246 FY 2022 Org 0304

Tourism – Brand Promotion –		
Surplus (R).....	61893	\$ 5,000,000
Tourism – Public Relations –		
Surplus (R).....	61894	750,000
Tourism – Events and		
Sponsorships - Surplus (R)	61895	250,000
Tourism – Industry		
Development – Surplus (R)	61896	250,000
State Parks and Recreation		
Advertising – Surplus (R).....	61999	<u>750,000</u>
Total.....		\$ 7,000,000

Any unexpended balances remaining in the appropriations for Tourism – Brand Promotion -Surplus (fund 0246, appropriation 61893), Tourism – Public Relations - Surplus (fund 0246, appropriation 61894), Tourism – Events and Sponsorships - Surplus (fund 0246, appropriation 61895), Tourism – Industry Development – Surplus (fund 0246, appropriation 61896), and State Parks and Recreation Advertising - Surplus (fund 0246, appropriation 61999) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

390 - Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0256 FY 2022 Org 0307

Direct Transfer – Surplus (R).....	70099	5,000,000
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The above appropriation for Direct Transfer - Surplus (fund 0256, appropriation 70099) shall be transferred to the Economic Development Promotion and Closing Fund (fund 3171).

Total TITLE II, Section 9 –

Surplus Accrued..... \$ 34,038,904

Sec. 10. Appropriations from state excess lottery revenue surplus accrued. — The following item is hereby appropriated from the state excess lottery revenue fund, and is to be available for expenditure during the fiscal year 2022 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2021, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2021.

In the event that surplus revenues available from the fiscal year ending June 30, 2021, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

391 - Racing Commission –

General Administration

(WV Code Chapter 19)

Fund 7308 FY 2022 Org 0707

Directed Transfer 70000 \$ 800,000

From the above appropriation for Directed Transfer (fund 7308, appropriation 70000), \$800,000 shall be transferred to the Racing Commission – General Administration (Fund 7305).

Total TITLE II, Section 11 –

Surplus Accrued..... \$ 800,000

Sec. 11. Special revenue appropriations.—There are hereby appropriated for expenditure during the fiscal year 2021 special revenues collected pursuant to general law enactment of the Legislature which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2 and are not expressly appropriated under this act: *Provided*, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.Va. Code §12-2-1 *et seq.*, W.Va. Code §12-3-1 *et seq.*, and W.Va. Code §11B-2-1 *et seq.*, unless the spending unit has filed with the director of the budget and the legislative auditor prior to the beginning of each fiscal year: (a) An estimate of the amount and sources of all revenues accruing to such fund; and (b) A detailed expenditure schedule showing for what purposes the fund is to be expended: *Provided, however*, That federal funds received by the state may be expended only in accordance with Sections (6) or (7) of this Title and with W.Va. Code §4-11-1, *et seq.* *Provided further*, That federal funds that become available to a spending unit for expenditure while the Legislature is not in session and the availability of such funds could not reasonably have been anticipated and included in this act may be only be expended in the limited circumstances provided by W. Va. Code §4-11-5(d): *And provided further*, That no provision of this Act may be construed to authorize the expenditure of federal funds except as provided in this section.

Sec. 12. State improvement fund appropriations. — Bequests or donations of nonpublic funds, received by the Governor on behalf of the state during the fiscal year 2022, for the purpose of making studies and recommendations relative to improvements of the administration and management of spending units in the executive branch of state government, shall be deposited in the state treasury in a separate account therein designated state improvement fund.

There are hereby appropriated all moneys so deposited during the fiscal year 2022 to be expended as authorized by the Governor, for such studies and recommendations which may encompass any problems of organization, procedures, systems, functions, powers,

or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

Sec. 13. Specific funds and collection accounts. — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.

Sec. 14. Appropriations for refunding erroneous payment. — Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the proper amount. The Auditor shall issue his or her warrant to the Treasurer and the Treasurer shall pay the warrant out of the fund into which the amount was originally paid.

Sec. 15. Sinking fund deficiencies. — There is hereby appropriated to the Governor a sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance fund of the West Virginia housing development fund which is under the supervision and control of the municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal bond commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The Governor is authorized to transfer from time to time such amounts to the municipal bond commission as may be necessary for these purposes.

The municipal bond commission shall reimburse the state of West Virginia through the Governor from the first remittance collected from the West Virginia housing development fund or from any state agency or local taxing district for which the

Governor advanced funds, with interest at the rate carried by the bonds for security or payment of which the advance was made.

Sec. 16. Appropriations for local governments. — There are hereby appropriated for payment to counties, districts, and municipal corporations such amounts as will be necessary to pay taxes due counties, districts, and municipal corporations and which have been paid into the treasury:

- (a) For redemption of lands;
- (b) By public service corporations;
- (c) For tax forfeitures.

Sec. 17. Total appropriations. — Where only a total sum is appropriated to a spending unit, the total sum shall include personal services and employee benefits, annual increment, current expenses, repairs and alterations, buildings, equipment, other assets, land, and capital outlay, where not otherwise specifically provided and except as otherwise provided in TITLE I – GENERAL PROVISIONS, Sec. 3.

Sec. 18. General school fund. — The balance of the proceeds of the general school fund remaining after the payment of the appropriations made by this act is appropriated for expenditure in accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION

Sec. 1. Appropriations conditional. — The expenditure of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of Article 2, Chapter 11B of the Code.

Where spending units or parts of spending units have been absorbed by or combined with other spending units, it is the intent of this act that appropriations and reappropriations shall be to the succeeding or later spending unit created, unless otherwise indicated.

Sec. 2. Constitutionality. — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

With the further amendment, sponsored by Delegates Summers and Householder, being as follows:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

TITLE I – GENERAL PROVISIONS.

Section 1. General policy. – The purpose of this bill is to appropriate money necessary for the economical and efficient discharge of the duties and responsibilities of the state and its agencies during the fiscal year 2022.

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

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

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

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

The “fiscal year 2022” shall mean the period from July 1, 2021, through June 30, 2022.

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

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

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

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

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

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

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

Each spending unit shall be responsible for all contributions, payments or other costs related to coverage and claims of its employees for unemployment compensation and workers

compensation. Such expenditures shall be considered an employee benefit.

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

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

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

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

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

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

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

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

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

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

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: *Provided*, That the secretary of each department shall have the authority to transfer within the department those general revenue funds appropriated to the various agencies of the department: *Provided, however*, That no more than five percent of the general revenue funds appropriated to any one agency or board may be transferred to other agencies or boards within the department: and no funds may be transferred to a “personal services and employee benefits” appropriation unless the source funds are also wholly from a “personal services and employee benefits” line, or unless the source funds are from another appropriation that has exclusively funded employment expenses for at least twelve consecutive months prior to the time of transfer and the position(s) supported by the transferred funds are also permanently transferred to the receiving agency or board within the department: *Provided further*, That the secretary of each department and the director, commissioner, executive secretary, superintendent, chairman or any other agency head not governed

by a departmental secretary as established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to “personal services and employee benefits,” “current expenses,” “repairs and alterations,” “equipment,” “other assets,” “land,” and “buildings” to other appropriations within the same account and no funds from other appropriations shall be transferred to the “personal services and employee benefits” or the “unclassified” appropriation except that during Fiscal Year 2022, and upon approval from the State Budget Office, agencies with the appropriation “Salary and Benefits of Cabinet Secretary and Agency Heads” may transfer between this appropriation and the appropriation “Personal Services and Employee Benefits” an amount to cover annualized salaries and employee benefits for the fiscal year ending June 30, 2022, as provided by W.V. Code §6-7-2a: *And provided further*, That no authority exists hereunder to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided further*, That if the Legislature consolidates, reorganizes or terminates agencies, boards or functions, within any fiscal year the secretary or other appropriate agency head, or in the case of the termination of a spending unit of the state, the Director of the State Budget Office, in the absence of general law providing otherwise, may transfer the funds formerly appropriated to such agency, board or function, allocating items of appropriation as may be necessary if only part of the item may be allocated, in order to implement such consolidation, reorganization or termination. No funds may be transferred from a Special Revenue Account, dedicated account, capital expenditure account or any other account or fund specifically exempted by the Legislature from transfer, except that the use of the appropriations from the State Road Fund for the office of the Secretary of the Department of Transportation is not a use other than the purpose for which such funds were dedicated and is permitted.

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

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

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

TITLE II – APPROPRIATIONS.

ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.

- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

Section 1. Appropriations from general revenue. – From the State Fund, General Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year 2022.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2022 Org 2100

	Appro- piation	General Revenue Fund
Compensation of Members (R).....00300	\$	1,010,000
Compensation and Per Diem of Officers and Employees (R)00500		4,011,332
Current Expenses and Contingent Fund (R).....02100		276,392
Repairs and Alterations (R)06400		35,000
Computer Supplies (R)10100		80,000
Computer Systems (R).....10200		0
Printing Blue Book (R)10300		125,000
Expenses of Members (R).....39900		370,000
BRIM Premium (R)91300		<u>44,482</u>
Total.....	\$	5,952,206

The appropriations for the Senate for the fiscal year 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances so reappropriated may be transferred and credited to the fiscal year 2021 accounts.

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

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

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

For duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly salary as provided by the Senate resolution, unless increased between sessions under the authority of the President, payable out of the appropriation for Compensation

and Per Diem of Officers and Employees or Current Expenses and Contingent Fund of the Senate.

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

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

2 - House of Delegates

Fund 0170 FY 2022 Org 2200

Compensation of Members (R).....00300	\$	3,000,000
Compensation and Per Diem of Officers and Employees (R)00500		575,000
Current Expenses and Contingent Fund (R).....02100		4,399,031
Expenses of Members (R).....39900		1,350,000
BRIM Premium (R)91300		80,000
Total.....	\$	9,404,031

The appropriations for the House of Delegates for the fiscal year 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances so reappropriated may be transferred and credited to the fiscal year 2021 accounts.

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

The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the House of Delegates, for any bills for supplies and services

that may have been incurred by the House of Delegates and not included in the appropriation bill, for bills for services and supplies incurred in preparation for the opening of the session and after adjournment, and for the necessary operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills to be filed with the Auditor.

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

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

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

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2022 Org 2300

Joint Committee on Government and Finance (R).....	10400	\$	7,725,138
Legislative Printing (R).....	10500		260,000

Legislative Rule-Making		
Review Committee (R)	10600	147,250
Legislative Computer System (R).....	10700	1,447,500
Legislative Fees & Dues (R).....	10701	600,000
BRIM Premium (R)	91300	<u>60,569</u>
Total.....		\$ 10,240,457

The appropriations for the Joint Expenses for the fiscal year 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances reappropriated may be transferred and credited to the fiscal year 2021 accounts.

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

JUDICIAL

4 - Supreme Court –

General Judicial

Fund 0180 FY 2022 Org 2400

Personal Services and		
Employee Benefits (R)	00100	\$ 115,126,000
Current Expenses (R).....	13000	19,911,000
Repairs and Alterations (R)	06400	40,000
Equipment (R).....	07000	1,800,000
Military Service Members		
Court (R).....	09002	300,000
Judges' Retirement System (R)	11000	742,000
Buildings (R).....	25800	10,000
Other Assets (R).....	69000	200,000
BRIM Premium (R)	91300	<u>834,000</u>
Total.....		\$ 138,963,000

The appropriations to the Supreme Court of Appeals for the fiscal years 2019, 2020 and 2021 are to remain in full force and effect and are hereby reappropriated to June 30, 2022. Any balances so reappropriated may be transferred and credited to the fiscal year 2022 accounts.

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

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

EXECUTIVE

5 - Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2022 Org 0100

Personal Services and		
Employee Benefits.....	00100	\$ 3,250,758
Current Expenses (R).....	13000	800,000
Repairs and Alterations.....	06400	25,000
National Governors Association	12300	60,700
Herbert Henderson Office of		
Minority Affairs.....	13400	396,726
Community Food Program	18500	1,000,000
Office of Resiliency	18600	596,157
BRIM Premium.....	91300	<u>183,645</u>
Total.....		\$ 6,312,986

Any unexpended balances remaining in the appropriations for Unclassified (fund 0101, appropriation 09900), Current Expenses (fund 0101, appropriation 13000), and Office of Resiliency (fund

0101, appropriation 18600) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

6 - Governor's Office –

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2022 Org 0100

Personal Services and		
Employee Benefits.....	00100	\$ 381,293
Current Expenses (R).....	13000	183,158
Repairs and Alterations.....	06400	<u>5,000</u>
Total.....		\$ 569,451

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

7 - Governor's Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2022 Org 0100

Public Health Emergency		
Response Fund.....	21201	\$ 0
Milton Flood Wall (R).....	75701	<u>3,500,000</u>

Total..... \$ 3,500,000

Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500), Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund – Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood Wall (fund 0105, appropriation 75701), Milton Flood Wall – Surplus (fund 0105, appropriation 75799), Natural Disasters – Surplus (fund 0105, appropriation 76400), and Local Economic Development Assistance (fund 0105, appropriation 81900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

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

8 - Auditor’s Office –

General Administration

(WV Code Chapter 12)

Fund 0116 FY 2022 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 2,377,589
Current Expenses (R).....	13000	13,429
BRIM Premium.....	91300	<u>12,077</u>
Total.....		\$ 2,403,095

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2022 Org 1300

Personal Services and		
Employee Benefits.....	00100	\$ 2,570,242
Unclassified.....	09900	31,463
Current Expenses (R).....	13000	572,684
Abandoned Property Program.....	11800	41,794
Other Assets.....	69000	10,000
ABLE Program	69201	150,000
BRIM Premium.....	91300	<u>59,169</u>
Total.....		\$ 3,435,352

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0126, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 6,298,229

Current Expenses (R)	13000	848,115
Animal Identification Program	03900	131,942
State Farm Museum	05500	87,759
Gypsy Moth Program (R)	11900	1,003,440
WV Farmers Market	12801	150,467
Black Fly Control.....	13700	453,698
HEMP Program.....	13701	350,000
Donated Foods Program	36300	45,000
Veterans to Agriculture Program (R)	36301	255,624
Predator Control (R)	47000	176,400
Bee Research.....	69100	70,634
Microbiology Program.....	78500	99,828
Moorefield Agriculture Center.....	78600	975,284
Chesapeake Bay Watershed.....	83000	112,427
Livestock Care Standards Board.....	84300	8,820
BRIM Premium.....	91300	138,905
State FFA-FHA Camp and Conference Center	94101	738,554
Threat Preparedness	94200	73,122
WV Food Banks.....	96900	426,000
Senior's Farmers' Market Nutrition Coupon Program	97000	<u>55,835</u>
Total.....		\$ 12,500,083

Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made available to the United States

Department of Agriculture, Wildlife Services to administer the Predator Control Program.

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

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

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 794,191
Unclassified.....	09900	77,059
Current Expenses (R).....	13000	317,848
Soil Conservation Projects (R).....	12000	9,799,709
BRIM Premium.....	91300	<u>34,428</u>
Total.....		\$ 11,023,235

Any unexpended balances remaining in the appropriations for Soil Conservation Projects (fund 0132, appropriation 12000) and Current Expenses (fund 0132, appropriation 13000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

12 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 0135 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 668,030

Unclassified.....	09900		7,090
Current Expenses	13000		<u>82,605</u>
Total.....		\$	757,725

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

13 - Department of Agriculture –

Agricultural Awards Fund

(WV Code Chapter 19)

Fund 0136 FY 2022 Org 1400

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

14 - Department of Agriculture –

West Virginia Agricultural Land Protection Authority

(WV Code Chapter 8A)

Fund 0607 FY 2022 Org 1400

Personal Services and			
Employee Benefits.....	00100	\$	99,547
Unclassified.....	09900		<u>950</u>
Total.....		\$	100,497

15 - Attorney General

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

Fund 0150 FY 2022 Org 1500

Personal Services and			
Employee Benefits (R)	00100	\$	2,818,788

Unclassified (R)	09900	24,428
Current Expenses (R)	13000	687,795
Repairs and Alterations	06400	1,000
Equipment	07000	1,000
Criminal Convictions and		
Habeas Corpus Appeals (R).....	26000	946,078
Better Government Bureau	74000	279,412
BRIM Premium.....	91300	<u>120,654</u>
Total.....		\$ 4,879,155

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900), Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150, appropriation 36200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

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

16 - Secretary of State

(WV Code Chapters 3, 5, and 59)

Fund 0155 FY 2022 Org 1600

Personal Services and		
Employee Benefits.....	00100	\$ 118,794
Unclassified (R)	09900	8,352
Current Expenses (R).....	13000	781,584
BRIM Premium.....	91300	<u>34,500</u>
Total.....		\$ 943,230

Any unexpended balances remaining in the appropriations for Unclassified (fund 0155, appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2022 Org 1601

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

DEPARTMENT OF ADMINISTRATION

18 - Department of Administration –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0186 FY 2022 Org 0201

Personal Services and		
Employee Benefits.....	00100	\$ 438,584
Salary and Benefits of Cabinet		

Secretary and Agency Heads	00201	168,000
Unclassified.....	09900	9,177
Current Expenses	13000	85,009
Repairs and Alterations.....	06400	100
Equipment	07000	1,000
Financial Advisor (R)	30400	27,546
Lease Rental Payments	51600	14,850,000
Design-Build Board	54000	4,000
Other Assets.....	69000	100
BRIM Premium.....	91300	6,736
Total.....		<u>\$ 15,590,252</u>

Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, appropriation 30400) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2022 Org 0205

The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the retirement costs for their respective divisions. When specific appropriations are not made, such payments may be made from the balances in the various special revenue funds in excess of specific appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2022 Org 0209

Personal Services and		
Employee Benefits.....	00100	\$ 64,696
Unclassified.....	09900	1,400
Current Expenses	13000	60,721
GAAP Project (R).....	12500	612,666
BRIM Premium.....	91300	<u>13,517</u>
Total.....		\$ 753,000

Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203, appropriation 12500) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2022 Org 0211

Personal Services and		
Employee Benefits.....	00100	\$ 2,722,499
Unclassified.....	09900	20,000
Current Expenses	13000	1,148,349
Repairs and Alterations.....	06400	500
Equipment.....	07000	5,000
Fire Service Fee	12600	14,000
Preservation and Maintenance of		
Statues and Monuments		
on Capitol Grounds.....	37100	68,000
Capital Outlay, Repairs and		
Equipment (R)	58900	23,660,888
BRIM Premium.....	91300	<u>129,983</u>
Total.....		\$ 27,769,219

Any unexpended balances remaining in the appropriations for Buildings (fund 0230, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900), Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land (fund 0230, appropriation 73000)

at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

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

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2022 Org 0213

Personal Services and		
Employee Benefits.....	00100	\$ 1,039,163
Unclassified.....	09900	144
Current Expenses	13000	1,285
Repairs and Alterations.....	06400	200
BRIM Premium.....	91300	<u>6,922</u>
Total.....		\$ 1,047,714

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

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2022 Org 0215

Personal Services and		
Employee Benefits.....	00100	\$ 802,363
Unclassified.....	09900	12,032
Current Expenses	13000	440,247

Repairs and Alterations.....	06400	1,000
Equipment.....	07000	5,000
Buildings (R).....	25800	100
Other Assets.....	69000	100
Total.....		\$ 1,260,842

Any unexpended balance remaining in the appropriation for Buildings (fund 0615, appropriation 25800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2022 Org 0217

Current Expenses	13000	\$ 45,550
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To pay expenses for members of the commission on uniform state laws.

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2022 Org 0219

Personal Services and		
Employee Benefits.....	00100	\$ 969,627
Unclassified.....	09900	1,000
Current Expenses	13000	145,295
Equipment.....	07000	50
BRIM Premium.....	91300	8,740
Total.....		\$ 1,124,712

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2022 Org 0220

Personal Services and		
Employee Benefits.....	00100	\$ 606,969
Unclassified.....	09900	2,200
Current Expenses	13000	104,501
Repairs and Alterations.....	06400	500
Other Assets.....	69000	100
BRIM Premium.....	91300	5,574
Total.....		<u>\$ 719,844</u>

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2022 Org 0221

Personal Services and		
Employee Benefits.....	00100	\$ 1,780,483
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	119,000
Unclassified.....	09900	333,300
Current Expenses	13000	12,740
Public Defender Corporations.....	35200	21,188,435
Appointed Counsel Fees (R).....	78800	12,691,113
BRIM Premium.....	91300	10,575
Total.....		<u>\$ 36,135,646</u>

Any unexpended balance remaining in the appropriation for Appointed Counsel Fees (fund 0226, appropriation 78800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

28 - Committee for the Purchase of

Commodities and Services from the Handicapped

(WV Code Chapter 5A)

Fund 0233 FY 2022 Org 0224

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

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2022 Org 0225

PEIA Subsidy.....	80100	\$ 21,000,000
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The Division of Highways, Division of Motor Vehicles, Public Service Commission and other departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal funds shall pay their proportionate share of the public employees health insurance cost for their respective divisions.

The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium cost-sharing percentage requirements between employers and employees. Such amount shall not be included in the calculation of the plan year aggregate premium cost-sharing percentages between employers and employees.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2022 Org 0228

Forensic Medical		
Examinations (R).....	68300	\$ 141,579
Federal Funds/Grant Match (R).....	74900	<u>105,074</u>
Total.....		\$ 246,653

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, appropriation 68300)

and Federal Funds/Grant Match (fund 0557, appropriation 74900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2022 Org 0233

Personal Services and		
Employee Benefits.....	00100	\$ 681,101
Unclassified.....	09900	1,000
Current Expenses	13000	137,381
Repairs and Alterations.....	06400	100
Equipment.....	07000	2,500
BRIM Premium.....	91300	<u>9,784</u>
Total.....		\$ 831,866

DEPARTMENT OF COMMERCE

32 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2022 Org 0305

Personal Services and		
Employee Benefits.....	00100	\$ 4,579,781
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	111,674
Unclassified.....	09900	21,435
Current Expenses	13000	555,963
Repairs and Alterations.....	06400	80,000
Equipment (R).....	07000	2,061
BRIM Premium.....	91300	<u>98,754</u>
Total.....		\$ 5,449,668

Any unexpended balance remaining in the appropriation for Equipment (fund 0250, appropriation 07000) at the close of the

fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

33 - *Geological and Economic Survey*

(WV Code Chapter 29)

Fund 0253 FY 2022 Org 0306

Personal Services and		
Employee Benefits.....	00100	\$ 1,575,695
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	112,753
Unclassified.....	09900	27,678
Current Expenses	13000	51,524
Repairs and Alterations	06400	968
Mineral Mapping System (R)	20700	1,090,234
BRIM Premium.....	91300	<u>24,486</u>
Total.....		\$ 2,883,338

Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, appropriation 20700) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

34 - *Division of Labor*

(WV Code Chapters 21 and 47)

Fund 0260 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 1,537,028

Current Expenses	13000	227,000
Repairs and Alterations	06400	28,000
Equipment	07000	15,000
BRIM Premium.....	91300	<u>8,500</u>
Total.....		\$ 1,815,528

35 - *Division of Natural Resources*

(WV Code Chapter 20)

Fund 0265 FY 2022 Org 0310

Personal Services and		
Employee Benefits.....	00100	\$ 16,868,737
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	113,188
Unclassified.....	09900	184,711
Current Expenses	13000	196,302
Repairs and Alterations.....	06400	100
Equipment.....	07000	100
Buildings (R).....	25800	100
Capital Outlay – Parks (R).....	28800	3,000,000
Litter Control Conservation		
Officers	56400	146,986
Upper Mud River Flood Control.....	65400	164,791
Other Assets	69000	100
Land (R).....	73000	100
Law Enforcement.....	80600	2,552,994
BRIM Premium.....	91300	<u>45,141</u>
Total.....		\$ 23,273,350

Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Land (fund 0265, appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

36 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2022 Org 0314

Personal Services and		
Employee Benefits.....	00100	\$ 9,375,243
Unclassified.....	09900	111,016
Current Expenses	13000	1,396,141
Coal Dust and Rock		
Dust Sampling	27000	487,752
BRIM Premium.....	91300	<u>80,668</u>
Total.....		\$ 11,450,820

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

37 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2022 Org 0319

Personal Services and		
Employee Benefits.....	00100	\$ 233,981
Unclassified.....	09900	3,480
Current Expenses	13000	<u>118,138</u>
Total.....		\$ 355,599

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

38 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2022 Org 0323

Personal Services and		
Employee Benefits.....	00100	\$ 51,433
Unclassified.....	09900	593
Current Expenses	13000	<u>6,447</u>
Total.....		\$ 58,473

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

(WV Code Chapter 19)

Fund 0606 FY 2022 Org 0327

Personal Services and		
Employee Benefits.....	00100	\$ 465,122
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	153,750
Unclassified.....	09900	1,490
Current Expenses	13000	131,847
Directed Transfer	70000	<u>500,000</u>
Total.....		\$ 1,252,209

The above appropriation for Directed Transfer (fund 0606, appropriation 70000) shall be transferred to the Broadband Enhancement Fund (fund 3013).

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

(WV Code Chapter 18)

Fund 0310 FY 2022 Org 0932

Personal Services and		
Employee Benefits.....	00100	\$ 11,459,977
Current Expenses	13000	558,815
Independent Living Services.....	00900	429,418
Workshop Development	16300	1,817,427
Supported Employment		
Extended Services.....	20600	77,960
Ron Yost Personal Assistance		
Fund	40700	333,828
Employment Attendant		
Care Program	59800	131,575
BRIM Premium.....	91300	<u>77,464</u>
Total.....		\$ 14,886,464

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

DEPARTMENT OF TOURISM

41 - Department of Tourism –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0246 FY 2022 Org 0304

Tourism – Brand Promotion (R).....	61803	\$ 3,000,000
Tourism – Public Relations (R)	61804	1,500,000
Tourism – Events and		
Sponsorships (R).....	61805	500,000
Tourism – Industry		
Development (R)		61806
.....	500,000	
State Parks and Recreation		
Advertising (R).....	61900	<u>1,500,000</u>

Total..... \$ 7,000,000

Any unexpended balances remaining in the appropriations for Tourism – Brand Promotion (fund 0246, appropriation 61803), Tourism – Public Relations (fund 0246, appropriation 61804), Tourism – Events and Sponsorships (fund 0246, appropriation 61805), Tourism – Industry Development (fund 0246, appropriation 61806), and State Parks and Recreation Advertising (fund 0246, appropriation 61900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

DEPARTMENT OF ECONOMIC DEVELOPMENT

42 - Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0256 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 4,500,420
Unclassified.....	09900	108,055
Current Expenses	13000	3,681,460
National Youth Science Camp.....	13200	241,570
Local Economic Development		
Partnerships (R)	13300	1,250,000
ARC Assessment	13600	152,585
Guaranteed Work Force Grant (R).....	24200	976,579
Directed Transfer	70000	0
Mainstreet Program.....	79400	167,467
Local Economic Development		
Assistance (R).....	81900	0
BRIM Premium.....	91300	3,157
Hatfield McCoy Recreational Trail.....	96000	198,415
Total.....		<u>\$ 11,279,708</u>

Any unexpended balances remaining in the appropriations for Sales and Marketing Enhancement – Surplus (fund 0256, appropriation 05099, Unclassified – Surplus (fund 0256, appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000), and Local Economic Development Assistance (fund 0256, appropriation 81900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriation for Current Expenses (fund 0256, appropriation 13000), \$50,000 shall be used for the Western Potomac Economic Partnership and \$100,000 shall be used for Advantage Valley.

The above appropriation to Local Economic Development Partnerships (fund 0256, appropriation 13300) shall be used by the Department of Economic Development for the award of funding assistance to county and regional economic development corporations or authorities participating in the Certified Development Community Program developed under the provisions of W.Va. Code §5B-2-14. The Department of Economic Development shall award the funding assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed \$34,000 per county served by an economic development or redevelopment corporation or authority.

43 - Department of Economic Development –

Office of Energy

(WV Code Chapter 5B)

Fund 0612 FY 2022 Org 0328

Personal Services and		
Employee Benefits.....	00100	\$ 238,299
Unclassified.....	09900	12,395
Current Expenses	13000	1,031,015

BRIM Premium.....	91300	<u>3,894</u>
Total.....		\$ 1,285,603

From the above appropriation for Current Expenses (fund 0612, appropriation 13000), \$548,915 is for West Virginia University and \$298,915 is for Southern West Virginia Community and Technical College for the Mine Training and Energy Technologies Academy.

DEPARTMENT OF EDUCATION

44 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 348,042
Current Expenses	13000	<u>2,118,865</u>
Total.....		\$ 2,466,907

45 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 4,598,523
Unclassified (R)	09900	420,000
Current Expenses (R).....	13000	4,580,000
Teachers' Retirement Savings		
Realized	09500	34,747,000
Center for Professional		
Development (R)	11500	150,000
Increased Enrollment	14000	22,800,000
Safe Schools.....	14300	4,550,424

Attendance Incentive Bonus (R).....	15001	2,056,717
National Teacher Certification (R)	16100	300,000
Jobs & Hope – Childhood Drug Prevention Education.....	21901	5,000,000
Allowance for County Transfer	26400	119,087
Technology Repair and Modernization.....	29800	951,003
HVAC Technicians	35500	516,791
Early Retirement Notification Incentive	36600	300,000
MATH Program	36800	336,532
Assessment Programs (R)	39600	3,865,593
Benedum Professional Development Collaborative (R).....	42700	429,775
Governor’s Honors Academy (R).....	47800	1,059,270
21 st Century Fellows	50700	274,899
English as a Second Language.....	52800	96,000
Teacher Reimbursement	57300	297,188
Hospitality Training	60000	272,775
Youth in Government	61600	100,000
High Acuity Special Needs (R).....	63400	1,500,000
Foreign Student Education.....	63600	100,294
State Board of Education Administrative Costs	68400	277,403
IT Academy (R)	72100	500,000
Early Literacy Program.....	75600	5,705,624
School Based Truancy Prevention (R).....	78101	2,032,238
Communities in Schools (R).....	78103	4,900,000
Mastery Based Education	78104	125,000
Mountain State Digital Literacy Program.....	86401	415,500
21 st Century Learners (R).....	88600	1,756,470
BRIM Premium.....	91300	342,859
21 st Century Assessment and Professional Development	93100	2,006,978
21 st Century Technology Infrastructure Network Tools and Support (R)	93300	9,636,586

Special Olympic Games.....	96600	25,000
Educational Program Allowance	99600	<u>516,250</u>
Total.....		\$ 117,661,779

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

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

Any unexpended balances remaining in the appropriations for Unclassified (fund 0313, appropriation 09900), Current Expenses (fund 0313, appropriation 13000), Center for Professional Development (fund 0313, appropriation 11500), Attendance Incentive Bonus (fund 0313, appropriation 15001), National Teacher Certification (fund 0313, appropriation 16100), Assessment Programs (fund 0313, appropriation 39600), Benedum Professional Development Collaborative (fund 0313, appropriation 42700), Governor’s Honors Academy (fund 0313, appropriation 47800), High Acuity Special Needs (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), School Based Truancy Prevention (fund 0313, appropriation 78101), Communities in Schools (fund 0313, appropriation 78103), 21st Century Learners (fund 0313, appropriation 88600), and 21st Century Technology Infrastructure Network Tools and Support (fund 0313, appropriation 93300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

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

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

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

46 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2022 Org 0402

Special Education – Counties	15900	\$	7,271,757
Special Education – Institutions.....	16000		3,968,631
Education of Juveniles Held in Predispositional Juvenile Detention Centers	30200		662,300
Education of Institutionalized Juveniles and Adults (R).....	47200		<u>20,520,405</u>
Total.....		\$	32,423,093

Any unexpended balance remaining in the appropriation for Education of Institutionalized Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

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

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

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2022 Org 0402

Other Current Expenses	02200	\$ 161,739,678
Advanced Placement.....	05300	670,151
Professional Educators.....	15100	869,082,617
Service Personnel.....	15200	291,835,429
Fixed Charges	15300	101,669,823
Transportation.....	15400	69,037,827
Improved Instructional Programs	15600	51,974,496
Professional Student Support		
Services.....	65500	59,608,039
21 st Century Strategic		
Technology Learning Growth.....	93600	26,443,757
Teacher and Leader Induction.....	93601	<u>5,478,876</u>
Basic Foundation Allowances.....		1,637,540,693
Less Local Share		(476,260,743)
Adjustments		<u>(3,254,844)</u>
Total Basic State Aid		1,158,025,106
Public Employees' Insurance		
Matching.....	01200	206,938,256
Teachers' Retirement System	01900	60,784,000
School Building Authority (R).....	45300	24,000,000
Retirement Systems – Unfunded		
Liability.....	77500	<u>302,844,000</u>
Total.....		\$ 1,752,591,362

Any unexpended balances remaining in the appropriations for School Building Authority (fund 0317, appropriation 45300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 1,339,713
Unclassified.....	09900	268,800
Current Expenses	13000	883,106
Wood Products – Forestry		
Vocational Program	14600	81,252
Albert Yanni Vocational Program	14700	132,123
Vocational Aid.....	14800	24,443,275
Adult Basic Education	14900	5,365,530
Jobs & Hope.....	14902	0
Program Modernization	30500	884,313
High School Equivalency		
Diploma Testing (R).....	72600	803,397
FFA Grant Awards.....	83900	11,496
Pre-Engineering Academy Program	84000	<u>265,294</u>
Total.....		\$ 34,478,299

Any unexpended balances remaining in the appropriations for Jim’s Dream (fund 0390, appropriation 14901) and High School Equivalency Diploma Testing (fund 0390, appropriation 72600) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

(WV Code Chapters 18, and 18A)

Fund 0320 FY 2022 Org 0403

Personal Services and		
Employee Benefits.....	00100	\$ 11,379,675
Unclassified.....	09900	110,000
Current Expenses	13000	2,250,696
Repairs and Alterations.....	06400	164,675
Equipment.....	07000	77,000

Buildings (R).....	25800	45,000
Capital Outlay and Maintenance (R)	75500	520,000
BRIM Premium.....	91300	<u>130,842</u>
Total.....		\$ 14,677,888

Any unexpended balances remaining in the appropriations for Buildings (fund 0320, appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

50 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2022 Org 0432

Personal Services and Employee Benefits.....	00100	\$ 3,343,387
Salary and Benefits of Cabinet Secretary and Agency Heads	00201	120,106
Unclassified (R)	09900	28,483
Current Expenses	13000	610,843
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	1
WV Humanities Council.....	16800	250,000
Buildings (R).....	25800	1
Other Assets	69000	1
Educational Enhancements	69500	573,500
Land (R).....	73000	1
Culture and History Programming.....	73200	231,573
Capital Outlay and Maintenance (R)	75500	19,600
Historical Highway Marker Program.....	84400	57,548
BRIM Premium.....	91300	<u>39,337</u>
Total.....		\$ 5,275,381

Any unexpended balances remaining in the appropriations for Unclassified (fund 0293, appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

From the above appropriation for Educational Enhancements (fund 0293, appropriation 69500), \$500,000 shall be used for Save the Children and \$73,500 shall be used for the Clay Center.

51 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2022 Org 0433

Personal Services and		
Employee Benefits.....	00100	\$ 1,070,613
Salary and Benefits of		
Secretary and Agency Heads.....	00201	112,000
Current Expenses	13000	139,624
Repairs and Alterations.....	06400	6,500
Services to Blind & Handicapped.....	18100	161,717
BRIM Premium.....	91300	<u>18,205</u>
Total.....		\$ 1,508,659

52 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2022 Org 0439

Personal Services and		
Employee Benefits.....	00100	\$ 3,144,106
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	120,106
Current Expenses	13000	118,344
Mountain Stage	24900	295,500
Capital Outlay and		
Maintenance (R)	75500	49,250
BRIM Premium.....	91300	<u>47,727</u>
Total.....		\$ 3,775,033

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 0300, appropriation 75500) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

53 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2022 Org 0311

Personal Services and		
Employee Benefits.....	00100	\$ 82,539
Current Expenses	13000	28,453
Repairs and Alterations	06400	800
Equipment.....	07000	500
Other Assets.....	69000	400
BRIM Premium.....	91300	<u>791</u>
Total.....		\$ 113,483

54 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 4,005,460

Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	168,000
Unclassified.....	09900	0
Current Expenses	13000	85,816
Repairs and Alterations.....	06400	0
Water Resources Protection and		
Management	06800	576,278
Dam Safety.....	60700	237,824
West Virginia Stream Partners		
Program.....	63700	77,396
Meth Lab Cleanup.....	65600	91,888
WV Contributions to River		
Commissions.....	77600	148,485
Office of Water Resources		
Non-Enforcement Activity	85500	<u>1,009,855</u>
Total.....		\$ 6,401,002

55 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2022 Org 0325

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

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

56 - Department of Health and Human Resources –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0400 FY 2022 Org 0501

Personal Services and		
Employee Benefits.....	00100	\$ 384,638
Unclassified.....	09900	6,459
Current Expenses	13000	50,613
Commission for the Deaf and		
Hard of Hearing	70400	<u>225,534</u>
Total.....		\$ 667,244

Any unexpended balance remaining in the appropriation for the Women's Commission (fund 0400, appropriation 19100) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

57 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 12,544,773
Unclassified.....	09900	671,795
Current Expenses	13000	5,388,459
Chief Medical Examiner (R).....	04500	8,714,647
State Aid for Local and		
Basic Public Health Services	18400	14,160,490
Safe Drinking Water Program (R)	18700	1,891,323
Women, Infants and Children	21000	38,621
Early Intervention	22300	8,134,060
Cancer Registry.....	22500	206,306
Office of Drug Control Policy (R).....	35401	545,153
Statewide EMS Program		
Support (R)	38300	1,695,271
Office of Medical Cannabis (R).....	42001	1,459,989
Black Lung Clinics	46700	170,885
Vaccine for Children.....	55100	338,235
Tuberculosis Control.....	55300	329,256

Maternal and Child Health

Clinics, Clinicians Medical		
Contracts and Fees (R).....	57500	5,892,707
Epidemiology Support	62600	1,497,192
Primary Care Support	62800	1,223,666
Sexual Assault Intervention		
and Prevention	72300	800,000
Health Right Free Clinics.....	72700	4,250,000
Capital Outlay and		
Maintenance (R)	75500	70,000
Healthy Lifestyles	77800	890,000
Maternal Mortality Review.....	83400	49,933
Diabetes Education and Prevention	87300	97,125
BRIM Premium.....	91300	169,791
State Trauma and Emergency		
Care System.....	91800	1,921,322
WVU Charleston Poison		
Control Hotline	94400	<u>712,942</u>
Total.....		\$ 73,863,941

Any unexpended balances remaining in the appropriations for Chief Medical Examiner (fund 0407, appropriation 04500), Safe Drinking Water Program (fund 0407, appropriation 18700), Office of Drug Control Policy (fund 0407, appropriation 35401), Office of Drug Control Policy – Surplus (fund 0407, appropriation 35402), Statewide EMS Program Support (fund 0407, appropriation 38300), Office of Medical Cannabis (fund 0407, appropriation 42001), Medical Cannabis Surplus (fund 0407, appropriation 42099), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500), Capital Outlay, Repairs and Equipment Surplus (fund 0525, appropriation 67700), Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency Response Entities – Special Projects (fund 0407, appropriation 82200), and Tobacco Education Program (fund 0407, appropriation 90600) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be expended for the West Virginia Aids Coalition; \$100,000 is for Adolescent Immunization Education; \$73,065 is for informal dispute resolution relating to nursing home administrative appeals; and \$1,000,000 shall be used for the administration of the Telestroke program.

From the above appropriation for Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, appropriation 57500) up to \$400,000 may be transferred to the Breast and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and \$11,000 is for the Marshall County Health Department for dental services.

58 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 1,632,588
Current Expenses	13000	14,113
Jobs & Hope.....	14902	0
Behavioral Health Program (R)	21900	71,671,175
Institutional Facilities		
Operations (R)	33500	147,729,180
Substance Abuse Continuum		
of Care (R).....	35400	1,840,000

Capital Outlay and

Maintenance (R)	75500	950,000
BRIM Premium.....	91300	<u>1,296,098</u>
Total.....		\$ 225,133,154

Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0525, appropriation 14901), Behavioral Health Program (fund 0525, appropriation 21900), Institutional Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund 0525, appropriation 35400), and Capital Outlay and Maintenance (fund 0525, appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

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

The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) contains prior year salary increases due to the Hartley court order in the amount of \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984 for Mildred Mitchel-Bateman Hospital.

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

Additional funds have been appropriated in fund 5156, fiscal year 2022, organization 0506, for the operation of the institutional

facilities. The secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities Operations appropriation to facilitate cost effective and cost saving services at the community level.

59 - Division of Health –

West Virginia Drinking Water Treatment

(WV Code Chapter 16)

Fund 0561 FY 2022 Org 0506

West Virginia Drinking

Water Treatment

Revolving Fund-Transfer.....	68900	\$	647,500
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The above appropriation for Drinking Water Treatment Revolving Fund – Transfer shall be transferred to the West Virginia Drinking Water Treatment Revolving Fund or appropriate bank depository and the Drinking Water Treatment Revolving – Administrative Expense Fund as provided by Chapter 16 of the Code.

60 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2022 Org 0510

Personal Services and

Employee Benefits.....	00100	\$	961,553
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Salary and Benefits of Cabinet

Secretary and Agency Heads	00201		112,000
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Unclassified.....	09900		4,024
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Current Expenses	13000		331,304
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BRIM Premium.....	91300		10,764
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Total.....		\$	1,419,645
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61 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 50,630,531
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	87,031
Unclassified.....	09900	5,688,944
Current Expenses	13000	11,772,050
Child Care Development.....	14400	3,102,718
Medical Services	18900	318,512,213
Social Services	19500	226,138,785
Family Preservation Program	19600	1,565,000
Family Resource Networks.....	27400	1,762,464
Domestic Violence Legal		
Services Fund.....	38400	400,000
James “Tiger” Morton Catastrophic		
Illness Fund.....	45500	18,664
I/DD Waiver.....	46600	108,541,736
Child Protective Services		
Case Workers.....	46800	27,843,073
Title XIX Waiver for Seniors.....	53300	13,593,620
WV Teaching Hospitals		
Tertiary/Safety Net	54700	6,356,000
In-Home Family Education.....	68800	1,000,000
WV Works Separate State		
Program.....	69800	135,000
Child Support Enforcement	70500	6,458,806
Temporary Assistance for Needy		
Families/Maintenance of Effort	70700	25,819,096
Child Care – Maintenance of		
Effort Match.....	70800	5,693,743
Grants for Licensed Domestic		
Violence Programs and		
Statewide Prevention	75000	2,500,000
Capital Outlay and		
Maintenance (R)	75500	11,875

Community Based Services and Pilot Programs for Youth	75900	1,000,000
Medical Services		
Administrative Costs	78900	43,568,141
Traumatic Brain Injury Waiver.....	83500	800,000
Indigent Burials (R)	85100	1,550,000
CHIP Administrative Costs.....	85601	700,000
CHIP Services	85602	6,390,665
BRIM Premium.....	91300	892,642
Rural Hospitals Under 150 Beds.....	94000	2,596,000
Children’s Trust Fund – Transfer.....	95100	220,000
PATH	95400	<u>7,162,452</u>
Total.....		\$ 882,511,249

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Notwithstanding the provisions of Title I, section three of this bill, the secretary of the Department of Health and Human Resources shall have the authority to transfer funds within the above appropriations: *Provided*, That no more than five percent of the funds appropriated to one appropriation may be transferred to other appropriations: *Provided, however*, That no funds from other appropriations shall be transferred to the personal services and employee benefits appropriation.

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

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

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

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

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

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

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

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

DEPARTMENT OF HOMELAND SECURITY

62 - Department of Homeland Security –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0430 FY 2022 Org 0601

Personal Services and		
Employee Benefits.....	00100	\$ 516,426
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	168,000
Unclassified (R)	09900	30,000
Current Expenses	13000	145,886
Repairs and Alterations	06400	500
Equipment.....	07000	500
Fusion Center (R).....	46900	2,683,140
Other Assets.....	69000	500
Directed Transfer	70000	32,000
BRIM Premium.....	91300	22,563
WV Fire and EMS Survivor		
Benefit (R)	93900	<u>200,000</u>
Total.....		\$ 3,799,515

Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430, appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation 95300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

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

63 - Division of Emergency Management

(WV Code Chapter 15)

Fund 0443 FY 2022 Org 0606

Personal Services and		
Employee Benefits.....	00100	\$ 2,128,644
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	61,250

Unclassified.....	09900	21,022
Current Expenses	13000	51,065
Repairs and Alterations.....	06400	600
Radiological Emergency		
Preparedness	55400	17,052
SIRN.....	55401	600,000
Federal Funds/Grant Match (R).....	74900	1,409,145
Mine and Industrial Accident		
Rapid Response		
Call Center.....	78100	469,911
Early Warning Flood System (R)	87700	1,284,448
BRIM Premium.....	91300	96,529
Total.....		\$ 6,139,666

Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700), and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

64 - Division of Corrections and Rehabilitation –

West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2022 Org 0608

Personal Services and		
Employee Benefits.....	00100	\$ 307,843
Unclassified.....	09900	10,000
Current Expenses	13000	334,440
Salaries of Members of		
West Virginia Parole Board.....	22700	707,056
BRIM Premium.....	91300	6,149
Total.....		\$ 1,365,488

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

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

65 - Division of Corrections and Rehabilitation –

Central Office

(WV Code Chapter 15A)

Fund 0446 FY 2022 Org 0608

Personal Services and		
Employee Benefits.....00100	\$	450,577
Salary and Benefits of Cabinet		
Secretary and Agency Heads00201		126,000
Current Expenses13000		<u>2,400</u>
Total.....	\$	578,977

66 - Division of Corrections and Rehabilitation –

Correctional Units

(WV Code Chapter 15A)

Fund 0450 FY 2022 Org 0608

Employee Benefits01000	\$	1,258,136
Unclassified.....09900		1,578,800
Current Expenses (R).....13000		52,016,936
Children's Protection Act (R)09000		838,437
Facilities Planning and		
Administration (R).....38600		1,274,200
Charleston Correctional Center.....45600		3,400,402
Beckley Correctional Center.....49000		2,518,874
Anthony Correctional Center50400		6,096,779
Huttonsville Correctional Center51400		21,697,029
Northern Correctional Center.....53400		7,899,965
Inmate Medical Expenses (R).....53500		21,226,064
Pruntytown Correctional Center54300		8,562,705
Corrections Academy.....56900		1,925,980
Information Technology Services.....59901		2,759,052

Martinsburg Correctional Center	66300	4,348,990
Parole Services.....	68600	5,775,564
Special Services	68700	5,694,768
Investigative Services	71600	3,394,070
Capital Outlay and Maintenance (R)	75500	2,000,000
Salem Correctional Center.....	77400	11,305,381
McDowell County Correctional Center.....	79000	2,542,590
Stevens Correctional Center	79100	7,863,195
Parkersburg Correctional Center.....	82800	3,927,845
St. Mary's Correctional Center	88100	14,497,534
Denmar Correctional Center	88200	5,189,043
Ohio County Correctional Center	88300	2,147,492
Mt. Olive Correctional Complex	88800	22,297,226
Lakin Correctional Center.....	89600	10,711,864
BRIM Premium.....	91300	<u>2,527,657</u>
Total.....		\$ 237,276,578

Any unexpended balances remaining in the appropriations for Children's Protection Act (fund 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Current Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450, appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund 0450, appropriation 75500), Security System Improvements – Surplus (fund 0450, appropriation 75501), and Roof Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The Commissioner of Corrections and Rehabilitation shall have the authority to transfer between appropriations.

From the above appropriation to Current Expenses (fund 0450, appropriation 13000) payment shall be made to house Division of

Corrections and Rehabilitation inmates in federal, county, and /or regional jails.

Any realized savings from Energy Savings Contract may be transferred to Facilities Planning and Administration (fund 0450, appropriation 38600).

67 - Division of Corrections and Rehabilitation –

Bureau of Juvenile Services

(WV Code Chapter 15A)

Fund 0570 FY 2022 Org 0608

Statewide Reporting Centers.....	26200	\$	6,758,529
Robert L. Shell Juvenile Center	26700		2,519,068
Resident Medical Expenses (R)	53501		3,604,999
Central Office.....	70100		1,713,291
Capital Outlay and			
Maintenance (R)	75500		250,000
Gene Spadaro Juvenile Center	79300		2,659,469
BRIM Premium.....	91300		115,967
Kenneth Honey Rubenstein			
Juvenile Center (R)	98000		5,717,712
Vicki Douglas Juvenile Center	98100		2,389,494
Northern Regional Juvenile Center.....	98200		2,876,302
Lorrie Yeager Jr. Juvenile Center	98300		2,422,880
Sam Perdue Juvenile Center	98400		2,614,497
Tiger Morton Center	98500		2,633,060
Donald R. Kuhn Juvenile Center	98600		5,060,657
J.M. “Chick” Buckbee			
Juvenile Center	98700		<u>2,527,617</u>
Total.....		\$	43,863,542

Any unexpended balances remaining in the appropriations for Resident Medical Expenses (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500), Roof Repairs and Mechanical System Upgrades (fund 0570, appropriation 75502), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal

year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The Director of Juvenile Services shall have the authority to transfer between appropriations to the individual juvenile centers above including statewide reporting centers and central office and may transfer funds from the individual juvenile centers to Resident Medical Expenses (fund 0570, appropriation 53501).

68 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2022 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 62,115,935
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	139,300
Children’s Protection Act	09000	1,009,529
Current Expenses	13000	10,384,394
Repairs and Alterations.....	06400	450,523
Trooper Class.....	52100	3,207,832
Barracks Lease Payments	55600	237,898
Communications and Other		
Equipment (R)	55800	1,070,968
Trooper Retirement Fund.....	60500	9,592,923
Handgun Administration Expense	74700	77,892
Capital Outlay and		
Maintenance (R)	75500	250,000
Retirement Systems – Unfunded		
Liability.....	77500	17,798,000
Automated Fingerprint		
Identification System.....	89800	2,211,693
BRIM Premium.....	91300	<u>5,743,921</u>
Total.....		\$ 114,290,808

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, appropriation 55800) and Capital Outlay and Maintenance (fund 0453,

appropriation 75500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriation for Personal Services and Employee Benefits (fund 0453, appropriation 00100), an amount not less than \$25,000 shall be expended to offset the costs associated with providing police services for the West Virginia State Fair.

69 - Fire Commission

(WV Code Chapter 29)

Fund 0436 FY 2022 Org 0619

Current Expenses	13000	\$	63,061
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70 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2022 Org 0622

Personal Services and			
Employee Benefits.....	00100	\$	3,029,459
Unclassified (R)	09900		21,991
Current Expenses	13000		422,981
Repairs and Alterations.....	06400		8,500
Equipment (R).....	07000		64,171
BRIM Premium.....	91300		<u>32,602</u>
Total.....		\$	3,579,704

Any unexpended balances remaining in the appropriations for Equipment (fund 0585, appropriation 07000) and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

71 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2022 Org 0623

Personal Services and		
Employee Benefits.....	00100	\$ 570,979
Current Expenses	13000	233,360
Repairs and Alterations.....	06400	1,804
Child Advocacy Centers (R).....	45800	2,206,954
Community Corrections (R)	56100	4,595,222
Statistical Analysis Program	59700	49,819
Sexual Assault Forensic		
Examination Commission (R)	71400	77,525
Qualitative Analysis and		
Training for Youth		
Services (R)	76200	136,278
Law Enforcement Professional		
Standards.....	83800	164,272
Justice Reinvestment Initiative (R).....	89501	2,332,101
BRIM Premium.....	91300	<u>2,123</u>
Total.....		\$ 10,370,437

Any unexpended balances remaining in the appropriations for Child Advocacy Centers (fund 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual Assault Forensic Examination Commission (fund 0546 appropriation 71400), Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200), and Justice Reinvestment Initiative (fund 0546, appropriation 89501) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriation for Current Expenses (fund 0546, appropriation 13000), \$100,000 shall be used for Court Appointed Special Advocates.

From the above appropriation for Child Advocacy Centers (fund 0546, appropriation 45800), the division may retain an amount not to exceed four percent of the appropriation for administrative purposes.

72 - Division of Administrative Services

(WV Code Chapter 15A)

Fund 0619 FY 2022 Org 0623

Personal Services and		
Employee Benefits.....	00100	\$ 4,629,723
Current Expenses	13000	<u>605,000</u>
Total.....		\$ 5,234,723

DEPARTMENT OF REVENUE

73 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2022 Org 0701

Personal Services and		
Employee Benefits.....	00100	\$ 348,906
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	168,000
Unclassified.....	09900	437
Current Expenses	13000	81,594
Repairs and Alterations	06400	1,262
Equipment.....	07000	8,000
Other Assets.....	69000	<u>500</u>
Total.....		\$ 608,699

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, appropriation 09600) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

74 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2022 Org 0702

Personal Services and Employee		
Benefits (R).....	00100	\$ 18,136,041
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	136,500
Unclassified (R)	09900	174,578
Current Expenses (R).....	13000	5,823,635

Repairs and Alterations.....	06400	10,150
Equipment.....	07000	54,850
Tax Technology Upgrade	09400	3,700,000
Multi State Tax Commission	65300	77,958
Other Assets.....	69000	10,000
BRIM Premium.....	91300	<u>15,579</u>
Total.....		\$ 28,139,291

Any unexpended balances remaining in the appropriations for Personal Services and Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation 09900), Current Expenses (fund 0470, appropriation 13000), and Integrated Tax Assessment System (fund 0470, appropriation 29200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

75 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2022 Org 0703

Personal Services and		
Employee Benefits.....	00100	\$ 794,942
Unclassified (R)	09900	9,200
Current Expenses	13000	<u>119,449</u>
Total.....		\$ 923,591

Any unexpended balance remaining in the appropriation for Unclassified (fund 0595, appropriation 09900) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

76 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2022 Org 0709

Personal Services and		
Employee Benefits.....	00100	\$ 452,106

2021] HOUSE OF DELEGATES 3527

Unclassified.....	09900	5,255
Current Expenses (R).....	13000	93,022
BRIM Premium.....	91300	<u>3,062</u>
Total.....		\$ 553,445

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

77 - Division of Professional and Occupational Licenses –

State Athletic Commission

(WV Code Chapter 29)

Fund 0523 FY 2022 Org 0933

Personal Services and		
Employee Benefits.....	00100	\$ 7,200
Current Expenses	13000	<u>29,611</u>
Total.....		\$ 36,811

DEPARTMENT OF TRANSPORTATION

78 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2022 Org 0804

Personal Services and		
Employee Benefits.....	00100	\$ 361,627
Current Expenses	13000	287,707
Other Assets (R).....	69000	1,270,019
BRIM Premium.....	91300	<u>201,541</u>
Total.....		\$ 2,120,894

Any unexpended balance remaining in the appropriation for Other Assets (fund 0506, appropriation 69000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

79 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2022 Org 0805

Equipment (R).....	07000	\$	25,000
Current Expenses (R).....	13000		2,137,989
Buildings.....	25800		50,000
Other Assets (R).....	69000		50,000
Total.....		\$	2,262,989

Any unexpended balances remaining in the appropriations for Equipment (fund 0510, appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510, appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

80 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2022 Org 0807

Personal Services and			
Employee Benefits.....	00100	\$	223,740
Current Expenses (R).....	13000		591,839
Repairs and Alterations.....	06400		100
BRIM Premium.....	91300		4,438
Total.....		\$	820,117

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0582, appropriation 13000) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

DEPARTMENT OF VETERANS' ASSISTANCE*81 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 0456 FY 2022 Org 0613

Personal Services and		
Employee Benefits.....	00100	\$ 1,931,772
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	110,880
Unclassified.....	09900	20,000
Current Expenses	13000	161,450
Repairs and Alterations	06400	5,000
Veterans' Field Offices	22800	405,550
Buildings (R).....	25800	7,000,000
Veterans' Nursing Home (R)	28600	6,861,472
Veterans' Toll Free Assistance		
Line	32800	2,015
Veterans' Reeducation		
Assistance (R).....	32900	40,000
Veterans' Grant Program (R).....	34200	560,000
Veterans' Grave Markers	47300	10,000
Veterans' Cemetery	80800	389,215
BRIM Premium.....	91300	50,000
Total.....		\$ 17,547,354

Any unexpended balances remaining in the appropriations for Buildings – Surplus (fund 0456, appropriation #####), Veterans' Nursing Home (fund 0456, appropriation 28600), Veterans' Reeducation Assistance (fund 0456, appropriation 32900), Veterans' Grant Program (fund 0456, appropriation 34200), Veterans' Bonus – Surplus (fund 0456, appropriation 34400), and Educational Opportunities for Children of Deceased Veterans (fund 0456, appropriation 85400) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

82 - *Department of Veterans' Assistance –*

Veterans' Home

(WV Code Chapter 9A)

Fund 0460 FY 2022 Org 0618

Personal Services and		
Employee Benefits.....	00100	\$ 1,217,096
Current Expenses (R).....	13000	46,759
Veterans Outreach Programs	61700	<u>200,740</u>
Total.....		\$ 1,464,595

Any unexpended balance remaining in the appropriation for Current Expenses (fund 0460, appropriation 13000) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

BUREAU OF SENIOR SERVICES

83 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2022 Org 0508

Current Expenses	13000	\$	0
Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens	53900		<u>29,950,955</u>
Total.....		\$	29,950,955

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (fund 0420, appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

The above appropriation is in addition to funding provided in fund 5405 for this program.

WEST VIRGINIA COUNCIL FOR COMMUNITY

AND TECHNICAL COLLEGE EDUCATION

84 - West Virginia Council for

Community and Technical College Education –

Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2022 Org 0420

West Virginia Council for		
Community and		
Technical Education (R)	39200	\$ 727,871
Transit Training Partnership	78300	34,293
Community College Workforce		
Development (R)	87800	2,786,925
College Transition Program	88700	278,222
West Virginia Advance		
Workforce Development (R)	89300	3,118,960
Technical Program		
Development (R)	89400	1,800,735
WV Invests Grant Program (R)	89401	<u>7,034,748</u>
Total		\$ 15,781,754

Any unexpended balances remaining in the appropriations for West Virginia Council for Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements – Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund 0596, appropriation 87800), West Virginia Advance Workforce Development (fund 0596, appropriation 89300), Technical Program Development (fund 0596, appropriation 89400), and WV Invests Grant Program (fund 0596, appropriation 89401) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

85 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2022 Org 0444

Mountwest Community and		
Technical College	48700	\$ 6,391,967

86 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2022 Org 0445

New River Community and Technical College	35800	\$	5,776,913
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87 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2022 Org 0446

Pierpont Community and Technical College	93000	\$	7,820,129
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88 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2022 Org 0447

Blue Ridge Community and Technical College	88500	\$	7,713,379
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89 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2022 Org 0464

West Virginia University – Parkersburg	47100	\$	10,164,495
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90 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2022 Org 0487

Southern West Virginia Community and Technical College	44600	\$	8,118,196
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91 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2022 Org 0489

West Virginia Northern Community and Technical College	44700	\$	7,176,538
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92 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2022 Org 0492

Eastern West Virginia Community and Technical College	41200	\$	2,147,213
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93 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2022 Org 0493

BridgeValley Community and Technical College	71700	\$	7,977,329
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HIGHER EDUCATION POLICY COMMISSION

94 - Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2022 Org 0441

Personal Services and Employee Benefits.....	00100	\$	2,669,502
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Current Expenses	13000	1,096,902
RHI Program and Site Support – RHEP		
Program Administration	03700	80,000
Mental Health Provider Loan		
Repayment (R).....	11301	330,000
Higher Education Grant Program	16400	40,619,864
Tuition Contract Program (R).....	16500	1,225,120
Underwood-Smith Scholarship		
Program-Student Awards.....	16700	628,349
Facilities Planning and Administration	38600	1,760,254
Higher Education System		
Initiatives	48801	1,630,000
PROMISE Scholarship – Transfer.....	80000	18,500,000
HEAPS Grant Program (R).....	86700	5,014,728
Health Professionals’ Student Loan Program	86701	547,470
BRIM Premium.....	91300	<u>17,817</u>
Total.....		\$ 74,120,006

Any unexpended balances remaining in the appropriations for Tuition Contract Program (fund 0589, appropriation 16500), HEAPS Grant Program (fund 0589, appropriation 86700), Health Professionals’ Student Loan Program (fund 0589, appropriation 86701), Mental Health Provider Loan Repayment (fund 0589, appropriation 11301), RHI Program and Site Support – RHEP Program Administration (fund 0589, 03700) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The above appropriation for Facilities Planning and Administration (fund 0589, appropriation 38600) is for operational expenses of the West Virginia Education, Research and Technology Park between construction and full occupancy.

The above appropriation for Higher Education Grant Program (fund 0589, appropriation 16400) shall be transferred to the Higher Education Grant Fund (fund 4933, org 0441) established by W.Va. Code §18C-5-3.

The above appropriation for Underwood-Smith Scholarship Program Student Awards (fund 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teacher Scholarship and Loan Assistance Fund (4922, org 0441) established by W.Va. Code §18C-4-1.

The above appropriation for PROMISE Scholarship-Transfer (fund 0589, appropriation 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

95 - West Virginia University –

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2022 Org 0463

WVU School of Health		
Science – Eastern Division	05600	\$ 2,201,822
WVU – School of Health		
Sciences	17400	14,830,524
WVU – School of Health		
Sciences – Charleston Division	17500	2,252,410
Rural Health Outreach		
Programs (R).....	37700	164,517
West Virginia University School of Medicine BRIM Subsidy.....	46000	<u>1,203,087</u>
Total.....		\$ 20,652,360

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0343, appropriation 37700) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

96 - West Virginia University –

General Administrative Fund

(WV Code Chapter 18B)

Fund 0344 FY 2022 Org 0463

West Virginia University	45900	\$	79,017,960
Jackson's Mill (R).....	46100		491,458
West Virginia University			
Institute of Technology.....	47900		8,020,938
State Priorities – Brownfield			
Professional Development (R).....	53100		316,556
Energy Express (R).....	86100		382,935
West Virginia University –			
Potomac State	99400		<u>4,512,711</u>
Total.....		\$	92,742,558

Any unexpended balances remaining in the appropriations for Jackson's Mill (fund 0344, appropriation 46100), State Priorities – Brownfield Professional Development (fund 0344, appropriation 53100), and Energy Express (fund 0344, appropriation 86100) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

97 - *Marshall University* –*School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2022 Org 0471

Marshall Medical School	17300	\$	12,051,542
Rural Health Outreach			
Programs (R).....	37700		156,022
Forensic Lab (R)	37701		227,415
Center for Rural Health (R)	37702		157,096
Marshall University			
Medical School			
BRIM Subsidy	44900		<u>872,612</u>
Total.....		\$	13,464,687

Any unexpended balances remaining in the appropriations for Rural Health Outreach Program (fund 0347, appropriation 37700), Forensic Lab (fund 0347, appropriation 37701), and Center for Rural Health (fund 0347, appropriation 37702) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

98 - Marshall University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0348 FY 2022 Org 0471

Marshall University	44800	\$	36,761,199
Luke Lee Listening Language and Learning Lab (R)	44801		149,015
Vista E-Learning (R).....	51900		229,019
State Priorities – Brownfield Professional Development (R).....	53100		309,606
Marshall University Graduate College Writing Project (R)	80700		25,412
WV Autism Training Center (R)	93200		<u>1,808,381</u>
Total.....		\$	<u>39,282,632</u>

Any unexpended balances remaining in the appropriations for Luke Lee Listening Language and Learning Lab (fund 0348, appropriation 44801), Vista E-Learning (fund 0348, appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348, appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

99 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2022 Org 0476

West Virginia School of Osteopathic Medicine	17200	\$	8,746,107
Rural Health Outreach Programs (R).....	37700		166,111
West Virginia School of Osteopathic Medicine BRIM Subsidy	40300		153,405
Rural Health Initiative – Medical Schools Support.....	58100		<u>397,592</u>
Total.....		\$	<u>9,463,215</u>

Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs (fund 0336, appropriation 37700) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

100 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2022 Org 0482

Bluefield State College	40800	\$	6,287,473
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101 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2022 Org 0483

Concord University	41000	\$	10,319,269
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102 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2022 Org 0484

Fairmont State University	41400	\$	18,600,341
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103 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2022 Org 0485

2021]	HOUSE OF DELEGATES	3539
Glenville State College	42800	\$ 6,350,238
<i>104 - Shepherd University</i>		
(WV Code Chapter 18B)		
Fund <u>0366</u> FY <u>2022</u> Org <u>0486</u>		
Shepherd University.....	43200	\$ 12,493,572
<i>105 - West Liberty University</i>		
(WV Code Chapter 18B)		
Fund <u>0370</u> FY <u>2022</u> Org <u>0488</u>		
West Liberty University.....	43900	\$ 8,966,122
<i>106 - West Virginia State University</i>		
(WV Code Chapter 18B)		
Fund <u>0373</u> FY <u>2022</u> Org <u>0490</u>		
West Virginia State University	44100	\$ 11,172,374
West Virginia State University		
Land Grant Match.....	95600	<u>2,950,192</u>
Total.....		\$ 14,122,566

From the above appropriation for West Virginia State University (fund 0373, appropriation 44100), \$300,000 shall be for the Healthy Grandfamilies program.

107 - Higher Education Policy Commission –

Administration -

West Virginia Network for Educational Telecomputing (WVNET)

(WV Code Chapter 18B)

Fund 0551 FY 2022 Org 0495

WVNET	16900	\$ 1,747,826
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MISCELLANEOUS BOARDS AND COMMISSIONS

108 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2022 Org 0603

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	\$	189,000
Unclassified (R)	09900		106,798
College Education Fund.....	23200		4,000,000
Civil Air Patrol.....	23400		249,664
Armory Board Transfer.....	70015		2,317,555
Mountaineer ChalleNGe Academy.....	70900		3,200,000
Military Authority (R).....	74800		6,071,251
Drug Enforcement and Support	74801		<u>1,500,000</u>
Total.....		\$	17,634,268

Any unexpended balances remaining in the appropriations for Unclassified (fund 0433, appropriation 09900), Military Authority (fund 0433, appropriation 74800), and Military Authority – Surplus (fund 0433, appropriation 74899) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

From the above appropriations an amount approved by the Adjutant General may be transferred to the State Armory Board for operation and maintenance of National Guard Armories.

The adjutant general shall have the authority to transfer between appropriations.

From the above appropriation and other state and federal funding, the Adjutant General shall provide an amount not less than \$4,800,000 to the Mountaineer ChalleNGe Academy to meet anticipated program demand.

*109 - Adjutant General –**Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2022 Org 0603

Personal Services and		
Employee Benefits.....	00100	\$ 100,000
Current Expenses	13000	<u>57,775</u>
Total.....		\$ 157,775

Total TITLE II, Section 1 –

General Revenue (Including claims against the state)		<u>\$ 4,495,032,115</u>
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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 2022.

DEPARTMENT OF TRANSPORTATION*110 - Division of Motor Vehicles*

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2022 Org 0802

		State Road Fund
Personal Services and		
Employee Benefits.....	00100	\$ 26,867,939
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	129,500
Current Expenses	13000	16,576,540
Repairs and Alterations.....	06400	144,000
Equipment.....	07000	1,080,000

Buildings	25800	10,000
Other Assets	69000	8,154,000
BRIM Premium.....	91300	<u>89,940</u>
Total.....		\$ 53,051,919

111 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2022 Org 0803

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	\$ 200,000
Debt Service.....	04000	124,000,000
Maintenance.....	23700	520,000,000
Inventory Revolving	27500	4,000,000
Equipment Revolving	27600	20,000,000
General Operations	27700	152,800,000
Interstate Construction	27800	115,000,000
Other Federal Aid Programs	27900	345,000,000
Appalachian Programs	28000	100,000,000
Highway Litter Control.....	28200	1,650,000
Courtesy Patrol.....	28201	<u>0</u>
Total.....		\$ 1,382,650,000

The above appropriations are to be expended in accordance with the provisions of Chapters 17 and 17C of the code.

The Commissioner of Highways shall have the authority to operate revolving funds within the State Road Fund for the operation and purchase of various types of equipment used directly and indirectly in the construction and maintenance of roads and for the purchase of inventories and materials and supplies.

There is hereby appropriated in addition to the above appropriations, sufficient money for the payment of claims, accrued or arising during this budgetary period, to be paid in accordance with Sections 17 and 18, Article 2, Chapter 14 of the code.

It is the intent of the Legislature to capture and match all federal funds available for expenditure on the Appalachian highway system at the earliest possible time. Therefore, should amounts in excess of those appropriated be required for the purposes of Appalachian programs, funds in excess of the amount appropriated may be made available upon recommendation of the commissioner and approval of the Governor. Further, for the purpose of Appalachian programs, funds appropriated by appropriation may be transferred to other appropriations upon recommendation of the commissioner and approval of the Governor.

112 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2022 Org 0808

Personal Services and		
Employee Benefits.....	00100	\$ 44,600
Current Expenses	13000	100
Repairs and Alterations.....	06400	100
Equipment.....	07000	100
BRIM Premium.....	91300	100
Total.....		<u>\$ 45,000</u>

Total TITLE II, Section 2 –
 State Road Fund
 (Including claims
 against the state) \$ 1,436,368,684

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 2022.

LEGISLATIVE

113 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2022 Org 2300

	Appro- piation	Other Funds
Personal Services and		
Employee Benefits.....	00100	\$ 498,020
Current Expenses	13000	133,903
Repairs and Alterations.....	06400	1,000
Economic Loss Claim		
Payment Fund	33400	2,000,000
Other Assets	69000	<u>3,700</u>
Total.....		\$ 2,636,623

JUDICIAL

114 - Supreme Court –

Court Advanced Technology Subscription Fund

(WV Code Chapter 51)

Fund 1704 FY 2022 Org 2400

Current Expenses	13000	\$ 100,000
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115 - Supreme Court –

Adult Drug Court Participation Fund

(WV Code Chapter 62)

Fund 1705 FY 2022 Org 2400

Current Expenses	13000	\$ 200,000
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116 - Supreme Court –

Family Court Fund

(WV Code Chapter 51)

Fund 1763 FY 2022 Org 2400

Current Expenses	13000	\$ 1,050,000
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EXECUTIVE*117 - Governor's Office –**Minority Affairs Fund*

(WV Code Chapter 5)

Fund 1058 FY 2022 Org 0100

Personal Services and		
Employee Benefits.....	00100	\$ 177,737
Current Expenses	13000	503,200
Martin Luther King, Jr. Holiday		
Celebration.....	03100	<u>8,926</u>
Total.....		\$ 689,863

*118 - Auditor's Office –**Land Operating Fund*

(WV Code Chapters 11A, 12, and 36)

Fund 1206 FY 2022 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 799,211
Unclassified.....	09900	15,139
Current Expenses	13000	715,291
Repairs and Alterations.....	06400	2,600
Equipment.....	07000	426,741
Cost of Delinquent Land Sales	76800	<u>1,841,168</u>
Total.....		\$ 3,800,150

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the necessary amount for the expenditure of funds other than Personal Services and Employee Benefits to enable the division to pay the direct expenses relating to land sales as provided in Chapter 11A of the West Virginia Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

119 - Auditor's Office –

Local Government Purchasing Card Expenditure Fund

(WV Code Chapter 6)

Fund 1224 FY 2022 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 627,779
Current Expenses	13000	282,030
Repairs and Alterations.....	06400	6,000
Equipment.....	07000	10,805
Other Assets.....	69000	50,000
Statutory Revenue Distribution.....	74100	<u>3,500,000</u>
Total.....		\$ 4,476,614

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer of revenue distribution requirements to provide a proportionate share of rebates back to the general fund of local governments based on utilization of the program in accordance with W.Va. Code §6-9-2b.

120 - Auditor's Office –

Securities Regulation Fund

(WV Code Chapter 32)

Fund 1225 FY 2022 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 2,737,017
Unclassified.....	09900	31,866
Current Expenses	13000	1,463,830
Repairs and Alterations.....	06400	12,400
Equipment.....	07000	594,700
Other Assets.....	69000	<u>1,200,000</u>
Total.....		\$ 6,039,813

121 - Auditor's Office – Technology Support and Acquisition Fund

(WV Code Chapter 12)

Fund 1233 FY 2022 Org 1200

Current Expenses	13000	\$	10,000
Other Assets	69000		<u>5,000</u>
Total.....		\$	15,000

Fifty percent of the deposits made into this fund shall be transferred to the Treasurer's Office – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the purposes described in W.Va. Code §12-3-10c.

122 - Auditor's Office –

Purchasing Card Administration Fund

(WV Code Chapter 12)

Fund 1234 FY 2022 Org 1200

Personal Services and			
Employee Benefits.....	00100	\$	3,074,837
Current Expenses	13000		2,303,622
Repairs and Alterations.....	06400		5,500
Equipment.....	07000		850,000
Other Assets.....	69000		508,886
Statutory Revenue Distribution.....	74100		<u>8,000,000</u>
Total.....		\$	14,742,845

There is hereby appropriated from this fund, in addition to the above appropriations if needed, the amount necessary to meet the transfer and revenue distribution requirements to the Purchasing Improvement Fund (fund 2264), the Hatfield-McCoy Regional Recreation Authority, and the State Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

123 - Auditor's Office –

Chief Inspector's Fund

(WV Code Chapter 6)

Fund 1235 FY 2022 Org 1200

Personal Services and		
Employee Benefits.....	00100	\$ 3,583,096
Current Expenses	13000	765,915
Equipment.....	07000	<u>50,000</u>
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 2022 Org 1200

Volunteer Fire Department		
Workers' 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 2022 Org 1300

Personal Services and		
Employee Benefits.....	00100	\$ 810,372
Unclassified.....	09900	14,000
Current Expenses	13000	<u>897,559</u>
Total.....		\$ 1,721,931

*126 - Department of Agriculture –**Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 2,425,446
Unclassified.....	09900	37,425
Current Expenses	13000	1,856,184
Repairs and Alterations.....	06400	158,500
Equipment.....	07000	436,209
Other Assets.....	69000	10,000
Total.....		<u>\$ 4,923,764</u>

*127 - Department of Agriculture –**West Virginia Rural Rehabilitation Program*

(WV Code Chapter 19)

Fund 1408 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 78,251
Unclassified.....	09900	10,476
Current Expenses	13000	<u>2,200,000</u>
Total.....		<u>\$ 2,288,727</u>

*128 - Department of Agriculture –**General John McCausland Memorial Farm Fund*

(WV Code Chapter 19)

Fund 1409 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 71,937
Unclassified.....	09900	2,100
Current Expenses	13000	89,500
Repairs and Alterations.....	06400	36,400
Equipment.....	07000	<u>15,000</u>
Total.....		<u>\$ 214,937</u>

The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the Code.

129 - Department of Agriculture –

Farm Operating Fund

(WV Code Chapter 19)

Fund 1412 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 868,492
Unclassified.....	09900	15,173
Current Expenses	13000	1,367,464
Repairs and Alterations.....	06400	388,722
Equipment.....	07000	399,393
Other Assets.....	69000	<u>20,000</u>
Total.....		\$ 3,059,244

130 - Department of Agriculture –

Capital Improvements Fund

(WV Code Chapter 19)

Fund 1413 FY 2022 Org 1400

Unclassified.....	09900	20,000
Current Expenses	13000	510,000
Repairs and Alterations.....	06400	250,000
Equipment.....	07000	350,000
Building Improvements	25800	670,000
Other Assets.....	69000	<u>200,000</u>
Total.....		\$ 2,000,000

131 - Department of Agriculture –

Donated Food Fund

(WV Code Chapter 19)

Fund 1446 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 1,030,451
Unclassified.....	09900	45,807
Current Expenses	13000	3,410,542
Repairs and Alterations.....	06400	128,500
Equipment.....	07000	10,000
Other Assets.....	69000	27,000
Land	73000	<u>250,000</u>
Total.....		\$ 4,902,300

132 - Department of Agriculture –

Integrated Predation Management Fund

(WV Code Chapter 7)

Fund 1465 FY 2022 Org 1400

Current Expenses	13000	\$ 112,500
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133 - Department of Agriculture –

West Virginia Spay Neuter Assistance Fund

(WV Code Chapter 19)

Fund 1481 FY 2022 Org 1400

Current Expenses	13000	\$ 500,000
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134 - Department of Agriculture –

Veterans and Warriors to Agriculture Fund

(WV Code Chapter 19)

Fund 1483 FY 2022 Org 1400

Current Expenses	13000	\$ 7,500
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135 - Department of Agriculture –

State FFA-FHA Camp and Conference Center

(WV Code Chapters 18 and 18A)

Fund 1484 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 1,218,564
Unclassified.....	09900	17,000
Current Expenses	13000	1,143,306
Repairs and Alterations.....	06400	82,500
Equipment.....	07000	76,000
Buildings.....	25800	1,000
Other Assets.....	69000	10,000
Land.....	73000	<u>1,000</u>
Total.....		\$ 2,549,370

*136 - Attorney General –**Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2022 Org 1500

Personal Services and		
Employee Benefits.....	00100	\$ 363,466
Current Expenses	13000	148,803
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	<u>1,000</u>
Total.....		\$ 514,269

*137 - Attorney General –**Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2022 Org 1500

Personal Services and		
Employee Benefits.....	00100	\$ 222,569
Current Expenses	13000	54,615
Repairs and Alterations.....	06400	1,000

Equipment.....	07000		<u>1,000</u>
Total.....		\$	279,184

138 - Attorney General –

Preneed Funeral Guarantee Fund

(WV Code Chapter 47)

Fund 1514 FY 2022 Org 1500

Current Expenses	13000	\$	901,135
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139 - Secretary of State –

Service Fees and Collection Account

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2022 Org 1600

Personal Services and			
Employee Benefits.....	00100	\$	1,065,106
Unclassified.....	09900		4,524
Current Expenses	13000		<u>8,036</u>
Total.....		\$	1,077,666

140 - Secretary of State –

General Administrative Fees Account

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2022 Org 1600

Personal Services and			
Employee Benefits.....	00100	\$	2,947,630
Unclassified.....	09900		25,529
Current Expenses	13000		976,716
Technology Improvements	59900		<u>720,000</u>
Total.....		\$	4,669,875

DEPARTMENT OF ADMINISTRATION

141 - Department of Administration –

Office of the Secretary –

Tobacco Settlement Fund

(WV Code Chapter 4)

Fund 2041 FY 2022 Org 0201

Tobacco Settlement

Securitization Trustee

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 2022 Org 0201

Current Expenses 13000 \$ 34,747,000

The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be transferred to the Consolidated Public Retirement Board – Teachers’ Accumulation Fund (fund 2600).

143 - Department of Administration –

Division of Finance –

Shared Services Section Fund

(WV Code Chapter 5A)

Fund 2020 FY 2022 Org 0209

Personal Services and		
Employee Benefits.....	00100	\$ 1,500,000
Current Expenses	13000	<u>500,000</u>
Total.....		\$ 2,000,000

144 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2022 Org 0210

Personal Services and		
Employee Benefits.....	00100	\$ 22,464,463
Unclassified.....	09900	382,354
Current Expenses	13000	13,378,766
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	2,050,000
Other Assets.....	69000	<u>1,045,000</u>
Total.....		\$ 39,321,583

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Division of Information Services and Communications as provided by law.

Each spending unit operating from the General Revenue Fund, from special revenue funds or receiving reimbursement for postage from the federal government shall be charged monthly for all postage meter service and shall reimburse the revolving fund monthly for all such amounts.

145 - Division of Purchasing –

Vendor Fee Fund

(WV Code Chapter 5A)

Fund 2263 FY 2022 Org 0213

Personal Services and		
Employee Benefits.....	00100	\$ 566,589
Unclassified.....	09900	2,382
Current Expenses	13000	109,115

Repairs and Alterations.....	06400	5,000
Equipment.....	07000	2,500
Other Assets.....	69000	2,500
BRIM Premium.....	91300	810
Total.....		\$ 688,896

146 - Division of Purchasing –

Purchasing Improvement Fund

(WV Code Chapter 5A)

Fund 2264 FY 2022 Org 0213

Personal Services and		
Employee Benefits.....	00100	\$ 953,176
Unclassified.....	09900	5,562
Current Expenses	13000	492,066
Repairs and Alterations.....	06400	500
Equipment.....	07000	500
Other Assets.....	69000	500
BRIM Premium.....	91300	850
Total.....		\$ 1,453,154

147 - Travel Management –

Aviation Fund

(WV Code Chapter 5A)

Fund 2302 FY 2022 Org 0215

Unclassified.....	09900	\$ 1,000
Current Expenses	13000	149,700
Repairs and Alterations.....	06400	875,237
Equipment.....	07000	1,000
Buildings.....	25800	100
Other Assets.....	69000	100
Land	73000	100
Total.....		\$ 1,027,237

148 - Fleet Management Division Fund

(WV Code Chapter 5A)

Fund 2301 FY 2022 Org 0216

Personal Services and		
Employee Benefits.....	00100	\$ 757,145
Unclassified.....	09900	4,000
Current Expenses	13000	11,630,614
Repairs and Alterations.....	06400	12,000
Equipment.....	07000	800,000
Other Assets.....	69000	<u>2,000</u>
Total.....		\$ 13,205,759

149 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2022 Org 0222

Personal Services and		
Employee Benefits.....	00100	\$ 4,638,183
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	122,500
Unclassified.....	09900	51,418
Current Expenses	13000	1,262,813
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	20,000
Other Assets.....	69000	<u>60,000</u>
Total.....		\$ 6,159,914

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Personnel.

150 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2022 Org 0228

Personal Services and		
Employee Benefits.....	00100	\$ 132,663
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	119,000
Unclassified.....	09900	4,023
Current Expenses	13000	297,528
Repairs and Alterations	06400	600
Equipment.....	07000	500
Other Assets.....	69000	500
Total.....		<u>\$ 554,814</u>

151 - Office of Technology –

Chief Technology Officer Administration Fund

(WV Code Chapter 5A)

Fund 2531 FY 2022 Org 0231

Personal Services and		
Employee Benefits.....	00100	\$ 414,722
Unclassified.....	09900	6,949
Current Expenses	13000	227,116
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	50,000
Other Assets.....	69000	10,000
Total.....		<u>\$ 709,787</u>

From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit expenditures in excess of the funds authorized for expenditure herein.

DEPARTMENT OF COMMERCE

152 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2022 Org 0305

Personal Services and		
Employee Benefits.....	00100	\$ 1,574,177

Current Expenses	13000	141,631
Repairs and Alterations	06400	50,000
Equipment	07000	20,000
Other Assets	69000	<u>10,000</u>
Total		\$ 261,779

The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

156 - Division of Labor –

West Virginia Jobs Act Fund

(WV Code Chapter 21)

Fund 3176 FY 2022 Org 0308

Current Expenses	13000	75,000
Equipment	07000	<u>25,000</u>
Total		\$ 100,000

157 - Division of Labor –

HVAC Fund

(WV Code Chapter 21)

Fund 3186 FY 2022 Org 0308

Personal Services and Employee Benefits	00100	\$ 300,000
Unclassified	09900	4,000
Current Expenses	13000	82,000
Repairs and Alterations	06400	4,500
Buildings	25800	1,000
BRIM Premium	91300	<u>8,500</u>
Total		\$ 400,000

158 - Division of Labor –

Contractor Licensing Board Fund

(WV Code Chapter 21)

Fund 3187 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 2,532,000
Unclassified.....	09900	21,000
Current Expenses	13000	500,000
Repairs and Alterations.....	06400	10,000
BRIM Premium.....	91300	8,500
Total.....		<u>\$ 3,071,500</u>

*159 - Division of Labor –**Elevator Safety Fund*

(WV Code Chapter 21)

Fund 3188 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 293,682
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	104,180
Unclassified.....	09900	2,261
Current Expenses	13000	94,712
Repairs and Alterations.....	06400	2,000
Buildings	25800	1,000
BRIM Premium.....	91300	8,500
Total.....		<u>\$ 506,335</u>

*160 - Division of Labor –**Steam Boiler Fund*

(WV Code Chapter 21)

Fund 3189 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 77,716
Unclassified.....	09900	1,000

Current Expenses	13000	20,000
Repairs and Alterations	06400	2,000
Buildings	25800	1,000
BRIM Premium.....	91300	1,000
Total.....		\$ 102,716

161 - Division of Labor –

Crane Operator Certification Fund

(WV Code Chapter 21)

Fund 3191 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 191,899
Unclassified.....	09900	1,380
Current Expenses	13000	51,265
Repairs and Alterations.....	06400	1,500
Buildings	25800	1,000
BRIM Premium.....	91300	7,000
Total.....		\$ 254,044

162 - Division of Labor –

Amusement Rides and Amusement Attraction Safety Fund

(WV Code Chapter 21)

Fund 3192 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 187,462
Unclassified.....	09900	1,281
Current Expenses	13000	44,520
Repairs and Alterations.....	06400	2,000
Buildings	25800	1,000
BRIM Premium.....	91300	8,500
Total.....		\$ 244,763

*163 - Division of Labor –**State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 289,199
Unclassified.....	09900	1,847
Current Expenses	13000	43,700
Repairs and Alterations.....	06400	1,000
Buildings.....	25800	1,000
BRIM Premium.....	91300	<u>3,404</u>
Total.....		\$ 340,150

*164 - Division of Labor –**Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2022 Org 0308

Unclassified.....	09900	\$ 1,200
Current Expenses	13000	93,000
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
BRIM Premium.....	91300	<u>7,000</u>
Total.....		\$ 121,200

*165 - Division of Labor –**Bedding and Upholstery Fund*

(WV Code Chapter 21)

Fund 3198 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 150,000

Unclassified.....	09900		2,000
Current Expenses	13000		145,400
Repairs and Alterations.....	06400		2,000
Buildings	25800		1,000
BRIM Premium.....	91300		8,700
Total.....		\$	309,100

166 - Division of Labor –

Psychophysiological Examiners Fund

(WV Code Chapter 21)

Fund 3199 FY 2022 Org 0308

Current Expenses	13000	\$	4,000
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167 - Division of Natural Resources –

License Fund – Wildlife Resources

(WV Code Chapter 20)

Fund 3200 FY 2022 Org 0310

Wildlife Resources.....	02300	\$	5,200,996
Administration	15500		1,300,249
Capital Improvements and Land Purchase (R)	24800		1,300,248
Law Enforcement.....	80600		5,200,996
Total.....		\$	13,002,489

The total amount of these appropriations shall be paid from a special revenue fund out of fees collected by the Division of Natural Resources.

Any unexpended balance remaining in the appropriation for Capital Improvements and Land Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

*168 - Division of Natural Resources –**Natural Resources Game Fish and Aquatic Life Fund*

(WV Code Chapter 22)

Fund 3202 FY 2022 Org 0310

Current Expenses	13000	\$	125,000
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*169 - Division of Natural Resources –**Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2022 Org 0310

Personal Services and			
Employee Benefits.....	00100	\$	688,103
Current Expenses	13000		201,810
Equipment.....	07000		<u>106,615</u>
Total.....		\$	996,528

*170 - Division of Natural Resources –**Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2022 Org 0310

Personal Services and			
Employee Benefits.....	00100	\$	457,738
Current Expenses	13000		257,864
Repairs and Alterations.....	06400		15,016
Equipment.....	07000		8,300
Buildings.....	25800		8,300
Other Assets.....	69000		1,900,000
Land	73000		<u>31,700</u>
Total.....		\$	2,678,918

171 - Division of Natural Resources –

State Parks and Recreation Endowment Fund

(WV Code Chapter 20)

Fund 3211 FY 2022 Org 0310

Current Expenses	13000	\$	6,000
Repairs and Alterations.....	06400		3,000
Equipment.....	07000		2,000
Buildings.....	25800		3,000
Other Assets.....	69000		4,000
Land	73000		<u>2,000</u>
Total.....		\$	20,000

172 - Division of Natural Resources –

Whitewater Study and Improvement Fund

(WV Code Chapter 20)

Fund 3253 FY 2022 Org 0310

Personal Services and Employee Benefits.....	00100	\$	67,641
Current Expenses	13000		64,778
Equipment.....	07000		1,297
Buildings.....	25800		<u>6,969</u>
Total.....		\$	140,685

173 - Division of Natural Resources –

Whitewater Advertising and Promotion Fund

(WV Code Chapter 20)

Fund 3256 FY 2022 Org 0310

Unclassified.....	09900	\$	200
Current Expenses	13000		<u>19,800</u>
Total.....		\$	20,000

*174 - Division of Miners' Health, Safety and Training –
Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2022 Org 0314

Personal Services and		
Employee Benefits.....	00100	\$ 501,228
Unclassified.....	09900	40,985
Current Expenses	13000	1,954,557
WV Mining Extension Service	02600	150,000
Buildings	25800	2,481,358
Land	73000	<u>1,000,000</u>
Total.....		\$ 6,128,128

175 - Department of Commerce –

Office of the Secretary –

Marketing and Communications Operating Fund

(WV Code Chapter 5B)

Fund 3002 FY 2022 Org 0327

Personal Services and		
Employee Benefits.....	00100	\$ 2,069,353
Unclassified.....	09900	30,000
Current Expenses	13000	1,315,078
Equipment.....	07000	<u>36,000</u>
Total.....		\$ 3,450,431

176 - Department of Commerce –

Office of the Secretary –

Broadband Enhancement Fund

Fund 3013 FY 2022 Org 0327

Personal Services and		
Employee Benefits.....	00100	\$ 131,682
Current Expenses	13000	<u>51,648,318</u>
Total.....		\$ 51,780,000

177 - State Board of Rehabilitation –

Division of Rehabilitation Services –

West Virginia Rehabilitation Center Special Account

(WV Code Chapter 18)

Fund 8664 FY 2022 Org 0932

Personal Services and		
Employee Benefits.....	00100	\$ 119,738
Current Expenses	13000	1,180,122
Repairs and Alterations.....	06400	85,500
Equipment.....	07000	220,000
Buildings.....	25800	150,000
Other Assets.....	69000	<u>150,000</u>
Total.....		\$ 1,905,360

DEPARTMENT OF ECONOMIC DEVELOPMENT

178 - Department of Economic Development –

Office of the Secretary –

Entrepreneurship and Innovation Investment Fund

(WV Code Chapter 5B)

Fund 3014 FY 2022 Org 0307

Entrepreneurship and		
Innovation Investment Fund.....	70301	\$ 500,000

179 - Department of Economic Development –

Office of the Secretary –

Office of Coalfield Community Development

(WV Code Chapter 5B)

Fund 3162 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 435,661
Unclassified.....	09900	8,300
Current Expenses	13000	<u>399,191</u>
Total.....		\$ 843,152

*180 - Department of Economic Development –**Office of Energy –**Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2022 Org 0328

Energy Assistance – Total	64700	\$ 7,211
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DEPARTMENT OF EDUCATION*181 - State Board of Education –**Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 134,000
Unclassified.....	09900	1,000
Current Expenses	13000	<u>765,000</u>
Total.....		\$ 900,000

*182 - State Board of Education –**School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3952 FY 2022 Org 0404

SBA Construction Grants	24000	\$	35,845,818
Directed Transfer	70000		<u>1,371,182</u>
Total.....		\$	37,217,000

The above appropriation for Directed Transfer (fund 3951, appropriation 70000) shall be transferred to the School Building Authority Fund (fund 3959) for the administrative expenses of the School Building Authority.

183 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2022 Org 0404

Personal Services and			
Employee Benefits.....	00100	\$	1,134,522
Current Expenses	13000		244,100
Repairs and Alterations.....	06400		13,150
Equipment.....	07000		<u>26,000</u>
Total.....		\$	1,417,772

DEPARTMENT OF ARTS, CULTURE, AND HISTORY*184 - Division of Culture and History –**Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2022 Org 0432

Personal Services and			
Employee Benefits.....	00100	\$	226,624
Current Expenses	13000		862,241
Equipment.....	07000		75,000
Buildings.....	25800		1,000
Other Assets.....	69000		52,328

Land	73000	1,000
Total.....		\$ 1,218,193

DEPARTMENT OF ENVIRONMENTAL PROTECTION

185 - Solid Waste Management Board

(WV Code Chapter 22C)

Fund 3288 FY 2022 Org 0312

Personal Services and		
Employee Benefits.....	00100	\$ 842,305
Current Expenses	13000	2,060,457
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	5,000
Other Assets.....	69000	4,403
Total.....		\$ 2,913,165

186 - Division of Environmental Protection –

Hazardous Waste Management Fund

(WV Code Chapter 22)

Fund 3023 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 779,766
Unclassified.....	09900	8,072
Current Expenses	13000	155,969
Repairs and Alterations.....	06400	500
Equipment.....	07000	1,505
Other Assets.....	69000	2,000
Total.....		\$ 947,812

187 - Division of Environmental Protection –

Air Pollution Education and Environment Fund

(WV Code Chapter 22)

Fund 3024 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 950,135
Unclassified.....	09900	14,647
Current Expenses	13000	1,026,863
Repairs and Alterations.....	06400	13,000
Equipment.....	07000	53,105
Other Assets.....	69000	<u>20,000</u>
Total.....		\$ 2,077,750

188 - Division of Environmental Protection –

Special Reclamation Fund

(WV Code Chapter 22)

Fund 3321 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 1,627,573
Current Expenses	13000	16,185,006
Repairs and Alterations.....	06400	79,950
Equipment.....	07000	130,192
Other Assets.....	69000	<u>32,000</u>
Total.....		\$ 18,054,721

189 - Division of Environmental Protection –

Oil and Gas Reclamation Fund

(WV Code Chapter 22)

Fund 3322 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 543,906
Current Expenses	13000	<u>1,956,094</u>
Total.....		\$ 2,500,000

190 - Division of Environmental Protection –

Oil and Gas Operating Permit and Processing Fund

(WV Code Chapter 22)

Fund 3323 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 2,141,500
Unclassified.....	09900	15,700
Current Expenses	13000	932,300
Repairs and Alterations.....	06400	9,500
Equipment.....	07000	500
Other Assets.....	69000	500
Total.....		<u>\$ 3,100,000</u>

*191 - Division of Environmental Protection –**Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 3,566,280
Unclassified.....	09900	920
Current Expenses	13000	2,202,231
Repairs and Alterations.....	06400	60,260
Equipment.....	07000	83,000
Other Assets.....	69000	57,500
Total.....		<u>\$ 5,970,191</u>

*192 - Division of Environmental Protection –**Underground Storage Tank**Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 476,417

Unclassified.....	09900	7,520
Current Expenses	13000	318,420
Repairs and Alterations.....	06400	5,350
Equipment.....	07000	3,610
Other Assets.....	69000	<u>3,500</u>
Total.....		\$ 814,817

193 - Division of Environmental Protection –

Hazardous Waste Emergency Response Fund

(WV Code Chapter 22)

Fund 3331 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 598,154
Unclassified.....	09900	10,616
Current Expenses	13000	767,905
Repairs and Alterations.....	06400	7,014
Equipment.....	07000	9,000
Other Assets.....	69000	<u>3,500</u>
Total.....		\$ 1,396,189

194 - Division of Environmental Protection –

Solid Waste Reclamation and

Environmental Response Fund

(WV Code Chapter 22)

Fund 3332 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 825,811
Unclassified.....	09900	22,900
Current Expenses	13000	3,604,737
Repairs and Alterations.....	06400	25,000
Equipment.....	07000	31,500
Buildings.....	25800	500
Other Assets.....	69000	<u>1,000</u>

Total.....		\$	4,511,448
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195 - Division of Environmental Protection –

Solid Waste Enforcement Fund

(WV Code Chapter 22)

Fund 3333 FY 2022 Org 0313

Personal Services and			
Employee Benefits.....	00100	\$	3,274,054
Unclassified.....	09900		31,145
Current Expenses	13000		940,229
Repairs and Alterations.....	06400		30,930
Equipment.....	07000		23,356
Other Assets.....	69000		<u>25,554</u>
Total.....		\$	4,325,268

196 - Division of Environmental Protection –

Air Pollution Control Fund

(WV Code Chapter 22)

Fund 3336 FY 2022 Org 0313

Personal Services and			
Employee Benefits.....	00100	\$	5,934,859
Unclassified.....	09900		70,572
Current Expenses	13000		1,469,467
Repairs and Alterations.....	06400		84,045
Equipment.....	07000		103,601
Other Assets.....	69000		<u>52,951</u>
Total.....		\$	7,715,495

197 - Division of Environmental Protection –

Environmental Laboratory

Certification Fund

(WV Code Chapter 22)

Fund 3340 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 352,834
Unclassified.....	09900	1,120
Current Expenses	13000	201,146
Repairs and Alterations.....	06400	1,000
Other Assets.....	69000	<u>163,000</u>
Total.....		\$ 719,100

*198 - Division of Environmental Protection –**Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2022 Org 0313

Current Expenses	13000	\$ 5,182,076
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*199 - Division of Environmental Protection –**Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2022 Org 0313

Current Expenses	13000	\$ 60,000
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*200 - Division of Environmental Protection –**Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 660,575
Unclassified.....	09900	400

Personal Services and		
Employee Benefits.....	00100	\$ 162,161
Current Expenses	13000	161,225
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	9,481
Other Assets.....	69000	<u>1,500</u>
Total.....		\$ 335,367

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

204 - Division of Health –

Ryan Brown Addiction Prevention and Recovery Fund

(WV Code Chapter 19)

Fund 5111 FY 2022 Org 0506

Current Expenses	13000	\$ 10,667,392
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205 - Division of Health –

The Vital Statistics Account

(WV Code Chapter 16)

Fund 5144 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 938,484
Unclassified.....	09900	15,500
Current Expenses	13000	<u>2,757,788</u>
Total.....		\$ 3,711,772

206 - Division of Health –

Hospital Services Revenue Account

Special Fund

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2022 Org 0506

Institutional Facilities Operations	33500	\$ 35,555,221
Medical Services Trust		
Fund – Transfer.....	51200	<u>27,800,000</u>
Total.....		\$ 63,355,221

The total amount of these appropriations shall be paid from the Hospital Services Revenue Account Special Fund created by W.Va. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities.

Additional funds have been appropriated in fund 0525, fiscal year 2022, organization 0506, for the operation of the institutional facilities. The Secretary of the Department of Health and Human Resources is authorized to utilize up to ten percent of the funds from the appropriation for Institutional Facilities Operations to facilitate cost effective and cost saving services at the community level.

Necessary funds from the above appropriation may be used for medical facilities operations, either in connection with this fund or in connection with the appropriation designated Institutional Facilities Operations in the Consolidated Medical Service Fund (fund 0525, organization 0506).

207 - Division of Health –

Laboratory Services Fund

(WV Code Chapter 16)

Fund 5163 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 936,712
Unclassified.....	09900	18,114
Current Expenses	13000	<u>2,209,105</u>
Total.....		\$ 3,163,931

208 - Division of Health –

The Health Facility Licensing Account

(WV Code Chapter 16)

Fund 5172 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 645,446
Unclassified.....	09900	7,113
Current Expenses	13000	<u>98,247</u>
Total.....		\$ 750,806

*209 - Division of Health –**Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2022 Org 0506

Current Expenses	13000	\$ 9,740
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*210 - Division of Health –**Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 19,100
Unclassified.....	09900	373
Current Expenses	13000	<u>17,875</u>
Total.....		\$ 37,348

*211 - Division of Health –**West Virginia Birth-to-Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 691,978
Unclassified.....	09900	223,999
Current Expenses	13000	<u>30,134,400</u>
Total.....		\$ 31,050,377

212 - Division of Health –

Tobacco Control Special Fund

(WV Code Chapter 16)

Fund 5218 FY 2022 Org 0506

Current Expenses	13000	\$ 7,579
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213 - Division of Health –

Medical Cannabis Program Fund

(WV Code Chapter 16A)

Fund 5420 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 509,658
Current Expenses	13000	<u>2,046,040</u>
Total.....		\$ 2,555,698

214 - West Virginia Health Care Authority –

Health Care Cost Review Fund

(WV Code Chapter 16)

Fund 5375 FY 2022 Org 0507

Personal Services and		
Employee Benefits.....	00100	\$ 1,345,380
Unclassified.....	09900	20,100
Current Expenses	13000	<u>785,445</u>
Total.....		\$ 2,150,925

The above appropriation is to be expended in accordance with and pursuant to the provisions of W.Va. Code §16-29B and from the special revolving fund designated Health Care Cost Review Fund.

215 - West Virginia Health Care Authority –

Certificate of Need Program Fund

(WV Code Chapter 16)

Fund 5377 FY 2022 Org 0507

Personal Services and		
Employee Benefits.....	00100	\$ 829,798
Current Expenses	13000	<u>474,967</u>
Total.....		\$ 1,304,765

216 - Division of Human Services –

Health Care Provider Tax –

Medicaid State Share Fund

(WV Code Chapter 11)

Fund 5090 FY 2022 Org 0511

Medical Services.....	18900	\$ 213,594,315
Medical Services		
Administrative Costs	78900	<u>242,287</u>
Total.....		\$ 213,836,602

The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation 78900) shall be transferred to a special revenue account in the treasury for use by the Department of Health and Human Resources for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the Medical Services Program Fund (fund 5084).

*217 - Division of Human Services –**Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2022 Org 0511

Personal Services and

Employee Benefits.....	00100	\$ 24,809,509
Unclassified.....	09900	380,000
Current Expenses	13000	<u>12,810,491</u>
Total.....		\$ 38,000,000

*218 - Division of Human Services –**Medical Services Trust Fund*

(WV Code Chapter 9)

Fund 5185 FY 2022 Org 0511

Medical Services.....	18900	\$ 77,500,000
Medical Services		
Administrative Costs	78900	<u>602,486</u>
Total.....		\$ 78,102,486

The above appropriation to Medical Services shall be used to provide state match of Medicaid expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a. Expenditures from the fund are limited to the following: payment of backlogged billings, funding for services to future federally mandated population groups and payment of the required state match for Medicaid disproportionate share payments. The remainder of all moneys deposited in the fund shall be transferred to the Division of Human Services accounts.

*219 - Division of Human Services –**James “Tiger” Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2022 Org 0511

Unclassified.....	09900	\$	7,000
Current Expenses	13000		<u>393,000</u>
Total.....		\$	400,000

220 - Division of Human Services –

Domestic Violence Legal Services Fund

(WV Code Chapter 48)

Fund 5455 FY 2022 Org 0511

Current Expenses	13000	\$	900,000
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221 - Division of Human Services –

West Virginia Works Separate State College Program Fund

(WV Code Chapter 9)

Fund 5467 FY 2022 Org 0511

Current Expenses	13000	\$	500,000
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222 - Division of Human Services –

West Virginia Works Separate State Two-Parent Program Fund

(WV Code Chapter 9)

Fund 5468 FY 2022 Org 0511

Current Expenses	13000	\$	1,500,000
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223 - Division of Human Services –

Marriage Education Fund

(WV Code Chapter 9)

Fund 5490 FY 2022 Org 0511

Personal Services and Employee Benefits.....	00100	\$	10,000
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Current Expenses	13000		<u>25,000</u>
Total.....		\$	35,000

DEPARTMENT OF HOMELAND SECURITY

224 - Department of Homeland Security –

Office of the Secretary –

Law-Enforcement, Safety and Emergency Worker

Funeral Expense Payment Fund

(WV Code Chapter 15)

Fund 6003 FY 2022 Org 0601

Current Expenses	13000	\$	32,000
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225 - Division of Emergency Management –

Statewide Interoperable Radio Network Account

(WV Code Chapter 15)

Fund 6208 FY 2022 Org 0606

Current Expenses	13000	\$	80,000
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226 - Division of Emergency Management –

West Virginia Interoperable Radio Project

(WV Code Chapter 24)

Fund 6295 FY 2022 Org 0606

Unclassified.....	09900	\$	20,000
Current Expenses	13000		1,480,000
Repairs and Alterations.....	06400		250,000
Equipment.....	07000		<u>250,000</u>
Total.....		\$	2,000,000

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 6295, appropriation 09600) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

227 - Division of Corrections and Rehabilitation –

Parolee Supervision Fees

(WV Code Chapter 15A)

Fund 6362 FY 2022 Org 0608

Personal Services and		
Employee Benefits.....	00100	\$ 1,118,697
Unclassified.....	09900	9,804
Current Expenses	13000	758,480
Equipment.....	07000	30,000
Other Assets.....	69000	<u>40,129</u>
Total.....		\$ 1,957,110

228 - Division of Corrections and Rehabilitation –

Regional Jail and Correctional Facility Authority

(WV Code Chapter 15A)

Fund 6675 FY 2022 Org 0608

Personal Services and		
Employee Benefits.....	00100	\$ 544,798
Debt Service.....	04000	9,000,000
Current Expenses	13000	<u>245,472</u>
Total.....		\$ 9,790,270

229 - West Virginia State Police –

Motor Vehicle Inspection Fund

(WV Code Chapter 17C)

Fund 6501 FY 2022 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 1,907,726
Current Expenses	13000	1,488,211
Repairs and Alterations.....	06400	204,500
Equipment	07000	3,770,751
Buildings.....	25800	534,000
Other Assets.....	69000	5,000
BRIM Premium.....	91300	<u>302,432</u>
Total.....		\$ 8,212,620

The total amount of these appropriations shall be paid from the special revenue fund out of fees collected for inspection stickers as provided by law.

230 - West Virginia State Police –

Forensic Laboratory Fund

(WV Code Chapter 15)

Fund 6511 FY 2022 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 1,600,000
Current Expenses	13000	90,000
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	<u>545,000</u>
Total.....		\$ 2,240,000

231 - West Virginia State Police –

Drunk Driving Prevention Fund

(WV Code Chapter 15)

Fund 6513 FY 2022 Org 0612

Current Expenses	13000	\$ 1,327,000
Equipment.....	07000	3,491,895
BRIM Premium.....	91300	<u>154,452</u>
Total.....		\$ 4,973,347

The total amount of these appropriations shall be paid from the special revenue fund out of receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund account in the State Treasury.

232 - West Virginia State Police –

Surplus Real Property Proceeds Fund

(WV Code Chapter 15)

Fund 6516 FY 2022 Org 0612

Buildings	25800	\$	1,022,778
Land	73000		1,000
BRIM Premium.....	91300		<u>77,222</u>
Total.....		\$	1,101,000

233 - West Virginia State Police –

Surplus Transfer Account

(WV Code Chapter 15)

Fund 6519 FY 2022 Org 0612

Current Expenses	13000	\$	225,000
Repairs and Alterations	06400		20,000
Equipment.....	07000		250,000
Buildings	25800		40,000
Other Assets.....	69000		45,000
BRIM Premium.....	91300		<u>5,000</u>
Total.....		\$	585,000

234 - West Virginia State Police –

Central Abuse Registry Fund

(WV Code Chapter 15)

Fund 6527 FY 2022 Org 0612

Personal Services and		
Employee Benefits.....	00100	\$ 256,629
Current Expenses	13000	376,443
Repairs and Alterations.....	06400	500
Equipment.....	07000	300,500
Other Assets.....	69000	300,500
BRIM Premium.....	91300	<u>18,524</u>
Total.....		\$ 1,253,096

235 - West Virginia State Police –

Bail Bond Enforcer Account

(WV Code Chapter 15)

Fund 6532 FY 2022 Org 0612

Current Expenses	13000	\$ 8,300
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236 - West Virginia State Police –

State Police Academy Post Exchange

(WV Code Chapter 15)

Fund 6544 FY 2022 Org 0612

Current Expenses	13000	\$ 160,000
Repairs and Alterations.....	06400	<u>40,000</u>
Total.....		\$ 200,000

237 - Fire Commission –

Fire Marshal Fees

(WV Code Chapter 29)

Fund 6152 FY 2022 Org 0619

Personal Services and		
Employee Benefits.....	00100	\$ 3,480,533
Unclassified.....	09900	3,800
Current Expenses	13000	1,246,550

Repairs and Alterations.....	06400	58,500
Equipment.....	07000	140,800
BRIM Premium.....	91300	<u>65,000</u>
Total.....		\$ 4,995,183

238 - *Division of Administrative Services –*

WV Community Corrections Fund

(WV Code Chapter 62)

Fund 6386 FY 2022 Org 0623

Personal Services and Employee Benefits.....	00100	\$ 161,923
Unclassified.....	09900	750
Current Expenses	13000	1,846,250
Repairs and Alterations.....	06400	<u>1,000</u>
Total.....		\$ 2,009,923

239 - *Division of Administrative Services –*

Court Security Fund

(WV Code Chapter 51)

Fund 6804 FY 2022 Org 0623

Personal Services and Employee Benefits.....	00100	\$ 23,840
Current Expenses	13000	<u>1,478,135</u>
Total.....		\$ 1,501,975

240 - *Division of Administrative Services –*

Second Chance Driver's License Program Account

(WV Code Chapter 17B)

Fund 6810 FY 2022 Org 0623

Current Expenses	13000	\$ 125,000
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DEPARTMENT OF REVENUE*241 - Division of Financial Institutions*

(WV Code Chapter 31A)

Fund 3041 FY 2022 Org 0303

Personal Services and		
Employee Benefits.....	00100	\$ 2,584,057
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	119,000
Current Expenses	13000	650,475
Equipment.....	07000	<u>8,500</u>
Total.....		\$ 3,362,032

*242 - Office of the Secretary –**State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2022 Org 0701

Retirement Systems –		
Unfunded Liability.....	77500	\$ 20,000,000

The above appropriation for Retirement System – Unfunded Liability shall be transferred to the Consolidated Public Retirement Board – West Virginia Teachers Retirement System Employers School Aid Formula Funds Holding Account Fund (fund 2606).

243 - Home Rule Board Operations

(WV Code Chapter 8)

Fund 7010 FY 2022 Org 0701

Personal Services and		
Employee Benefits.....	00100	\$ 25,000
Unclassified.....	09900	680
Current Expenses	13000	42,000

Repairs and Alterations.....	06400		120
Equipment.....	07000		200
Total.....		\$	68,000

244 - Tax Division –

Cemetery Company Account

(WV Code Chapter 35)

Fund 7071 FY 2022 Org 0702

Personal Services and Employee Benefits.....	00100	\$	25,928
Current Expenses	13000		7,717
Total.....		\$	33,645

245 - Tax Division –

Special Audit and Investigative Unit

(WV Code Chapter 11)

Fund 7073 FY 2022 Org 0702

Personal Services and Employee Benefits.....	00100	\$	696,428
Unclassified.....	09900		8,500
Current Expenses	13000		273,297
Repairs and Alterations.....	06400		7,000
Equipment.....	07000		5,000
Total.....		\$	990,225

246 - Tax Division –

Wine Tax Administration Fund

(WV Code Chapter 60)

Fund 7087 FY 2022 Org 0702

Personal Services and Employee Benefits.....	00100	\$	268,973
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Public Employees Insurance

Reserve Fund – Transfer.....	90300	\$	6,800,000
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The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be transferred to the Medical Services Trust Fund (fund 5185, org 0511) for expenditure.

*250 - Insurance Commissioner –**Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2022 Org 0704

Personal Services and

Employee Benefits.....	00100	\$	748,764
Current Expenses	13000		1,357,201
Repairs and Alterations.....	06400		3,000
Equipment.....	07000		81,374
Buildings.....	25800		8,289
Other Assets.....	69000		11,426
Total.....		\$	2,210,054

*251 - Insurance Commissioner –**Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2022 Org 0704

Personal Services and

Employee Benefits.....	00100	\$	571,976
Current Expenses	13000		202,152
Repairs and Alterations.....	06400		5,000
Equipment.....	07000		34,225
Buildings.....	25800		4,865
Other Assets.....	69000		19,460
Total.....		\$	837,678

252 - Insurance Commissioner –

Insurance Commission Fund

(WV Code Chapter 33)

Fund 7152 FY 2022 Org 0704

Personal Services and		
Employee Benefits.....	00100	\$ 24,032,521
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	136,500
Current Expenses	13000	8,797,758
Repairs and Alterations.....	06400	68,614
Equipment.....	07000	1,728,240
Buildings.....	25800	25,000
Other Assets.....	69000	<u>340,661</u>
Total.....		\$ 35,129,294

253 - Insurance Commissioner –

Insurance Fraud Prevention Fund

(WV Code Chapter 33)

Fund 7153 FY 2022 Org 0704

Current Expenses	13000	\$ 15,000
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254 - Insurance Commissioner –

Workers' Compensation Old Fund

(WV Code Chapter 23)

Fund 7162 FY 2022 Org 0704

Employee Benefits	01000	\$ 50,000
Current Expenses	13000	<u>250,500,000</u>
Total.....		\$ 250,550,000

255 - Insurance Commissioner –

Workers' Compensation Uninsured Employers' Fund

(WV Code Chapter 23)

Fund 7163 FY 2022 Org 0704

Current Expenses 13000 \$ 15,000,000

256 - Insurance Commissioner –

Self-Insured Employer Guaranty Risk Pool

(WV Code Chapter 23)

Fund 7164 FY 2022 Org 0704

Current Expenses 13000 \$ 9,000,000

257 - Insurance Commissioner –

Self-Insured Employer Security Risk Pool

(WV Code Chapter 23)

Fund 7165 FY 2022 Org 0704

Current Expenses 13000 \$ 14,000,000

258 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2022 Org 0706

Personal Services and		
Employee Benefits.....	00100	\$ 309,502
Current Expenses	13000	154,344
Equipment.....	07000	<u>100</u>
Total.....		\$ 463,946

*259 - Racing Commission –**Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2022 Org 0707

Medical Expenses – Total.....	24500	\$	57,000
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The total amount of this appropriation shall be paid from the special revenue fund out of collections of license fees and fines as provided by law.

No expenditures shall be made from this fund except for hospitalization, medical care and/or funeral expenses for persons contributing to this fund.

*260 - Racing Commission –**Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2022 Org 0707

Personal Services and			
Employee Benefits.....	00100	\$	264,564
Current Expenses	13000		85,433
Other Assets.....	69000		<u>5,000</u>
Total.....		\$	354,997

*261 - Racing Commission –**General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2022 Org 0707

Personal Services and			
Employee Benefits.....	00100	\$	2,303,863

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	48,443
Current Expenses	13000	497,284
Repairs and Alterations	06400	5,000
Other Assets	69000	40,000
Total		\$ 2,894,590

262 - Racing Commission –

*Administration, Promotion, Education, Capital Improvement
and Greyhound Adoption Programs*

to include Spaying and Neutering Account

(WV Code Chapter 19)

Fund 7307 FY 2022 Org 0707

Personal Services and

Employee Benefits	00100	\$ 918,781
Current Expenses	13000	160,099
Other Assets	69000	200,000
Total		\$ 1,278,880

*263 - Alcohol Beverage Control Administration –**Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2022 Org 0708

Personal Services and

Employee Benefits	00100	\$ 147,213
Current Expenses	13000	54,186
Repairs and Alterations	06400	7,263
Equipment	07000	10,000
Buildings	25800	100,000
Transfer Liquor Profits and Taxes	42500	30,750
Other Assets	69000	100
Total		\$ 349,512

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services and Employee Benefits appropriation for field auditors.

264 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2022 Org 0708

Personal Services and		
Employee Benefits.....	00100	\$ 5,668,074
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	122,500
Current Expenses	13000	2,890,577
Repairs and Alterations.....	06400	91,000
Equipment.....	07000	108,000
Buildings.....	25800	375,100
Purchase of Supplies for Resale.....	41900	76,500,000
Transfer Liquor Profits and Taxes	42500	21,200,000
Other Assets.....	69000	125,100
Land	73000	100
Total.....		\$ 107,080,451

The total amount of these appropriations shall be paid from a special revenue fund out of liquor revenues and any other revenues available.

The above appropriations include the salary of the commissioner and the salaries, expenses, and equipment of administrative offices, warehouses, and inspectors.

The above appropriations include funding for the Tobacco/Alcohol Education Program.

There is hereby appropriated from liquor revenues, in addition to the above appropriations as needed, the necessary amount for the purchase of liquor as provided by law and the remittance of profits and taxes to the General Revenue Fund.

265 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2022 Org 0933

Personal Services and		
Employee Benefits.....	00100	\$ 12,000
Current Expenses	13000	<u>28,000</u>
Total.....		\$ 40,000

DEPARTMENT OF TRANSPORTATION*266 - Division of Motor Vehicles –**Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2022 Org 0802

Current Expenses	13000	\$ 189,000
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*267 - Division of Motor Vehicles –**Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2022 Org 0802

Personal Services and		
Employee Benefits.....	00100	\$ 3,733,074
Current Expenses	13000	4,357,773
Repairs and Alterations.....	06400	16,000
Equipment.....	07000	75,000
Other Assets.....	69000	10,000
BRIM Premium.....	91300	<u>89,939</u>
Total.....		\$ 8,281,786

*268 - Division of Highways –**A. James Manchin Fund*

2021] HOUSE OF DELEGATES 3601

(WV Code Chapter 22)

Fund 8319 FY 2022 Org 0803

Current Expenses 13000 \$ 2,500,000

269 - State Rail Authority -

West Virginia Commuter Rail Access Fund

(WV Code Chapter 29)

Fund 8402 FY 2022 Org 0804

Current Expenses 13000 \$ 600,000

DEPARTMENT OF VETERANS' ASSISTANCE

270 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2022 Org 0613

Current Expenses 13000 \$ 1,654,234

Other Assets 69000 10,000

Total \$ 1,664,234

271 - Department of Veterans' Assistance -

WV Veterans' Home -

Special Revenue Operating Fund

(WV Code Chapter 9A)

Fund 6754 FY 2022 Org 0618

Current Expenses 13000 \$ 289,400

Repairs and Alterations 06400 10,600

Total \$ 300,000

BUREAU OF SENIOR SERVICES

272 - Bureau of Senior Services –

Community Based Service Fund

(WV Code Chapter 29)

Fund 5409 FY 2022 Org 0508

Personal Services and		
Employee Benefits.....	00100	\$ 148,983
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	11,900
Current Expenses	13000	<u>10,348,710</u>
Total.....		\$ 10,509,593

The total amount of these appropriations are funded from annual table game license fees to enable the aged and disabled citizens of West Virginia to stay in their homes through the provision of home and community-based services.

HIGHER EDUCATION POLICY COMMISSION

273 - 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 2022 Org 0442

Debt Service.....	04000	\$ 27,713,123
General Capital Expenditures	30600	5,000,000
Facilities Planning and		
Administration	38600	<u>441,111</u>
Total.....		\$ 33,154,234

The total amount of these appropriations shall be paid from the Special Capital Improvement Fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for Debt Service, may be transferred to special revenue funds for capital improvement projects at the institutions.

274 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2022 Org 0442

Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906, appropriation 51100) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.

The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.

275 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2022 Org 0442

Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, appropriation 95800) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

The total amount of this appropriation shall be paid from the sale of the Series 2017 Community and Technical College Capital Improvement Refunding Revenue Bonds and anticipated interest earnings.

276 - West Virginia University –

West Virginia University Health Sciences Center

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2022 Org 0463

Personal Services and		
Employee Benefits.....	00100	\$ 10,764,347
Current Expenses	13000	4,524,300
Repairs and Alterations.....	06400	425,000
Equipment.....	07000	512,000
Buildings.....	25800	150,000
Other Assets.....	69000	<u>50,000</u>
Total.....		\$ 16,425,647

MISCELLANEOUS BOARDS AND COMMISSIONS

277 - Board of Barbers and Cosmetologists –

Barbers and Beauticians Special Fund

(WV Code Chapters 16 and 30)

Fund 5425 FY 2022 Org 0505

Personal Services and		
Employee Benefits.....	00100	\$ 543,993
Current Expenses	13000	234,969
Repairs and Alterations.....	06400	<u>5,000</u>
Total.....		\$ 783,962

The total amount of these appropriations shall be paid from a special revenue fund out of collections made by the Board of Barbers and Cosmetologists as provided by law.

*278 - Hospital Finance Authority –**Hospital Finance Authority Fund*

(WV Code Chapter 16)

Fund 5475 FY 2022 Org 0509

Salary and Benefits of Cabinet

Secretary and Agency Heads	00201	\$	93,279
Unclassified.....	09900		1,501
Current Expenses	13000		<u>55,328</u>
Total.....		\$	150,108

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by Article 29A, Chapter 16 of the Code.

*279 - State Armory Board –**General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2022 Org 0603

Personal Services and

Employee Benefits.....	00100	\$	1,681,247
Current Expenses	13000		650,000
Repairs and Alterations.....	06400		385,652
Equipment.....	07000		250,000
Buildings.....	25800		520,820
Other Assets.....	69000		350,000
Land	73000		<u>200,000</u>
Total.....		\$	4,037,719

From the above appropriations, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant General may transfer funds between appropriations, except no funds may be transferred to Personal Services and Employee Benefits (fund 6057, appropriation 00100).

280 - WV State Board of Examiners for Licensed Practical Nurses –

Licensed Practical Nurses

(WV Code Chapter 30)

Fund 8517 FY 2022 Org 0906

Personal Services and Employee Benefits		
.....00100	\$	495,505
Current Expenses		
13000		<u>107,700</u>
Total.....		
.....	\$	603,205

281 - WV Board of Examiners for Registered Professional Nurses –

Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2022 Org 0907

Personal Services and		
Employee Benefits.....00100	\$	1,300,612
Current Expenses		312,655
13000		
Repairs and Alterations.....06400		3,000
Equipment.....07000		25,000
Other Assets.....69000		<u>4,500</u>
Total.....	\$	1,645,767

282 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2022 Org 0926

Personal Services and		
Employee Benefits.....00100	\$	12,163,281
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....00201		318,640
Unclassified.....09900		147,643

Current Expenses	13000	2,507,202
Repairs and Alterations	06400	390,000
Equipment	07000	160,000
Buildings	25800	10
PSC Weight Enforcement	34500	4,605,652
Debt Payment/Capital Outlay	52000	350,000
Land	73000	10
BRIM Premium.....	91300	172,216
Total.....		\$ 20,814,654

The total amount of these appropriations shall be paid from a special revenue fund out of collections for special license fees from public service corporations as provided by law.

The Public Service Commission is authorized to transfer up to \$500,000 from this fund to meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular Session, 1997.

283 - Public Service Commission –

Gas Pipeline Division –

Public Service Commission Pipeline Safety Fund

(WV Code Chapter 24B)

Fund 8624 FY 2022 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 282,709
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	11,949
Unclassified.....	09900	3,851
Current Expenses	13000	93,115
Repairs and Alterations.....	06400	4,000
Total.....		\$ 395,624

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public

Service Commission pursuant to and in the exercise of regulatory authority over pipeline companies as provided by law.

284 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8625 FY 2022 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 2,309,803
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	67,711
Unclassified.....	09900	29,233
Current Expenses	13000	577,557
Repairs and Alterations.....	06400	23,000
Equipment.....	07000	50,000
Total.....		\$ 3,057,304

The total amount of these appropriations shall be paid from a special revenue fund out of receipts collected for or by the Public Service Commission pursuant to and in the exercise of regulatory authority over motor carriers as provided by law.

285 - Public Service Commission –

Consumer Advocate Fund

(WV Code Chapter 24)

Fund 8627 FY 2022 Org 0926

Personal Services and		
Employee Benefits.....	00100	\$ 876,994
Current Expenses	13000	386,472
Equipment.....	07000	9,872
BRIM Premium.....	91300	4,660
Total.....		\$ 1,277,998

The total amount of these appropriations shall be supported by cash from a special revenue fund out of collections made by the Public Service Commission.

286 - Real Estate Commission –

Real Estate License Fund

(WV Code Chapter 30)

Fund 8635 FY 2022 Org 0927

Personal Services and		
Employee Benefits.....	00100	\$ 607,098
Current Expenses	13000	293,122
Repairs and Alterations.....	06400	2,500
Equipment.....	07000	<u>5,000</u>
Total.....		\$ 907,720

The total amount of these appropriations shall be paid out of collections of license fees as provided by law.

287 - WV Board of Examiners for Speech-Language

Pathology and Audiology –

Speech-Language Pathology and Audiology Operating Fund

(WV Code Chapter 30)

Fund 8646 FY 2022 Org 0930

Personal Services and		
Employee Benefits.....	00100	\$ 91,513
Current Expenses	13000	<u>63,499</u>
Total.....		\$ 155,012

288 - WV Board of Respiratory Care –

Board of Respiratory Care Fund

(WV Code Chapter 30)

Fund 8676 FY 2022 Org 0935

Personal Services and		
Employee Benefits.....	00100	\$ 85,878
Current Expenses	13000	<u>62,709</u>
Total.....		\$ 148,587

289 - WV Board of Licensed Dietitians –

Dietitians Licensure Board Fund

(WV Code Chapter 30)

Fund 8680 FY 2022 Org 0936

Personal Services and		
Employee Benefits.....	00100	\$ 20,219
Current Expenses	13000	<u>20,250</u>
Total.....		\$ 40,469

290 - Massage Therapy Licensure Board –

Massage Therapist Board Fund

(WV Code Chapter 30)

Fund 8671 FY 2022 Org 0938

Personal Services and		
Employee Benefits.....	00100	\$ 109,555
Current Expenses	13000	<u>42,448</u>
Total.....		\$ 152,003

291 - Board of Medicine –

Medical Licensing Board Fund

(WV Code Chapter 30)

Fund 9070 FY 2022 Org 0945

Personal Services and		
Employee Benefits.....	00100	\$ 1,378,807
Current Expenses	13000	1,108,789
Repairs and Alterations.....	06400	<u>8,000</u>

Total.....		\$	2,495,596
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292 - West Virginia Enterprise Resource Planning Board –

Enterprise Resource Planning System Fund

(WV Code Chapter 12)

Fund 9080 FY 2022 Org 0947

Personal Services and			
Employee Benefits.....	00100	\$	6,856,239
Unclassified.....	09900		182,000
Current Expenses	13000		13,662,210
Repairs and Alterations	06400		300
Equipment.....	07000		352,000
Buildings	25800		2,000
Other Assets.....	69000		<u>203,500</u>
Total.....		\$	21,258,249

293 - Board of Treasury Investments –

Board of Treasury Investments Fee Fund

(WV Code Chapter 12)

Fund 9152 FY 2022 Org 0950

Personal Services and			
Employee Benefits.....	00100	\$	832,889
Unclassified.....	09900		14,850
Current Expenses	13000		605,714
BRIM Premium.....	91300		31,547
Fees of Custodians, Fund			
Advisors and Fund Managers	93800		<u>3,500,000</u>
Total.....		\$	4,985,000

There is hereby appropriated from this fund, in addition to the above appropriation if needed, an amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses of custodians, fund advisors and fund managers for the consolidated fund of the State as provided in Article 6C, Chapter 12 of the Code.

The total amount of these appropriations shall be paid from the special revenue fund out of fees and collections as provided by law.

Total TITLE II, Section 3 –

Other Funds (Including
claims against the state) \$1,551,094,882

Sec. 4. Appropriations from lottery net profits. — Net profits of the lottery are to be deposited by the Director of the Lottery to the following accounts in the amounts indicated. The Director of the Lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the Director of the Lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 and is authorized to transfer any such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 for that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery shall deposit the reimbursement amounts to the following accounts as required by this section.

294 - Education, Arts, Sciences and Tourism –

Debt Service Fund

(WV Code Chapter 5)

Fund 2252 FY 2022 Org 0211

	Appropriation		Lottery Funds
Debt Service – Total	31000	\$	10,000,000

295 - Department of Tourism –

Office of the Secretary

(WV Code Chapter 5B)

Fund 3067 FY 2022 Org 0304

Tourism – Telemarketing Center	46300	\$	82,080
Tourism – Advertising (R).....	61800		2,422,407
Tourism – Operations (R)	66200		<u>4,227,938</u>
Total.....		\$	6,732,425

Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund 3067, appropriation 61800) and Tourism – Operations (fund 3067, appropriation 66200) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

296 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2022 Org 0310

Personal Services and			
Employee Benefits.....	00100	\$	2,428,178
Current Expenses	13000		26,900
Pricketts Fort State Park.....	32400		106,560
Non-Game Wildlife (R)	52700		386,935
State Parks and Recreation			
Advertising (R)	61900		<u>494,578</u>
Total.....		\$	3,443,151

Any unexpended balances remaining in the appropriations for Unclassified (fund 3267, appropriation 09900), Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game Wildlife (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267, appropriation 61900) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

297 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2022 Org 0402

FBI Checks.....	37200	\$	116,548
Vocational Education			
Equipment Replacement.....	39300		800,000
Assessment Program (R).....	39600		490,439
Literacy Project.....	89900		350,000
21 st Century Technology			
Infrastructure Network			
Tools and Support (R)	93300		<u>12,600,383</u>
Total.....		\$	14,357,370

Any unexpended balances remaining in the appropriations for Unclassified (fund 3951, appropriation 09900), Current Expenses (fund 3951, appropriation 13000), Assessment Program (fund 3951, appropriation 39600), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, appropriation 93300) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

298 - State Department of Education –

School Building Authority –

Debt Service Fund

(WV Code Chapter 18)

Fund 3963 FY 2022 Org 0404

Debt Service – Total	31000	\$	15,320,363
Directed Transfer	70000		<u>2,679,637</u>
Total.....		\$	18,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18.

The above appropriation for Directed Transfer (fund 3963, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.

*299 - Division of Culture and History –**Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2022 Org 0432

Huntington Symphony	02700	\$	59,058
Preservation West Virginia (R).....	09200		491,921
Fairs and Festivals (R)	12200		1,346,814
Commission for National and Community Service (R)	19300		374,980
Archeological Curation/Capital Improvements (R).....	24600		36,276
Historic Preservation Grants (R).....	31100		417,933
West Virginia Public Theater.....	31200		120,019
Greenbrier Valley Theater	42300		115,000
Theater Arts of West Virginia.....	46400		90,000
Marshall Artists Series	51800		36,005
Grants for Competitive Arts Program (R)	62400		811,500
West Virginia State Fair.....	65700		31,241
Save the Music	68000		40,000
Contemporary American Theater Festival	81100		57,281
Independence Hall	81200		27,277
Mountain State Forest Festival	86400		38,187
WV Symphony.....	90700		59,058
Wheeling Symphony.....	90800		59,058
Appalachian Children's Chorus.....	91600		54,554
Total.....		\$	4,266,162

From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200) funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) \$2,673, Arts Monongahela (Monongalia) \$11,881, Barbour County Arts and Humanities Council \$0,891, Beckley Main Street (Raleigh) \$2,970, Buffalo Creek Memorial (Logan) \$2,970, Carnegie Hall (Greenbrier) \$46,899, Ceredo Historical Society

(Wayne) \$1,188, Ceredo Kenova Railroad Museum (Wayne) \$1,188, Ceredo Museum (Wayne) \$0,720, Children's Theatre of Charleston (Kanawha) \$3,127, Chuck Mathena Center (Mercer) \$62,532, Collis P. Huntington Railroad Historical Society (Cabell) \$5,941, Country Music Hall of Fame and Museum (Marion) \$4,159, First Stage Children's Theater Company \$1,188, Flannigan Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral) \$0,891, Fort New Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970, General Adam Stephen Memorial Foundation (Berkeley) \$11,006, Grafton Mother's Day Shrine Committee (Taylor) \$9,029, Hardy County Tour and Crafts Association \$11,881, Heartwood in the Hills (Calhoun) \$5,040, Heritage Farm Museum & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267, Historic Middleway Conservancy (Jefferson) \$0,594, Jefferson County Black History Preservation Society \$2,970, Jefferson County Historical Landmark Commission \$4,753, Maddie Carroll House (Cabell) \$4,455, Marshall County Historical Society \$5,049, McCoy Theater (Hardy) \$11,881, Memorial Day Patriotic Exercise (Taylor) \$20,000, Morgantown Theater Company (Monongalia) \$11,881, Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main Foundation (Nicholas) \$1,188, Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera House Theater Company (Jefferson) \$8,911, Parkersburg Arts Center (Wood) \$11,881, Pocahontas Historic Opera House \$3,564, Raleigh County All Wars Museum \$5,941, Rhododendron Girl's State (Ohio) \$5,941, Roane County 4-H and FFA Youth Livestock Program \$2,970, Society for the Preservation of McGrew House (Preston) \$2,079, Southern West Virginia Veterans' Museum \$3,393, Summers County Historic Landmark Commission \$2,970, Those Who Served War Museum (Mercer) \$2,376, Three Rivers Avian Center (Summers) \$5,311, Veterans Committee for Civic Improvement of Huntington (Wayne) \$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame (Kanawha) \$20,792, YMCA Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern West Virginia (Raleigh) \$7,129, Z.D. Ramsdell House (Wayne) \$0,720.

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to the A

Princeton 4th (Mercer) \$1,800, African-American Cultural Heritage Festival (Jefferson) \$2,970, Alderson 4th of July Celebration (Greenbrier) \$2,970, Allegheny Echo (Pocahontas) \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683, American Civil War (Grant) \$3,127, American Legion Post 8 Veterans Day Parade (McDowell) \$1,250, Angus Beef and Cattle Show (Lewis) \$891, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938, Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apple Butter Festival (Morgan) \$3,564, Arkansaw Homemaker's Heritage Weekend (Hardy) \$2,079, Armed Forces Day-South Charleston (Kanawha) \$1,782, Arthurdale Heritage New Deal Festival (Preston) \$2,970, Athens Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn Harvest Fest (Monroe) \$2,448, Back Home Festival (Wetzel) \$5,000, Barbour County Fair (Barbour) \$14,851, Barboursville Octoberfest (Cabell) \$2,970, Battelle District Fair (Monongalia) \$3,340, Battle of Dry Creek (Greenbrier) \$891, Battle of Point Pleasant Memorial Committee (Mason) \$2,970, Belle Town Fair (Kanawha) \$2,673, Belleville Homecoming (Wood) \$11,881, Bergoo Down Home Days (Webster) \$1,485, Berkeley County Youth Fair (Berkeley) \$10,990, Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black Heritage Festival (Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blacksville VFD Memorial Day Celebration (Monongalia) \$1,000, Blast from the Past (Upshur) \$1,440, Blue-Gray Reunion (Barbour) \$2,079, Boone County Fair (Boone) \$5,940, Boone County Labor Day Celebration (Boone) \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Bramwell Labor Day (Mercer) \$5,000, Brandonville Heritage Day (Preston) \$1,048, Braxton County Fair (Braxton) \$6,832, Braxton County Monster Fest / West Virginia Autumn Festival (Braxton) \$1,485, Brooke County Fair (Brooke) \$2,079, Bruceton Mills Good Neighbor Days (Preston) \$1,188, Buckwheat Festival (Preston) \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo October Fest (Putnam) \$3,240, Burlington Apple Harvest Auxiliary (Mineral) \$13,821, Burlington Pumpkin Harvest Festival (Raleigh) \$2,970, Burlington Volunteer Fire and Rescue Carnival (Mineral) \$4,000, Burnsville Freedom Festival (Braxton) \$1,407, Cabell County Fair (Cabell) \$5,940, Calhoun County Wood Festival (Calhoun)

\$1,188, Campbell's Creek Community Fair (Kanawha) \$1,485, Cape Coalwood Festival Association (McDowell) \$1,485, Cacapon River Fest (Hampshire) \$2,500, Capon Bridge Founders Day Festival (Hampshire) \$1,188, Capon Springs Ruritan 4th of July (Hampshire) \$684, Cass Homecoming (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684, Celebration of America (Monongalia) \$3,564, Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville Fire Department 4th of July (Logan) \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970, Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas) \$3,861, Chester Fireworks (Hancock) \$891, Chester 4th of July Festivities (Hancock) \$2,970, Chief Logan State Park-Civil War Celebration (Logan) \$4,752, Chilifest West Virginia State Chili Championship (Cabell) \$1,563, Christmas In Our Town (Marion) \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376, Christmas in the Park (Brooke) \$2,970, Christmas in the Park (Logan) \$14,851, City of Dunbar Critter Dinner (Kanawha) \$5,940, City of Logan Polar Express (Logan) \$4,456, City of New Martinsville Festival of Memories (Wetzel) \$6,534, Clay County Golden Delicious Apple Festival (Clay) \$4,158, Clay District Fair (Monongalia) \$3,341, Coal Field Jamboree (Logan) \$20,792, Coalton Days Fair (Randolph) \$4,158, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer) \$2,160, Culturefest World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo) \$2,079, Doddridge County Fair (Doddridge) \$4,158, Dorcas Ice Cream Social (Grant) \$3,564, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion Festival (McDowell) \$891, Fairview 4th of July Celebration (Marion) \$684, Farm Safety Day (Preston) \$1,188, Farmer's Day Festival (Monroe) \$2,330, Fenwick Mountain Old Time Community Festival (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$11,881, Flemington Days Fair and Festival (Taylor) \$2,379, Follansbee Community Days (Brooke) \$4,900, Fort Gay Mountain Heritage Days (Wayne) \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio) \$1,563, Fort New Salem Spirit of Christmas Festival (Harrison) \$2,432, Frankford Autumnfest (Greenbrier) \$2,970, Franklin Fishing Derby (Pendleton) \$10,709, Freshwater Folk Festival (Greenbrier) \$2,970, Friends Auxiliary of W.R. Sharpe

Hospital (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,485, Gassaway Days Celebration (Braxton) \$2,970, Gilbert Elementary Fall Blast (Mingo) \$2,188, Gilbert Spring Fling (Mingo) \$3,595, Gilmer County Farm Show (Gilmer) \$2,376, Grant County Arts Council (Grant) \$1,188, Great Greenbrier River Race (Pocahontas) \$5,940, Greater Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration Days (Hampshire) \$684, Hampshire County 4th of July Celebration (Hampshire) \$11,881, Hampshire County Fair (Hampshire) \$5,002, Hampshire Highlands Art & Music Festival (Hampshire) \$4,252, Hancock County Oldtime Fair (Hancock) \$2,970, Hardy County Commission - 4th of July (Hardy) \$5,940, Hatfield McCoy Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln) \$2,970, Heritage Craft Festival (Monroe) \$1,044, Heritage Days Festival (Roane) \$891, Hilltop Festival (Cabell) \$684, Hilltop Festival of Lights (McDowell) \$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River Festival (Webster) \$891, Hometown Mountain Heritage Festival (Fayette) \$2,432, Hundred 4th of July (Wetzel) \$4,307, Hurricane 4th of July Celebration (Putnam) \$2,970, Iaeger Town Fair (McDowell) \$891, Irish Heritage Festival of West Virginia (Raleigh) \$2,970, Irish Spring Festival (Lewis) \$684, Italian Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County Fair (Jackson) \$2,970, Jamboree (Pocahontas) \$2,970, Jane Lew Arts and Crafts Fair (Lewis) \$684, Jefferson County Fair Association (Jefferson) \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days Festival (Monroe) \$4,698, Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown Community Fair (Harrison) \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782, Keystone Reunion Gala (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970, Kingwood Downtown Street Fair and Heritage Days (Preston) \$1,188, L.Z. Rainelle West Virginia Veterans Reunion

(Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$2,970, Last Blast of Summer (McDowell) \$2,970, Lewisburg Shanghai (Greenbrier) \$1,188, Lincoln County Fall Festival (Lincoln) \$4,752, Lincoln County Winterfest (Lincoln) \$2,970, Lindsie Veterans' Day Parade (Monroe) \$720, Little Levels Heritage Festival (Pocahontas) \$1,188, Lost Creek Community Festival (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$2,813, Malden Salt Fest (Kanawha) \$2,000, Mannington District Fair (Marion) \$3,564, Maple Syrup Festival (Randolph) \$684, Marion County FFA Farm Fest (Marion) \$1,485, Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall County Antique Power Show (Marshall) \$1,485, Marshall County Fair (Marshall) \$5,000, Mason County Fair (Mason) \$2,970, Matewan Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia Fair (Mingo) \$15,932, McARTS-McDowell County (McDowell) \$11,881, McGrew House History Day (Preston) \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow Bridge Hometown Festival (Fayette) \$743, Meadow River Days Festival (Greenbrier) \$1,782, Mercer County Fair (Mercer) \$1,188, Mercer County Heritage Festival (Mercer) \$3,474, Milton Christmas in the Park (Cabell) \$1,485, Milton Old Timey Days (Cabell) \$1,485, Mineral County Fair (Mineral) \$1,040, Mineral County Veterans Day Parade (Mineral) \$891, Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion) \$3,752, Monongalia County Fair (Monongalia) \$7,250, Moon Over Mountwood Fishing Festival (Wood) \$1,782, Morgan County Fair-History Wagon (Morgan) \$891, Moundsville Bass Festival (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount Liberty Fall Festival (Barbour) \$1,485, Mountain Festival (Mercer) \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival (McDowell) \$1,485, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-Cultural Festival of West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks District VFD (Upshur) \$1,278, New Cumberland Christmas Parade

(Hancock) \$1,782, New Cumberland 4th of July (Hancock) \$2,970, New River Bridge Day Festival (Fayette) \$23,762, Nicholas County Fair (Nicholas) \$2,970, Nicholas County Potato Festival (Nicholas) \$2,079, Oak Leaf Festival (Fayette) \$6,253, Oceana Heritage Festival (Wyoming) \$3,564, Oglebay City Park - Festival of Lights (Ohio) \$47,524, Oglebay Festival (Ohio) \$5,940, Ohio County Country Fair (Ohio) \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio Valley Beef Association (Ohio) \$1,485, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old Central City Fair (Cabell) \$2,970, Old Tyme Christmas (Jefferson) \$1,425, Osage Street Fair (Monongalia) \$1,000, Paden City Labor Day Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Patty Fest (Monongalia) \$1,188, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970, Pendleton County 4-H Weekend (Pendleton) \$1,188, Pendleton County Committee for Arts (Pendleton) \$8,910, Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg 4th of July Celebration (Grant) \$11,881, Petersburg HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street Festival (Mineral) \$2,376, Pinch Reunion (Kanawha) \$891, Pine Bluff Fall Festival (Harrison) \$2,376, Pine Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County Agriculture Youth Fair (Pleasants) \$2,970, Poca Heritage Days (Putnam) \$1,782, Pocahontas County Pioneer Days (Pocahontas) \$4,159, Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall Festival (Kanawha) \$1,485, Princeton Autumnfest (Mercer) \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam County Fair (Putnam) \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127, Rand Community Center Festival (Kanawha) \$1,485, Randolph County Community Arts Council (Randolph) \$1,782, Randolph County Fair (Randolph) \$4,158, Randolph County Ramps and Rails (Randolph) \$2,188, Randolph County Ramp and Rails (Randolph) \$1,188, Ranson Christmas Festival (Jefferson) \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier) \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition (Ritchie) \$2,970, Ritchie County Pioneer Days (Ritchie) \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day (Roane) \$1,782, Rock the Park (Kanawha) \$3,240, Rocket Boys

Festival (Raleigh) \$1,710, Romney Heritage Days (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier) \$2,970, Rowlesburg Labor Day Festival (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison) \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July (Tyler) \$3,267, Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782, South Charleston Summerfest (Kanawha) \$5,940, Southern Wayne County Fall Festival (Wayne) \$684, Spirit of Grafton Celebration (Taylor) \$6,240, Spring Mountain Festival (Grant) \$500, St. Albans City of Lights - December (Kanawha) \$2,970, Sternwheel Festival (Wood) \$1,782, Stoco Reunion (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$6,534, Stonewall Jackson's Roundhouse Raid (Berkeley) \$7,200, Strawberry Festival (Upshur) \$17,821, Sylvester Big Coal River Festival (Boone) \$1,944, Tacy Fair (Barbour) \$684, Taste of Parkersburg (Wood) \$2,970, Taylor County Fair (Taylor) \$3,567, The Gathering at Sweet Creek (Wood) \$1,782, Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$7,300, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town of Fayetteville Heritage Festival (Fayette) \$4,456, Town of Rivesville 4th of July Festival (Marion) \$3,127, Town of Winfield - Putnam County Homecoming (Putnam) \$3,240, St. Albans Train Fest (Kanawha) \$6,120, Treasure Mountain Festival (Pendleton) \$16,851, Tri-County Fair (Grant) \$22,548, Tucker County Arts Festival and Celebration (Tucker) \$10,692, Tucker County Fair (Tucker) \$2,821, Tucker County Health Fair (Tucker) \$1,188, Turkey Festival (Hardy) \$1,782, Tyler County Fair (Tyler) \$3,088, Tyler County Fireworks Celebration (Tyler) \$2,000, Union Community Irish Festival (Barbour) \$648, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley Italian Festival (Ohio) \$7,128, Valley District Fair (Preston) \$2,079, Veterans Welcome Home Celebration (Cabell) \$938, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$684, Volcano Days at Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival (McDowell) \$891, Wardensville Fall Festival (Hardy) \$2,970, Wayne County Fair (Wayne) \$2,970, Wayne County Fall Festival (Wayne) \$2,970, Webster County Fair (Webster) \$3,600, Webster County

Wood Chopping Festival (Webster) \$8,910, Webster Wild Water Weekend (Webster) \$1,188, Weirton July 4th Celebration (Hancock) \$11,881, Welcome Home Family Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg Apple Festival of Brooke County (Brooke) \$2,970, West Virginia Blackberry Festival (Harrison) \$2,970, West Virginia Chestnut Festival (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia Coal Show (Mercer) \$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800, West Virginia Fair and Exposition (Wood) \$4,812, West Virginia Fireman's Rodeo (Fayette) \$1,485, West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$3,240, West Virginia Polled Hereford Association (Braxton) \$891, West Virginia Pumpkin Festival (Cabell) \$5,940, West Virginia Rivers and Rails Festival (Pleasants) \$1,099, West Virginia State Folk Festival (Gilmer) \$2,970, West Virginia Water Festival - City of Hinton (Summers) \$9,144, Weston VFD 4th of July Firemen Festival (Lewis) \$1,188, Wetzel County Autumnfest (Wetzel) \$3,267, Wetzel County Town and Country Days (Wetzel) \$10,098, Wheeling Celtic Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio) \$4,752, Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat Regatta (Ohio) \$11,881, Whipple Community Action (Fayette) \$1,485, Wine Festival and Mountain Music Event (Harrison) \$2,970, Wirt County Fair (Wirt) \$1,485, Wirt County Pioneer Days (Wirt) \$1,188, Wyoming County Civil War Days (Wyoming) \$1,296, Youth Stockman Beef Expo (Lewis) \$1,188.

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), Commission for National and Community Service (fund 3534, appropriation 19300), Archeological Curation/Capital Improvements (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100), Grants for Competitive Arts Program (fund 3534, appropriation 62400), and Project ACCESS (fund 3534, appropriation 86500) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

Any Fairs & Festivals awards shall be funded in addition to, and not in lieu of, individual grant allocations derived from the Arts Council and Cultural Grant Program allocations.

300 - Library Commission –

Lottery Education Fund

(WV Code Chapter 10)

Fund 3559 FY 2022 Org 0433

Books and Films	17900	\$	360,784
Services to Libraries	18000		550,000
Grants to Public Libraries	18200		9,439,571
Digital Resources	30900		219,992
Infomine Network.....	88400		<u>943,353</u>
Total.....		\$	11,513,700

Any unexpended balance remaining in the appropriation for Libraries – Special Projects (fund 3559, appropriation 62500) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

301 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 3587 FY 2022 Org 0439

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 3587, appropriation 75500) at the close of fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

302 - Higher Education Policy Commission –

Lottery Education –

Higher Education Policy Commission –

Control Account

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2022 Org 0441

RHI Program and Site Support (R).....	03600	\$	1,912,491
RHI Program and Site Support – RHEP Program Administration	03700		146,653
RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (R).....	03800		88,913
Minority Doctoral Fellowship (R)	16600		129,604
Health Sciences Scholarship (R).....	17600		225,527
Vice Chancellor for Health Sciences – Rural Health Residency Program (R).....	60100		62,725
WV Engineering, Science, and Technology Scholarship Program.....	86800		<u>452,831</u>
Total.....		\$	<u>3,018,744</u>

Any unexpended balances remaining in the appropriations for RHI Program and Site Support (fund 4925, appropriation 03600), RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (fund 4925, appropriation 03800), Minority Doctoral Fellowship (fund 4925, appropriation 16600), Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, appropriation 60100) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (fund 4925, appropriation 86800) shall be transferred to the West Virginia Engineering, Science and Technology Scholarship Fund (fund 4928, org 0441) established by W.Va. Code §18C-6-1.

303 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2022 Org 0442

Debt Service – Total 31000 \$ 5,000,000

Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, appropriation 84700) at the close of fiscal year 2021 is hereby appropriated for expenditure during the fiscal year 2022.

304 - Higher Education Policy Commission –

Lottery Education –

West Virginia University – School of Medicine

(WV Code Chapter 18B)

Fund 4185 FY 2022 Org 0463

WVU Health Sciences –		
RHI Program and Site		
Support (R)	03500	\$ 1,181,728
MA Public Health Program and		
Health Science		
Technology (R)	62300	52,445
Health Sciences Career		
Opportunities Program (R)	86900	336,987
HSTA Program (R)	87000	1,761,948
Center for Excellence in		
Disabilities (R)	96700	<u>313,517</u>
Total		\$ 3,646,625

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and Health Science Technology (fund 4185, appropriation 62300),

Health Sciences Career Opportunities Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and Center for Excellence in Disabilities (fund 4185, appropriation 96700) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

305 - Higher Education Policy Commission –

Lottery Education –

Marshall University – School of Medicine

(WV Code Chapter 18B)

Fund 4896 FY 2022 Org 0471

Marshall Medical School –

RHI Program and

Site Support (R)	03300	\$	427,075
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Vice Chancellor for Health

Sciences – Rural Health

Residency Program (R).....	60100		<u>171,361</u>
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Total.....		\$	598,436
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Any unexpended balances remaining in the appropriations for Marshall Medical School – RHI Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4896, appropriation 60100) at the close of fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

306 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2022 Org 0508

Personal Services and

Employee Benefits.....	00100	\$	144,190
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Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	65,190
Current Expenses	13000	332,284
Repairs and Alterations	06400	1,000
Local Programs Service		
Delivery Costs	20000	2,435,250
Silver Haired Legislature	20200	18,500
Transfer to Division of Human		
Services for Health Care		
and Title XIX Waiver for		
Senior Citizens.....	53900	4,615,503
Roger Tompkins Alzheimer's		
Respite Care.....	64300	2,302,016
WV Alzheimer's Hotline	72400	45,000
Regional Aged and Disabled		
Resource Center.....	76700	425,000
Senior Services Medicaid Transfer	87100	16,400,070
Legislative Initiatives for		
the Elderly.....	90400	9,671,239
Long Term Care Ombudsman	90500	297,226
BRIM Premium.....	91300	7,718
In-Home Services and		
Nutrition for Senior Citizens	91700	<u>8,095,941</u>
Total.....		\$ 44,856,387

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000), is funding to support an in-home direct care workforce registry.

The above appropriation for Transfer to Division of Human Services for Health Care and Title XIX Waiver for Senior Citizens (appropriation 53900) along with the federal moneys generated thereby shall be used for reimbursement for services provided under the program.

Total TITLE II, Section 4 –

Lottery Revenue..... \$ 125,433,000

Sec. 5. Appropriations from state excess lottery revenue fund. — In accordance with W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following appropriations shall be deposited and disbursed by the Director of the Lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from the State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are sufficient to meet all the appropriations required made pursuant to this section, then the Director of the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

307 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2022 Org 0100

Appropriation	Excess Lottery Funds
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Any unexpended balance remaining in the appropriation for Publication of Papers and Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

308 - Office of Technology

(WV Code Chapter 5A)

Fund 2532 FY 2022 Org 0231

Any unexpended balances remaining in the appropriations for Cyber Security (fund 2532, appropriation 99001), Enterprise Data Center (fund 2532, appropriation 99002), and Enterprise Telephony Modernization (fund 2532, appropriation 99003) at the close of the fiscal year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

309 - Department of Economic Development –

Office of the Secretary –

West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2022 Org 0307

Any unexpended balance remaining in the appropriation for Recreational Grants or Economic Development Loans (fund 3170, appropriation 25300) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

310 - Division of Natural Resources –

State Park Improvement Fund

Fund 3277 FY 2022 Org 0310

Current Expenses (R).....	13000	\$	23,300
Repairs and Alterations (R)	06400		161,200
Equipment (R).....	07000		200,000
Buildings (R).....	25800		100,000
Other Assets (R).....	69000		1,020,500
Total.....		\$	1,505,000

Any unexpended balances remaining in the appropriations for Repairs and Alterations (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total (fund 3277, appropriation 09600), Unclassified (fund 3277, appropriation 09900), Current Expenses (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation 25800), and Other Assets (fund 3277, appropriation 69000) at the close of the fiscal

year 2021 are hereby reappropriated for expenditure during the fiscal year 2022.

311 - West Virginia Infrastructure Council –

West Virginia Infrastructure Transfer Fund

Fund 3390 FY 2022 Org 0316

Directed Transfer	70000	\$ 46,000,000
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The above appropriation shall be allocated pursuant to W.Va. Code §29-22-18d and §31-15-9.

312 - Department of Education –

School Building Authority

Fund 3514 FY 2022 Org 0404

Debt Service - Total	31000	\$ 18,999,900
Directed Transfer	70000	<u>100</u>
Total		\$ 19,000,000

The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18a.

The above appropriation for Directed Transfer (fund 3514, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.

313 - Higher Education Policy Commission –

Education Improvement Fund

Fund 4295 FY 2022 Org 0441

PROMISE Scholarship – Transfer	80000	\$ 29,000,000
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The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 044) established by W.Va. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the limits of available appropriations.

314 - Higher Education Policy Commission –

Higher Education Improvement Fund

Fund 4297 FY 2022 Org 0441

Directed Transfer 70000 \$ 15,000,000

The above appropriation shall be transferred to fund 4903, org 0442 as authorized by Senate Concurrent Resolution No. 41.

315 - Higher Education Policy Commission –

Administration –

Control Account

Fund 4932 FY 2022 Org 0441

Any unexpended balance remaining in the appropriation for Advanced Technology Centers (fund 4932, appropriation 02800) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

316 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2022 Org 0511

Medical Services..... 18900 \$ 16,302,960

*317 - Division of Corrections and Rehabilitation –
Correctional Units*

(WV Code Chapter 15A)

Fund 6283 FY 2022 Org 0608

Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance (fund 6283, appropriation 75500) at the close of the fiscal year 2021 is hereby reappropriated for expenditure during the fiscal year 2022.

*318 - Lottery Commission –**General Purpose Account*Fund 7206 FY 2022 Org 0705

General Revenue Fund – Transfer 70011 \$ 65,000,000

The above appropriation shall be transferred to the General Revenue Fund as determined by the Director of the Lottery in accordance with W.Va. Code §29-22-18a.

*319 - Lottery Commission –**Refundable Credit*Fund 7207 FY 2022 Org 0705

Directed Transfer 70000 \$ 10,000,000

The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit allowable under W.Va. Code §11-21-21. The amount of the required transfer shall be determined solely by the State Tax Commissioner and shall be completed by the Director of the Lottery upon the commissioner's request.

*320 - Lottery Commission –**Distributions to Statutory Funds and Purposes*Fund 7213 FY 2022 Org 0705

Parking Garage Fund – Transfer..... 70001 \$ 500,000

2004 Capitol Complex Parking Garage Fund – Transfer.....	70002	216,478
Capitol Dome and Improvements Fund – Transfer.....	70003	1,796,256
Capitol Renovation and Improvement Fund – Transfer	70004	2,381,252
Development Office Promotion Fund – Transfer.....	70005	1,298,864
Research Challenge Fund – Transfer.....	70006	1,731,820
Tourism Promotion Fund – Transfer.....	70007	4,808,142
Cultural Facilities and Capitol Resources Matching Grant Program Fund – Transfer.....	70008	1,250,535
State Debt Reduction Fund – Transfer.....	70010	20,000,000
General Revenue Fund – Transfer	70011	1,167,799
West Virginia Racing Commission Racetrack Video Lottery Account	70012	3,463,637
Historic Resort Hotel Fund	70013	24,010
Licensed Racetrack Regular Purse Fund	70014	22,383,247
Total.....		<u>\$ 61,022,040</u>

321 - Racing Commission

Fund 7308 FY 2022 Org 0707

Special Breeders Compensation (WVC §29-22-18a, subsection (I)).....	21800	\$ 2,000,000
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322 - Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2022 Org 0944

Debt Service – Total 31000 \$ 19,000,000

Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the economic development project fund pursuant to section four of this title and W.Va. Code §29-22-18, subsection (f).

323 - Economic Development Authority –

Cacapon and Beech Fork State Parks –

Lottery Revenue Debt Service

Fund 9067 FY 2022 Org 0944

Debt Service..... 04000 \$ 2,032,000

324 - Economic Development Authority –

State Parks Lottery Revenue Debt Service Fund

Fund 9068 FY 2022 Org 0944

Debt Service..... 04000 \$ 4,395,000

Total TITLE II, Section 5 –

Excess Lottery Funds..... \$ 290,257,000

Sec. 6. Appropriations of federal funds. — In accordance with Article 11, Chapter 4 of the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2022.

LEGISLATIVE

325 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2022 Org 2300

	Appropriation		Federal Funds
Economic Loss Claim			
Payment Fund	33400	\$	1,100,000

JUDICIAL

326 - Supreme Court

Fund 8867 FY 2022 Org 2400

Personal Services and			
Employee Benefits	00100	\$	1,813,000
Current Expenses	13000		1,557,000
Repairs and Alterations	06400		100,000
Equipment	07000		250,000
Other Assets	69000		280,000
Total		\$	4,000,000

EXECUTIVE

327 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2022 Org 1400

Personal Services and			
Employee Benefits	00100	\$	2,628,780
Unclassified	09900		50,534
Current Expenses	13000		6,828,661
Repairs and Alterations	06400		650,000
Equipment	07000		910,500
Buildings	25800		1,000,000
Other Assets	69000		550,000
Land	73000		500,000
Total		\$	13,118,475

328 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 8737 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 658,571
Unclassified.....	09900	8,755
Current Expenses	13000	136,012
Repairs and Alterations.....	06400	5,500
Equipment.....	07000	<u>114,478</u>
Total.....		\$ 923,316

*329 - Department of Agriculture –**State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 97,250
Current Expenses	13000	<u>15,599,974</u>
Total.....		\$ 15,697,224

*330 - Department of Agriculture –**Land Protection Authority*Fund 8896 FY 2022 Org 1400

Personal Services and		
Employee Benefits.....	00100	\$ 46,526
Unclassified.....	09900	5,004
Current Expenses	13000	<u>448,920</u>
Total.....		\$ 500,450

*331 - Attorney General –**Medicaid Fraud Unit*Fund 8882 FY 2022 Org 1500

Personal Services and		
Employee Benefits.....	00100	\$ 1,257,042
Unclassified.....	09900	15,336
Current Expenses	13000	456,638
Repairs and Alterations.....	06400	4,313
Equipment.....	07000	7,500
Other Assets.....	69000	<u>11,336</u>
Total.....		\$ 1,752,165

332 - Secretary of State –

State Election Fund

(WV Code Chapter 3)

Fund 8854 FY 2022 Org 1600

Personal Services and		
Employee Benefits.....	00100	\$ 210,240
Unclassified.....	09900	7,484
Current Expenses	13000	415,727
Repairs and Alterations.....	06400	15,000
Other Assets.....	69000	<u>100,000</u>
Total.....		\$ 748,451

DEPARTMENT OF COMMERCE

333 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2022 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

334 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2022 Org 0306

Personal Services and		
Employee Benefits.....	00100	\$ 54,432
Unclassified.....	09900	2,803
Current Expenses	13000	195,639
Repairs and Alterations.....	06400	5,000
Equipment.....	07000	7,500
Other Assets.....	69000	<u>15,000</u>
Total.....		\$ 280,374

335 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2022 Org 0308

Personal Services and		
Employee Benefits.....	00100	\$ 409,251
Unclassified.....	09900	5,572
Current Expenses	13000	167,098
Repairs and Alterations.....	06400	<u>500</u>
Total.....		\$ 582,421

336 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2022 Org 0310

Personal Services and		
Employee Benefits.....	00100	\$ 10,064,006
Unclassified.....	09900	107,693
Current Expenses	13000	7,887,660
Repairs and Alterations.....	06400	566,250
Equipment.....	07000	2,126,141
Administration	15500	50,325
Buildings.....	25800	951,000

Other Assets.....	69000	7,088,880
Land	73000	<u>2,893,920</u>
Total.....		\$ 31,735,875

337 - Division of Miners' Health,

Safety and Training

(WV Code Chapter 22)

Fund 8709 FY 2022 Org 0314

Personal Services and Employee Benefits.....	00100	\$ 642,799
Current Expenses	13000	<u>150,000</u>
Total.....		\$ 792,799

338 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2022 Org 0323

Unclassified.....	09900	\$ 5,127
Current Expenses	13000	507,530
Reed Act 2002 – Unemployment Compensation	62200	2,850,000
Reed Act 2002 – Employment Services.....	63000	<u>1,650,000</u>
Total.....		\$ 5,012,657

Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration of the state's unemployment insurance program or job service activities, subject to each and every restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

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

(WV Code Chapter 18)

Fund 8734 FY 2022 Org 0932

Personal Services and		
Employee Benefits.....	00100	\$ 11,725,244
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	138,000
Current Expenses	13000	34,440,940
Repairs and Alterations.....	06400	350,400
Equipment.....	07000	<u>1,275,870</u>
Total.....		\$ 47,930,454

340 - *State Board of Rehabilitation –**Division of Rehabilitation Services –**Disability Determination Services*

(WV Code Chapter 18)

Fund 8890 FY 2022 Org 0932

Personal Services and		
Employee Benefits.....	00100	\$ 12,476,122
Current Expenses	13000	13,383,206
Repairs and Alterations.....	06400	1,100
Equipment.....	07000	<u>83,350</u>
Total.....		\$ 25,943,778

DEPARTMENT OF ECONOMIC DEVELOPMENT341 - *Department of Economic Development –**Office of the Secretary*

(WV Code Chapter 5B)

Fund 8705 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 1,039,921
Unclassified.....	09900	50,000
Current Expenses	13000	<u>4,504,019</u>
Total.....		\$ 5,593,940

342 - Department of Economic Development –

Office of the Secretary –

Office of Economic Opportunity

(WV Code Chapter 5)

Fund 8901 FY 2022 Org 0307

Personal Services and		
Employee Benefits.....	00100	\$ 497,289
Repairs and Alterations.....	06400	250
Equipment.....	07000	6,000
Unclassified.....	09900	106,795
Current Expenses	13000	<u>10,069,166</u>
Total.....		\$ 10,679,500

343 - Department of Economic Development –

Office of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2022 Org 0328

Personal Services and		
Employee Benefits.....	00100	\$ 426,385
Unclassified.....	09900	7,350
Current Expenses	13000	<u>2,816,076</u>
Total.....		\$ 3,249,811

DEPARTMENT OF EDUCATION

344 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 5,785,359
Unclassified.....	09900	2,000,000
Current Expenses	13000	1,434,146,008
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
Other Assets.....	69000	<u>10,000</u>
Total.....		\$ 1,441,961,367

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

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 1,881,766
Unclassified.....	09900	1,150,500
Current Expenses	13000	148,281,265
Repairs and Alterations.....	06400	20,000
Equipment.....	07000	100,000
Other Assets.....	69000	<u>25,000</u>
Total.....		\$ 151,458,531

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

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 1,896,249

Unclassified.....	09900	155,000
Current Expenses	13000	17,820,081
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
Other Assets.....	69000	10,000
Total.....		\$ 19,901,330

347 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2022 Org 0402

Personal Services and		
Employee Benefits.....	00100	\$ 3,477,006
Unclassified.....	09900	1,000,000
Current Expenses	13000	123,346,390
Repairs and Alterations.....	06400	10,000
Equipment.....	07000	10,000
Other Assets.....	69000	10,000
Total.....		\$ 127,853,396

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

348 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2022 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 810,436
Current Expenses	13000	1,947,372
Repairs and Alterations.....	06400	1,000
Equipment.....	07000	1,000
Buildings.....	25800	1,000
Other Assets.....	69000	1,000
Land.....	73000	360
Total.....		\$ 2,762,168

349 - Commission for National and Community Service

(WV Code Chapter 5F)

Fund 8841 FY 2022 Org 0432

Personal Services and		
Employee Benefits.....	00100	\$ 437,040
Current Expenses	13000	5,587,325
Repairs and Alterations	06400	<u>1,000</u>
Total.....		\$ 6,025,365

350 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2022 Org 0433

Personal Services and		
Employee Benefits.....	00100	\$ 353,396
Current Expenses	13000	1,076,162
Equipment.....	07000	<u>543,406</u>
Total.....		\$ 1,972,964

351 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2022 Org 0439

Equipment.....	07000	\$ 200,000
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DEPARTMENT OF ENVIRONMENTAL PROTECTION*352 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 8708 FY 2022 Org 0313

Personal Services and		
Employee Benefits.....	00100	\$ 31,406,529
Unclassified.....	09900	1,923,580

Current Expenses	13000	153,850,118
Repairs and Alterations	06400	739,783
Equipment	07000	1,712,238
Other Assets	69000	2,177,261
Land	73000	<u>80,000</u>
Total.....		\$ 191,889,509

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

353 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 1,532,219
Unclassified.....	09900	73,307
Current Expenses	13000	<u>81,583,302</u>
Total.....		\$ 83,188,828

354 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 8802 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 14,610,947
Unclassified.....	09900	856,614
Current Expenses	13000	69,201,885
Equipment.....	07000	456,972
Buildings	25800	155,000
Other Assets.....	69000	<u>380,000</u>
Total.....		\$ 85,661,418

355 - Division of Health –

West Virginia Safe Drinking Water Treatment

(WV Code Chapter 16)

Fund 8824 FY 2022 Org 0506

West Virginia Drinking Water

Treatment Revolving

Fund – Transfer.....	68900	\$	16,000,000
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356 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2022 Org 0510

Personal Services and

Employee Benefits.....	00100	\$	449,874
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Unclassified.....	09900		5,050
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Current Expenses	13000		64,950
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Total.....		\$	519,874
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357 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2022 Org 0511

Personal Services and

Employee Benefits.....	00100	\$	76,720,133
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Unclassified.....	09900		22,855,833
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Current Expenses	13000		112,181,984
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Medical Services.....	18900		3,860,302,514
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Medical Services

Administrative Costs	78900		132,247,536
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CHIP Administrative Costs.....	85601		4,539,496
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CHIP Services.....	85602		49,752,412
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Federal Economic Stimulus	89100		5,000,000
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Total.....		\$	4,263,599,908
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DEPARTMENT OF HOMELAND SECURITY*358 - Office of the Secretary*

(WV Code Chapter 5F)

Fund 8876 FY 2022 Org 0601

Unclassified.....	09900	\$	5,000
Current Expenses	13000		<u>495,000</u>
Total.....		\$	500,000

359 - Division of Emergency Management

(WV Code Chapter 15)

Fund 8727 FY 2022 Org 0606

Personal Services and Employee Benefits.....	00100	\$	1,199,172
Salary and Benefits of Cabinet Secretary and Agency Heads	00201		61,250
Current Expenses	13000		20,429,281
Repairs and Alterations.....	06400		5,000
Equipment	07000		<u>100,000</u>
Total.....		\$	21,794,703

360 - Division of Corrections and Rehabilitation

(WV Code Chapters 15A)

Fund 8836 FY 2022 Org 0608

Unclassified.....	09900	\$	1,100
Current Expenses	13000		<u>108,900</u>
Total.....		\$	110,000

361 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2022 Org 0612

Personal Services and Employee Benefits.....	00100	\$	2,480,877
Current Expenses	13000		2,125,971

DEPARTMENT OF TRANSPORTATION*365 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2022 Org 0802

Personal Services and		
Employee Benefits.....	00100	\$ 551,394
Current Expenses	13000	5,448,106
Repairs and Alterations.....	06400	500
Total.....		<u>\$ 6,000,000</u>

366 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2022 Org 0805

Personal Services and		
Employee Benefits.....	00100	\$ 1,010,320
Current Expenses	13000	20,913,149
Repairs and Alterations.....	06400	2,500
Equipment.....	07000	2,801,714
Buildings.....	25800	1,250,000
Other Assets.....	69000	100,000
Total.....		<u>\$ 26,077,683</u>

367 - Aeronautics Commission

(WV Code Chapter 29)

Fund 8831 FY 2022 Org 0807

Current Expenses	13000	\$ 400,000
Other Assets.....	69000	100
Total.....		<u>\$ 400,100</u>

DEPARTMENT OF VETERANS' ASSISTANCE*368 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 8858 FY 2022 Org 0613

Personal Services and		
Employee Benefits.....	00100	\$ 2,890,365
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	57,120
Current Expenses	13000	2,840,300
Repairs and Alterations.....	06400	20,000
Equipment.....	07000	25,000
Buildings.....	25800	250,000
Land.....	73000	500
Veterans' Cemetery	80800	175,000
Total.....		\$ 6,258,285

*369 - Department of Veterans' Assistance –**Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2022 Org 0618

Personal Services and		
Employee Benefits.....	00100	\$ 906,850
Current Expenses	13000	595,700
Repairs and Alterations.....	06400	60,500
Equipment.....	07000	10,500
Buildings.....	25800	500
Other Assets.....	69000	6,500
Land.....	73000	100
Total.....		\$ 1,580,650

BUREAU OF SENIOR SERVICES*370 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 8724 FY 2022 Org 0508

Personal Services and		
Employee Benefits.....	00100	\$ 761,414
Salary and Benefits of Cabinet		
Secretary and Agency Heads	00201	5,950
Current Expenses	13000	13,811,853
Repairs and Alterations.....	06400	<u>3,000</u>
Total.....		\$ 14,582,217

MISCELLANEOUS BOARDS AND COMMISSIONS

371 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 8726 FY 2022 Org 0603

Unclassified.....	09900	\$ 982,705
Mountaineer ChalleNGe Academy	70900	7,200,000
Martinsburg Starbase	74200	439,622
Charleston Starbase.....	74300	424,685
Military Authority.....	74800	<u>91,380,274</u>
Total.....		\$ 100,427,286

The Adjutant General shall have the authority to transfer between appropriations.

372 - Adjutant General –

West Virginia National Guard Counterdrug Forfeiture Fund

(WV Code Chapter 15)

Fund 8785 FY 2022 Org 0603

Personal Services and		
Employee Benefits.....	00100	\$ 1,350,000
Current Expenses	13000	150,000
Repairs and Alterations.....	06400	50,000
Equipment.....	07000	200,000
Buildings.....	25800	100,000

Current Expenses	13000	242,195
Repairs and Alterations	06400	5,000
Equipment	07000	3,000
Other Assets	69000	<u>2,000</u>
Total		\$ 415,600

Total TITLE II, Section 6 –

Federal Funds..... \$6,842,455,104

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 2022.

376 - Department of Economic Development –

Office of the Secretary –

Community Development

Fund 8746 FY 2022 Org 0307

Personal Services and		
Employee Benefits	00100	\$ 10,658,978
Unclassified.....	09900	2,375,000
Current Expenses	13000	<u>224,476,883</u>
Total.....		\$ 237,510,861

377 - Department of Economic Development –

Office of the Secretary –

Office of Economic Opportunity –

Community Services

Fund 8902 FY 2022 Org 0307

Personal Services and		
Employee Benefits	00100	\$ 362,389
Unclassified.....	09900	125,000
Current Expenses	13000	12,002,111
Repairs and Alterations	06400	1,500

Equipment.....	07000	9,000
Total.....		\$ 12,500,000

378 - WorkForce West Virginia –

Workforce Investment Act

Fund 8749 FY 2022 Org 0323

Personal Services and		
Employee Benefits.....	00100	\$ 2,875,479
Salary and Benefits of Cabinet		
Secretary and Agency Heads.....	00201	124,018
Unclassified.....	09900	23,023
Current Expenses	13000	39,263,511
Repairs and Alterations.....	06400	1,600
Equipment.....	07000	500
Buildings.....	25800	1,100
Total.....		\$ 42,289,231

379 - Division of Health –

Maternal and Child Health

Fund 8750 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 2,268,209
Unclassified.....	09900	81,439
Current Expenses	13000	5,794,267
Total.....		\$ 8,143,915

380 - Division of Health –

Preventive Health

Fund 8753 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 268,337
Unclassified.....	09900	22,457
Current Expenses	13000	1,895,366

Equipment.....	07000	<u>165,642</u>
Total.....		\$ 2,351,802

381 - Division of Health –

Substance Abuse Prevention and Treatment

Fund 8793 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 657,325
Unclassified.....	09900	115,924
Current Expenses	13000	<u>10,853,740</u>
Total.....		\$ 11,626,989

382 - Division of Health –

Community Mental Health Services

Fund 8794 FY 2022 Org 0506

Personal Services and		
Employee Benefits.....	00100	\$ 551,368
Unclassified.....	09900	33,533
Current Expenses	13000	<u>4,883,307</u>
Total.....		\$ 5,468,208

383 - Division of Human Services –

Energy Assistance

Fund 8755 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 1,860,574
Unclassified.....	09900	350,000
Current Expenses	13000	<u>38,182,151</u>
Total.....		\$ 40,392,725

384 - Division of Human Services –

Social Services

Fund 8757 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 8,806,005
Unclassified.....	09900	171,982
Current Expenses	13000	<u>8,870,508</u>
Total.....		\$ 17,848,495

385 - Division of Human Services –

Temporary Assistance for Needy Families

Fund 8816 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 20,604,174
Unclassified.....	09900	1,250,000
Current Expenses	13000	<u>105,871,588</u>
Total.....		\$ 127,725,762

386 - Division of Human Services –

Child Care and Development

Fund 8817 FY 2022 Org 0511

Personal Services and		
Employee Benefits.....	00100	\$ 2,797,226
Unclassified.....	09900	350,000
Current Expenses	13000	<u>47,000,307</u>
Total.....		\$ 50,147,533

Total TITLE II, Section 7 –

Federal Block Grants \$ 556,005,521

Sec. 8. Awards for claims against the state. — There are hereby appropriated for fiscal year 2022, from the fund as designated, in the amounts as specified, general revenue funds in the amount of \$4,310,008, special revenue funds in the amount of \$68,539, and state road funds in the amount of \$621,765 for payment of claims against the state.

Sec. 9. Appropriations from general revenue fund surplus accrued. — The following item is hereby appropriated from the

state fund, general revenue, and is to be available for expenditure during the fiscal year 2022 out of surplus funds only, accrued from the fiscal year ending June 30, 2021, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus as of July 31, 2021 from the fiscal year ending June 30, 2021, only after first meeting requirements of W.Va. Code §11B-2-20(b).

In the event that surplus revenues available on July 31, 2021, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available as of the date mandated to meet the appropriation in this section and shall be allocated first to provide the necessary funds to meet the first appropriation of this section and each subsequent appropriation in the order listed in this section.

387 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2022 Org 0444

Mountwest Community and
Technical College - Surplus.....##### \$ 97,340

388 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2022 Org 0445

New River Community and
Technical College - Surplus.....##### \$ 87,973

389 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2022 Org 0447

394 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2022 Org 0493

BridgeValley Community and Technical College - Surplus.....#####	\$	121,482
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395 - West Virginia University –

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2022 Org 0463

WVU School of Health Science – Eastern Division - Surplus.....#####	\$	33,530
WVU – School of Health Sciences - Surplus.....#####		225,846
WVU – School of Health Sciences – Charleston Division - Surplus.....#####		<u>34,301</u>
Total.....	\$	<u>293,677</u>

396 - Marshall University –

School of Medicine

(WV Code Chapter 18B)

Fund 0347 FY 2022 Org 0471

Marshall Medical School – Surplus.....#####	\$	183,526
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397 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2022 Org 0476

2021]	HOUSE OF DELEGATES	3661
West Virginia School of Osteopathic Medicine – Surplus	#####	\$ 133,189
<i>398 - Bluefield State College</i>		
(WV Code Chapter 18B)		
Fund <u>0354</u> FY <u>2022</u> Org <u>0482</u>		
Bluefield State College - Surplus.....	#####	\$ 95,748
<i>399 - Concord University</i>		
(WV Code Chapter 18B)		
Fund <u>0357</u> FY <u>2022</u> Org <u>0483</u>		
Concord University - Surplus	#####	\$ 157,146
<i>400 - Glenville State College</i>		
(WV Code Chapter 18B)		
Fund <u>0363</u> FY <u>2022</u> Org <u>0485</u>		
Glenville State College - Surplus.....	#####	\$ 96,704
<i>401 - Shepherd University</i>		
(WV Code Chapter 18B)		
Fund <u>0366</u> FY <u>2022</u> Org <u>0486</u>		
Shepherd University - Surplus	#####	\$ 190,257
<i>402 - West Liberty University</i>		
(WV Code Chapter 18B)		
Fund <u>0370</u> FY <u>2022</u> Org <u>0488</u>		
West Liberty University – Surplus	#####	\$ 136,540

403 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2022 Org 0490

West Virginia State

University - Surplus##### \$ 170,138

404 - Governor’s Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2022 Org 0100

Milton Flood Wall - Surplus75799 \$ 17,500,000

405 - Department of Tourism-

Office of the Secretary

(WV Code Chapter 5B)

Fund 0246 FY 2022 Org 0304

Tourism – Brand

Promotion – Surplus61893 \$ 7,000,000

406 - Marshall University –

General Administrative Fund

(WV Code Chapter 18B)

Fund 0348 FY 2022 Org 0471

Marshall University - Surplus##### \$ 9,700,000

407 - West Virginia Council for

Community and Technical College Education –

Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2022 Org 0420

West Virginia Council for
Community and Technical
Education - Surplus.....#####

\$ 3,000,000

408 - Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 0589 FY 2022 Org 0441

Current Expenses - Surplus.....#####

\$ 1,600,000

The above appropriation for Current Expense - Surplus (fund 0589, appropriation #####) shall be used for workforce development initiatives.

409 - West Virginia University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0344 FY 2022 Org 0463

West Virginia University - Surplus.....#####

\$ 16,600,000

410 - Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0256 FY 2022 Org 0307

Sec. 11. Appropriations from state excess lottery revenue surplus accrued. — The following item is hereby appropriated from the state excess lottery revenue fund, and is to be available for expenditure during the fiscal year 2022 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal year ending June 30, 2021, subject to the terms and conditions set forth in this section.

It is the intent and mandate of the Legislature that the following appropriation be payable only from surplus accrued from the fiscal year ending June 30, 2021.

In the event that surplus revenues available from the fiscal year ending June 30, 2021, are not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be made to the extent that surplus funds are available.

412 - Racing Commission –

General Administration

(WV Code Chapter 19)

Fund 7308 FY 2022 Org 0707

Directed Transfer	70000	\$	800,000
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From the above appropriation for Directed Transfer (fund 7308, appropriation 70000), \$800,000 shall be transferred to the Racing Commission – General Administration (Fund 7305).

413 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2022 Org 0511

Medical Services –

Lottery Surplus	68100	\$	17,000,000
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Total TITLE II, Section 11 –

Surplus Accrued..... \$ 17,800,000

Sec. 12. Special revenue appropriations. — There are hereby appropriated for expenditure during the fiscal year 2022 special revenues collected pursuant to general law enactment of the Legislature which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2 and are not expressly appropriated under this act: Provided, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.Va. Code §12-2-1 et seq., W.Va. Code §12-3-1 et seq., and W.Va. Code §11B-2-1 et seq., unless the spending unit has filed with the director of the budget and the legislative auditor prior to the beginning of each fiscal year:

(a) An estimate of the amount and sources of all revenues accruing to such fund; and

(b) A detailed expenditure schedule showing for what purposes the fund is to be expended: *Provided, however,* That federal funds received by the state may be expended only in accordance with Sections (6) or (7) of this Title and with W.Va. Code §4-11-1, *et seq.* *Provided further,* That federal funds that become available to a spending unit for expenditure while the Legislature is not in session and the availability of such funds could not reasonably have been anticipated and included in this act may be only be expended in the limited circumstances provided by W. Va. Code §4-11-5(d): *And provided further,* That no provision of this Act may be construed to authorize the expenditure of federal funds except as provided in this section.

During fiscal year 2022, the following funds are hereby available and are to be transferred to the appropriate funds as specified from available balances per the following:

414 - Attorney General

Consumer Protection Recovery Fund

(WV Code Chapter 46A)

Fund 1509 FY 2022 Org 1500

Directed Transfer 70000 \$ 4,500,000

From the above appropriation for Directed Transfer (fund 1509, appropriation 70000), \$2,500,000 shall be transferred to the Department of Health and Human Resources, Division of Human Services – Medical Services Trust Fund (fund 5185) and \$2,000,000 shall be transferred to the Governor’s Office – Civil Contingent Fund – Local Economic Development Assistance (fund 0105, appropriation 81900).

Total TITLE II, Section 12 –

Appropriations for Special

Revenue Appropriations \$ 4,500,000

Sec. 13. State improvement fund appropriations. — Requests or donations of nonpublic funds, received by the Governor on behalf of the state during the fiscal year 2022, for the purpose of making studies and recommendations relative to improvements of the administration and management of spending units in the executive branch of state government, shall be deposited in the state treasury in a separate account therein designated state improvement fund.

There are hereby appropriated all moneys so deposited during the fiscal year 2022 to be expended as authorized by the Governor, for such studies and recommendations which may encompass any problems of organization, procedures, systems, functions, powers or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

Sec. 14. Specific funds and collection accounts. — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.

Sec. 15. Appropriations for refunding erroneous payment. — Money that has been erroneously paid into the state treasury is

hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the proper amount. The Auditor shall issue his or her warrant to the Treasurer and the Treasurer shall pay the warrant out of the fund into which the amount was originally paid.

Sec. 16. Sinking fund deficiencies. — There is hereby appropriated to the Governor a sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance fund of the West Virginia housing development fund which is under the supervision and control of the municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal bond commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The Governor is authorized to transfer from time to time such amounts to the municipal bond commission as may be necessary for these purposes.

The municipal bond commission shall reimburse the state of West Virginia through the Governor from the first remittance collected from the West Virginia housing development fund or from any state agency or local taxing district for which the Governor advanced funds, with interest at the rate carried by the bonds for security or payment of which the advance was made.

Sec. 17. Appropriations for local governments. — There are hereby appropriated for payment to counties, districts and municipal corporations such amounts as will be necessary to pay taxes due counties, districts and municipal corporations and which have been paid into the treasury:

- (a) For redemption of lands;
- (b) By public service corporations;

(c) For tax forfeitures.

Sec. 18. Total appropriations. — Where only a total sum is appropriated to a spending unit, the total sum shall include personal services and employee benefits, annual increment, current expenses, repairs and alterations, buildings, equipment, other assets, land, and capital outlay, where not otherwise specifically provided and except as otherwise provided in TITLE I – GENERAL PROVISIONS, Sec. 3.

Sec. 19. General school fund. — The balance of the proceeds of the general school fund remaining after the payment of the appropriations made by this act is appropriated for expenditure in accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION

Sec. 1. Appropriations conditional. — The expenditure of the appropriations made by this act, except those appropriations made to the legislative and judicial branches of the state government, are conditioned upon the compliance by the spending unit with the requirements of Article 2, Chapter 11B of the Code.

Where spending units or parts of spending units have been absorbed by or combined with other spending units, it is the intent of this act that appropriations and reappropriations shall be to the succeeding or later spending unit created, unless otherwise indicated.

Sec. 2. Constitutionality. — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the act.

The bill, as amended by the Senate, 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. 584**), and there were, including pairs—yeas 86, nays 14, absent and not voting none, with the paired, and nays being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Westfall

Nay: Pushkin

Nays: Diserio, Doyle, Fleischauer, Fluharty, Hansen, Hornbuckle, Kimes, Lovejoy, McGeehan, Thompson, Walker, Williams and Zukoff.

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. 2022) passed.

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

On this question, the yeas and nays were taken (**Roll No. 585**), and there were, including pairs—yeas 97, nays 3, absent and not voting none, with the paired, and nays being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Westfall

Nay: Pushkin

Nays: Kimes 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 H. B. 2022) 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.

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:

H. B. 3198: Delegate Rowe

At 7:49 p.m., the House of Delegates adjourned until 11:00 a.m., Saturday, April 10, 2021.

