

JOURNAL
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LEGISLATURE
OF
WEST VIRGINIA



VOLUME III
REGULAR SESSION, 2016
FIRST EXTRAORDINARY SESSION, 2016

WEST VIRGINIA HOUSE OF DELEGATES
HONORABLE TIM ARMSTEAD
SPEAKER OF THE HOUSE

COMPILED AND PUBLISHED
UNDER THE DIRECTION
OF
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CLERK OF THE HOUSE



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**SCHEDULE SHOWING LEGISLATIVE DAYS
AND CALENDAR DAYS
AND PAGES OF JOURNAL COVERING SAME**

REGULAR SESSION, 2016

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1 st Day.	Sunday.	September 18.	4579
2 nd Day.	Monday.	September 19.	4589
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FRIDAY, MARCH 11, 2016

FIFTY-NINTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 9:00 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Thursday, March 10, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

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. 4080, Department of Veterans' Assistance, rule relating to VA headstones or markers.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect July 1, 2016, a bill of the House of Delegates as follows:

H. B. 4351, Transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, without amendment, bills of the House of Delegates as follows:

Com. Sub. for H. B. 4487, Relating to state retirement systems,

Com. Sub. for H. B. 4502, Allowing reciprocity agreements with contiguous states to establish regulations, licensing requirements and taxes for small businesses,

Com. Sub. for H. B. 4517, Limiting the ability of an agent under a power of attorney to take self-benefiting actions,

And,

Com. Sub. for H. B. 4519, Allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System.

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. 4, CSA LTG Thomas J. “Stonewall” Jackson Bridge,

H. C. R. 8, Harry Ripley Memorial Bridge,

Com. Sub. for H. C. R. 13, U.S. Army SPC 4 Everette R. Johnson Memorial Bridge,

Com. Sub. for H. C. R. 51, U.S. Army PFC Danny Mire Stoneking Memorial Bridge,

And,

Com. Sub. for H. C. R. 54, Byron ‘Bray’ Kelley Memorial Bridge.

Reordering of the Calendar

Delegate Cowles announced that the Committee on Rules had moved H. B. 4741 and H. B. 4742 on Third reading, Special Calendar, to follow Com. Sub. for S. B. 269 on Third reading, Special Calendar; and Com. Sub. for S. J. R. 14 on First reading, Special Calendar, to the House Calendar.

Resolutions Introduced

Delegate A. Evans offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 116 — “Requesting the Joint Committee on Government and Finance to study the need to amend section four, article seven, chapter eight of the Code of West Virginia to provide a mechanism for decreasing corporate municipality limits by making a minor boundary adjustment when the municipality has declined to apply for a decrease.”

Whereas, Section four, article seven, chapter eight of the Code of West Virginia provides that in the event a municipality desires to decrease its corporate limits by making a minor boundary adjustment, the governing body of such municipality may apply to the county court of the county wherein the municipality or the major portion of the territory thereof is located for permission to effect such decrease in the corporate limits by minor boundary adjustment; and

Whereas, Section four, article seven, chapter eight of the Code of West Virginia does not provide a process whereby a county court can require a municipality to effectuate a minor boundary decrease in the municipality’s corporation limit line of demarcation to facilitate clarification, correction, and reconciliation to improve the county’s real property land tax records and tax maps when the municipality has declined to apply for a decrease; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Joint Committee on Government and Finance to study the need to amend section four, article seven, chapter eight of the Code of West Virginia to provide a mechanism for decreasing corporate municipality limits by making a minor boundary adjustment when such an adjustment is necessary or desired and the municipality has declined to apply for a decrease; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, 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 these studies, to prepare reports and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates Cooper, Ambler, Atkinson, Campbell, Espinosa, D. Evans, Kelly, Moye, Perdue, Rohrbach, Romine, Rowan, R. Smith and Wagner offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 117 — “Requesting the Joint Committee on Government and Finance conduct a study of the Mountaineer Challenge Academy to develop recommendations to enhance programs for at-risk youth in the State of West Virginia.”

Whereas, In 1991 the Joint Armed Services Committee directed the National Guard to develop a plan to “add value to America” by providing values, skills, education and self-discipline to young people incorporating the structure and esprit de corps found in the military model and the National Youth Challenge program began operating in 1993 under Public Law 102-484, with West Virginia as one of the original programs; and

Whereas, The Mountaineer ChalleNGE Academy is intended to train and mentor selected at-risk youth to become contributing members of society using the Eight Core Components in a quasi-military environment during a twenty-two-week residential and one year post-residential follow-up program; and

Whereas, The Mountaineer ChalleNGE Academy gives at-risk youths a second chance at obtaining their basic education and potentially gaining their high school diploma; and

Whereas, The State of West Virginia and its youth may benefit by expanding the ChalleNGE Academy or instituting other programs to help them become successful; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study other ways to provide additional support to develop and grow programs for at-risk youth, such as the ChalleNGE Academy, to explore the possibility of investing in a second ChalleNGE Academy program in West Virginia, and to assess the ability of establishing a National Defense Cadet Corps at West Virginia high schools that do not have Junior Reserve Officer Training Corps programs; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature 2017 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.

Delegates Morgan, Boggs, Canterbury, Caputo, Eldridge, A. Evans, Fleischauer, Fluharty, Guthrie, Hamilton, Hartman, Hornbuckle, Miley, Moore, Moye, Perdue, Pushkin, Reynolds,

Romine, Rowe, Skinner, Stansbury, Storch, Trecost, Walters and P. White offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 118 — “Requesting the Joint Committee on Government and Finance study how best to implement work and job-training requirements for recipients of Supplemental Nutrition Assistance Program (SNAP) benefits in the category of Able-Bodied Adults without Dependents (ABAWD).”

Whereas, The State Legislature is committed to helping SNAP recipients in the ABAWD category with individual screening and plans, access to paid and unpaid employment – including workfare and volunteer service, job training, and entering educational and training programs that qualify them for employment; and

Whereas, SNAP provides food support for approximately 90,000 recipients in the ABAWD category; and

Whereas, The SNAP benefits for this category bring in tens of millions in federal dollars into the state’s economy, thereby supporting numerous retail establishments and service jobs; and

Whereas, The state is currently conducting a pilot program for the nine counties to move nonexempt recipients in the ABAWD category into work and training, and this pilot may be expanded to other counties in the future; and

Whereas, The state does not currently provide a breakdown of characteristics of SNAP recipients in the ABAWD category as a basis for planning and targeting state and community resources; and

Whereas, Resources are required to give each recipient in the pilot program individual screenings and feasible plans within SNAP policies, and to develop the necessary infrastructure for assessing and developing options, including workfare, volunteer service, and education and training; and

Whereas, Organizations exist in the state and its communities to help provide these resources; and

Whereas, Deliberate and diligent study and coordination with state and local agencies and other interested parties will maximize public and private resources and help to reach their common goal of assisting recipients who are not otherwise exempt from the requirements in contributing to their local communities and achieving self-sufficiency; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is requested to study the means and methods of implementing work and training requirements for SNAP recipients in the ABAWD group, and to consider the resources required to expand the pilot and the optimal time frames for any potential expansion; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature before the 2017 regular session its findings, conclusions and recommendations to fully implement the USDA requirements for the ABAWD population and the optimal time frames for expansion beyond the pilot counties, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the Department of Health and Human Resources and its partners shall cooperate with the Legislature to provide access to information, access to personnel, and access to all records necessary to effectuate the provisions of this study; and, be it

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

Petitions

Delegate Upson presented a petition from citizens of Jefferson County urging support of H. B. 4584, Prohibiting shifting future

development costs onto existing public service district customers; which was referred to the Committee on Government Organization.

Delegate Marcum presented a petition signed by fifty-one Delegates urging consideration of all bridge naming resolutions; which was referred to the Committee on Roads and Transportation.

Special Calendar

Unfinished Business

H. C. R. 36, Applying for an Article V Amendments Convention to Propose a Constitutional Amendment; coming up in regular order, as unfinished business, was reported by the Clerk.

Delegate Sponaugle moved to amend the resolution on page three, line eleven, following the period, by inserting the following:

“Further Resolved, That this resolution is null and void and of no effect if the West Virginia Legislature fails to enact a fully funded budget for fiscal year 2017, signed by action of the Governor or otherwise lawfully enacted, by April 1, 2016.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 492**), and there were’ –yeas 33, nays 63, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, J. Nelson, Perdue, Perry, Phillips, Pushkin, Reynolds, Rodighiero, Shaffer, P. Smith, Sponaugle and P. White.

Absent and Not Voting: Arvon, Hicks, Lane and Skinner.

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

An amendment recommended by Delegate J. Nelson was reported by the Clerk.

Whereupon,

Delegate J. Nelson then asked and obtained unanimous consent to withdraw the amendment and offer a reformed amendment in its stead, as follows:

Delegate J. Nelson moved to amend the resolution on page one, line one, by striking out everything beginning with the word “Applying” and inserting in lieu thereof the following:

“Requesting the Joint Committee on the Judiciary to study the proposal of urging Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress.

Whereas, The elected West Virginia State Senators and Delegates have a need for a study to research and determine the viability and limits of such a convention process, as well as provide answers to the many outstanding questions of the members and the public at large.

Whereas, Article IV, Section 4 of the Constitution of the United States guarantees to every state a republican form of government which gives each state equal standing when calling for an amendments convention. Article V of the Constitution of the United States reserves to the several states the right to call for a convention for the purpose of amending the United States Constitution when Congress or the courts or both Congress and the courts refuse to address an egregious wrong suffered by the people; and

Whereas, The states alone have the authority to “limit” the agenda and authority of a convention. The states alone can call for a “Single

Issue” convention by agreeing among themselves the purpose, terms, conditions, duration and agenda for the convention. Congress does not have the authority to define a “Single Issue” convention. The authority of Congress, under Article V of the United States Constitution, empowers it to convene a convention as called for and defined by the several states; and

Whereas, The founders of our Constitution empowered state legislators to be guardians of liberty against future abuses of power by the federal government which has created a crushing national debt through improper and imprudent spending; and

Whereas, The federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent, and the federal government has ceased to live under a proper interpretation of the Constitution of the United States; and

Whereas, It is the solemn duty of the states to protect the liberty of the people—particularly for the generations to come—by proposing amendments to the Constitution of the United States through a Convention of the States under Article V for the purpose of restraining these and related abuses of power; therefore, be it

Resolved by the Legislature of West Virginia:

That the State of West Virginia strongly condemns the prolonged and unlawful expansion of Federal authority upon the rights and self-governance of the people of West Virginia and is contemplating this action as a method of self-preservation against such abuses; and be it;

Further Resolved, For the purposes of determining whether the Legislature should ~~That the Legislature hereby~~ urges Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal

restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress, the Legislature hereby requests that the Joint Committee on the Judiciary to determine the viability, limits, and answer other questions about the process should the State of West Virginia proceed with the application; and, be it

~~*Further Resolved,* That the State of West Virginia 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 limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress and absolutely no other business will be authorized at this convention; and, be it~~

~~*Further Resolved,* That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two thirds of the several states have made applications on the same subject; and, be it~~

Further Resolved, That the Joint Committee on the Judiciary report to the regular session of the Legislature, 2017, 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 the Judiciary.

~~*Further Resolved,* That the Clerk of the Senate is hereby directed to forward this resolution and application to the President and Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, to the members of West Virginia's congressional delegation and to the presiding officers of each of the legislative houses in the several states requesting their cooperation.~~

Delegate Cowles, asked and obtained unanimous consent that the resolution be placed at the foot of the calendar, with the amendment pending.

Third Reading

S. B. 107, Uniform Interstate Depositions and Discovery 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. 493**), 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: Arvon and Guthrie.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 107) passed.

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

S. B. 107 — “A Bill to amend and reenact the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §56-12-1, §56-12-2, §56-12-3, §56-12-4, §56-12-5, §56-12-6, §56-12-7, and §56-12-8, all relating to creating and adopting the Uniform Interstate Depositions and Discovery Act; establishing a short title of the act; defining terms; creating the procedure governing issuance of subpoenas by clerks of the court in this state; requiring foreign subpoenas to be filed as miscellaneous actions; requiring a filing fee to be charged; clarifying the rules governing service of such subpoenas; establishing application of the West Virginia Rules of Civil Procedure to subpoenas issued under the act; requiring that any application for a protective order or to enforce, quash or modify a subpoena issued under the act comply with the rules and statutes of this state including where to file any such application; encouraging consideration of uniformity of the law with respect to the act whenever it is applied and construed; and establishing the application of the effective date of the act.”

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. 157, Authorizing Department of Revenue to promulgate legislative rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 494**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Arvon and Boggs.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 157) passed.

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

Com. Sub. for S. B. 157 — “A Bill to amend and reenact article 7, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to promulgation of administrative rules by Department of Revenue; relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies and boards under the Department of Revenue which are no longer authorized or are obsolete; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the

agencies to promulgate certain legislative rules with various amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; authorizing Alcohol Beverage Control Commission to promulgate legislative rule relating to nonintoxicating beer licensing and operations procedures; authorizing Alcohol Beverage Control Commission to promulgate legislative rule relating to private club licensing; authorizing Alcohol Beverage Control Commission to promulgate legislative rule relating to distilleries and mini-distilleries; authorizing the Racing Commission to promulgate legislative rule relating to thoroughbred racing; authorizing Racing Commission to promulgate legislative rule relating to pari-mutuel wagering; authorizing Department of Tax and Revenue to promulgate legislative rule relating to payment of taxes by electronic funds transfer; authorizing Department of Tax and Revenue to promulgate legislative rule relating to an exchange of information agreement between Commissioner of the Tax Division of the Department of Revenue and Secretary of the Department of Commerce, Secretary of State, Secretary of the Department of Environmental Protection, Director of the Division of Forestry of the Department of Commerce and Commissioners of the Public Service Commission; repealing certain legislative and procedural rule promulgated by certain agencies and boards under the Department of Revenue; repealing the Tax Division legislative rule relating to listing of interests in natural resources for purposes of first statewide appraisal; repealing the Tax Division legislative rule relating to guidelines for assessors to assure fair and uniform nonutility personal property values; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to review of appraisals by the county commission sitting as an administrative appraisal review board; repealing the Tax Division legislative rule relating to additional review and implementation of property appraisals; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; directing the State Tax Department to amend and promulgate legislative rule relating to valuation of timberland and managed

timberland; repealing the Tax Division legislative rule relating to revision of levy estimates; repealing the Tax Division legislative rule relating to inheritance and transfer tax; repealing the Tax Division legislative rule relating to annual tax on incomes of certain carriers; repealing the Tax Division legislative rule relating to the telecommunications tax; repealing the Tax Division legislative rule relating to tax credit for employing former members of Colmn Anderson Center; repealing the Tax Division legislative rule relating to tax credits for new value-added, wood manufacturing facilities; repealing the Tax Division legislative rule relating to tax credits for new steel, aluminum and polymer manufacturing operations; repealing the Tax Division legislative rule relating to the business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit; repealing the Tax Division legislative rule relating to appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes; repealing the Banking Commissioner legislative rule relating to the West Virginia Consumer Credit and Protection Act; repealing the Banking Commissioner procedural rule relating to West Virginia Board of Banking and Financial Institutions; repealing the Office of the Insurance Commissioner legislative rule relating to utilization management; repealing the Office of the Insurance Commissioner legislative rule relating to Medicare supplement insurance coverage; and directing the Lottery Commission to amend and promulgate legislative rule relating to limited video lottery.”

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

On this question, the yeas and nays were taken (**Roll No. 495**), 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: Arvon and Boggs.

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. 157) 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. 159, Authorizing promulgation of legislative rules by miscellaneous boards and commissions; on third reading, coming up in 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 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Boggs and Hamilton.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 159) passed.

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

Com. Sub. for S. B. 159 — “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies and commissions to repeal certain legislative, procedural or interpretative rules that are no longer authorized or are obsolete; directing various agencies to amend and promulgate certain legislative rules; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensing; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselor license renewal and continuing professional education

requirements; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapists licensing; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family license renewal and continuing professional education requirements; authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules and rules of professional conduct; authorizing the Department of Agriculture to promulgate a legislative rule relating to the inspection of nontraditional domesticated animals; authorizing the Department of Agriculture to promulgate a legislative rule relating to poultry litter and manure movement into primary poultry breeder rearing areas; authorizing the Department of Agriculture to promulgate a legislative rule relating to livestock care standards; authorizing the Department of Agriculture to promulgate a legislative rule relating to captive cervid farming; repealing the Department of Agriculture legislative rule relating to tobacco; repealing the Department of Agriculture legislative rule relating to the conduct of beef industry self-improvement assessment program referendums; repealing the Department of Agriculture legislative rule relating to the conduct of beef self-improvement assessment program referendums; repealing the Department of Agriculture legislative rule relating to West Virginia seal of quality; repealing the Department of Agriculture legislative rule relating to aquaculture farm rules; repealing the Department of Agriculture procedural rule relating to the conduct of tree fruit industries self-improvement assessment program referendums; authorizing the State Conservation Committee to promulgate a legislative rule relating to the West Virginia Conservation Agency Financial Assistance Program; authorizing the Board of Dentistry to promulgate a legislative rule relating to continuing education requirements; authorizing the Board of Dentistry to promulgate a legislative rule relating to expanded duties of dental hygienists and dental assistants; authorizing the State Election Commission to promulgate a legislative rule relating to the regulation of campaign finance; authorizing the State Election Commission to promulgate a legislative rule relating to the West Virginia Supreme Court of Appeals

public campaign financing program; authorizing the State Board of Registration for Professional Engineers to promulgate a legislative rule relating to the examination, licensure and practice of professional engineers; authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law enforcement training and certification standards; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to the board; authorizing the Board of Medicine to promulgate a legislative rule relating to the establishment and regulation of limited license to practice medicine and surgery at certain state veterans nursing home facilities; directing the Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures of Physicians and Podiatrists; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act; authorizing the Board of Pharmacy to promulgate a legislative rule relating to record keeping and automated data processing systems; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure of wholesale drug distributors, third-party logistics providers and manufacturers; authorizing the Property Valuation and Procedures Commission to promulgate a legislative rule relating to tax map sales; authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the Secretary of State to promulgate a legislative rule relating to registration forms and receipts; authorizing the Secretary of State to promulgate a legislative rule relating to the elimination of precinct registration books; authorizing the Secretary of State to promulgate a legislative rule relating to absentee voting by military voters who are members of reserve units called to active duty; authorizing the Secretary of State to promulgate a legislative rule relating to the Freedom of Information Act database; repealing the Secretary of State

legislative rule relating to matters relating to corporations and other business entity filing; repealing the Secretary of State legislative rule relating to matters relating to official election forms and vendor authorization; authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to the licensure of speech pathology and audiology; and authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to speech-language pathology and audiology assistants; authorizing the Enterprise Resource Planning Board to promulgate a legislative rule relating to the enterprise resource planning system user fee; repealing the Cable TV Advisory Board legislative rule relating to franchising procedures; repealing the Cable TV Advisory Board legislative rule relating to implementing regulations; repealing the Cable TV Advisory Board legislative rule relating to calculation and collection of late fee; repealing the Cable TV Advisory Board procedural rule relating to administrative procedures for consumer complaint resolution under the West Virginia Cable TV Systems Act; repealing the Cable TV Advisory Board procedural rule relating to rate regulation procedures; repealing the Cable TV Advisory Board procedural rule relating to form and service of notice under section eight, article eighteen-a, chapter five of this code; repealing the Contractor Licensing Board legislative rule relating to consumer complaints; repealing the Respiratory Care Board legislative rule relating to the procedure for licensure applications; repealing the Attorney General procedural rule relating to freedom of information; repealing the Municipal Bond Commission procedural rule relating to rules of procedure covering board and executive committee meetings of the Municipal Bond Commission; repealing the Housing Development Fund legislative rule relating to refiling of administrative rules pertaining to administration of single-family mortgage loans; repealing the Public Service Commission legislative exempt rule relating to rules and regulations for carrier access to the lines and facilities of other carriers; repealing the Public Service Commission legislative exempt rule relating to rules and regulations for shipper access to the lines and facilities of rail

carriers; repealing the Infrastructure and Jobs Development Council procedural rule relating to establishing procedures to provide public notice of date, time, place, agenda and purpose of meetings of the West Virginia Infrastructure and Jobs Development Council and manner in which meetings are to be conducted; repealing the Water Development Authority procedural rule new procedures in relation to providing public notice of date, time, place and purpose of meetings of the West Virginia Water Development Authority and manner in which meetings are to be conducted; and directing the Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians.”

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

On this question, the yeas and nays were taken (**Roll No. 497**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Arvon.

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. 159) 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. 262, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings; on third reading, coming up in 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 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Faircloth, Fast, Folk, Ihle and McGeehan.

Absent and Not Voting: Arvon.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 262) passed.

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

Com. Sub. for S. B. 262 — “A Bill to amend and reenact §25-1-17 and §25-1-18 of the Code of West Virginia, 1931, all relating to law enforcement not needing to obtain court orders prior to receiving recordings of inmate phone calls and inmate mail for investigative purposes; eliminating requirement for promulgation of legislative rules relating to monitoring of inmate telephone conversations and mail; requiring commissioner to promulgate policy directive establishing record-keeping procedure to memorialize telephone conversations and mail provided to law enforcement for investigation; requiring records to be retained in accordance with Division of Correction’s record retention policy; allowing an inmate’s attorney access to telephone conversations and inmate mail supplied to law enforcement and exceptions thereto; clarifying that inmate mail and telephone provisions apply only to inmates in physical custody of commissioner; and clarifying that information supplied to law enforcement is not subject to disclosure under the Freedom of Information Act.”

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. 267, Modifying removal procedure for certain county, school district and municipal officers; on third reading, coming up in regular order, with restricted right to amend by Delegates Shott and Manchin, was reported by the Clerk.

There being no 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. 499**), and there were—yeas 89, nays 10, absent

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

Nays: Azinger, Folk, Frich, Kelly, Kurcaba, Moffatt, Moye, Shaffer, Sponaugle and Wagner.

Absent and Not Voting: Arvon.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 267) passed.

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

Com. Sub. for S. B. 269, Budget Bill; on third reading, coming up in regular order, was read a third time.

During extensive debate, the Speaker reminded the Members to confine their remarks to the bill before the House.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the passage of Com. Sub. for S. B. 269 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

Delegates Shaffer, P. Smith, Blackwell, Byrd, Morgan, Moye, Marcum, Campbell, J. Nelson, Wagner, Eldridge, R. Smith, Guthrie, Ferro, Azinger, Overington, Anderson, McGeehan, Hamilton, Espinosa, Duke, Lane, E. Nelson, Fast, Householder, Waxman, Hamrick and Ihle requested to be excused from voting on the passage of Com. Sub. for S. B. 269 under the provisions of House Rule 49.

The Speaker pro tempore replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Members from voting.

Mr. Speaker, Mr. Armstead, in the Chair

Delegates Cowles, Ambler and Rowe requested to be excused from voting on the passage of Com. Sub. for S. B. 269 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, 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. 500**), and there were, including 4 paired—yeas 61, nays 38, absent and not voting 1, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Flanigan Nay: Sponaugle

Yea: Walters Nay: P. White

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Hartman, Hicks, Hornbuckle, Ihle, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, Perdue, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Trecost.

Absent and Not Voting: Arvon.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 269) passed.

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

On this question, the yeas and nays were taken (**Roll No. 501**), and there were—yeas 58, nays 39, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Hartman, Hicks, Hornbuckle, Ihle, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecoast and P. White.

Absent and Not Voting: Arvon, Flanigan and Walters.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the Speaker declared the motion rejected.

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

At 2:05 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 3:00 p.m.

* * * * *

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates returned to the Seventh Order of Business for the purpose of introduction and consideration of a resolution.

Introduction of Resolutions

Delegate Miley, on behalf of all Members of the House of Delegates, offered the following resolution, which was read by the Clerk as follows:

H. R. 20 — “Honoring and memorializing the life of Frank ‘Chunki’ Angotti who served for four years in the West Virginia Legislature.”

Whereas, Frank “Chunki” Angotti was born on July 20, 1948, to the late Frank and Rose Romano Angotti of Clarksburg, the second of four boys; and

Whereas, in the spirit of the way he lived his life, Frank “Chunki” Angotti was helping a neighbor remove snow on January 23 after a winter storm when he suffered a heart attack, and he passed away on February 4 at Ruby Memorial Hospital in Morgantown; and

Whereas, Frank “Chunki” Angotti also had roots in Hinton, West Virginia and during his early years where his father was a pharmacist and graduated from Notre Dame High School in Clarksburg with the Class of 1966; and

Whereas, Frank “Chunki” Angotti was formerly married to Mary Virginia Maunz Angotti with whom he had two children Dr. Lori Angotti and Dr. Frank T. Angotti III, who reside in West Virginia; and

Whereas, Frank “Chunki” Angotti is also survived by his longtime companion, Gina Jones of Clarksburg along with his brothers, Mark Angotti, Dr. Michael Angotti and Dr. Marshall Angotti; and

Whereas, After graduating high school Frank “Chunki” Angotti attended Fairmont State College and enlisted in the United States Army Reserves serving his country for six years from 1970 until 1976; and

Whereas, Frank “Chunki” Angotti was a born entrepreneur and operating several small businesses, including Chunki’s Restaurant for the past thirty-eight years which was a well-known icon throughout Harrison County. He was especially proud of developing the Hot Italian Sub and his Heart Shaped Pizzas only served on Valentine’s Day. He often claimed to be the “oldest hot delivery” in Clarksburg. Practically every morning he entertained his friends and colleagues with coffee and good conversation at Chunki’s restaurant until it was time for him and longtime friend, Rhonda Talerico, his right hand at Chunki’s, to start preparing for lunch service that day; and

Whereas, serving the public one of Frank “Chunki” Angotti greatest passions. He was first elected to the Clarksburg Water Board in 1993 serving until 1998, and he was twice elected to the West Virginia House of Delegates serving from 1998 to 2002. He was both elected and appointed to the Harrison County Commission for a total of ten years’ service; and

Whereas, Frank “Chunki” Angotti loved his colleagues with whom he served and for many years following his service as a member of the House of Delegates, he would travel to the Capitol in Charleston to serve lunch to all of the Members of the Senate and House. Once, while cooking on the Capitol roof breezeway the wind shifted and filled the Capitol with smoke resulting in its evacuation! He was fondly teased about it for years; and

Whereas, Frank “Chunki” Angotti never refused to help a constituent regardless of whether they had supported his candidacy. No matter what hour of the day or night anyone who would call him and need help with a problem, he would stop what he was doing and spend his time making sure that the person was getting help from the proper government agency. He loved serving the public and did so free of special interest’s influence or thoughts of personal gain; and

Whereas, In addition to serving with great integrity and dedication to duty, Frank “Chunki” Angotti was a Roman Catholic by faith and a member of both Immaculate Conception and Our Lady of Perpetual Help Catholic Churches; and

Whereas, Frank “Chunki” Angotti was a dedicated father, a wonderful companion and family man and an active member of the Harrison County community. He especially loved children and would do anything he could to help them. He was a very hard worker and there was no challenge too large or too small that he could not tackle and successfully complete. He was a true public servant and always put the interests of the people ahead of his own. He was dearly loved by his family and friends and will be greatly missed by all who knew him; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby honors one of its own, former Delegate Frank “Chunki” Angotti, who most ably served for four years in the West Virginia Legislature; and, be it

Further Resolved, That the House of Delegates memorializes the life of Frank “Chunki” Angotti, a unique and singular individual who devoted his life to better the lives of the citizens of the city of Clarksburg and Harrison County as well as all West Virginians; and, be it

Further Resolved, That the Clerk of the House of Delegates prepare a copy of this resolution for the members of the West Virginia Legislature, the Governor, the Harrison County Commission, his longtime companion and love, Gina Jones of Clarksburg, his daughter, Dr. Lori Angotti and her partner Sam Lopez, his son, Dr. Frank T. Angotti III, and his three brothers and their spouses: Mark and Pam Angotti of Cary, North Carolina, Dr. Michael Angotti and partner Debra Shaw, Virginia Beach, Virginia and Drs. Marshall and Grace Angotti of York, Pennsylvania.

At the respective requests of Delegate Cowles, and by unanimous consent, reference of the resolution (H. R. 20) to a committee was dispensed with, and it was taken up for immediate consideration.

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. 502**), 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: Arvon, Blackwell, Flanigan and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. R. 20) adopted.

Special Calendar**Third Reading**

H. B. 4741, Expiring funds to the Division of Human Resources, Medical Services Trust Fund: on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 503**), and there were, including 2 paired—yeas 65, nays 32, absent and not voting 3, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Flanigan Nay: Sponaugle

Nays: Bates, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, Trecost, P. White.

Absent and Not Voting: Arvon, Blackwell and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4741) passed.

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

On this question, the yeas and nays were taken (**Roll No. 504**), and there were—yeas 62, nays 34, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Bates, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Manchin, Marcum, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Arvon, Blackwell, Flanigan and Walters.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the Speaker declared the motion rejected.

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

H. B. 4742, Expiring funds to the Division of Human Resources, Medical Services Trust Fund from various accounts on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 505**), and there were, including 2 paired—yeas 60, nays 38, absent and not voting 2, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Flanigan Nay: Sponaugle

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moffatt, Moore, Morgan, Moye, J. Nelson, Perdue, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, R. Smith, Trecost and P. White.

Absent and Not Voting: Arvon and Walters.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4742) passed.

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

On this question, the yeas and nays were taken (**Roll No. 506**), and there were—yeas 60, nays 37, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moore, Morgan, Moye, J. Nelson, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Arvon, Flanigan and Walters.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the Speaker declared the motion rejected.

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

Com. Sub. for S. B. 270, Repealing code relating to insurance policies; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 507**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Marcum, Miley, Shaffer and P. White.

Absent and Not Voting: Arvon, Flanigan, Kelly and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 270) passed.

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

Com. Sub. for S. B. 291, Law enforcement use of unmanned aircraft systems; on third reading, coming up in regular order, was reported by the Clerk.

Delegate Shott was recognized and asked and obtained unanimous consent to amend the bill on third reading.

On motion of Delegate Shott, the bill was amended on page three, section three, line forty-three by striking out the words “equips an unmanned aircraft system with any lethal weapon”.

On page five, section four, line ninety-seven, by striking out the word “article” and inserting in lieu thereof the word “section”.

And,

On page one, following the enacting clause, by striking out the enacting section and inserting a new enacting section to read as follows:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4 and §61-14-5 all to read as follows” and a colon,

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. 508**), and there were—yeas 89, nays 9, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Byrd, Eldridge, Fluharty, Ihle, Lynch, McGeehan, Pushkin, Reynolds and Shaffer.

Absent and Not Voting: Arvon and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 291) passed.

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

Com. Sub. for S. B. 291 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4 and §61-14-5, all relating to regulation of unmanned aircraft systems; defining terms; requiring compliance with federal laws and regulations relating to such unmanned aircraft systems; creating criminal offenses for certain conduct using an unmanned aircraft system and setting penalties therefor; creating felony criminal offense for operating an unmanned aircraft system equipped with a lethal weapon and setting penalties therefor; creating felony criminal offense for operating an unmanned aircraft system with the intent to cause damage or disrupt in any way the flight of a manned aircraft and setting penalties therefor; setting forth regulations, limitations and prohibitions of the use of unmanned aircraft systems by law-enforcement; regulating law-enforcement use of unmanned aircraft systems; requiring law-enforcement obtain any necessary federal authorization, permit or certificate to operate an unmanned aircraft system; requiring law-enforcement operation of an unmanned aircraft system to only be done by trained and certified persons under appropriate supervision; necessitating law-enforcement operate unmanned aircraft system for a lawful public purpose; requiring documentation of law-enforcement flights of unmanned aircraft systems and maintenance of records; establishing method for public notification of operation of an unmanned aircraft system; providing for community involvement in development of policies;

requiring search warrants to be obtained before unmanned aircraft systems may be used in criminal investigations and creating exemptions thereto; prohibiting law-enforcement from using an unmanned aircraft system for purposes of traffic enforcement; making clear allowance of law enforcement when there is reasonable cause to believe that the use and operation of an unmanned aircraft system would safely avert imminent threats to human life and safety, property damage or environmental damage; requiring the Law Enforcement Professional Standards Subcommittee to propose legislative rules and promulgate emergency rules if necessary; prohibiting the operation of an unmanned aircraft system over the property of a targeted facility to intentionally deploy any substance, material, projectile or object, or to conduct surveillance of, gather evidence and information about, or photographically or electronically record a targeted facility without the prior consent of the owner of the targeted facility; providing exceptions to the prohibition of operation over the property of a targeted facility; creating criminal offense for the operation of an unmanned aircraft system over the property of a targeted facility in violation of these provisions and setting penalties therefor; and providing for increased penalties for second or subsequent offenses.”

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. 293, Neighborhood Investment Program 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. 509**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Arvon and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 293) 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. 293 — “A Bill to amend and reenact §11-13J-3, §11-13J-4, §11-13J-4a, §11-13J-10 and §11-13J-12 of the Code of West Virginia, 1931, as amended, all relating generally to Neighborhood Investment Program Act; changing termination date; defining terms; specifying frequency of required project transferee reports; specifying number of required advisory board meetings; specifying required number of West Virginia Development Office reports to the board; providing criteria for evaluation of projects; providing for report by Tax Commissioner; and specifying frequency of program assessments by the director.”

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. 298, Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 510**), and there were, including 2 paired—yeas 84, nays 15, absent and not voting 1, with the paired, nays and absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Flanigan Nay: Azinger

Nays: Speaker Armstead, Fast, Frich, Ireland, Lynch, Marcum, Moye, Phillips, Rodighiero, Rowan, Shaffer, Sobonya, Sponaugle and P. White.

Absent and Not Voting: Arvon.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 298) 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. 339, Establishing Judicial Compensation 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. 511**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Hamilton, Ihle, McGeehan and J. Nelson.

Absent and Not Voting: Arvon and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 339) passed.

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

Com. Sub. for S. B. 339 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §4-2A-1, §4-2A-2 and §4-2A-3, all relating to establishing a judicial compensation commission; establishing as an advisory commission to the Legislature; setting responsibilities for commission; establishing membership of commission; setting terms of service for appointed members; setting eligibility requirements for certain commission members; providing that members of commission are ineligible for appointment to state judicial position while serving on commission;

providing for reimbursement of expenses incurred in carrying out responsibilities of commission; providing for filling of vacancies on commission; giving commission authority to make salary recommendations for certain judicial officers to the Legislature; providing for location of commission meetings; setting meeting notice requirements; directing election of a chairperson; setting quorum requirements; permitting commission to request staff assistance from Joint Committee on Government and Finance; permitting commission to request assistance and information from administrative office of Supreme Court of Appeals; requiring meetings be conducted pursuant to open meetings laws; directing commission to study compensation structure for certain judicial officers for purposes of preparing recommendations; setting forth required factors to be considered in making recommendations regarding compensation; establishing certain dates for preparation and submission of recommendations; providing for filing of commission reports and recommendations with certain offices and entities; allowing a bill enacting commission's salary recommendations to be introduced by the presiding officers of the Senate and House of Delegates in the legislative session following receipt of report; providing for continued study and preparation of recommendations by the commission if the recommendations are not adopted; and providing that commission be adjourned for three years if the complete recommendations of the commission are adopted by the Legislature.”

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

S. B. 345, Relating to parking on state-owned or leased 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. 512**), 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: Arvon, Byrd, Eldridge and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 345) 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. 361, Prohibiting persons who have committed crimes against elderly from performing community service involving elderly; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 513**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Byrd, Eldridge and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 361) passed.

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

Com. Sub. for S. B. 361 — “A Bill to amend and reenact §61-2-10a of the Code of West Virginia, 1931, as amended, relating to prohibiting persons who have committed crimes against the elderly from performing any court-ordered public service involving the elderly.”

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. 378, Relating to truancy intervention; on third reading with amendments pending and the restricted right to amend by Delegates Shott and Perdue, was reported by the Clerk.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §18-8-4 and §18-8-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.

(a) The county attendance director and ~~the assistants~~ assistant directors shall diligently promote regular school attendance. The director and ~~assistants~~ assistant directors shall:

(1) Ascertain the reasons for unexcused absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age as defined under section one-a of this article; and

(2) Take such steps as that are, in their discretion, best calculated to encourage the attendance of students and to impart upon the parents and guardians the importance of attendance and the seriousness of failing to do so; ~~and~~.

~~(b)~~ (b) For the purposes of this article, the following definitions ~~shall~~ apply:

~~(A)~~ (1) ‘Excused absence’ ~~shall be defined to include~~ includes:

~~(i)~~(A) Personal illness or injury of the student, or in the family if the illness or injury prohibits a student from school attendance. A student shall provide written documentation from a medical provider stating the illness or injury precludes school attendance when a student’s illness or injury caused that student to be absent for five or more consecutive days of school, or ten days in any ninety-day period:

Provided, That excused absences caused by personal illness or injury of the student verified only by a note from a parent, guardian or custodian are limited to five in any one semester or ten in a school year. After a student has been absent for personal illness or injury five times in a semester or ten times in a school year, any further absences shall be unexcused unless verified by a physician;

(B) Personal illness or injury of a member of the student's family who regularly resides with the student, if the family member requires the active assistance of the student during the illness or injury and there is no other individual who can assist the family member: *Provided,* That any absence lasting longer than two days pursuant to this paragraph shall not be considered excused unless written documentation is provided by a medical provider confirming that the student's absence from school is necessary for the ongoing care of the family member;

(ii)(C) A ~~Medical~~ medical or dental appointment with written excuse or documentation of the appointment from ~~physician or dentist~~ a medical or dental provider;

(iii)(D) A ~~Chronic~~ chronic medical condition or disability that impacts precludes attendance, unless the chronic medical condition or disability can be reasonably accommodated by the school, and the school has apprised the student and his parent, guardian or custodian of the accommodation. A student claiming that his or her chronic medical condition or disability precludes his or her attendance at school shall provide a written excuse or documentation from a medical provider stating that the chronic medical condition or disability necessitates that the student be absent from school. Upon reaching the requisite number of absences to constitute a chronic medical condition, the student's parent, guardian or custodian shall contact the school to ascertain if reasonable accommodation can be made to allow the student to attend school. For the purposes of this paragraph, a chronic medical condition or disability is a medical condition or disability that

causes the student to be absent for five or more consecutive days or ten days or more in any ninety-day period;

~~(v)~~(E) Participation in home or hospital instruction due to an illness or injury or other extraordinary circumstance that warrants home or hospital confinement;

~~(v)~~(F) A ~~Calamity~~ calamity, such as a fire or flood;

~~(vi)~~(G) A ~~Death~~ death in the student's immediate family. As used in this paragraph 'immediate family' means mother, father, aunt, uncle, siblings, grandparents, guardian, custodian or a family member residing in the child's home. An excused absence under this paragraph is limited to five days;

~~(vii)~~(H) School-approved or county-approved curricular or extra-curricular activities;

~~(viii)~~(I) A ~~Judicial~~ judicial obligation or court appearance involving the student, if supported by written documentation from an attorney, probation officer, judge, magistrate or Department of Health and Human Resources worker;

~~(ix)~~(J) A ~~Military~~ military requirement for students enlisted or enlisting in the military;

~~(x)~~(K) Personal or academic circumstances approved by the principal;

(L) Absence due to a religious holiday; and

~~(xi)~~(M) ~~Such~~ Any other situations as may be further determined by the county board: Provided, That handling of absences of students with disabilities shall be in accordance consistent with the Individuals with Disabilities Education Improvement Act of 2004 and the federal and state regulations and rules adopted in compliance therewith with the act: Provided, however, That a school principal, with the approval of the county superintendent of schools, may authorize that an unexcused

absence be determined an excused absence based on all of the specific facts and circumstances, including without limitation, some or all unexcused absences prior to return of a student who has dropped out of school after the student attained the age for which school attendance was no longer mandatory.

(2) ~~An ‘Unexcused~~ ‘unexcused absence’ shall be is any absence not specifically included in the definition of ‘excused absence’.

~~(b) In the case of three total unexcused absences of a student during a school year, the attendance director or assistant shall serve written notice to the parent, guardian or custodian of the student that the attendance of the student at school is required and that if the student has five unexcused absences, a conference with the principal or other designated representative will be required.~~

~~(c) In order for the absence to be excused, the student or his or her parent, guardian or custodian shall supply the written excuses or documentation to the person at the student’s school designated to receive the excuses or documentation within five days after returning to school from the absence.~~

~~(d) For purposes of this section, a student’s illness, injury or chronic medical condition is reasonably accommodated if the school provides necessary and appropriate adjustments to school practices which allow the student’s attendance while ensuring the student’s health and safety and that of his or her fellow students.~~

~~(e)~~(e) In the case that five days have passed from the end of an absence totaling, or bringing the student to three unexcused absences during a school year, the attendance director or assistant shall serve written notice to the parent, guardian, or custodian of the student that the attendance of the student at the school is required, and that if the student has five unexcused absences, a conference with the principal or other designated representative will be required: *Provided, That if the unexcused absences total five, or more days the school may*

disregard this subsection and serve notice of the meeting as provided in subsection (f).

~~(c)~~ (f) In the case of five total unexcused absences, the attendance director or assistant shall serve written notice to the parent, guardian or custodian of the student that within five days of receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in person to the school the student attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the unexcused absences of the student, including the adjustment of unexcused absences based upon ~~such~~ the meeting.

~~(d)~~ (g) In the case of ten total unexcused absences of a student during a school year, the attendance director or assistant directors shall make a complaint against the parent, guardian or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within ten calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed. ~~or until the end of the school term during which the complaint is made, whichever is later.~~

~~(e)~~ (h) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in section eight, article one, chapter fifty of this code, shall assign the case to a magistrate within ten days of execution of the summons or warrant. The hearing shall be held within twenty days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide

to the accused at least ten days' advance notice of the date, time and place of the hearing.

~~(f)~~(i) When any doubt exists as to the age of a student absent from school, the attendance director and ~~assistants have authority to~~ assistant directors may require a properly attested birth certificate or an affidavit from the parent, guardian or custodian of the student, stating the age of the student. In the performance of his or her duties, the county attendance director and ~~assistants have authority to~~ assistant directors may take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

~~(g)~~(j) The county attendance director and ~~assistants~~ assistant directors shall devote such time as is required by section three of this article to the duties of attendance director in accordance with this section during the instructional term and at such other times as the duties of an attendance director are required. All attendance directors and ~~assistants~~ assistant directors hired for more than two hundred days may be assigned other duties determined by the superintendent during the period in excess of two hundred days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

~~(h)~~(k) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at ~~such the times and in such the required detail as may be required~~. The state board shall promulgate a legislative rule pursuant to article three-b, chapter twenty-nine-a of this code that sets forth student absences that are excluded for accountability purposes. The absences that are excluded by the rule include, but are not limited to, excused student absences, students not in attendance due to disciplinary measures and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in ~~such the manner as directed by the county superintendent may direct~~;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in ~~such any other ways way as directed by the county superintendent may direct~~ for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided ~~above in this section~~, or if requested by the chief administrator, principal or assistant principal; and

(9) Serve as the liaison for homeless children and youth.

~~§18-8-8. Child suspended for failure to comply with requirements and regulations treated as unlawfully absent.~~

§18-8-8. Effect of school suspension on enforcement of the provisions of this article.

~~If a child be suspended from school because of improper conduct or refusal of such child to comply with the requirements of the school, the school shall immediately notify the county superintendent of such suspension, and specify the time or conditions of such suspension. Further admission of the child to school may be refused until such requirements and regulations be complied with. Any such child shall be treated by the school as being unlawfully absent from the school during the time he or she refuses to comply with such requirements and regulations, and any person having legal or actual control of such child shall be liable to prosecution under the provisions of this article for the absence of such child from school: *Provided*, That the county board of education does not exclude or expel the suspended child from school.~~

(a) When a child is absent from school due to a suspension, absences are excused because a condition determined by the school and placed upon the child.”

On motion of Delegate Shott, the amendment was amended on page one, line eleven, by striking out the word “prohibits” and inserting in lieu thereof “limits”.

On page two, line twenty-eight, by striking out the word “precludes” and inserting in lieu thereof “limits”.

And,

On page two, line thirty-two, by striking out the word “precludes” and inserting in lieu thereof “limits”.

On motion of Delegate Perdue, the amendment was amended on page two, line twenty-one, by striking the comma after the first “student” in that line and replacing it with a colon.

On page two, line twenty-one, by striking the phrase “if the family member requires the active assistance of the student during the illness or injury and there is no other individual who can assist the family member”.

On page two, line thirty-three by striking out the words “stating that” and inserting in lieu thereof the word “documenting”;

And,

On page two, lines thirty-three through thirty-four, by striking out the phrase “necessitates that the student be absent from school”.

The Judiciary Committee amendment, as amended, was then 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. 514**), and there were—yeas 77, nays 20, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Azinger, Border, Butler, Faircloth, Fleischauer, Fluharty, Folk, Frich, Hornbuckle, Ihle, Kurcaba, Marcum, McGeehan, J. Nelson, Pushkin, Reynolds, Rowe, Shaffer, Sobonya and Upson.

Absent and Not Voting: Arvon, Deem and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 378) passed.

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

S. B. 378 — “A Bill to amend and reenact §18-8-4 and §18-8-8 of the Code of West Virginia, 1931, as amended, all relating generally to truancy intervention; expanding definition of excused absence; exempting absences for chronic medical condition or disability which may be reasonably accommodated by the school; requiring parent to request reasonable accommodation; defining ‘chronic medical condition or disability’; requiring written excuses or documentation

from a medical provider in certain cases; limiting number of days which may be excused absences; defining ‘immediate family’; requiring verification of absence for judicial obligation or court appearance; allowing principal to authorize excused absences for other reason or for longer periods of time with the approval of the county superintendent; removing notice requirement after three days absence; requiring written excuses or documentation to be submitted within certain time frame; defining the term ‘reasonable accommodation’; requiring written notice in the case that five days have passed from absence totaling or bringing a student to three unexcused absences and providing that such notice can be disregarded in favor of other written notice if unexcused absences total five or more days; and modifying the effect of student suspensions to reflect that absences due to suspension are excused.”

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

Conference Committee Report Availability

At 4:52 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on Com. Sub. for S. B. 13, Increasing penalties for overtaking and passing stopped school buses.

S. B. 431, Authorizing pharmacists and pharmacy interns dispense opioid antagonists; on third reading, coming up in 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 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Foster and Marcum.

Absent and Not Voting: Arvon, Deem and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 431) 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. 454, Licensing and regulating medication-assisted treatment programs for substance use disorders; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 516**), and there were—yeas 93, nays 2, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Ihle and McGeehan.

Absent and Not Voting: Arvon, Byrd, Deem, Flanigan and P. Smith.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 454) passed.

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

Com. Sub. for S. B. 454 — “A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §16-5Y-1, §16-5Y-2, §16-5Y-3, §16-5Y-4, §16-5Y-5, §16-5Y-6, §16-5Y-7, §16-5Y-8, §16-5Y-9, §16-5Y-10, §16-5Y-11, §16-5Y-12 and §16-5Y-13; and to amend and reenact §60A-9-4, §60A-9-5, §60A-9-5a, §60A-9-7 and §60A-9-8 of said code, all relating to regulation of medication-assisted treatment programs for substance use disorders; repealing regulation of opioid treatment programs; setting out purpose; providing definitions; creating licenses for opioid treatment programs; creating categories of licenses; setting out licensing requirements; providing for registration of office-based medication-assisted programs; providing

for application, fees and inspections of office-based medication-assisted programs; setting operational requirements for medication-assisted treatment programs; providing for a program sponsor and medical director; setting forth staffing requirements; providing for regulation by Office of Health Facility Licensure and Certification; designating necessity for a medical director; prescribing minimum qualifications for a medical director; allowing enrollment as a Medicaid provider; providing billing requirements; setting forth minimum certification requirements; mandating state and federal criminal background checks; designating who may prescribe and dispense medication-assisted treatment medications; setting certain minimum practice standards for any medication-assisted treatment program providing medication-assisted treatment medications; permitting the use of telehealth; requiring the Board of Pharmacy to make certain notifications; requiring the medication-assisted treatment program to have a drug testing program; requiring certain information be reported in the patients; medical record; setting certain minimum patient treatment standards for any medication-assisted treatment program; providing medication-assisted treatment medications; requiring review of the West Virginia Controlled Substances Monitoring Program database for each patient at least quarterly; setting compliance requirements for a medication-assisted treatment program; providing for patient protocols, treatment plans and profiles; allowing liquid methadone to be provided as allowed by legislative rule; setting notification requirements of operation changes; restricting location of medication-assisted treatment programs; allowing for waivers from certain standards; allowing for variances from certain standards; permitting inspection warrants; providing for an administrative review; providing an appeal process; allowing civil monetary penalties; designating license limitations for deviation for accepted practice or patient treatment standards; permitting the secretary to promulgate rules; permitting the secretary to promulgate emergency rules; providing advertisement requirements; continuing the moratorium on new opioid treatment programs; establishing state authority for medication-assisted treatment programs; establishing state oversight

authority for medication-assisted treatment programs; mandating data collection; granting Office of Health Facility Licensure and Certification access to the West Virginia Controlled Substances Monitoring Program database for use in regulation of health facilities; requiring reporting when an opioid antagonist is dispensed by certain persons; clarifying statutory language related to seventy-two hour prescriptions; prohibiting licensing boards from issuing or reissuing licenses to practitioners who have not registered for the West Virginia Controlled Substances Monitoring Program database; establishing a civil penalties; providing exceptions to penalties; clarifying language related to the Fight Substance Abuse Fund; placing administrative authority over the Fight Substance Abuse Fund with the Bureau for Public Health; revising statutory language to use defined terms; reorganizing existing language; and creating a pilot program.”

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

Com. Sub. for S. B. 504, Relating to confidentiality of juvenile 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. 517**), 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: Arvon, Byrd, Deem, Flanigan and Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 504) passed.

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

Com. Sub. for S. B. 504 — “A Bill to amend and reenact §49-5-101 of the Code of West Virginia, 1931, as amended; to amend

and reenact §62-6B-2 of said code; and to amend said code by adding thereto a new section, designated §62-6B-6, all relating to confidentiality of records; providing that a recorded interview of a minor in a criminal or abuse or neglect case is generally confidential and exempt from disclosure; defining terms, including ‘interviewed child’ and ‘recorded interview’; providing that recorded interviews of children in criminal and administrative proceedings are confidential and subject to disclosure only pursuant to a court order; providing that all written documentation related to the recorded interviews of children in criminal and administrative proceedings are confidential; providing for certain individuals to have access to the recorded interview of a child prior to the commencement of formal proceedings and providing for limitations and conditions for certain individuals to have such access; requesting Supreme Court of Appeals promulgate rules regulating the publication and duplication of recorded interviews in the courts of this state, including use, duplication and publication by counsel, and to include in any such rule, limitations upon the publication, duplication, distribution or use of the recorded statements of a child; creating the criminal offense of knowingly and willfully duplicating, or publishing a recorded interview in violation of the terms of a court order or the general confidentiality provisions; and establishing penalties therefor.”

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

Com. Sub. for S. B. 517, Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 518**), and there were—yeas 92, nays 3, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Caputo, Marcum and Moore.

Absent and Not Voting: Arvon, Byrd, Deem, Flanigan and Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 517) passed.

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

S. B. 563, Increasing retirement benefit multiplier for WV Emergency Medical Services Retirement System members; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 519**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Byrd, Deem, Flanigan and Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 563) passed.

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

Com. Sub. for S. B. 567, Providing protection against property crimes committed against coal mines, railroads, utilities and other industrial facilities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 520**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Arvon, Byrd, Deem and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 567) passed.

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

Com. Sub. for S. B. 567 — “A Bill to amend and reenact §61-3-29 of the Code of West Virginia, 1931, as amended, relating to property crimes committed against property owned by a railroad company or public utility company, or other certain real or personal property; adding oil, timber and timber operations to the list of entities protected under this statute; clarifying that the applicable property covered under this statute be commercial or industrial real or personal property of a railroad company or public utility company; adding storage to the list of uses of certain property covered under this statute; creating a felony offense for knowingly and willfully damaging or destroying 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 hindering, impairing or disrupting, 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; providing criminal penalties; and providing that 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, pursuant to the Victim Protection Act of 1984.”

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

S. B. 588, Repealing certain obsolete legislative rules by Department of Transportation; on third reading, coming up in 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 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 588) passed.

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

On this question, the yeas and nays were taken (**Roll No. 522**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem and Flanigan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 588) takes effect from its passage.

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

S. B. 588 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §64-8-4, relating generally to repealing certain legislative, procedural and interpretive rules promulgated by certain agencies under the Department of Transportation; repealing certain legislative, procedural, or interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete; repealing the Division of Motor Vehicles legislative rule relating to rules and regulations; repealing the Division of Motor Vehicles legislative rule relating to special permits; repealing the Division of Motor Vehicles legislative rule relating to a safety and treatment program; repealing the Division of Motor Vehicles procedural rule relating to dealer and financial institution applicant or licensee administrative hearings;

repealing the Division of Motor Vehicles legislative rule relating to seizure of driver's license, issuance of the temporary driver's license; repealing the Division of Motor Vehicles legislative rule relating to the Federal Safety Standards Inspection Program; and repealing the Division of Motor Vehicles interpretive rule relating to dealer issuance of temporary registration plates.”

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4739, Unclaimed Life Insurance Benefits Act.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 13D. UNCLAIMED LIFE INSURANCE BENEFITS ACT.

§33-13D-1. Definitions.

(a) Definitions. — For purposes of this section:

(1) ‘Account owner’ means the owner of a retained asset account who is a resident of this state.

(2) ‘Annuity contract’ means an annuity contract issued in this state. The term ‘annuity contract’ shall not include an annuity used to fund an employment-based retirement plan or program where: (1) The insurer does not perform the record-keeping services; or (2) the insurer

is not committed by terms of the annuity contract to pay death benefits to the beneficiaries of specific plan participants.

(3) ‘Death Master File’ means the United States Social Security Administration’s Death Master File or any other database or service that is at least as comprehensive as the United States Social Security Administration’s Death Master File for determining whether a person has died.

(4) ‘Death Master File match’ means a search of the Death Master File that results in a match of the person’s first and last name and Social Security number or the first and last name and date of birth of an insured, annuity owner or retained asset account holder.

(5) ‘Knowledge of death’ shall, for the purposes of this section, mean: (a) Receipt of an original or valid copy of a certified death certificate; or (b) a Death Master File match validated by the insurer in accordance with section two of this article.

(6) ‘Person’ means the policy insured, annuity contract owner, annuitant or account owner, as applicable under the policy, annuity contract or retained asset account at issue in this act.

(7) ‘Policy’ means any policy or certificate of life insurance issued in this state that provides a death benefit. The term ‘policy’ shall not include: (i) Any policy or certificate of life insurance that provides a death benefit under an employee benefit plan: (a) subject to the Employee Retirement Income Security Act of 1974, as periodically amended; or (b) under any federal employee benefit program: or (ii) any policy or certificate of life insurance that is used to fund a preneed funeral contract or prearrangement; or (iii) any policy or certificate of credit life or accidental death insurance; or (iv) any policy issued to a group master policyholder for which the insurer does not provide record-keeping services.

(8) ‘Record-keeping services’ means those circumstances under which the insurer has agreed with a group policy or contract customer

to be responsible for obtaining, maintaining and administering in its own or its agents' systems information about each individual insured under an Insured's group insurance contract (or a line of coverage thereunder), at least the following information: (1) Social Security number or name and date of birth; and (2) beneficiary designation information; (3) coverage eligibility; (4) benefit amount; and (5) premium payment status.

(9) 'Retained asset account' means any mechanism whereby the settlement of proceeds payable under a policy or annuity contract is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check- or draft-writing privileges, where those proceeds are retained by the insurer or its agent, pursuant to a supplementary contract not involving annuity contract benefits other than death benefits.

§33-13D-2. Insurer conduct.

(a) An insurer shall perform a comparison of its insureds' in-force policies, annuity contracts and account owners against a Death Master File to identify potential death master file matches of its insureds, annuitants and account owners, on at least an annual basis, by using the full Death Master File once and thereafter using the Death Master File update files for future comparisons to identify potential Death Master File matches. The comparison using the full Death Master File should be completed within two years of the effective date of this article and must be completed on policies in force as of 1986, and all policies issued thereafter: *Provided*, That the Insurance Commissioner shall promulgate legislative rules requiring that the comparison against a Death Master File be completed on policies issued at earlier times if the commissioner determines that reliable technology and data exist to make such comparison accurate and cost-effective to match to the established Master Death Database.

(b) The insurer comparison of policies, annuity contracts and account owners shall be conducted first to the extent that such records

are available electronically and then using the most easily accessible insurer data for records that are not available electronically.

(c) This section shall not apply to policies or annuity contracts for which the insurer is receiving premiums from outside the policy value, by check, bank draft, payroll deduction or any other similar method of active premium payment within the eighteen months immediately preceding the Death Master File comparison.

(d) Nothing in this section shall limit the insurer from requesting a valid death certificate as part of any claims validation process.

(e) For those potential matches identified as a result of a Death Master File match, or if an insurer learns of the possible death of a person otherwise, then the insurer shall, within ninety days of a Death Master File match:

(1) Complete a good faith effort, which shall be documented by the insurer, to confirm the death of the person against other available records and information;

(2) Review its records to determine whether the deceased person has any other products with the insurer;

(3) Determine whether benefits may be due in accordance with any applicable policy, annuity contract or retained asset account.

(f) Every insurer shall implement procedures to account for:

(1) Common nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;

(2) Compound last names, maiden or married names, and hyphens, blank spaces or apostrophes in last names;

(3) Transposition of the 'month' and 'date' portions of the date of birth; and

(4) Incomplete Social Security number.

(g) If the beneficiary or other authorized representative has not communicated with the insurer within the ninety-day period, the insurer shall take reasonable steps and use good faith efforts, which shall be documented by the insurer, to locate and contact the beneficiary or beneficiaries or other authorized representative on any such policy, annuity contract or retained asset account, including, but not limited to, sending the beneficiary information regarding the insurer's claims process, including the need to provide an official death certificate if applicable under the policy, annuity contract or retained asset account.

(h) To the extent permitted by law, the insurer may disclose minimum necessary personal information about a person or beneficiary to a person who the insurer reasonably believes may be able to assist the insurer in locating the beneficiary or a person otherwise entitled to payment of the claims proceeds.

(i) An insurer or its service provider shall not charge any beneficiary or other authorized representative for any fees or costs associated with a Death Master File search or verification of Death Master File match conducted pursuant to this section.

(j) The benefits from a policy, annuity contract or a retained asset account, plus any applicable accrued contractual interest shall first be payable to the designated beneficiaries or owners, and in the event said beneficiaries or owners cannot be found, shall be paid to the state as unclaimed property pursuant to article eight, chapter thirty-six of this code.

(k) The West Virginia Office of the Insurance Commissioner has exclusive authority to promulgate such rules and regulations as may be required or reasonably necessary to implement the provisions of this section.

(l) The commissioner may, in his or her reasonable discretion, make an order to:

(1) Limit an insurer's Death Master File comparisons required under subsection (a) of this section to the insurer's electronic searchable files or approve a plan and timeline for conversion of the insurer's files to searchable electronic files upon a demonstration of hardship by the insurer;

(2) Exempt an insurer from the Death Master File comparisons required under subsection (a) of this section or permitting an insurer to perform such comparisons less frequently than annually upon a demonstration of hardship by the insurer; or

(3) Phase-in compliance with this section according to a plan and timeline approved by the commissioner."

And,

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

H. B. 4739 — “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §33-13D-1 and §33-13D-2, relating to the creation of the Unclaimed Life Insurance Benefits Act; defining terms; regulating insurer conduct generally; requiring insurers to perform an annual comparison of its insureds' Policies, Retained Asset Accounts and Account Owners against a Death Master File; requiring insurers to conduct a comparison against a Death Master File on policies issued as of 1986 and all policies issued thereafter; establishing a two year requirement from the effective date of this article; requiring the Insurance Commissioner promulgate rules related to Death Master File comparisons for policies issued prior to 1986 if the commissioner determines that reliable technology and data exist to make such comparison accurate and cost-effective; providing that the annual comparison of insureds' Policies, Retained Asset Accounts and Account Owners against a Death Master File shall not apply to those accounts for which the insurer is receiving premiums from outside the policy value, by check, bank draft, payroll deduction or any other similar method of payment within eighteen months immediately preceding the Death Master File

comparison; requiring insurers to implement procedures to account for incomplete identifying information such as nicknames, maiden names or other identifying information; requiring reasonable steps to be taken to locate and contact beneficiaries or other authorized representatives regarding the insurer's claims process; clarifying that benefits shall first be paid to beneficiaries and, if beneficiaries cannot be found, paid to the state as unclaimed property; permitting insurers to release such identifying information as may be necessary to help identify or locate beneficiaries; authorizing the Insurance Commissioner to issue orders related to requirements imposed on insurers and imposing a hardship burden on insurers seeking orders adjusting their obligations; and authorizing the Insurance Commissioner to promulgate rules that may be reasonably necessary to implement the Unclaimed Life Insurance Benefits Act.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 523**), 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: Arvon, Deem and Flanigan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4739) passed.

On motion of Delegate Shott, the House concurred in the Senate amendments, with further title amendment:

H. B. 4739 — “A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §33-13D-1 and §33-13D-2, relating to the creation of the Unclaimed Life Insurance Benefits Act; defining terms; regulating insurer conduct generally; requiring insurers to perform an annual comparison of its insureds' Policies, Retained Asset Accounts and Account Owners against a Death Master File; requiring insurers to conduct a comparison against

a Death Master File on policies issued as of 1986 and all policies issued thereafter; establishing a two year deadline from the effective date of this article to conduct the full Death Master File comparison; requiring the Insurance Commissioner promulgate rules related to Death Master File comparisons for policies issued prior to 1986 if the commissioner determines that reliable technology and data exist to make such comparison accurate and cost-effective; providing that insurers shall first conduct comparisons to the extent records are available electronically then using the most easily accessible insurer data for records not available electronically; providing that the annual comparison of insureds' Policies, Retained Asset Accounts and Account Owners against a Death Master File shall not apply to those accounts for which the insurer is receiving premiums from outside the policy value, by check, bank draft, payroll deduction or any other similar method of payment within eighteen months immediately preceding the Death Master File comparison; clarifying that insurers are permitted to request a valid death certificate as party of any claims validation process; providing that, for potential matches identified as a result of a Death Master File match, insurer must within ninety days complete a good faith effort which shall be documented by the insurer to confirm the death against other available records, review insurer records to determine if the deceased person has any other products with the insured and determine if benefits may be due; requiring insurers to implement procedures to account for incomplete identifying information such as nicknames, maiden names or other identifying information; requiring reasonable steps to be taken to locate and contact beneficiaries or other authorized representatives regarding the insurer's claims process if no communication with beneficiaries or other authorized representatives occurs within ninety days after a Death Master File match; requiring the insurer to document its efforts to locate and contact the beneficiary as well as sending information regarding the claims process and any need to provide an official death certificate; clarifying that benefits shall first be paid to beneficiaries and, if beneficiaries cannot be found, paid to the state as unclaimed property; permitting insurers to release such identifying information as

may be necessary to help identify or locate beneficiaries; prohibiting insurers or service providers from charging beneficiaries or other authorized representatives for any fees or costs associated with a Death Master File search or verification of a Death Master File match; clarifying that the Insurance Commissioner has exclusive authority to promulgate rules as may be required or reasonably necessary to implement this section; authorizing the Insurance Commissioner to issue orders related to requirements imposed on insurers and imposing a hardship burden on insurers seeking orders adjusting their obligations; and authorizing the Insurance Commissioner to promulgate rules that may be reasonably necessary to implement the Unclaimed Life Insurance Benefits Act.”

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

Third Reading

- Continued -

Com. Sub. for S. B. 599, Relating generally to Uniform Unclaimed Property Act; on third reading, coming up in regular order, was read a third time.

Delegate Byrd requested to be excused from voting on the passage of Com. Sub. for S. B. 599 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 524**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Pushkin.

Absent and Not Voting: Arvon, Deem and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 599) 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. 601, Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities; on third reading, coming up in regular order, was read a third time.

Mr. Speaker, Mr. Armstead, reminded the Members of his previous Rule 49 request and that the Speaker Pro Tempore had refused to excuse him from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 525**), and there were—yeas 90, nays 7, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Fluharty, Moye, Perdue, Rohrbach, Shaffer and Storch.

Absent and Not Voting: Arvon, Deem and Flanigan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 601) passed.

Delegate Cowles 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 91, nays 5, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Fluharty, Marcum, Shaffer and Trecost.

Absent and Not Voting: Arvon, Deem, Flanigan and Skinner.

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. 601) 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. 602, Relating to Patient Injury Compensation Fund; on third reading, coming up in regular order, was read a third time.

Delegate Manchin had made a previous Rule 49 request and the Speaker reminded the Members that he had directed the Gentleman not to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 527**), and there were—yeas 83, nays 12, excused from voting 1, absent and not voting 4, with the nays, excused from voting and absent and not voting being as follows:

Nays: Caputo, Eldridge, Ferro, Fluharty, Hornbuckle, Longstreth, Lynch, Marcum, Moore, Pushkin, Sponaugle and Wagner.

Excused from Voting: Manchin.

Absent and Not Voting: Arvon, Deem, Flanigan and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 602) passed.

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

Com. Sub. for S. B. 602 — “A Bill to amend and reenact §29-12B-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-12D-1 and §29-12D-3 of said code; to amend said code by adding thereto a new section, designated §29-12D-1a; to

amend and reenact §55-7B-9 and §55-7B-9c of said code; and to amend and reenact §59-1-11 and §59-1-28a of said code, all relating generally to the Patient Injury Compensation Fund; transferring funds from Medical Liability Fund to Patient Injury Compensation Fund and thereafter closing Medical Liability Fund; prohibiting direct recovery of legal fees from Patient Injury Compensation Fund; providing that fund may not compensate claimants who have not filed a claim with the fund before July 1, 2016; imposing an assessment on medical licenses; providing exceptions to assessment on medical licenses; prohibiting granting or renewal of medical license for failure to pay assessment; imposing an assessment on trauma centers based upon the number of patients treated; imposing an assessment on claims filed under the Medical Professional Liability Act; defining ‘qualifying claim’; establishing a date for purposes of determining applicability of section; directing entities collecting assessments to remit payment to Board of Risk and Insurance Management; setting schedule for remittance of payments to Board of Risk and Insurance Management; providing for termination of assessments upon certain deadlines being met; limiting authority of court reviewing an award from the board to approval or disapproval of final award; clarifying authority of Board of Risk and Insurance Management make periodic payments or place claims in nonpayment status in its discretion; permitting trier of fact to consider fault of all alleged parties, including fault of persons who have settled claims with plaintiff arising out of same medical injury, in assessing percentages of fault; clarifying manner in which damages are to be determined with respect to each defendant for purposes of entering judgment when there is no pre-verdict settlement; providing for limit on liability for economic damages in causes of actions against a trauma facility to be adjusted for inflation annually beginning January 1, 2016; setting limit on inflation increase; authorizing plaintiff who, as a result of an injury suffered prior to or after July 1, 2016, suffers or has suffered economic damages in excess of limit of liability to collect economic damages up to an additional \$1 million; clarifying that additional economic liability limit is not subject to inflation; providing that a claimant’s attorney fees may not be paid out

of the fund; providing that several liability applies in all cases under the Medical Professional Liability Act; increasing filing fee for causes of action under the Medical Professional Liability Act; and directing clerk of court to deposit a portion of the filing fee into Patient Injury Compensation Fund.”

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 528**), and there were—yeas 87, nays 8, excused from voting 1, absent and not voting 4, with the nays, excused from voting and absent and not voting being as follows:

Nays: Caputo, Eldridge, Ferro, Fluharty, Lynch, Moore, Rohrbach and Sponaugle.

Excused from Voting: Manchin.

Absent and Not Voting: Arvon, Deem, Flanigan and Skinner.

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. 602) takes effect July 1, 2016.

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

S. B. 618, Allowing Economic Development Authority to make loans to certain whitewater outfitters; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 529**), and there were—yeas 86, nays 9, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Azinger, Folk, Frich, Gearheart, Ihle, Ireland, Kurcaba, McGeehan and Sobonya.

Absent and Not Voting: Arvon, Deem, Flanigan, J. Nelson and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 618) 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. 619, 2016 Regulatory Reform 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. 530**), and there were—yeas 82, nays 14, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Byrd, Caputo, Fleischauer, Fluharty, Hicks, Longstreth, Lynch, Manchin, Miley, Perdue, Pushkin, Reynolds, Rowe and Shaffer.

Absent and Not Voting: Arvon, Deem, Flanigan and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 619) passed.

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

On this question, the yeas and nays were taken (**Roll No. 531**), and there were—yeas 83, nays 13, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Byrd, Caputo, Fleischauer, Fluharty, Hicks, Longstreth, Lynch, Manchin, Marcum, Miley, Pushkin, Reynolds and Shaffer.

Absent and Not Voting: Arvon, Deem, Flanigan and Skinner.

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. 619) 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. 621, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 532**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and absent and not voting being as follows:

Yeas: Fleischauer, Lynch, Pushkin and Shaffer.

Absent and Not Voting: Arvon, Deem, Flanigan and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 621) passed.

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

Com. Sub. for S. B. 621 — “A Bill to amend and reenact §23-2-1 the Code of West Virginia, 1931, as amended, relating to exempting taxicab companies whose drivers are independent contractors from providing workers' compensation coverage for the drivers.”

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. 686, Authorizing local governing authorities hold sanctioned motor vehicle races on roads, streets or airports under their jurisdiction; on third reading, coming up in regular order, was read a third time.

Delegate Howell requested to be excused from voting on the passage of Com. Sub. for S. B. 686 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 533**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Flanigan and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 686) passed.

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

Com. Sub. for S. B. 686 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3qq; and to amend said code by adding thereto a new section, designated §8-12-5g, all relating to authorizing local governing authorities to hold sanctioned motor vehicle races on public roads or municipal streets or airports under their jurisdiction; defining terms; authorizing regional airport authorities to hold sanctioned motor vehicle races on airports under their jurisdiction; requiring issuance of permit in relation to racing event; authorizing charging reasonable fee for issuance of a permit; setting forth conditions upon which a permit may be issued; authorizing local governing authorities to modify or exempt traffic laws to facilitate a racing event; requiring local governing authorities to provide at least sixty days written notice to the West Virginia Department of Transportation — Traffic Engineering Division of any racing permit issued; requiring written notice to identify plans for a racing event; declaring that a racing event is for

public purposes; providing immunity from damages; and declaring that an authorized racing event is not a nuisance or subject to speed restrictions.”

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

S. B. 702, Allowing title of real estate to pass to individuals entitled to sale proceeds if executor fails to do so within 5 years of closing 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. 534**), 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: Arvon, Deem, Flanigan and Skinner.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 702) 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. 4017, 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, coming up in regular order, was, on motion of Delegate Cowles, laid upon the table.

Second Reading

Com. Sub. for S. B. 272, Allowing investigators from Attorney General’s office to carry concealed weapons; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §5-3-6 and §60-3-24a, to read as follows:

**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 3. ATTORNEY GENERAL.

**§5-3-6. Attorney General’s investigators authority to carry
concealed weapon.**

Notwithstanding any provision of this code to the contrary, the Attorney General may designate investigators in his or her employ to carry a firearm in the course of performing their official duties: *Provided*, That as a precondition of being authorized to carry a concealed weapon in the course of their official duties, any such designated investigator must have first successfully completed a firearms training and certification program and maintain certification in a manner which is equivalent to that which is required of members of the State Police. The designated investigator must also obtain and maintain a license to carry a concealed deadly weapon issued pursuant to article seven, chapter sixty-one of this code.

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

ARTICLE 3. SALES BY COMMISSIONER.

§60-3-24a. Authority of employees of the Commission to carry concealed weapon.

Notwithstanding any provision of this code to the contrary, the Commissioner may designate certain employees of the Enforcement Division in his or her employ to carry a firearm in the course of performing their official duties: *Provided*, That as a precondition of being authorized to carry a concealed weapon in the course of their official duties, any such designated employee must have first successfully completed a firearms training and certification program and maintain certification in a manner which is equivalent to that which is required of members of the State Police. The designated employee must also obtain and maintain a license to carry a concealed deadly weapon issued pursuant to article seven, chapter sixty-one of this code.”

On motion of Delegate Marcum, the amendment was amended on page one, preceding the Chapter 60 heading, by inserting the following:

“CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-11f. Fire Marshals authority to carry concealed weapon.

Notwithstanding any provision of this code to the contrary, the State Fire Marshal may designate marshals in his or her employ to carry a firearm in the course of performing their office duties: *Provided*, That as a precondition of being authorized to carry a concealed weapon in the course of their official duties, any such designated investigator must have first successfully completed a firearms training and certification program and maintain certification in a manner which is equivalent to that which is required of members of the State Police. The designated investigator must also obtain and maintain a license to carry a concealed deadly weapon issued pursuant to article seven, chapter sixty-one of this code.”

The Judiciary Committee amendment, as amended, was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 278, Clarifying physicians' mutual insurance company is not state or quasi-state actor; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 404, Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases; 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:

“That §16-3C-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §16-4-19 of said code be amended and reenacted, all to read as follows:

ARTICLE 3C. AIDS-RELATED MEDICAL TESTING AND RECORDS CONFIDENTIALITY ACT.

§16-3C-2. Testing—HIV-related testing; methods for obtaining consent; billing patient health care providers.

(a) HIV-related testing ~~on a voluntary basis~~ should be recommended by any healthcare ~~provider in a health facility~~ providers as part of a routine screening for treatable conditions and as part of routine prenatal and perinatal care. A physician, dentist, nurse practitioner, nurse midwife, physician assistant or the commissioner may also request targeted testing for any of the following:

(1) When there is cause to believe that the test could be positive. Persons who engage in high risk behavior should be encouraged to be screened for HIV at least annually;

(2) When there is cause to believe that the test could provide information important in the care of the patient; or

(3) When there is cause to believe that the results of HIV-testing of samples of blood or body fluids from a source patient could provide information important in the care of medical or emergency responders or other persons identified in ~~regulations~~ rules proposed by the department for approval by the Legislature in accordance with the provisions of article three, chapter twenty-nine-a of this code: *Provided*, That the source patient whose blood or body fluids is being tested pursuant to this section must have come into contact with a medical or emergency responder or other person in such a way that a significant exposure has occurred;

(4) When there is no record of any HIV-related or other sexually transmitted disease testing during pregnancy and the woman presents for labor and delivery.

(b) All health care providers, the bureau, or a local health department that routinely bill insurance companies or other third-party providers may bill for HIV-related testing and treatment.

~~(b)~~ (c) A patient voluntarily consents to the test as follows: HIV-related testing when:

(1) The patient is informed either orally or in writing that:

(A) HIV-related testing will be performed as part of his or her routine care; ~~that~~

(B) HIV-related testing is voluntary; and ~~that the patient~~

(C) He or she may decline HIV-related testing (opt-out); or

(2) The patient is informed that the patient's general consent for medical care includes consent for HIV-related testing.

~~(c)~~ (d) A patient ~~refuses to consent to the test if a patient who~~ opts-out of HIV-related testing ~~the patient is informed when the health~~

~~care provider in the provider's professional opinion believes HIV-related testing is recommended, and must be informed that HIV-related testing may be obtained anonymously at a local or county health department.~~

~~(d)~~ (e) Any person seeking an HIV-related test in a local or county health department or at other HIV test setting provided by the commissioner who wishes to remain anonymous has the right to do so, and ~~to~~ must be provided written informed consent through the use of a coded system with no linking of individual identity to the test request or results.

(f) County or local health departments that routinely bill insurance companies or other third party payers for service may bill for an HIV-related test if the person requesting the test does not request anonymity. No person may be refused a test at a local health department due to a lack of insurance or due to a request to remain anonymous.

~~(e)~~ (g) ~~No option to~~ A person may not decline or opt-out of HIV-related testing is required and the provisions of subsection subsections (a) and (b) (c) of this section do not apply for the following: when:

(1) ~~A health care provider or health facility performing an HIV-related test on the donor or recipient when the health care provider or health facility procures, processes, distributes or uses a~~

(A) A human body part (including tissue and blood or blood products) donated for: a

(i) A purpose specified under the uniform anatomical gift act; or for transplant

(ii) Transplant recipients; or semen

(B) Semen provided for the purpose of artificial insemination and such an HIV-related test is necessary to ensure medical acceptability of a recipient or such gift or semen for the purposes intended;

(2) ~~The performance of an HIV-related test in~~ A person is unable or unwilling to grant or withhold consent as the result of a documented bona fide medical emergencies emergency, as determined by a treating physician taking into account the nature and extent of the exposure to another person ~~when the subject of the test is unable or unwilling to grant or withhold consent~~; and the HIV-related test results are necessary for medical diagnostic purposes to provide appropriate emergency care or treatment to a medical or emergency responder, or any other person who has come into contact with a source patient in such a way that a significant exposure necessitates HIV-testing or to a source patient who is unable to consent in accordance with rules proposed by the department for approval by the Legislature in accordance with article three, chapter twenty-nine-a of this code: *Provided*, That necessary treatment may not be withheld pending HIV test results: *Provided, however*, That all sampling and HIV-testing of samples of blood and body fluids, without the opportunity for the source patient or patient's representative to opt-out of the testing, shall be through the use of a pseudonym and in accordance with rules proposed by the department for approval by the Legislature in accordance with article three, chapter twenty-nine-a of this code; or

(3) The performance of an HIV-related test for the purpose of research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher.

(f) Mandated testing:

(1) The performance of any HIV-related testing that is or becomes mandatory by court order or other legal process described herein does not require consent of the subject but will include counseling.

(2) The court having jurisdiction of the criminal prosecution shall order that an HIV-related test be performed on any persons charged with any of the following crimes or offenses:

(i) Prostitution; or

(ii) Sexual abuse, sexual assault, incest or sexual molestation.

(3) HIV-related tests performed on persons charged with prostitution, sexual abuse, sexual assault, incest or sexual molestation shall be confidentially administered by a designee of the bureau or the local or county health department having proper jurisdiction. The commissioner may designate health care providers in regional jail facilities to administer HIV-related tests on such persons if he or she determines it necessary and expedient.

(4) Costs associated with tests performed on persons charged with prostitution, sexual abuse, sexual assault, incest or sexual molestation may be charged to the defendant or juvenile respondent unless a court determines that the person charged with prostitution, sexual abuse, sexual assault, incest or sexual molestation is pecuniary unable to pay.

(A) If a person charged with prostitution, sexual abuse, sexual assault, incest or sexual molestation who is ordered to be tested is unable to pay, the cost of the HIV testing may be borne by the regional jail or other correctional or juvenile facility, the bureau or the local health department.

(B) If persons charged with prostitution, sexual abuse, sexual assault, incest or sexual molestation who is ordered to be tested has health insurance, the local health department or other providers performing the test may bill the health insurance of the person charged with prostitution, sexual abuse, sexual assault, incest or sexual molestation for the cost of the test.

(C) A person charged with prostitution, sexual abuse, sexual assault, incest or sexual molestation ordered to submit to a HIV-related test may not be permitted to remain anonymous and a local health department may administer and bill for the test.

~~(4)~~(5) When the Commissioner of the Bureau of Public Health knows or has reason to believe, because of medical or epidemiological information, that a person, including, but not limited to, a person such

as an IV drug abuser, or a person who may have a sexually transmitted disease, or a person who has sexually molested, abused or assaulted another, has HIV infection and is or may be a danger to the public health, he or she may issue an order to:

(i) Require a person to be examined and tested to determine whether the person has HIV infection;

(ii) Require a person with HIV infection to report to a qualified physician or health worker for counseling; and

(iii) Direct a person with HIV infection to cease and desist from specified conduct which endangers the health of others.

~~(5)~~(6) If any person violates a cease and desist order issued pursuant to this section and, by virtue of that violation, the person presents a danger to the health of others, the commissioner shall apply to the circuit court of Kanawha County to enforce the cease and desist order by imposing any restrictions upon the person that are necessary to prevent the specific conduct that endangers the health of others.

~~(6)~~(7) A person convicted of the offenses described in this section shall be required to undergo HIV-related testing and counseling immediately upon conviction and the court having jurisdiction of the criminal prosecution may not release the convicted person from custody and shall revoke any order admitting the defendant to bail until HIV-related testing and counseling have been performed and the result is known. The HIV-related test result obtained from the convicted person is to be transmitted to the court and, after the convicted person is sentenced, made part of the court record. If the convicted person is placed in the custody of the Division of Corrections, the court shall transmit a copy of the convicted person's HIV-related test results to the Division of Corrections. The HIV-related test results shall be closed and confidential and disclosed by the court and the bureau only in accordance with the provisions of section three of this article.

~~(7)~~(8) The prosecuting attorney shall inform the victim, or parent or guardian of the victim, at the earliest stage of the proceedings of the

availability of voluntary HIV-related testing and counseling conducted by the bureau and that his or her best health interest would be served by submitting to HIV-related testing and counseling. HIV-related testing for the victim shall be administered at his or her request on a confidential basis and shall be administered in accordance with the Centers for Disease Control and Prevention guidelines of the United States Public Health Service in effect at the time of such request. The victim who obtains an HIV-related test shall be provided with pre and post-test counseling regarding the nature, reliability and significance of the HIV-related test and the confidential nature of the test. HIV-related testing and counseling conducted pursuant to this subsection shall be performed by the designee of the commissioner of the bureau or by any local or county health department having proper jurisdiction.

~~(8)~~(9) If a person receives counseling or is tested under this subsection and is found to be HIV infected and the person is not incarcerated, the person shall be referred by the health care provider performing the counseling or testing for appropriate medical care and support services. The local or county health departments or any other agency under this subsection may not be financially responsible for medical care and support services.

~~(9) The commissioner of the bureau or his or her designees may require an HIV test for the protection of a person who was possibly exposed to HIV infected blood or other body fluids as a result of receiving or rendering emergency medical aid or who possibly received such exposure as a funeral director. Results of such a test of the person causing exposure may be used by the requesting physician for the purpose of determining appropriate therapy, counseling and psychological support for the person rendering emergency medical aid including good Samaritans, as well as for the patient, or individual receiving the emergency medical aid.~~(10) The Commissioner of the Bureau or his or her designees may require a person to undergo an HIV or other sexually transmitted disease test if a person was possibly exposed to HIV or other sexually transmitted disease infected blood or

other body fluids as a result of receiving or rendering emergency medical aid, providing funeral services or providing law enforcement services. The Commissioner of the Bureau or his or her designees may use the results to determine the appropriate therapy, counseling and psychological support for the exposed person.

~~(10)~~(11) If an HIV-related test required on persons convicted of prostitution, sexual abuse, sexual assault, incest or sexual molestation results in a negative reaction, upon motion of the state, the court having jurisdiction over the criminal prosecution may require the subject of the test to submit to further HIV-related tests performed under the direction of the bureau in accordance with the Centers for Disease Control and Prevention guidelines of the United States Public Health Service in effect at the time of the motion of the state.

~~(11)~~(12) The costs of mandated testing and counseling provided under this subsection and pre and postconviction HIV-related testing and counseling provided the victim under the direction of the bureau pursuant to this subsection shall be paid by the bureau by the individual to be tested or counseled or his or her medical insurance provider, if possible.

~~(12)~~(13) The court having jurisdiction of the criminal prosecution shall order a person convicted of prostitution, sexual abuse, sexual assault, incest or sexual molestation to pay restitution to the state for the costs of any HIV-related testing and counseling provided the convicted person and the victim, unless the court has determined the convicted person to be indigent.

~~(13)~~(14) Any funds recovered by the state as a result of an award of restitution under this subsection shall be paid into the State Treasury to the credit of a special revenue fund to be known as the 'HIV-testing fund' which is hereby created. The moneys so credited to the fund may be used solely by the bureau for the purposes of facilitating the performance of HIV-related testing and counseling under the provisions of this article.

(g) Nothing in this section is applicable to any insurer regulated under chapter thirty-three of this code: *Provided*, That the commissioner of insurance shall develop standards regarding consent for use by insurers which test for the presence of the HIV antibody.

(h) Whenever consent of the subject to the performance of HIV-related testing is required under this article, any such consent obtained, whether orally or in writing, shall be considered to be a valid and informed consent if it is given after compliance with the provisions of subsection ~~(b)~~ (c) of this section.

ARTICLE 4. SEXUALLY TRANSMITTED DISEASES.

§16-4-19. Voluntary submission to examination and treatment; charges; disposition of money collected.

~~(a)(1) Any resident of the~~ Any person state may at ~~any time~~ report to any municipal or county health officer ~~having jurisdiction of the case department~~ and voluntarily submit himself or herself to all tests and ~~examination as are~~ examinations necessary to ascertain whether in fact ~~the person submitting himself for examination~~ he or she is infected with a ~~venereal sexually transmitted~~ sexually transmitted disease; and ~~said health officer to whom any party has applied as above for tests and examination shall provide for making all such~~ the health department shall conduct and administer all necessary tests and examinations ~~as are necessary to ascertain whether in fact said party so applying be so infected with a venereal~~ the person has any sexually transmitted disease.

(2) A person who is tested for sexually transmitted diseases at a local health department pursuant to this subsection shall be responsible for paying the reasonable costs of testing, either directly or through billing the person's medical provider.

(3) Local health departments may charge in accordance with their existing fee schedules and may charge patients for such testing on a sliding fee scale.

(b)(1) If such tests and examinations show ~~said party so applying to be so infected, then said party~~ a person tested and examined pursuant to subsection (a) of this section to have a sexually transmitted disease, then the person shall elect whether he or she will take treatment ~~of from~~ a private physician, or whether he or she will take treatment ~~to be provided by the health officer through a clinic or otherwise, and from~~ the local health department.

(2) ~~if he~~ If a person elects to take treatment through the local health officer's arrangement department, he or she may be required to pay for such treatment at a charge which shall in no case exceed the sum of \$5 for each dose of 'neo' or arsphenamine administered for syphilis, and at a nominal cost for other medicines used; but if the patient is unable to pay anything, he shall be treated free of charge under the direction of the local health officer, at a clinic or otherwise either directly or by the local health department billing the person's health insurance provider.

(3) Local health departments may charge in accordance with their existing fee schedules and may charge patients for treatment on a sliding fee scale.

(4) No individual may be refused treatment at a local health department due to a lack of insurance or inability to pay.

(c) All proper charges for such examination and treatment as that may be necessary hereunder shall be a proper charge against the municipality or county, as the case may be, whether said party so taking treatment lived in or out of a municipal corporation. And whether said person proposing to take treatment as provided hereunder elect to take from a private physician or elect to take treatment under the direction of the local health officer, he shall first sign the agreement required to be signed by persons about to be released from detention or quarantine, and shall observe all its provisions, and so long as such person so signing shall so observe these provisions he need not be detained or quarantined pending treatment, except that no person who

~~is known as a prostitute, or as a person associating with such, or as a person who resides in any house having the reputation of being a house of prostitution, or who frequents the same, shall be allowed at liberty if infected with a venereal disease in an infectious stage, even though he or she does voluntarily submit for examination and treatment and does take treatment under the provisions of this section. pursuant to this section shall be paid by the individual or by that person's health insurance provider.~~

~~(d) All money collected under this section shall be paid into a clinic fund, if one is provided, and if not then into the county or city treasury, as the case may be; to the local health department and the local health officer having jurisdiction shall collect and account for such funds collected hereunder.”~~

The bill was then ordered to third reading.

S. B. 427, Transferring funds from State Excess Lottery Fund to Department of Revenue; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 465, Allowing professional employer insure certain risks through pure insurance captive; 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, following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §33-31-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §33-46A-9 of said code be amended and reenacted, all to read as follows:

ARTICLE 31. CAPTIVE INSURANCE.

§33-31-2. Licensing; authority.

(a) Any captive insurance company, when permitted by its articles of association, charter or other organizational document, may apply to the commissioner for a license to do any and all insurance comprised in section ten, article one of this chapter: *Provided*, That all captive insurance companies, except pure captive insurance companies, shall maintain their principal office and principal place of business in this state: *Provided, however*, That:

(1) No pure captive insurance company may insure any risks other than those of its parent and affiliated companies or controlled unaffiliated business;

(2) No association captive insurance company may insure any risks other than those of the member organizations of its association and their affiliated companies;

(3) No industrial insured captive insurance company may insure any risks other than those of the industrial insureds that comprise the industrial insured group and their affiliated companies;

(4) No risk retention group may insure any risks other than those of its members and owners;

(5) No captive insurance company may provide personal motor vehicle or homeowner's insurance coverage or any component thereof;

(6) No captive insurance company may accept or cede reinsurance except as provided in section eleven of this article;

(7) No risk retention group may retain any risk on any one subject of insurance, whether located or to be performed in West Virginia or elsewhere, in an amount exceeding ten percent of the surplus required by section four of this article unless approved by the commissioner;

(8) Any captive insurance company may provide excess workers' compensation insurance to its parent and affiliated companies, unless prohibited by the federal law or laws of the state having jurisdiction over the transaction. Any captive insurance company, unless prohibited

by federal law, may reinsure workers' compensation of a qualified self-insured plan of its parent and affiliated companies; and

(9) Any captive insurance company which insures risks described in subsections (a) and (b), section ten, article one of this chapter shall comply with all applicable state and federal laws.

(10) A professional employer organization licensed pursuant to the provisions of article forty-six-a of this chapter may insure its risks for insurance coverage for accident and sickness, as such insurance coverage is defined under subsection (b), section ten, article one of this chapter for all employees and covered employees through a captive insurance company.

(b) No captive insurance company may do any insurance business in this state unless:

(1) It first obtains from the commissioner a license authorizing it to do insurance business in this state;

(2) Its board of directors or, in the case of a reciprocal insurer, its subscribers' advisory committee, holds at least one meeting each year in this state; and

(3) It appoints a registered agent to accept service of process and to otherwise act on its behalf in this state: *Provided*, That whenever such registered agent cannot with reasonable diligence be found at the registered office of the captive insurance company, the Secretary of State shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served.

(c) (1) Before receiving a license, a captive insurance company shall:

(A) File with the commissioner a certified copy of its organizational documents, a statement under oath of its president and secretary showing its financial condition, and any other statements or documents required by the commissioner; and

(B) Submit to the commissioner for approval a description of the coverages, deductibles, coverage limits and rates, together with such additional information as the commissioner may reasonably require. In the event of any subsequent material change in any item in such description, the captive insurance company shall submit to the commissioner for approval an appropriate revision and shall not offer any additional kinds of insurance until a revision of such description is approved by the commissioner. The captive insurance company shall inform the commissioner of any material change in rates within thirty days of the adoption of such change.

(2) Each applicant captive insurance company shall also file with the commissioner evidence of the following:

(A) The amount and liquidity of its assets relative to the risks to be assumed;

(B) The adequacy of the expertise, experience and character of the person or persons who will manage it;

(C) The overall soundness of its plan of operation;

(D) The adequacy of the loss prevention programs of its insureds; and

(E) Such other factors deemed relevant by the commissioner in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.

(3) Information submitted pursuant to this subsection shall be and remain confidential and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company, except that:

(A) Such information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted such information is a party, upon a showing by the party seeking to discover such information that:

(i) The information sought is relevant to and necessary for the furtherance of such action or case;

(ii) The information sought is unavailable from other nonconfidential sources; and

(iii) A subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the commissioner: *Provided*, That the provisions of this subdivision shall not apply to any risk retention group; and

(B) The commissioner may, in the commissioner's discretion, disclose such information to a public officer having jurisdiction over the regulation of insurance in another state if:

(i) The public official shall agree in writing to maintain the confidentiality of such information; and

(ii) The laws of the state in which such public official serves require such information to be and to remain confidential.

(d) Each captive insurance company shall pay to the commissioner a nonrefundable fee of \$200 for examining, investigating and processing its application for license, and the commissioner is authorized to retain legal, financial and examination services from outside the department, the reasonable cost of which may be charged against the applicant. The provisions of subsection (r), section nine, article two of this chapter shall apply to examinations, investigations and processing conducted under the authority of this section. In addition, each captive insurance company shall pay a license fee for the year of registration and a renewal fee for each year thereafter of \$300.

(e) If the commissioner is satisfied that the documents and statements that such captive insurance company has filed comply with the provisions of this article, the commissioner may grant a license authorizing it to do insurance business in this state until May 31, thereafter, which license may be renewed.

(f) A captive insurance company shall notify the commissioner in writing within thirty days of becoming aware of any material change in information previously submitted to the commissioner, including information submitted in or with the license application.

ARTICLE 46A. PROFESSIONAL EMPLOYER ORGANIZATIONS.

~~§33-46A-9. Study of health plans, taxation, unemployment and labor laws; self-funded plans prohibited~~ Health benefit plans; self-funded plans permitted under certain circumstances.

~~(a) The Joint Committee on Government and Finance shall, in consultation with the Insurance Commissioner, the Secretary of the Department of Revenue and the Secretary of the Department of Commerce, study the issue of professional employer organization sponsorship of and involvement in employee health plans, including their role in insuring the uninsured and underinsured and their impact on the small group market, as well as issues related to how the operation of professional employer organizations affects other areas such as taxation and unemployment insurance. The joint committee shall report back to the Legislature on or before December 31, 2008, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations.~~

~~(b) PEOs are expressly prohibited from self-funding health plans for covered employees.~~

A professional employer organization that sponsors a health benefit plan shall be considered the employer of all of its covered employees, and all covered employees of one or more client employers participating in a health benefit plan sponsored by a single professional employer organization shall be considered employees of that professional employer organization. For purposes of state law, such health benefit plans shall be treated as a single employer welfare benefit plan.

(b) If a professional employer organization offers to its covered employees any health benefit plan which is not fully insured by an authorized insurer, the professional employer organization must comply with the provisions of article thirty-one of this chapter. The Insurance Commissioner of West Virginia is authorized to promulgate and adopt rules with respect to professional employer organizations sponsoring health benefit plans in accordance with this section.”

The bill was then ordered to third reading.

S. B. 578, Protecting utility workers from crimes against person; 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, following the enacting section by striking out the remainder of the bill and inserting in lieu thereof the following:

“That §61-2-10b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-10b. Malicious assault; unlawful assault; battery; and assault on governmental representatives, health care providers, utility workers, law-enforcement officers and emergency medical service personnel; definitions; penalties

(a) For purposes of this section:

(1) ‘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.

(2) ‘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.

(3) '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.

(4) '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.

(5) 'Law-enforcement officer' has the same definition as this term is defined in W.Va. Code §30-29-1, except for purposes of this section, 'law-enforcement officer' shall additionally include those individuals defined as 'chief executive' in W.Va. Code §30-29-1.

(b) *Malicious assault.* — Any person who maliciously shoots, stabs, cuts or wounds or by any means causes bodily injury with intent to maim, disfigure, disable or kill a government representative, health care worker ~~or~~, utility worker, emergency service personnel or law-enforcement officer acting in his or her official capacity, and the person committing the malicious assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than three nor more than fifteen years.

(c) *Unlawful assault.* — Any person who unlawfully but not maliciously shoots, stabs, cuts or wounds or by any means causes a government representative, health care worker ~~or~~, utility worker, emergency service personnel or law-enforcement officer acting in his or her official capacity bodily injury with intent to maim, disfigure, disable or kill him or her and the person committing the unlawful assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof,

shall be confined in a correctional facility for not less than two nor more than five years.

(d) *Battery*. — Any person who unlawfully, knowingly and intentionally makes physical contact of an insulting or provoking nature with a government representative, health care worker or, utility worker, emergency service personnel or law-enforcement officer acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully and intentionally causes physical harm to that person acting in such capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not less than one month nor more than twelve months or both fined and confined. If any person commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned. Any person who commits a third violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned.

(e) *Assault*. — Any person who unlawfully attempts to commit a violent injury to the person of a government representative, health care worker or, utility worker, emergency service personnel or law-enforcement officer, acting in his or her official capacity and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, or unlawfully commits an act which places that person acting in his or her official capacity in reasonable apprehension of immediately receiving a violent injury and the person committing the battery knows or has reason to know that the victim is acting in his or her official capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than twenty-four hours nor more than six months, fined not more than \$200, or both fined and confined.”

The bill was then ordered to third reading.

At 6:05 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 7:00 p.m.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

S. B. 54, Altering how tax is collected on homeowners' associations.

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, to take effect from passage, of

Com. Sub. for S. B. 202, Authorizing Department of Commerce promulgate legislative rules.

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. 259, Amending Unfair Trade Practices Act.

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. 352, Dedicating corporation net income tax proceeds to railways.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment and the passage, as amended, of

Com. Sub. for S. B. 468, Allowing lender charge and receive interest on rescindable loan during rescission period.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, to take effect from passage, of

S. B. 476, Relating to driving restrictions in school zones.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments to the House amendments:

On pages one and two, section one, subsection (b), subdivision (1), lines eighteen and nineteen, after the word “shall”, by striking out the comma and the words “upon a determination by the division that such action is needed and necessary for the safety of the school children” and a comma.

On page two, section one, subsection (b), subdivision (1), line twenty, after the word “request”, by changing the period to a colon and inserting “*Provided*, That the school zone may not be expanded more than one hundred twenty-five feet along an adjacent road unless the division determines that the additional extension is needed and necessary for the safety of the school children.”

And,

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

S. B. 476 - “A Bill to amend and reenact §17C-6-1 of the Code of West Virginia, 1931, as amended, relating to driving restrictions in school zones; requiring Division of Highways to erect signage indicating place of entry and exit of each school zone; authorizing county boards of education to formally vote and request in writing for expansion of school zone to a road adjacent to school property; requiring Division of Highways to expand school zones accordingly;

requiring Division of Highways to erect new signage to indicate expanded school zone's location and speed limit within ninety days of receiving request; providing that school zone may not be expanded more than one hundred twenty-five feet along adjacent road unless Division of Highways determines that additional extension is needed and necessary for safety of school children; establishing new offense for violation of school zone speed limit if required signage not present; reducing fine for violation of school zone speed limit if required signage not present; and making technical corrections.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 535**), and there were—yeas 87, nays 3, absent and not voting 10, with the nays and absent and not voting being as follows:

Nays: Azinger, Ihle and McGeehan.

Absent and Not Voting: Arvon, Deem, Flanigan, McCuskey, E. Nelson, Stansbury, Walters, Weld, Westfall and B. White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 476) 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 and the passage, as amended, of

S. B. 505, Exempting certain uses of field gas from motor fuel excise taxes.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

S. B. 573, Prohibiting municipal annexation which would result in unincorporated territory within municipality.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Blair, Maynard and Williams.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for S. B. 591, Relating to voter registration list maintenance and combined voter registration and driver licensing fund.

On motions of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for S. B. 591 - "A Bill to amend and reenact §3-2-3, §3-2-4a, and §3-2-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated as §3-2-23a, all relating generally to creation and maintenance of voter registration lists generally; creating additional duties for Secretary of State relating to voter registration; authorizing Secretary of State to undertake voter registration list maintenance in a county under certain circumstances; requiring Secretary of State to provide written notice to clerk of county commission of need for voter registration record maintenance and allow ninety days before undertaking voter registration list maintenance in a county; delineating notice requirements; clarifying duty of Secretary of State to perform certain ongoing voter registration database maintenance; directing Secretary of State to enter into agreement with Division of Motor Vehicles for Division of Motor Vehicles to provide certain information regarding persons eligible to vote; setting forth information to be provided by Division of Motor Vehicles; permitting Secretary of State to use

information for voter registration list maintenance comparison through interstate data-sharing agreement as designated by Secretary of State; identifying additional permissible uses of funds in Combined Voter Registration and Driver Licensing Fund; providing for periodic transfer of funds from that fund to General Revenue Fund under certain circumstances; authorizing cancellation of registration of deceased or ineligible voters; and granting certain rule-making authority to Secretary of State.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 536**), and there were—yeas 82, nays 9, absent and not voting 9, with the nays and absent and not voting being as follows:

Nays: Azinger, Ihle, Kurcaba, Lynch, McGeehan, J. Nelson, Sobonya, Upson and Wagner.

Absent and Not Voting: Arvon, Deem, Flanigan, McCuskey, E. Nelson, Stansbury, Weld, Westfall and B. White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 591) passed.

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

On this question, the yeas and nays were taken (**Roll No. 537**), and there were—yeas 85, nays 6, absent and not voting 9, with the nays and absent and not voting being as follows:

Nays: Ihle, Kurcaba, Lynch, McGeehan, J. Nelson and Wagner.

Absent and Not Voting: Arvon, Deem, Flanigan, McCuskey, E. Nelson, Stansbury, Weld, Westfall and B. White.

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. 591) 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 agreed 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 S. B. 597, Relating generally to Health Care Authority.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Ferns, Blair and Plymale.

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. 625, Revising exceptions from FOIA provided for in Aboveground Storage Tank Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the changed effective date of the House of Delegates, of

Com. Sub. for S. B. 691, Modifying certain air pollution standards.

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. 2444, Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendment:

On page two, section five, line thirty-six, after the word “law” by inserting the words “that small businesses have identified to the West Virginia Development Office in the immediately preceding reporting cycle”;

On page two, section five, line forty-one, by striking out “(6)” and inserting in lieu thereof “(4)”;

And,

On page three, section five, lines fifty-two and fifty-three, by striking out all of subdivision (8).

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 538**), and there were—yeas 91, nays 1, absent and not voting 8, with the nays and absent and not voting being as follows:

Nays: Kelly.

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Stansbury, Weld, Westfall and B. White.

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. 2444) 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. 2904, Requiring the clerk of a county commission to maintain a county ordinance book.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“CHAPTER 5. GENERAL POWERS AND AUTHORITY OF
THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS, OFFICES,
PROGRAMS, ETC.**

ARTICLE 2. SECRETARY OF STATE.

§5-2-4. Accessible county records; required information.

(a) The Secretary of State shall maintain a website with certain county information. The website shall be updated annually.

(b) On or before January 31, 2018, the county officer information website shall be updated by the Secretary of State.

(c) The website shall contain the following minimum information regarding county officials:

(1) The official title and name of each county office holder;

(2) The contact information for each county office holder, including telephone number, facsimile number, office location and mailing address;

(3) The electronic mail address of each elected county office holder where available; and

(4) The website of each county commission, where available.

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**ARTICLE 1. COUNTY COMMISSIONS GENERALLY.****§7-1-3pp. Accessible county records; required information.**

(a) Beginning July 1, 2017, each county commission may maintain a website that provides the following information without charge:

(1) The title and name of each elected county office holder;

(2) The contact information of each elected county office holder, including office telephone number, facsimile number, office location and mailing address;

(3) The government electronic mail address of each elected county office holder.

(4) A copy of each county ordinance as adopted;

(5) A copy of the approved meeting minutes; and

(6) A schedule of regular meeting days for each calendar year.

(b) Beginning on or before December 31, 2017, and each year thereafter, the Secretary of State shall obtain the following information:

(1) A list of each elected county official by title, with the name of the elected official;

(2) The office contact information for each county office holder; and

(3) The website address of the county commission website, where available.

§7-1-7. Record books.

(a) Beginning on July 1, 2017, the county commission shall, within sixty days of adoption, through the clerk of the commission, enter into

a separate book the complete record of all ordinances adopted by the county commission. The clerk shall list, along with each ordinance in the book, the provision of the West Virginia Code authorizing each ordinance. The clerk shall maintain the book in his or her office and shall make available a copy to the county sheriff. Compiling all such ordinances adopted by the county commission and publishing the same on a publically available internet website as delineated in section three-pp of this article shall constitute full compliance with the provisions of this section.

(b) The county ~~court~~ commission of every county shall provide two record books for the use of the ~~court~~ county commission, in one of which shall be entered all the proceedings of such ~~court~~ county commission in relation to contested elections, all matters of probate, the appointment of appraisers of the estates of decedents and the appointment and qualification of personal representatives, guardians, committees and curators, and the settlement of their accounts, and all matters relating to apprentices; and in the other of said books shall be entered all the other proceedings of such ~~court~~ county commission: *Provided, however,* That said ~~court~~ county commission shall provide and keep such additional or different record books as may be specially required by law.”

On motion of Delegate Cowles, the Senate amendment was amended on page one by amending the enacting section as follows:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §5-2-4; and that said code be amended by adding thereto a new section, designated §7-1-3pp; and that §7-1-7 of said code be amended and reenacted, all to read as follows” and a colon.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 539**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Sobonya.

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

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. 2904) 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. 4265, Relating to payment by the West Virginia Municipal Bond Commission or state sinking fund commission or the governing body issuing the bonds.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 3. county property.

§7-3-9. Form and payment of bonds; use of proceeds of bonds.

Any county commission issuing revenue bonds under the provisions of this article shall thereafter, so long as any such bonds remain outstanding, operate and maintain said courthouse, hospital, other public buildings, jail or regional correctional center, to provide revenues sufficient to pay all operating costs, provide a sinking fund

for, and to retire such bonds and pay the interest thereon as the same may become due. The amounts, as and when so set apart by said county commission, shall be remitted to the West Virginia Municipal Bond Commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this article and with the order pursuant to which the bonds have been issued. The West Virginia Municipal Bond Commission is hereby authorized to act as fiscal agent for the administration of such sinking fund under any order passed pursuant to the provisions of this article, and shall invest all sinking funds, as provided by general law. 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 county commission directly thereto. Revenue bonds issued under the provisions of this article are hereby declared to be and to have all the qualities of negotiable instruments. Such bonds shall bear interest at the rate or rates set by the county commission, not to exceed twelve percent per annum, payable semiannually, and shall mature at any time fixed by the county commission, in not more than thirty years from their date. Such bonds shall be sold at a price not lower than a price which, when computed upon standard tables of bond values, will show a net return of not more than thirteen percent per annum to the purchaser upon the amount paid therefor. Such bonds may be made redeemable at the option of the county commission at such price and under terms and conditions as said county commission may fix, by its order, prior to the issuance of such bonds. Revenue bonds issued hereunder shall be payable at the office of the State Treasurer, or a designated bank or trust company within or without the State of West Virginia.

In case any of the officers whose signatures appear on such bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if they had remained in office until such delivery. The county commission shall by order entered prior to the

issuance of said bonds, fix the denominations, times and places of payment of such bonds, the principal and interest of which shall be payable in lawful money of the United States of America. The proceeds of such bonds shall be used solely for the payment of the cost of land, buildings, furniture and equipment thereon, and shall be checked out by the county commission under such restrictions as are contained in the order providing for the issuance of said bonds. If the proceeds of such bonds issued for any courthouse, hospital, other public buildings, jail or regional correctional center, shall exceed the cost thereof, the surplus shall be paid into the fund herein provided for the payment of principal and interest upon such bonds. Such fund may be used for the purchase or redemption of any of the outstanding bonds payable from such fund at the market price, but at not exceeding the price at which any of such bonds shall in the same year be redeemable, as fixed by the commission in its said order, and all bonds redeemed or purchased shall forthwith be canceled, and shall not again be issued.

Prior to the preparation of definitive bonds, the county commission may, under like restrictions, issue temporary bonds, or interim certificates, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter. Such bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this article.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 16. MUNICIPAL PUBLIC WORKS; REVENUE BOND FINANCING.

§8-16-17. Sinking fund; ~~sinking fund commission~~ West Virginia Municipal Bond Commission; transfer of funds; purchase of outstanding bonds.

Before the issuance of any such bonds, the governing body or bodies shall, by ordinance or ordinances, provide for a sinking fund for the payment of the bonds and the interest thereon, and the payment of

the charges of banking institutions or trust companies for making payment of such bonds and interest, out of the net revenues of said works, and shall set aside and pledge a sufficient amount of the net revenues of the works hereby defined to mean the revenues of the works remaining after the payment of the reasonable expenses of repair (including replacements), maintenance and operation, such amount to be paid by the board into the sinking fund at intervals, to be determined by ordinance or ordinances adopted prior to the issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or if all bonds mature at one time, the proper maintenance of a sinking fund sufficient for the payment thereof at such time; and (d) a margin for safety and for the payment of premium upon bonds retired by call or purchase as herein provided, which margin, together with unused surplus of such margin carried forward from the preceding year and the amounts set aside as reserves out of the proceeds from the sale of the bonds, or from the revenues of said works, or from both, shall equal ten percent of all other amounts so required to be paid into the sinking fund. Such required payments shall constitute a first charge upon all the net revenues of the works. Prior to the issuance of the bonds, the board may, by ordinance or ordinances, be given the right to use or direct the trustee or the ~~state sinking fund commission~~ West Virginia Municipal Bond Commission to use such sinking fund, or any part thereof, in the purchase of any of the outstanding bonds payable therefrom, at the market prices thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled, and shall not again be issued. After the payments into the sinking fund as herein required and after reserving an amount deemed by the board sufficient for repair (including replacements), maintenance and operation for an ensuing period of not less than twelve months and for depreciation, the board may at any time in its discretion transfer all or any part of the balance of the net revenues into the sinking fund or into a fund for improvement, renovation, extension, enlargement, increase or

equipment for or to the works, or the governing body or bodies may, notwithstanding the provisions of section twenty, article thirteen of this chapter, transfer all or any part of the balance of the net revenues to the general or any special fund of the municipality or municipalities and use such revenues for any purpose for which such general or special fund may be expended.

All amounts for the sinking fund and interest, as and when set apart for the payment of same, shall be remitted to the ~~state sinking fund commission~~ West Virginia Municipal Bond Commission at such periods as shall be designated in the ordinance or ordinances, but in any event at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this article and the ordinance or ordinances pursuant to which such bonds have been issued. The ~~state sinking fund commission~~ West Virginia Municipal Bond Commission is hereby authorized to act as fiscal agent for the administration of such sinking fund under any ordinance or ordinances passed or adopted pursuant to the provisions of this article and shall invest all sinking funds as provided by general law. 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.

ARTICLE 27. INTERGOVERNMENTAL RELATIONS — URBAN MASS TRANSPORTATION SYSTEMS.

§8-27-16. Sinking fund; ~~sinking fund commission~~ West Virginia Municipal Bond Commission; purchase of outstanding bonds.

Before the issuance of any bonds under the provisions of this article, the authority shall, by resolution, provide for a sinking fund for the payment of the bonds and the interest thereon, and the payment of the charges of banking institutions or trust companies for making

payment of such bonds and interest, out of the net revenues of said system, and, in this connection, shall set aside and pledge a sufficient amount of the net revenues of the system for such purpose, such net revenues being hereby defined to mean the revenues of the system remaining after the payment of the reasonable expense of administration, maintenance, repair and operation, such amount to be paid by such authority into the sinking fund at intervals, to be determined by resolution adopted prior to the issuance of the bonds, for: (a) The interest upon such bonds as such interest shall fall due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or, if all the bonds mature at one time, the proper maintenance of a sinking fund sufficient for the payment thereof at such time; and (d) a margin for safety and for the payment of premium upon bonds retired by call or purchase as provided in this article. Such required payments shall constitute a first charge upon all the net revenues of such authority. Prior to the issuance of any bonds, the authority may, by resolution, be given the right to use or direct the ~~state sinking fund commission~~ West Virginia Municipal Bond Commission to use such sinking fund, or any part thereof, in the purchase of any of the outstanding bonds payable therefrom, at the market prices thereof, but not exceeding the price, if any, at which the same shall in the same year be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled, and shall not again be issued. In addition to the payments into the sinking fund provided for above, the authority may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by such authority sufficient for maintenance, repair and operation for an ensuing period of not less than twelve months and for depreciation, into the sinking fund.

The amounts of the balance of the net revenues as and when so set apart shall be remitted to the ~~state sinking fund commission~~ West Virginia Municipal Bond Commission at such periods as shall be designated in the resolution, but in any event at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the

provisions of this article and the resolution pursuant to which such bonds have been issued. ~~The state sinking fund commission~~ West Virginia Municipal Bond Commission is hereby authorized to act as fiscal agent for the administration of such sinking fund under any resolution adopted pursuant to the provisions of this article and shall invest all sinking funds as provided by general law. 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 authority directly thereto.

**CHAPTER 10. PUBLIC LIBRARIES; PUBLIC
RECREATION; ATHLETIC ESTABLISHMENTS;
MONUMENTS AND MEMORIALS; ROSTER OF
SERVICEMEN; EDUCATIONAL BROADCASTING
AUTHORITY.**

ARTICLE 2A. ATHLETIC ESTABLISHMENTS.

§10-2A-16. Sinking fund.

At or before the issuance of any such bonds, the board shall, by resolution, provide for a sinking fund for the payment of the bonds and the interest thereon, and the payment of the charges of banks or trust companies for making payment of such bonds, and interest, out of the net revenues of said athletic establishment, and shall set aside and pledge a sufficient amount of the net revenues of the athletic establishment to be paid by the board into such sinking fund at intervals to be determined by resolution adopted prior to the issuance of the bonds, for: (a) The interest upon such bonds as the same becomes due; (b) the necessary fiscal agency charges for paying bonds and interest; (c) the payment of the bonds as they fall due, or if all bonds mature at one time, the maintenance of a proper sinking fund for the payment thereof at such time; and (d) a margin for safety and for the payment of premium upon bonds retired by call or purchase as herein provided for, which margin, together with unused surplus of such margin carried forward from the preceding year, shall equal ten per cent of all other amounts so required to be paid into the sinking

fund. Such required payments shall constitute a first charge upon all the net revenues of the athletic establishment. Net revenues as used herein shall mean the revenues of the athletic establishment remaining after the payment of reasonable expense of operation, repairs, maintenance, insurance and all other reasonable costs of maintaining and operating the same required to be paid from the revenues thereof. After the payment into the sinking fund as herein required, the board may at any time in its discretion transfer all or any part of the balance of the net revenues, after reserving an amount deemed by the board sufficient for operation, repairs, maintenance and depreciation for an ensuing period of not less than twelve months, into the sinking fund or into a fund for extensions, improvements and additions to such athletic establishment. All amounts for sinking fund and interest, as and when set apart for the payment of same, shall be remitted to the ~~state sinking fund commission~~ West Virginia Municipal Bond Commission at such periods as shall be designated in the resolution, but in any event at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission, consistent with provisions of this article and the order pursuant to which such bonds have been issued. The ~~state sinking fund commission~~ West Virginia Municipal Bond Commission is hereby authorized to act as fiscal agent for the administration of such sinking fund under any resolution adopted pursuant to the provisions of this article and shall invest all sinking funds as provided by general law. 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 board directly thereto.

CHAPTER 17. ROADS AND HIGHWAYS.

ARTICLE 17. TOLL BRIDGES.

§17-17-22. Tolls to be charged for bond payment; intrastate and interstate bridges included in one issue; purchase of existing bridges; disposition of tolls.

Tolls shall be fixed, charged and collected for transit over such bridges and shall be so fixed and adjusted, in respect of the aggregate

of tolls from the bridge or bridges 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 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 shall be acquired by purchase, eminent domain, or otherwise, unless the state road commissioner 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 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 section twenty-three-b following, unless the state road commissioner 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 ~~state sinking fund commission~~ 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 ~~sinking fund commission~~ 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, under the provisions of this article without the approval in writing of the state road commissioner and the Governor. If there be in the funds of the ~~state sinking fund commission~~ 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 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.

§17-17-34. Same — Retiring bonds; remittance to sinking fund.

Every municipality or county court issuing bonds, or other evidences of indebtedness, under the provisions of this act, shall thereafter, so long as any such bonds or other evidences of indebtedness remain outstanding, operate and maintain its bridge so as to provide, charge, collect and account for revenues therefrom as will be sufficient to pay all operating costs, provide a depreciation fund, retire the bonds or other evidences of indebtedness, and pay the interest requirements as the same may become due. The ordinance or order pursuant to which any such bonds or other evidences of indebtedness are issued shall pledge the revenues derived from the bridge to the purposes aforesaid, and shall definitely fix and determine the amount of revenues which shall be necessary and set apart in a special fund for the bond requirements. The amounts, as and when so set apart into said special fund for the bond requirements, shall be remitted to the state sinking fund commission West Virginia Municipal Bond Commission at least thirty days previous to the time interest or principal payments become due, to be retained and paid out by said commission consistent with the provisions of this act and the ordinance or order pursuant to which such bonds or other evidences of indebtedness have been issued. 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.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 540**), 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: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

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. 4265) 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. 4310, Relating to the West Virginia University Institute of Technology.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

Delegate Cowles then moved to concur in the following Senate amendments:

On page four, section one, line seventy, after the word “Collaboration”, by inserting the words “in engineering and other appropriate programs”.

On page two, section one, line twenty-seven, after the words “Virginia University”, by inserting the word “Institute”.

On page three, section one, line fifty-two, by striking out the words “College and” and inserting in lieu thereof the words “College and”.

On page four, section one, line sixty-four, after “(2)” by striking out the words “among West Virginia University Institute of Technology, West Virginia University, the County Commission of Kanawha County, the County Commission of Fayette, and the City of Smithers” and inserting in lieu thereof the words “among West Virginia University Institute of Technology, West Virginia University, the County Commission of Kanawha County, the County Commission of Fayette County, the City of Smithers, and the City of Montgomery, should it elect to do so”.

On page four, section one, line seventy-one, after the word “among”, by striking out the words “West Virginia University Institute of Technology, West Virginia University, Marshall University,

Concord University, and Bluefield State College” and inserting in lieu thereof the words “West Virginia University Institute of Technology, West Virginia University, Marshall University, Concord University, Bluefield State College and the West Virginia School of Osteopathic Medicine”.

On page six, section two, line thirty-seven, after the word “with”, by striking out the words “the County Commission of Kanawha County, the County Commission of Fayette County, and the City of Smithers” and inserting in lieu thereof the words “the County Commission of Kanawha County, the County Commission of Fayette County, the City of Smithers and the City of Montgomery, should it elect to do so”.

And,

On page four, section one, line seventy, after the word “Collaboration”, by inserting the words “in engineering and other appropriate programs”.

On the motion to concur in the Senate amendments, Delegate Fast demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 541**), and there were—yeas 68, nays 26, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Azinger, Border, Caputo, Duke, A. Evans, Faircloth, Fast, Folk, Guthrie, Hamilton, Hicks, Hill, Ihle, Kessinger, Lynch, McGeehan, Miller, Moore, Perdue, Perry, Rohrbach, Romine, Rowe, P. Smith, Sobonya and Stansbury.

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

So, a majority of the members present and voting having voted in the affirmative, the motion to concur in the Senate amendments was adopted.

Delegate Perry was then recognized and moved to lay the bill upon the table, which motion did not prevail.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 542**), and there were—yeas 65, nays 29, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Border, Caputo, Duke, A. Evans, Faircloth, Fast, Folk, Gearheart, Guthrie, Hamilton, Hicks, Hill, Ihle, Kelly, Kessinger, Lynch, McGeehan, Miller, Moore, Perdue, Perry, Rodighiero, Rohrbach, Romine, Rowe, P. Smith, Sobonya, Sponaule and Stansbury.

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4310) 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. 4360, Increasing the criminal penalty for the unlawful practice of law.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 2. ATTORNEYS-AT-LAW.**§30-2-4. Practice without license or oath; penalty; qualification after institution of suits.**

(a) It ~~shall be~~ is unlawful for any ~~natural~~ person to practice or appear as an attorney-at-law for another in a court ~~of record~~ in this state or to make it a business to solicit employment for any attorney, ~~or to furnish an attorney or counsel to render legal services;~~ or to hold himself or herself out to the public or any member thereof as being entitled to practice law, or in any other manner to assume, use or advertise the title of lawyer, or attorney and counselor-at-law, ~~or counselor;~~ ~~or~~ attorney and counselor; or equivalent terms in any language, in such manner as to convey the impression that he or she is a legal practitioner of law, or in any manner to advertise that he or she, either alone or together with other persons, has, owns, conducts or maintains a law office, without first having been duly and regularly licensed and admitted to practice law in ~~a court of record~~ the courts of this State, and without having subscribed and taken the oath required by the ~~next preceding section~~ provisions of section three of this article.

(b) Any person violating the provisions of ~~this section~~ subsection (a) of this section ~~shall be~~ is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than ~~\$1,000~~ \$5,000, or confined in jail not more than ninety days, or both fined and confined, and on any subsequent offense, is guilty of a misdemeanor and shall be fined not more than \$10,000, or confined in jail not more than one year, or both fined and confined; ~~but this penalty shall not be incurred by any attorney who institutes suits in the circuit courts after obtaining a license, if he or she shall qualify at the first term thereafter of a circuit court of any county of the circuit in which he or she resides.~~ Provided, That nothing herein prohibits a lawyer from advertising services or hiring a person to assist in advertising services as permitted by the Rules of Professional Conduct.”

And,

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

Com. Sub. for H. B. 4360 — “A Bill to amend and reenact §30-2-4 the Code of West Virginia, 1931, as amended, relating to unauthorized practice of law; increasing criminal penalties for unlawful practice of law; setting penalties for second or subsequent offense; removing antiquated language; and providing that a lawyer may advertise services or hire a person to assist in advertising services as permitted by the Rules of Professional Conduct.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 543**), and there were—yeas 80, nays 14, absent and not voting 6, with the yeas and absent and not voting being as follows:

Nays: Azinger, Cadle, Eldridge, Faircloth, Folk, Guthrie, Hamilton, Ihle, Lynch, McGeehan, J. Nelson, Perdue, Pushkin and Upson.

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

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 4360) 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. 4411, Relating to penalty for illegally taking native brook trout.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, section five-a, line seven, by striking out the words “taken illegally, \$100 for each native brook trout” and inserting in lieu thereof the words “that exceeds the creel limit, \$100 for the first five illegally taken and \$20 for each thereafter” and a colon.

And,

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

H. B. 4411 — “A Bill to amend and reenact §20-2-5a of the Code of West Virginia, 1931, as amended, relating to replacement costs for native brook trout taken illegally.”

Delegate Fleischauer moved to reconsider the motion to concur in the Senate amendments, which motion was put and did not prevail.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 544**), and there were—yeas 84, nays 8, absent and not voting 8, with the nays and absent and not voting being as follows:

Nays: A. Evans, Folk, Hamilton, Marcum, McGeehan, Romine, Shaffer and P. Smith.

Absent and Not Voting: Arvon, Bates, Deem, Flanigan, Hicks, E. Nelson, Westfall and B. White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4411) passed.

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

On this question, the yeas and nays were taken (**Roll No. 545**), and there were—yeas 87, nays 6, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: Folk, Hamilton, Marcum, McGeehan, Shaffer and P. Smith.

Absent and Not Voting: Arvon, Deem, Flanigan, Hicks, E. Nelson, Westfall and B. White.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4411) 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. 4448, Clarifying that communication by a lender or debt collector which is allowed under the West Virginia Consumer Credit and Protection Act, likewise does not violate the provisions of the West Virginia Computer Crime and Abuse Act.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, section fourteen-a, line three, after the word “another”, by inserting the word “person”.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 546**), and there were—yeas 89, nays 5, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Ihle, Lynch, Pushkin and Rowe.

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

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. 4448) passed.

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

H. B. 4448 — “A Bill to amend and reenact §61-3C-14a of the Code of West Virginia, 1931, as amended, relating to violations of the West Virginia Computer Crime and Abuse Act; providing an exception to the prohibition against making contact with a person after being requested by the person to desist from contacting them; and providing that communications made by a lender or debt collector to a consumer regarding an overdue debt of the consumer that do not violate the West Virginia Consumer Credit and Protection Act are not a violation of the West Virginia Computer Crime and Abuse Act.”

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

The Speaker announced to the Members that Com. Sub. for H. B. 4519 had been incorrectly reported earlier in today’s proceedings, and the Clerk would now report the corrected message.

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. 4519, Allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House concurred in the following Senate amendment:

On page thirteen, section thirty-three, line eighteen, after the word “of”, by inserting the word “election”.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 547**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

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. 4519) 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. 4612, Relating generally to tax increment financing and economic opportunity development districts.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page fourteen, section fourteen, line seven, after the word “one-c”, by inserting a comma and the words “chapter twenty-one of this code”.

And,

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

Com. Sub. for H. B. 4612 — “A Bill to amend and reenact §7-11B-3, §7-11B-4, §7-11B-14, §7-11B-21 and §7-11B-22 of the Code of West Virginia, 1931, as amended; to amend said code by

adding thereto two new sections, designated §7-11B-29 and §7-11B-30; to amend and reenact §7-22-5, §7-22-7, §7-22-8, §7-22-12 and §7-22-14 of said code; to amend said code by adding thereto two new sections, designated §7-22-23 and §7-22-24; to amend and reenact §8-38-5, §8-38-7, §8-38-8, §8-38-12 and §8-38-14 of said code; to amend said code by adding thereto two new sections, designated §8-38-23 and §8-38-24; and to amend and reenact §11-10-11a of said code, all relating generally to tax increment financing; authorizing tax increment financing for the funding road projects in West Virginia; permitting certain agreements between the Division of Highways and counties or municipalities regarding development districts; permitting financing of certain projects by proceeds of tax increment financing obligations; permitting road construction projects be done jointly by counties and municipalities under certain circumstances; establishing procedures and requirements for applications and the management of projects and districts; providing that projects are public improvements and subject to certain requirements; permitting the Division of Highways to propose certain projects; establishing procedures for the West Virginia Development Office and the Tax Commissioner regarding applications and their review; permitting audits in certain circumstances; establishing a procedure for adding or removing property from an economic opportunity development district; requiring procedures relating to taxpayers; providing for confidentiality; providing that roads to be part of the state road system; requiring legislative rulemaking; permitting a fee to be assessed; making findings; and defining terms.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 548**), and there were’—yeas 81, nays 13, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Ambler, Canterbury, Folk, Ihle, Lynch, Marcum, McGeehan, J. Nelson, Perdue, Sobonya, Stansbury, Summers and Upson.

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

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. 4612) 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. 4673, Providing for a crime for the theft, damage or release of deer from private game farms.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments with further amendment:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §19-2H-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

ARTICLE 2H. CAPTIVE CERVID FARMING ACT.

§19-2H-11. Prohibited conduct; criminal penalties.

(a) A person may not release or permit the release of any captive cervids from a captive cervid farming facility.

(b) A person may not cause the entry or introduction of wild cervids into a captive cervid farming facility.

(c) An owner may not cease operation of or abandon a captive cervid farming facility without complying with the requirements and rules promulgated under this article.

(d) Any person who violates subsection (a) or (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than ninety days, or fined not more than \$300, or both fined and confined for a first offense. Any person who violates subsection (a) or (b) of this section for a second or subsequent offense is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than one year, or fined not more than \$1,000, or both fined and confined.

(e) Any person who intentionally or knowingly violates subsection (a), (b) or (c) of this section is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than three years, or fined not more than \$1,000, or both fined and imprisoned.

(f) A person may not kill, injure, take or release any captive cervid that is the property of another. A person who violates this subsection is guilty of a misdemeanor and, upon conviction thereof, may be fined not more than \$500 and pay restitution pursuant to sections four and five, article eleven-a, chapter sixty-one of this code.”

On motion of Delegate Shott, the amendment was amended on page one, section eleven, line seventeen, after the word “take”, by striking out the words “or release”.

And,

On page one, section eleven, line seventeen, after the word “injure” and the comma by inserting the work “or”.

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. 549**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Ihle.

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

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. 4673) passed.

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

Com. Sub. for H. B. 4673 — “A Bill to amend and reenact §19-2H-11 of the Code of West Virginia, 1931, as amended, relating to captive cervid; establishing a misdemeanor penalty to kill, injure, or take captive cervid; and setting forth fines and restitution.”

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

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. 4725, Relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate and making certain clarifications.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

H. B. 4725 — “A Bill to amend and reenact §3-10-3 of the Code of West Virginia, 1931, as amended, relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate; providing that persons appointed to offices of justice of the Supreme Court of Appeals, circuit judge, family court judge and magistrate shall continue to serve if the unexpired term be less than

two years; providing for elections to fill unexpired terms under certain circumstances based on when vacancy occurs; and making certain clarifications.”

On motion of Delegate Shott, the enacting section was amended to read as follows:

“That §3-10-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:”

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. 550**), 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: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4725) passed.

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

H. B. 4725 — “A Bill to amend and reenact §3-10-3 of the Code of West Virginia, 1931, as amended, all relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate and making certain clarifications concerning procedures to be followed when an unexpired term is for a period of more than two years.”

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

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. 4726, Relating to coal mining generally.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §22-3A-1, §22-3A-2, §22-3A-3, §22-3A-4, §22-3A-5, §22-3A-6, §22-3A-7, §22-3A-8, §22-3A-9 and §22-3A-10 of the Code of West Virginia, 1931, as amended, be repealed; that §16-4C-6c of said code be amended and reenacted; that §22-1-7 of said code be amended and reenacted; that §22-3-2, §22-3-4, §22-3-13, §22-3-13a, §22-3-22a and §22-3-30a of said code be amended and reenacted; that said code be amended by adding thereto six new sections, designated §22-3-34, §22-3-35, §22-3-36, §22-3-37 and §22-3-38; that §22-11-6 of said code be amended and reenacted; that §22A-1-13, §22A-1-14, §22A-1-15, §22A-1-19, §22A-1-20, §22A-1-31 and §22A-1-35 of said code be amended and reenacted; that §22A-1A-2 of said code be amended and reenacted; that §22A-2-3, §22A-2-8, §22A-2-14, §22A-2-20, §22A-2-25, §22A-2-36, §22A-2-55, §22A-2-66 and §22A-2-77 of said code be amended and reenacted; and that §22A-7-7 of said code be amended and reenacted, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-6c. Certification requirements for emergency medical technician industrial - mining.

(a) Commencing July 1, ~~2014~~ 2016, an applicant for certification as an emergency medical technician ~~industrial~~ - mining shall:

(1) Be at least eighteen years old;

(2) Apply on a form prescribed by the ~~Commissioner~~ Director of Miners' Health, Safety and Training;

(3) Pay the application fee;

(4) Possess a valid cardiopulmonary resuscitation (CPR) certification;

(5) Successfully complete an emergency medical technician-~~industrial~~ mining education program authorized by the ~~Commissioner~~ Director of Miners' Health, Safety and Training in consultation with the Board of Miner Training, Education and Certification; and

(6) Successfully complete emergency medical technician-~~industrial~~ mining cognitive and skills examinations authorized by the ~~Commissioner~~ Director of Miners' Health, Safety and Training in consultation with the Board of Miner Training, Education and Certification.

(b) The emergency medical technician ~~industrial~~ - mining certification is valid for three years.

(c) A certified emergency medical technician ~~industrial~~ - mining ~~is only authorized to~~ may only practice ~~during his or her regular employment on industrial~~ on mining operations, as defined in section three, article thirteen-c, chapter eleven of this code. ~~For the purposes of this section, "industrial property" means property being used for production, extraction or manufacturing activities.~~

(d) To be recertified as an emergency medical technician ~~industrial~~ - mining, a certificate holder shall:

(1) Apply on a form prescribed by the ~~Commissioner~~ Director of Miners' Health, Safety and Training;

(2) Pay the application fee;

(3) Possess a valid cardiopulmonary resuscitation (CPR) certification;

(4) Successfully complete one of the following:

(A) A one-time thirty-two hour emergency medical technician-~~industrial~~ mining recertification course authorized by the ~~Commissioner~~ Director of Miners' Health, Safety and Training in consultation with the Board of Miner Training, Education and Certification; or

(B) Three annual eight-hour retraining and testing programs authorized by the ~~Commissioner~~ Director of Miners' Health, Safety and Training in consultation with the Board of Miner Training, Education and Certification; and

(5) Successfully complete emergency medical technician-~~industrial~~ mining cognitive and skills recertification examinations authorized by the ~~Commissioner~~ Director of Miners' Health, Safety and Training in consultation with the Board of Miner Training, Education and Certification.

~~(e) Commencing July 1, 2014, the certification for emergency medical technician-miner, also known as emergency medical technician-mining, shall be known as the certification for emergency medical technician-industrial, and the certification is valid until the original expiration date, at which time the person may recertify as an emergency medical technician-industrial miner pursuant to this section.~~

~~(f)~~(e) The education program, training, courses, and cognitive and skills examinations required for certification and recertification as an emergency medical technician-miner, also known as emergency medical technician - mining, in existence on January 1, 2014, shall remain in effect for the certification and recertification of emergency medical technician-industrial until they are changed by legislative rule

by the commissioner in consultation with the Board of Miner Training, Education and Certification.

~~(g)~~(f) The administration of the emergency medical technician ~~industrial mining~~ certification and recertification program by the ~~Commissioner~~ Director of Miners' Health, Safety and Training shall be done in consultation with the Board of Miner Training, Education and Certification.

~~(h)~~(g) The ~~Commissioner~~ Director of Miners' Health, Safety and Training shall propose rules for legislative approval, pursuant to the provisions of article three, chapter twenty-nine-a of this code, in consultation with the Board of Miner Training, Education and Certification, and may propose emergency rules, to:

(1) Establish emergency medical technician-~~industrial~~ - mining certification and recertification courses and examinations;

(2) Authorize providers to administer the certification and recertification courses and examinations, including mine training personnel, independent trainers, community and technical colleges, and Regional Educational Service Agencies (RESA): *Provided*, That the mine training personnel and independent trainers must have a valid cardiopulmonary resuscitation (CPR) certification and must be an approved MSHA or OSHA certified instructor;

(3) Establish a fee schedule: *Provided*, That the application fee may not exceed \$10 and there shall be no fee for a certificate; and

(4) Implement the provisions of this section.

CHAPTER 22. ENVIRONMENTAL RESOURCES.

ARTICLE 1. DEPARTMENT OF ENVIRONMENTAL PROTECTION.

§22-1-7. Offices within division.

Consistent with the provisions of this article, the Secretary secretary shall, at a minimum, maintain the following offices within the division:

(1) The Office of Abandoned Mine Lands and Reclamation, which is charged, at a minimum, with administering and enforcing, under the supervision of the ~~director~~ secretary, the provisions of article two of this chapter;

(2) The Division of Mining and Reclamation, which is charged, at a minimum, with administering and enforcing, under the supervision of the ~~director~~ secretary, the provisions of articles three and four of this chapter;

(3) The Division of Air Quality, which is charged, at a minimum, with administering and enforcing, under the supervision of the ~~director~~ secretary, the provisions of article five of this chapter;

(4) The Office of Oil and Gas, which is charged, at a minimum, with administering and enforcing, under the supervision of the ~~director~~ secretary, the provisions of articles six, seven, eight, nine and ten of this chapter; and

(5) The Division of Water and Waste Management, which is charged, at a minimum, with administering and enforcing, under the supervision of the ~~director~~ secretary, the provisions of articles eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen and twenty of this chapter; ~~and~~.

~~(6) The Office of Explosives and Blasting, which is charged, at a minimum, with administering and enforcing, under the supervision of the director, the provisions of article three-a of this chapter.~~

ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.

§22-3-2. Legislative findings and purpose; jurisdiction vested in Division of Environmental Protection; authority of ~~director~~ secretary; inter-departmental cooperation.

(a) The Legislature finds that it is essential to the economic and social well-being of the citizens of the State of West Virginia to strike a careful balance between the protection of the environment and the economical mining of coal needed to meet energy requirements.

(1) Further, the Legislature finds that there is great diversity in terrain, climate, biological, chemical and other physical conditions in parts of this nation where mining is conducted; that the State of West Virginia in particular needs an environmentally sound and economically healthy mining industry; and ~~by reason of the above~~ therefor it may be necessary for the ~~director~~ secretary to promulgate rules which vary from federal regulations as is provided for in sections 101 (f) and 201 (c)(9) of the federal Surface Mining Control and Reclamation Act of 1977, as amended, 'Public Law 95-87.'

(2) Further, the Legislature finds that unregulated surface coal mining operations may result in disturbances of surface and underground areas that burden and adversely affect commerce, public welfare and safety by destroying or diminishing the utility of land for commercial, industrial, residential, recreational, agricultural and forestry purposes; by causing erosion and landslides; by contributing to floods; by polluting the water and river and stream beds; by destroying fish, aquatic life and wildlife habitats; by impairing natural beauty; by damaging the property of citizens; by creating hazards dangerous to life and property; and by degrading the quality of life in local communities, all where proper mining and reclamation is not practiced.

(3) Further, the Legislature finds that the reasonable control of blasting associated with surface mining within the State of West Virginia is in the public interest and will promote the protection of the citizens of the State of West Virginia and their property without sacrificing economic development. It is the policy of the State of West Virginia, in cooperation with other governmental agencies, public and private organizations, and the citizens of this state, to use reasonable means and measures to prevent harm from the effects of blasting to its property and citizens.

(b) Therefore, it is the purpose of this article to:

(1) Expand the established and effective statewide program to protect the public and the environment from the adverse effects of surface-mining operations;

(2) Assure that the rights of surface and mineral owners and other persons with legal interest in the land or appurtenances to land are adequately protected from ~~such~~ the operations;

(3) Assure that surface-mining operations are not conducted where reclamation as required by this article is not feasible;

(4) Assure that surface-mining operations are conducted in a manner to adequately protect the environment;

(5) Assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface-mining operations;

(6) Assure that adequate procedures are provided for public participation where appropriate under this article;

(7) Assure the exercise of the full reach of state common law, statutory and constitutional powers for the protection of the public interest through effective control of surface-mining operations; ~~and~~

(8) Assure that the coal production essential to the nation's energy requirements and to the State's economic and social well-being is provided; and

(9) Vest in the secretary the authority to enforce all of the laws, regulations and rules established to regulate blasting consistent with the authority granted in sections thirty-four through thirty-nine of this article.

(c) In recognition of these findings and purposes, the Legislature hereby vests authority in the ~~director~~ secretary of the ~~Division~~ Department of Environmental Protection to:

(1) Administer and enforce the provisions of this article as it relates to surface mining to accomplish the purposes of this article;

(2) Conduct hearings and conferences or appoint persons to conduct them in accordance with this article;

(3) Promulgate, administer and enforce rules pursuant to this article;

(4) Enter into a cooperative agreement with the Secretary of the United States Department of the Interior to provide for state regulation of surface-mining operations on federal lands within West Virginia consistent with section 523 of the federal Surface Mining Control and Reclamation Act of 1977, as amended; and

(5) Administer and enforce rules promulgated pursuant to this chapter to accomplish the requirements of programs under the federal Surface Mining Control and Reclamation Act of 1977, as amended.

(d) The ~~director~~ secretary of the ~~Division~~ Department of Environmental Protection and the director of the Office of Miners Health, Safety and Training shall cooperate with respect to each agency's programs and records to effect an orderly and harmonious administration of the provisions of this article. The ~~director~~ secretary of the ~~Division~~ Department of Environmental Protection may avail himself or herself of any services which may be provided by other state agencies in this State and other states or by agencies of the federal government, and may reasonably compensate them for ~~such~~ those services. Also, he or she may receive any federal funds, state funds or any other funds, and enter into cooperative agreements, for the reclamation of land affected by surface mining.

§22-3-4. Reclamation; duties and functions of ~~director~~ secretary.

(a) The ~~director~~ secretary shall administer the provisions of this article relating to surface-mining operations. The ~~director~~ secretary has within his or her jurisdiction and supervision all lands and areas of the

State, mined or susceptible of being mined, for the removal of coal and all other lands and areas of the State deforested, burned over, barren or otherwise denuded, unproductive and subject to soil erosion and waste. Included within ~~such~~ the lands and areas are lands seared and denuded by chemical operations and processes, abandoned coal mining areas, swamplands, lands and areas subject to flowage easements and backwaters from river locks and dams, and river, stream, lake and pond shore areas subject to soil erosion and waste. The jurisdiction and supervision exercised by the ~~director~~ secretary shall be consistent with other provisions of this chapter.

(b) The ~~director has the authority to:~~ secretary may:

(1) ~~Promulgate rules~~ Propose rules for promulgation, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article: *Provided,* That the ~~director~~ secretary shall give notice by publication of the public hearing required in article three, chapter twenty-nine-a of this code: *Provided, however,* That any forms, handbooks or similar materials having the effect of a rule as defined in article three, chapter twenty-nine-a of this code were issued, developed or distributed by the director pursuant to or as a result of a rule are subject to the provisions of article three, chapter twenty-nine-a of this code;

(2) Make investigations or inspections necessary to ensure complete compliance with the provisions of this code;

(3) Conduct hearings or appoint persons to conduct hearings under provisions of this article or rules adopted by the ~~director~~ secretary; and for the purpose of any investigation or hearing ~~hereunder~~ under this article, the ~~director~~ secretary or his or her designated representative, may administer oaths or affirmations, subpoena witnesses, compel their attendance, take evidence and require production of any books, papers, correspondence, memoranda, agreements or other documents or records relevant or material to the inquiry;

(4) Enforce the provisions of this article as provided herein in this article; and

(5) Appoint such advisory committees as may be of assistance to the director secretary in the development of programs and policies: *Provided*, That such advisory committees shall, in each instance, include members representative of the general public; and

(6) In relation to blasting on all surface-mining operations and all surface-blasting activities related to underground mining operations:

(A) Regulate blasting on all surface-mining operations;

(B) Implement and oversee the preblast survey process, as set forth in section thirteen-a, article three of this chapter;

(C) Maintain and operate a system to receive and address questions, concerns and complaints relating to mining operations;

(D) Set the qualifications for individuals and firms performing preblast surveys;

(E) Educate, train, examine and certify blasters; and

(F) Propose rules for legislative approval pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code for the implementation of sections thirty-four through thirty-nine of this article.

(c)(1) After the director secretary has adopted the rules required by this article, any person may petition the director secretary to initiate a proceeding for the issuance, amendment or appeal of a rule under this article.

(2) The petition shall be filed with the director secretary and shall set forth the facts which support the issuance, amendment or appeal of a rule under this article.

(3) The ~~director~~ secretary may hold a public hearing or may conduct such investigation or proceeding as he or she considers appropriate in order to determine whether the petition should be granted or denied.

(4) Within ninety days after filing of a petition described in subdivision (1) of this subsection, the ~~director~~ secretary shall either grant or deny the petition. If the ~~director~~ secretary grants the petition, he or she shall promptly commence an appropriate proceeding in accordance with the provisions of chapter twenty-nine-a of this code. If the ~~director~~ secretary denies the petition, he or she shall notify the petitioner in writing setting forth the reasons for the denial.

§22-3-13. General environmental protection performance standards for surface mining; variances.

(a) Any permit issued by the ~~director~~ secretary pursuant to this article to conduct surface mining operations shall require that the surface mining operations meet all applicable performance standards of this article and other requirements set forth in legislative rules proposed by the ~~director~~ secretary.

(b) The following general performance standards are applicable to all surface mines and require the operation, at a minimum, to:

(1) Maximize the utilization and conservation of the solid fuel resource being recovered to minimize re-affecting the land in the future through surface mining;

(2) Restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood so long as the use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution and the permit applicant's declared proposed land use following reclamation is not considered to be impractical or unreasonable, inconsistent with applicable land use policies and plans,

involves unreasonable delay in implementation or is violative of federal, state or local law;

(3) Except as provided in subsection (c) of this section, with respect to all surface mines, backfill, compact where advisable to ensure stability or to prevent leaching of toxic materials and grade in order to restore the approximate original contour: *Provided*, That in surface mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit and the thickness of the coal deposits relative to the volume of the overburden is large and where the operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade and compact, where advisable, using all available overburden and other spoil and waste materials to attain the lowest practicable grade, but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region: *Provided, however*, That in surface mining where the volume of overburden is large relative to the thickness of the coal deposit and where the operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the operator shall, after restoring the approximate contour, backfill, grade and compact, where advisable, the excess overburden and other spoil and waste materials to attain the lowest grade, but not more than the angle of repose, and to cover all acid-forming and other toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region and the overburden or spoil shall be shaped and graded in a way as to prevent slides, erosion and water pollution and revegetated in accordance with the requirements of this article: *Provided further*, That the ~~director~~ secretary shall propose rules for

legislative approval in accordance with article three, chapter twenty-nine-a of this code governing variances to the requirements for return to approximate original contour or highwall elimination and where adequate material is not available from surface mining operations permitted after the effective date of this article for: (A) Underground mining operations existing prior to August 3, 1977; or (B) for areas upon which surface mining prior to July 1, 1977, created highwalls;

(4) Stabilize and protect all surface areas, including spoil piles, affected by the surface mining operation to effectively control erosion and attendant air and water pollution;

(5) Remove the topsoil from the land in a separate layer, replace it on the backfill area or, if not utilized immediately, segregate it in a separate pile from other spoil and, when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful vegetative cover by quick growing plants or by other similar means in order to protect topsoil from wind and water erosion and keep it free of any contamination by other acid or toxic material: *Provided*, That if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate and preserve in a like manner any other strata which is best able to support vegetation;

(6) Restore the topsoil or the best available subsoil which is best able to support vegetation;

(7) Ensure that all prime farmlands are mined and reclaimed in accordance with the specifications for soil removal, storage, replacement and reconstruction established by the United States Secretary of Agriculture and the Soil Conservation Service pertaining thereto. The operator, at a minimum, shall: (A) Segregate the A horizon of the natural soil, except where it can be shown that other available soil materials will create a final soil having a greater

productive capacity and, if not utilized immediately, stockpile this material separately from other spoil and provide needed protection from wind and water erosion or contamination by other acid or toxic material; (B) segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of the horizons or other strata that are shown to be both texturally and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil and, if not utilized immediately, stockpile this material separately from other spoil and provide needed protection from wind and water erosion or contamination by other acid or toxic material; (C) replace and regrade the root zone material described in paragraph (B) of this subdivision with proper compaction and uniform depth over the regraded spoil material; and (D) redistribute and grade in a uniform manner the surface soil horizon described in paragraph (A) of this subdivision;

(8) Create, if authorized in the approved surface mining and reclamation plan and permit, permanent impoundments of water on mining sites as part of reclamation activities in accordance with rules promulgated by the director secretary;

(9) Where augering is the method of recovery, seal all auger holes with an impervious and noncombustible material in order to prevent drainage except where the director secretary determines that the resulting impoundment of water in the auger holes may create a hazard to the environment or the public welfare and safety: *Provided*, That the director secretary may prohibit augering if necessary to maximize the utilization, recoverability or conservation of the mineral resources or to protect against adverse water quality impacts;

(10) Minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated off-site areas and to the quality and quantity of water in surface and groundwater systems both during and after surface mining operations and during reclamation by:

(A) Avoiding acid or other toxic mine drainage by such measures as, but not limited to: (i) Preventing or removing water from contact with toxic producing deposits; (ii) treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses; and (iii) casing, sealing or otherwise managing boreholes, shafts and wells and keep acid or other toxic drainage from entering ground and surface waters; (B) conducting surface mining operations so as to prevent to the extent possible, using the best technology currently available, additional contributions of suspended solids to streamflow or runoff outside the permit area, but in no event may contributions be in excess of requirements set by applicable state or federal law; (C) constructing an approved drainage system pursuant to paragraph (B) of this subdivision, prior to commencement of surface mining operations, the system to be certified by a person approved by the director secretary to be constructed as designed and as approved in the reclamation plan; (D) avoiding channel deepening or enlargement in operations requiring the discharge of water from mines; (E) unless otherwise authorized by the director secretary, cleaning out and removing temporary or large settling ponds or other siltation structures after disturbed areas are revegetated and stabilized, and depositing the silt and debris at a site and in a manner approved by the director secretary; (F) restoring recharge capacity of the mined area to approximate premining conditions; and (G) any other actions prescribed by the director secretary;

(11) With respect to surface disposal of mine wastes, tailings, coal processing wastes and other wastes in areas other than the mine working excavations: (A) Stabilize all waste piles in designated areas through construction in compacted layers, including the use of noncombustible and impervious materials if necessary, and assure the final contour of the waste pile will be compatible with natural surroundings and that the site will be stabilized and revegetated according to the provisions of this article; and (B) assure that the construction of any coal waste pile or other coal waste storage area utilizes appropriate technologies, such as capping or the use of liners,

or any other demonstrated technologies or measures which are consistent with good engineering practices, to prevent an acid mine drainage discharge;

(12) Design, locate, construct, operate, maintain, enlarge, modify and remove or abandon, in accordance with standards and criteria developed pursuant to subsection (f) of this section, all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes or other liquid and solid wastes and used either temporarily or permanently as dams or embankments;

(13) Refrain from surface mining within five hundred feet of any active and abandoned underground mines in order to prevent breakthroughs and to protect health or safety of miners: *Provided*, That the ~~director~~ secretary shall permit an operator to mine near, through or partially through an abandoned underground mine or closer to an active underground mine if: (A) The nature, timing and sequencing of the approximate coincidence of specific surface mine activities with specific underground mine activities are coordinated jointly by the operators involved and approved by the ~~director~~ secretary; and (B) the operations will result in improved resource recovery, abatement of water pollution or elimination of hazards to the health and safety of the public: *Provided, however*, That any breakthrough which does occur shall be sealed;

(14) Ensure that all debris, acid-forming materials, toxic materials or materials constituting a fire hazard are treated or buried and compacted, or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters, and that contingency plans are developed to prevent sustained combustion: *Provided*, That the operator shall remove or bury all metal, lumber, equipment and other debris resulting from the operation before grading release;

(15) Ensure that explosives are used only in accordance with existing state and federal law and the rules promulgated by the ~~director~~ secretary, which shall include provisions to:

(A) Maintain for a period of at least three years and make available for public inspection, upon written request, a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole and the order and length of delay in the blasts; and

(B) Require that all blasting operations be conducted by persons certified by the ~~Office of Explosives and Blasting~~ Division of Mining and Reclamation.

(16) Ensure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface mining operations. Time limits shall be established by the ~~director~~ secretary requiring backfilling, grading and planting to be kept current: *Provided*, That where surface mining operations and underground mining operations are proposed on the same area, which operations must be conducted under separate permits, the ~~director~~ secretary may grant a variance from the requirement that reclamation efforts proceed as contemporaneously as practicable to permit underground mining operations prior to reclamation:

(A) If the ~~director~~ secretary finds in writing that:

(i) The applicant has presented, as part of the permit application, specific, feasible plans for the proposed underground mining operations;

(ii) The proposed underground mining operations are necessary or desirable to assure maximum practical recovery of the mineral resource and will avoid multiple disturbance of the surface;

(iii) The applicant has satisfactorily demonstrated that the plan for the underground mining operations conforms to requirements for underground mining in the jurisdiction and that permits necessary for the underground mining operations have been issued by the appropriate authority;

(iv) The areas proposed for the variance have been shown by the applicant to be necessary for the implementing of the proposed underground mining operations;

(v) No substantial adverse environmental damage, either on-site or off-site, will result from the delay in completion of reclamation as required by this article; and

(vi) Provisions for the off-site storage of spoil will comply with subdivision (22), subsection (b) of this section;

(B) If the ~~director~~ secretary has promulgated specific rules to govern the granting of the variances in accordance with the provisions of this subparagraph and has imposed any additional requirements as the ~~director~~ secretary considers necessary;

(C) If variances granted under the provisions of this paragraph are reviewed by the ~~director~~ secretary not more than three years from the date of issuance of the permit: *Provided*, That the underground mining permit shall terminate if the underground operations have not commenced within three years of the date the permit was issued, unless extended as set forth in subdivision (3), section eight of this article; and

(D) If liability under the bond filed by the applicant with the ~~director~~ secretary pursuant to subsection (b), section eleven of this article is for the duration of the underground mining operations and until the requirements of subsection (g), section eleven of this article and section twenty-three of this article have been fully complied with;

(17) Ensure that the construction, maintenance and post-mining conditions of access and haul roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property: *Provided*, That access roads constructed for and used to provide infrequent service to surface facilities, such as ventilators or monitoring devices, are exempt from specific construction criteria

provided adequate stabilization to control erosion is achieved through alternative measures;

(18) Refrain from the construction of roads or other access ways up a stream bed or drainage channel or in proximity to the channel so as to significantly alter the normal flow of water;

(19) Establish on the regraded areas, and all other lands affected, a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area of land to be affected or of a fruit, grape or berry producing variety suitable for human consumption and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area, except that introduced species may be used in the revegetation process where desirable or when necessary to achieve the approved post-mining land use plan;

(20) Assume the responsibility for successful revegetation, as required by subdivision (19) of this subsection, for a period of not less than five growing seasons, as defined by the ~~director~~ secretary, after the last year of augmented seeding, fertilizing, irrigation or other work in order to assure compliance with subdivision (19) of this subsection: *Provided*, That when the ~~director~~ secretary issues a written finding approving a long-term agricultural post-mining land use as a part of the mining and reclamation plan, the director may grant exception to the provisions of subdivision (19) of this subsection: *Provided, however*, That when the director approves an agricultural post-mining land use, the applicable five growing seasons of responsibility for revegetation begins on the date of initial planting for the agricultural post-mining land use;

On lands eligible for remining assume the responsibility for successful revegetation, as required by subdivision (19) of this subsection, for a period of not less than two growing seasons, as defined by the director after the last year of augmented seeding, fertilizing, irrigation or other work in order to assure compliance with subdivision (19) of this subsection;

(21) Protect off-site areas from slides or damage occurring during surface mining operations and not deposit spoil material or locate any part of the operations or waste accumulations outside the permit area: *Provided*, That spoil material may be placed outside the permit area if approved by the ~~director~~ secretary after a finding that environmental benefits will result from the placing of spoil material outside the permit area;

(22) Place all excess spoil material resulting from surface mining activities in a manner that: (A) Spoil is transported and placed in a controlled manner in position for concurrent compaction and in a way as to assure mass stability and to prevent mass movement; (B) the areas of disposal are within the bonded permit areas and all organic matter is removed immediately prior to spoil placements; (C) appropriate surface and internal drainage system or diversion ditches are used to prevent spoil erosion and movement; (D) the disposal area does not contain springs, natural water courses or wet weather seeps, unless lateral drains are constructed from the wet areas to the main under drains in a manner that filtration of the water into the spoil pile will be prevented; (E) if placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the ~~director~~ secretary, the spoil could be placed in compliance with all the requirements of this article, and is placed, where possible, upon, or above, a natural terrace, bench or berm, if placement provides additional stability and prevents mass movement; (F) where the toe of the spoil rests on a downslope, a rock toe buttress, of sufficient size to prevent mass movement, is constructed; (G) the final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses; (H) the design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards; and (I) all other provisions of this article are met: *Provided*, That where the excess spoil material consists of at least eighty percent, by volume, sandstone, limestone or other rocks that do not slake in water and will not degrade to soil material, the ~~director~~ secretary may approve alternate methods for disposal of excess

spoil material, including fill placement by dumping in a single lift, on a site-specific basis: *Provided, however,* That the services of a qualified registered professional engineer experienced in the design and construction of earth and rockfill embankment are utilized: *Provided further,* That the approval may not be unreasonably withheld if the site is suitable;

(23) Meet any other criteria necessary to achieve reclamation in accordance with the purposes of this article, taking into consideration the physical, climatological and other characteristics of the site;

(24) To the extent possible, using the best technology currently available, minimize disturbances and adverse impacts of the operation on fish, wildlife and related environmental values, and achieve enhancement of these resources where practicable; and

(25) Retain a natural barrier to inhibit slides and erosion on permit areas where outcrop barriers are required: *Provided,* That constructed barriers may be allowed where: (A) Natural barriers do not provide adequate stability; (B) natural barriers would result in potential future water quality deterioration; and (C) natural barriers would conflict with the goal of maximum utilization of the mineral resource: *Provided, however,* That at a minimum, the constructed barrier shall be of sufficient width and height to provide adequate stability and the stability factor shall equal or exceed that of the natural outcrop barrier: *Provided further,* That where water quality is paramount, the constructed barrier shall be composed of impervious material with controlled discharge points; and.

~~(26) The director shall promulgate for review and consideration by the West Virginia Legislature legislative rules or emergency rules during the 2016 Regular Session of the West Virginia Legislature; revisions to rules for contemporaneous reclamation as required under subdivision (16), subsection (b) of this section. The secretary shall specifically consider the adoption of federal standards codified at 30 C. F. R. §§816.100-116 (1983) and 30 C. F. R. §§817.100-116 (1983) when proposing revisions to the state rule.~~

(c)(1) The ~~director~~ secretary may prescribe procedures pursuant to which he or she may permit surface mining operations for the purposes set forth in subdivision (3) of this subsection.

(2) Where an applicant meets the requirements of subdivisions (3) and (4) of this subsection, a permit without regard to the requirement to restore to approximate original contour set forth in subsection (b) or (d) of this section may be granted for the surface mining of coal where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge or hill, except as provided in paragraph (A), subdivision (4) of this subsection, by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining and capable of supporting post-mining uses in accordance with the requirements of this subsection.

(3) In cases where an industrial, commercial, agricultural, commercial forestry, residential or public facility including recreational uses is proposed for the post-mining use of the affected land, the ~~director~~ secretary may grant a permit for a surface mining operation of the nature described in subdivision (2) of this subsection where: (A) The proposed post-mining land use is determined to constitute an equal or better use of the affected land, as compared with premining use; (B) the applicant presents specific plans for the proposed post-mining land use and appropriate assurances that the use will be: (i) Compatible with adjacent land uses; (ii) practicable with respect to achieving the proposed use; (iii) obtainable according to data regarding expected need and market; (iv) supported by commitments from public agencies where appropriate; (v) practicable with respect to private financial capability for completion of the proposed use; (vi) planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the post-mining land use; and (vii) designed by a person approved by the ~~director~~ secretary in conformance with standards established to assure the stability, drainage and configuration necessary for the intended use of the site; (C) the proposed use would be compatible with adjacent land

uses, and existing state and local land use plans and programs; (D) the director secretary provides the county commission of the county in which the land is located and any state or federal agency which the director secretary, in his or her discretion, determines to have an interest in the proposed use, an opportunity of not more than sixty days to review and comment on the proposed use; and (E) all other requirements of this article will be met.

(4) In granting any permit pursuant to this subsection, the director secretary shall require that: (A) A natural barrier be retained to inhibit slides and erosion on permit areas where outcrop barriers are required: *Provided*, That constructed barriers may be allowed where: (i) Natural barriers do not provide adequate stability; (ii) natural barriers would result in potential future water quality deterioration; and (iii) natural barriers would conflict with the goal of maximum utilization of the mineral resource: *Provided, however*, That, at a minimum, the constructed barrier shall be sufficient in width and height to provide adequate stability and the stability factor shall equal or exceed that of the natural outcrop barrier: *Provided further*, That where water quality is paramount, the constructed barrier shall be composed of impervious material with controlled discharge points; (B) the reclaimed area is stable; (C) the resulting plateau or rolling contour drains inward from the outcrops except at specific points; (D) no damage will be done to natural watercourses; (E) spoil will be placed on the mountaintop bench as is necessary to achieve the planned post-mining land use: *And provided further*, That all excess spoil material not retained on the mountaintop shall be placed in accordance with the provisions of subdivision (22), subsection (b) of this section; and (F) ensure stability of the spoil retained on the mountaintop and meet the other requirements of this article.

(5) All permits granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit; unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

(d) In addition to those general performance standards required by this section, when surface mining occurs on slopes of twenty degrees or greater, or on lesser slopes as may be defined by rule after consideration of soil and climate, no debris, abandoned or disabled equipment, spoil material or waste mineral matter will be placed on the natural downslope below the initial bench or mining cut: *Provided*, That soil or spoil material from the initial cut of earth in a new surface mining operation may be placed on a limited specified area of the downslope below the initial cut if the permittee can establish to the satisfaction of the director secretary that the soil or spoil will not slide and that the other requirements of this section can still be met.

(e) The director secretary may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code that permit variances from the approximate original contour requirements of this section: *Provided*, That the watershed control of the area is improved: *Provided, however*, That complete backfilling with spoil material is required to completely cover the highwall, which material will maintain stability following mining and reclamation.

(f) The director secretary shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code for the design, location, construction, maintenance, operation, enlargement, modification, removal and abandonment of new and existing coal mine waste piles. In addition to engineering and other technical specifications, the standards and criteria developed pursuant to this subsection shall include provisions for review and approval of plans and specifications prior to construction, enlargement, modification, removal or abandonment; performance of periodic inspections during construction; issuance of certificates of approval upon completion of construction; performance of periodic safety inspections; and issuance of notices and orders for required remedial or maintenance work or affirmative action: *Provided*, That whenever the director secretary finds that any coal processing waste pile constitutes an imminent danger to human life, he or she may, in addition to all other remedies and without the necessity of obtaining

the permission of any person prior or present who operated or operates a pile or the landowners involved, enter upon the premises where any coal processing waste pile exists and may take or order to be taken any remedial action that may be necessary or expedient to secure the coal processing waste pile and to abate the conditions which cause the danger to human life: *Provided, however,* That the cost reasonably incurred in any remedial action taken by the ~~director~~ secretary under this subsection may be paid for initially by funds appropriated to the division for these purposes and the sums expended shall be recovered from any responsible operator or landowner, individually or jointly, by suit initiated by the Attorney General at the request of the ~~director~~ secretary. For purposes of this subsection, operates or operated means to enter upon a coal processing waste pile, or part of a coal processing waste pile, for the purpose of disposing, depositing, dumping coal processing wastes on the pile or removing coal processing waste from the pile, or to employ a coal processing waste pile for retarding the flow of or for the impoundment of water.

(g) The secretary shall promulgate for review and consideration by the West Virginia Legislature during the 2017 Regular Session of the West Virginia Legislature revisions to the rules for minimizing the disturbances to the prevailing hydrologic balance at a mine site and in associated off-site areas both during and after surface mining operations and during reclamation as required under subdivision (10), subsection (b) of this section, including specifically the rules for stormwater runoff and control plans. The secretary shall specifically conform these rules to the federal standards codified at 30 C.F.R. §816.41 (1983) and 30 C.F.R. §816.45-47 (1983) when proposing revisions to the state rule. The secretary shall not propose rules more stringent than the federal standards codified at 30 C.F.R. §816.41 (1983) and 30 C.F.R. §816.45-47 (1983) when proposing revisions to the state rule.

§22-3-13a. Preblast survey requirements.

(a) At least thirty days prior to commencing blasting, as defined in section twenty-two-a of this article, an operator or an operator's

designee shall make the following notifications in writing to all owners and occupants of man-made dwellings or structures that the operator or operator's designee will perform preblast surveys in accordance with subsection (f) of this section:

(1) For surface mining operations that are less than two hundred acres in a single permitted area or less than three hundred acres of contiguous or nearly contiguous area of two or more permitted areas, the required notifications shall be to all owners and occupants of man-made dwellings or structures within five tenths of a mile of the permitted area or areas;

(2) For all other surface mining operations, the required notifications shall be to all owners and occupants of man-made dwellings or structures within five tenths of a mile of the permitted area or areas or seven tenths of a mile of the proposed blasting site, whichever is greater; and

(3) For permitted surface disturbance of underground mines, the required notifications shall be to all owners and occupants of man-made dwellings or structures within five tenths of a mile of the permitted surface area or areas.

(b) ~~Within thirty days of the effective date of this section, any~~ Any operator identified in subdivision (2), subsection (a) of this section that has already completed preblast surveys for man-made dwellings or structures within five tenths of a mile of the permit area and has commenced operations by the effective date of this section shall notify in writing all additional owners and occupants of man-made dwellings or structures within seven tenths of a mile of the proposed blasting site. Except for those dwellings or structures for which the operator secures a written waiver or executes an affidavit in accordance with the requirements of subsection (c) of this section, the operator or the operator's designee must perform the additional preblast surveys in accordance with subsection (f) of this section. ~~within ninety days of the effective date of this section.~~

(c) An occupant or owner of a man-made dwelling or structure within the areas described in subdivision (1) or (2), subsection (a) of this section may waive the right to a preblast survey in writing. If a dwelling is occupied by a person other than the owner, both the owner and the occupant must waive the right to a preblast survey in writing. If an occupant or owner of a man-made dwelling or structure refuses to allow the operator or the operator's designee access to the dwelling or structure and refuses to waive in writing the right to a preblast survey or to the extent that access to any portion of the structure, underground water supply or well is impossible or impractical under the circumstances, the preblast survey shall indicate that access was refused, impossible or impractical. The operator or the operator's designee shall execute a sworn affidavit explaining the reasons and circumstances surrounding the refusals. ~~The office of explosives and blasting~~ Division of Mining and Reclamation may not determine the preblast survey to be incomplete because it indicates that access to a particular structure, underground water supply or well was refused, impossible or impractical. The operator shall send copies of all written waivers and affidavits executed pursuant to this subsection to the ~~office of explosives and blasting.~~ Division of Mining and Reclamation.

(d) If a preblast survey was waived by the owner and was within the requisite area and the property was sold, the new owner may request a preblast survey from the operator.

(e) An owner within the requisite area may request, from the operator, a preblast survey on structures constructed after the original preblast survey.

(f) The preblast survey shall include:

(1) The names, addresses or description of structure location and telephone numbers of the owner and the residents of the structure being surveyed and the structure number from the permit blasting map;

(2) The current home insurer of the owner and the residents of the structure;

(3) The names, addresses and telephone numbers of the surface mining operator and the permit number;

(4) The current general liability insurer of the surface mining operator;

(5) The name, address and telephone number of the person or firm performing the preblast survey;

(6) The current general liability insurer of the person or firm performing the preblast survey;

(7) The date of the preblast survey and the date it was mailed or delivered to the ~~office of explosives and blasting~~. Division of Mining and Reclamation.

(8) A general description of the structure and its appurtenances, including, but not limited to: (A) The number of stories; (B) the construction materials for the frame and the exterior and interior finish; (C) the type of construction including any unusual or substandard construction; and (D) the approximate age of the structure;

(9) A general description of the survey methods and the direction of progression of the survey, including a key to abbreviations used;

(10) Written documentation and drawings, videos or photographs of the preblast defects and other physical conditions of all structures, appurtenances and water sources which could be affected by blasting;

(11) Written documentation and drawings, videos or photographs of the exterior and interior of the structure to indicate preblast defects and condition;

(12) Written documentation and drawings, videos or photographs of the exterior and interior of any appurtenance of the structure to indicate preblast defects and condition;

(13) Sufficient exterior and interior photographs or videos, using a variety of angles, of the structure and its appurtenances to indicate preblast defects and the condition of the structure and appurtenances;

(14) Written documentation and drawings, videos or photographs of any unusual or substandard construction technique and materials used on the structure or its appurtenances or both structure and appurtenances;

(15) Written documentation relating to the type of water supply, including a description of the type of system and treatment being used, an analysis of untreated water supplies, a water analysis of water supplies other than public utilities and information relating to the quantity and quality of water;

(16) When the water supply is a well, written documentation, where available, relating to the type of well; the well log; the depth, age and type of casing or lining; the static water level; flow data; the pump capacity; the drilling contractor; and the source or sources of the documentation;

(17) A description of any portion of the structure and appurtenances not documented or photographed and the reasons;

(18) The signature of the person performing the survey; and

(19) Any other information required by the ~~chief secretary~~ secretary which additional information shall be established by rule in accordance with article three, chapter twenty-nine-a of this code.

(g) Except for additional preblast surveys prepared within one hundred twenty days of the effective date of this section, pursuant to subsection (b) of this section, the preblast survey shall be submitted to the ~~office of explosives and blasting~~. Division of Mining and Reclamation at least fifteen days prior to the commencement of any production blasting. The ~~office of explosives and blasting~~. Division of Mining and Reclamation shall review each preblast survey as to form

and completeness only and notify the operator of any deficiencies: *Provided*, That once all required surveys have been reviewed and accepted by the ~~office of explosives and blasting.~~ Division of Mining and Reclamation blasting may commence sooner than fifteen days after submittal. The ~~office of explosives and blasting.~~ Division of Mining and Reclamation shall provide a copy of the preblast survey to the owner or occupant.

(h) The surface mining operator shall file notice of the preblast survey or the waiver in the office of the county clerk of the county commission of the county where the man-made dwelling or structure is located to notify the public that a preblast survey has been conducted or waived. The notice shall be on a form prescribed by the ~~office of explosives and blasting.~~ Division of Mining and Reclamation.

(i) The ~~chief of the office of explosives~~ secretary shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code dealing with preblast survey requirements and setting the qualifications for individuals and firms performing preblast surveys.

(j) The provisions of this section do not apply to the extraction of minerals by underground mining methods.

§22-3-22a. Blasting restrictions; site specific blasting design requirement.

(a) For purposes of this section, the term ‘production blasting’ means blasting that removes the overburden to expose underlying coal seams and does not include construction blasting.

(b) For purposes of this section, the term ‘construction blasting’ means blasting to develop haul roads, mine access roads, coal preparation plants, drainage structures or underground coal mine sites and does not include production blasting.

(c) For purposes of this section, the term ‘protected structure’ means any of the following structures that are situated outside the

permit area: An occupied dwelling; a temporarily unoccupied dwelling which has been occupied within the past ninety days; a public building; a structure for commercial purposes; a school; a church; a community or institutional building; and a public park or a water well.

(d) Production blasting is prohibited within three hundred feet of a protected structure or within one hundred feet of a cemetery.

(e) Blasting within one thousand feet of a protected structure shall have a site-specific blast design approved by the ~~office of explosives and blasting.~~ Division of Mining and Reclamation. The site-specific blast design shall limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts to do the following:

(1) Prevent injury to persons; (2) prevent damage to public and private property outside the permit area; (3) prevent adverse impacts on any underground mine; (4) prevent change in the course, channel or availability of ground or surface water outside the permit area; and (5) reduce dust outside the permit area.

In the development of a site-specific blasting plan, consideration shall be given, but is not limited to, the physical condition, type and quality of construction of the protected structure, the current use of the protected structure and the concerns of the owner or occupant living in the protected structures identified in the blasting schedule notification area.

(f) An owner or occupant of a protected structure may waive the blasting prohibition within three hundred feet. If a protected structure is occupied by a person other than the owner, both the owner and the occupant of the protected structure shall waive the blasting prohibition within three hundred feet in writing. The operator shall send copies of all written waivers executed pursuant to this subsection to the ~~office of explosives and blasting.~~ Division of Mining and Reclamation. Written waivers executed and filed with the ~~office of explosives and blasting.~~ Division of Mining and Reclamation are valid during the life of the

permit or any renewals of the permit and are enforceable against any subsequent owners or occupants of the protected structure.

(g) The provisions of this section do not apply to the following: (1) Underground coal mining operations; (2) the surface operations and surface impacts incident to an underground coal mine; and (3) the extraction of minerals by underground mining methods or the surface impacts of the underground mining methods: *Provided*, That nothing contained in this section may be construed to exempt any coal mining operation from the general performance standards as contained in section thirteen of this article and any rules promulgated pursuant to said section.

§22-3-30a. Blasting requirements; liability and civil penalties in the event of property damage.

(a) Blasting shall be conducted in accordance with the rules and laws established to regulate blasting.

(b) If the ~~Division~~ Department of Environmental Protection establishes after an inspection that a blast at a surface coal mine operation as defined by the provisions of subdivision (2), subsection (a), section thirteen-a of this article was not in compliance with the regulations governing blasting parameters and resulted in property damage to a protected structure, as defined in section twenty-two-a of this article, other than water wells, the following penalties shall be imposed for each permit area or contiguous permit areas where the blasting was out of compliance:

(1) For the first offense, the operator shall be assessed a penalty of not less than \$1,000 nor more than \$5,000.

(2) For the second offense and each subsequent offense within one year of the first offense, the surface mining operator shall be assessed a penalty of not less than \$5,000 nor more than \$10,000.

(3) For the third offense and any subsequent offense within one year of the first offense, or for the failure to pay any assessment set

forth within a reasonable time established by the ~~director~~ secretary, the surface mining operator's permit is subject to an immediate issuance of a cessation order, as set out in section sixteen of this article. The cessation order shall only be released upon written order of the ~~director~~ secretary of the ~~Division~~ Department of Environmental Protection when the following conditions have been met:

(A) A written plan has been established and filed with the ~~director~~ secretary assuring that additional violations will not occur;

(B) The permittee has provided compensation for the property damages or the assurance of adequate compensation for the property damages that have occurred; and

(C) A permittee shall provide such monetary and other assurances as the ~~director~~ secretary considers appropriate to compensate for future property damages. The monetary assurances required shall be in an amount at least equal to the amount of compensation required in paragraph (B), subdivision (3) of this subsection.

(4) In addition to the penalties described in subdivisions (1), (2) and (3) of this subsection for the second and subsequent offenses on any one permitted area regardless of the time period, the owner of the protected structure is entitled to a rebuttable presumption that the property damage is a result of the blast if: (A) A preblast survey was performed; and (B) the blasting site to which the second or subsequent offense relates is within seven tenths of a mile of the protected structure.

(5) No more than one offense may arise out of any one shot. For purposes of this section, 'shot' means a single blasting event composed of one or multiple detonations of explosive material or the assembly of explosive materials for this purpose. One 'shot' may be composed of numerous explosive charges detonated at intervals measured in milliseconds.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the ~~Division~~ Department of Environmental Protection may

not impose penalties, as provided for in subsection (b) of this section, on an operator for the violation of any rule identified in subsection (b) of this section that is merely administrative in nature.

(d) The remedies provided in this section are not exclusive and may not bar an owner or occupant from any other remedy accorded by law.

(e) Where inspection by the ~~Division~~ Department of Environmental Protection establishes that production blasting, in violation of section twenty-two-a of this article, was done within three hundred feet of a protected structure, without an approved site-specific blast design or not in accordance with an approved site-specific blast design for production blasting within one thousand feet of any protected structure as defined in section twenty-two-a of this article or within one hundred feet of a cemetery, the monetary penalties and revocation, as set out in subsection (b) of this section, apply.

(f) All penalties and liabilities as set forth in subsection (b) of this section shall be assessed by the ~~director~~ secretary, collected by the ~~director~~ secretary and deposited with the Treasurer of the State of West Virginia in the General School Fund.

(g) The ~~director~~ secretary shall propose rules for legislative approval pursuant to article three, chapter twenty-nine-a of this code for the implementation of this section.

(h) The provisions of this section do not apply to the extraction of minerals by underground mining methods: *Provided*, That nothing contained in this section may be construed to exempt any coal mining operation from the general performance standards as contained in section thirteen of this article and any rules promulgated pursuant thereto.

§22-3-34. Office of explosives and blasting terminated; transfer of functions; responsibilities, personnel and assets.

The office of explosives and blasting within the Department of Environmental Protection is hereby terminated, and its authority and functions are transferred to the Division of Mining and Reclamation. With this transfer, all records, assets, and contracts, along with the rights and obligations thereunder, obtained or signed on behalf of the office of explosives and blasting are hereby transferred and assigned to the Division of Mining and Reclamation. The secretary shall transfer from the office of explosives and blasting to the Division of Mining and Reclamation any personnel and assets presently used in the performance of the duties and functions required by sections thirty-four through thirty-seven of this article.

§22-3-35. Legislative rules on surface-mining blasting; disciplinary procedures for certified blasters.

(a) All authority to promulgate rules pursuant to article three, chapter twenty-nine-a of this code is hereby transferred from the office of explosives and blasting to the Division of Mining and Reclamation as of the effective date of enactment of this section and article during the 2016 session of the Legislature: *Provided*, That any rule promulgated by the office of explosives and blasting shall remain in force and effect as though promulgated by the Division of Mining and Reclamation until the secretary amends the rules in accordance with the provisions of article three, chapter twenty-nine-a of this code. Any rules promulgated by the secretary shall include, but not be limited to, the following:

(1) A procedure for the review, modification and approval, prior to the issuance of any permit, of any blasting plan required to be submitted with any application for a permit to be issued by the secretary pursuant to article three of this chapter, which sets forth procedures for the inspection and monitoring of blasting operations for compliance with blasting laws and rules, and for the review and modification of the blasting plan of any operator against whom an enforcement action is taken by the Department of Environmental Protection;

(2) Specific minimum requirements for preblast surveys, as set forth in section thirteen-a, article three of this chapter;

(3) A procedure for review of preblast surveys required to be submitted under section thirteen-a, article three of this chapter;

(4) A procedure for the use of seismographs for production blasting which shall be made part of the blasting log;

(5) A procedure to warn of impending blasting to the owners or occupants adjoining the blasting area;

(6) A procedure to limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to: (A) Prevent injury to persons; (B) prevent damage to public and private property outside the permit area; (C) prevent adverse impacts on any underground mine; (D) prevent change in the course, channel or availability of ground or surface water outside the permit area; and (E) reduce dust outside the permit area;

(7) Provisions for requiring mining operators to publish the planned blasting schedule in a newspaper of general circulation in the locality of the mining operation;

(8) Provisions for requiring mining operators to provide adequate advance written notice of the proposed blasting schedule to local governments, owners and occupants living within the distances prescribed in subsection (a), section thirteen-a, article three of this chapter;

(9) Provisions for establishing a process for the education, training, examination and certification of blasters working on surface-mining operations;

(10) Provisions for establishing disciplinary procedures for all certified blasters responsible for blasting on surface-mining operations conducted within this state in violation of any law or rule promulgated

by the Department of Environmental Protection to regulate blasting; and

(11) Provisions for establishing a fee on each quantity of explosive material used for any purpose on surface mining operations, which fee shall be calculated to generate sufficient money to provide for the operation of the explosives and blasting program and the Division of Energy. The secretary shall deposit all moneys received from these fees into a special revenue fund in the State Treasury known as the Mountaintop Removal Fund to be expended by the secretary and the Division of Energy in the performance of their duties.

§22-3-36. Claims process for blasting.

(a) The Division of Mining and Reclamation shall establish and manage a process for the filing, administration and resolution of claims related to blasting.

(b) Claims which may be filed and determined under the provisions of this section shall be those arising from both of the following:

(1) Damage to property arising from blasting activities conducted pursuant to a permit granted under article three of this chapter; and

(2) The damage is incurred by a claimant who is the owner or occupant of the property.

(c) The claims process established by the Division of Mining and Reclamation shall include the following:

(1) An initial determination by the Division of Mining and Reclamation of the merit of the claim; and

(2) An arbitration process whereby the claim can be determined and resolved by an arbitrator in a manner which is inexpensive, prompt and fair to all parties.

(d) If the operator disagrees with the initial determination made by the Division of Mining and Reclamation and requests arbitration, then the following shall apply:

(1) Any party may be represented by a representative of their choice;

(2) At the request of the claimant, the Division of Mining and Reclamation shall provide the claimant with representation in the arbitration process, which representation shall not necessarily be an attorney-at-law; and

(3) If the claim is upheld, in whole or in part, then the operator shall pay the costs of the proceeding, as well as reasonable representation fees and costs of the claimant, in an amount not to exceed \$1,000.

(e) Participation in the claims process created by this section shall be voluntary for the claimant. However, once the claimant has submitted a claim for determination under the provisions of this section, it is intended that the finding of the Division of Mining and Reclamation, if not taken to arbitration, shall be final. If arbitration is requested, it is intended that the results of such arbitration shall be final. The Division of Mining and Reclamation shall provide written notification to the claimant of the provisions of this subsection and shall secure a written acknowledgment from the claimant prior to processing a claim pursuant to the provisions of this section.

(f) The operator shall pay any claim for which the operator is adjudged liable within thirty days of a final determination. If the claim is not paid within thirty days, the secretary shall issue a cessation order pursuant to section sixteen, article three of this chapter for all sites operated by the operator.

(g) No permit to mine coal shall be granted unless the permit applicant agrees to be subject to the terms of this section.

(h) To fulfill its responsibilities pursuant to this section, the Division of Mining and Reclamation may retain the services of inspectors, experts and other persons or firms as may be necessary.

§22-3-37. Rules, orders and permits to remain in effect regarding blasting; proceedings not affected.

(a) All orders, determinations, rules, permits, grants, contracts, certificates, licenses, waivers, bonds, authorizations and privileges which have been issued, made, granted or allowed to become effective prior to the enactment of this article shall remain in effect according to their terms until modified, terminated, superseded, set aside or revoked pursuant to this article, by a court of competent jurisdiction, or by operation of law.

(b) Any proceedings, including notices of proposed rule-making, or any application for any license, permit or certificate pending before the division are not affected by this enactment.

§22-3-38. Transfer of personnel and assets.

The secretary shall transfer to the Division of Mining and Reclamation any personnel and assets presently used to perform or used in the performance of the duties and functions required by sections thirty-four through thirty-nine of this article.

ARTICLE 11. WATER POLLUTION CONTROL ACT.

§22-11-6. Requirement to comply with standards of water quality and effluent limitations.

All persons affected by rules establishing water quality standards and effluent limitations shall promptly comply ~~therewith~~ with the rules:
Provided, That:

(1) Where necessary and proper, the secretary may specify a reasonable time for persons not complying with ~~such~~ the standards and limitations to comply ~~therewith~~ with the rules and upon the expiration

of ~~any such~~ that period of time, the secretary shall revoke or modify any permit previously issued which authorized the discharge of treated or untreated sewage, industrial wastes or other wastes into the waters of this state which result in reduction of the quality of ~~such the~~ waters below the standards and limitations established therefor by rules of the board or secretary;

(2) For purposes of both this article and sections 309 and 505 of the federal Water Pollution Control Act, compliance with a permit issued pursuant to this article shall be ~~deemed~~ considered compliance for purposes of both this article and sections 301, 302, 303, 306, 307 and 403 of the federal Water Pollution Control Act and with all applicable state and federal water quality standards, except for any ~~such~~ standard imposed under section 307 of the federal Water Pollution Control Act for a toxic pollutant injurious to human health. Notwithstanding any provision of this code or rule or permit condition to the contrary, water quality standards themselves shall not be considered 'effluent standards or limitations' for the purposes of both this article and sections 309 and 505 of the federal Water Pollution Control Act and shall not be independently or directly enforced or implemented except through the development of terms and conditions of a permit issued pursuant to this article. Nothing in this section, however, prevents the secretary from modifying, reissuing or revoking a permit during its term. The provisions of this section addressing compliance with a permit are intended to apply to all existing and future discharges and permits without the need for permit modifications; and

(3) The Legislature finds that there are concerns within West Virginia regarding the applicability of the research underlying the federal selenium criteria to a state such as West Virginia which has high precipitation rates and free-flowing streams and that the alleged environmental impacts that were documented in applicable federal research have not been observed in West Virginia and, further, that considerable research is required to determine if selenium is having an impact on West Virginia streams, to validate or determine the proper

testing methods for selenium and to better understand the chemical reactions related to selenium mobilization in water.

(4) The Legislature finds that the EPA has been contemplating a revision to the federally recommended criteria for several years, but has yet to issue a revised standard.

(5) Because of the uncertainty regarding the applicability of the current selenium standard, the secretary is hereby directed to develop within six months of the effective date of this subdivision an implementation plan for the current selenium standard that will include, at minimum, the following:

(A) Implementing the criteria as a threshold standard;

(B) A monitoring plan that will include chemical speciation of any selenium discharge;

(C) A fish population survey and monitoring plan that will be implemented at a representative location to assess any possible impacts from selenium discharges if the threshold criteria are exceeded; and

(D) The results of the monitoring will be reported to the department for use in the development of state-specific selenium criteria.

(6) Within twenty-four months of the effective date of this subdivision, the secretary shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine of this code which establish a state-specific selenium standard that protects aquatic life. Concurrent with proposing a legislative rule, the secretary shall also submit the proposed standard and supporting documentation to the administrator of the Environmental Protection Agency. The secretary shall also consult with and consider research and data from the West Virginia Water Research Institute at West Virginia University, the regulated community and other appropriate groups in developing the state-specific selenium standard.

(7) Within thirty days of the effective date of this section, the secretary shall promulgate an emergency rule revising the statewide aluminum water quality criteria for the protection of aquatic life to incorporate aluminum criteria values using a hardness-based equation. Concurrent with issuing an emergency rule, the secretary shall also submit the proposed revisions and supporting documentation to the administrator of the Environmental Protection Agency

(8) The secretary shall, within ninety days of receipt of any completed request for a site specific water quality criterion, approve or deny the request. Any denial or approval of an application shall detail the specific basis for the denial or approval and any revisions needed to the application. Any denial approval of a request may be appealed to the environmental quality board pursuant to section twenty-one of this article.

CHAPTER 22A. MINERS' HEALTH, SAFETY AND TRAINING.

ARTICLE 1. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING ; ADMINISTRATION ; ENFORCEMENT.

§22A-1-13. Employment of surface mine inspectors; eligibility; qualifications; examinations; salary; provisions relating to underground mine inspectors applicable to surface mine inspectors.

(a) The office shall employ as many surface mine inspectors as the director determines to be reasonably necessary in fully and effectively carrying out the applicable provisions of this chapter.

(b) To be eligible for employment as a surface mine inspector the applicant shall be: (1) A citizen of West Virginia, in good health, not less than twenty-four years of age, of good character and reputation and of temperate habits; (2) a person who has had at least five years of practical experience in coal mines, at least two years of which have

been ~~in~~ on surface mines in this State: *Provided*, That graduation from any accredited college of mining engineering may be considered the equivalent of two years of practical experience; and (3) a person who has a good theoretical and practical knowledge of surface mines, surface mining methods, sound safety practices and applicable mining laws and rules. For the purpose of this section, practical experience means the performance of normal mining duties requiring a person to hold a certificate of competency and qualification as an experienced surface miner prior to actually performing ~~such~~ the duties.

(c)(1) In order to qualify for appointment as a surface mine inspector, an eligible applicant shall submit to written, oral and practical examinations administered by the Mine Inspectors' Examining Board and furnish evidence of good health, character and other facts establishing eligibility as the board may require. The examinations shall relate to the duties to be performed by a surface mine inspector and, subject to the approval of the mine inspectors' examining board, may be prepared by the director.

(2) If the board finds after investigation and examination that an applicant is: (A) Eligible for appointment; and (B) has passed each required examination with a grade of at least seventy-five percent, or an overall combined average score of eighty percent, the board shall add the applicant's name and grades to the register of qualified eligible candidates and promptly certify its action in writing to the director. The director shall then appoint one of the candidates from the three having the highest grades.

(d) Surface mine inspectors shall be paid an annual salary of not less than \$37,332, which shall be fixed by the director, who shall take into consideration ability, performance of duty, and experience. Surface mine inspectors shall devote all of their time to the duties of the office.

(e) Except as expressly provided in this section to the contrary, all provisions of this article relating to the eligibility, qualification,

appointment, tenure, and removal of underground mine inspectors, as well as those provisions relating to compensatory time and reimbursement for necessary expenses, are applicable to surface mine inspectors.

§22A-1-14. Director and inspectors authorized to enter mines; duties of inspectors to examine mines; no advance notice of an inspection; reports after fatal accidents.

(a) The director, or his or her authorized representative, has authority to visit, enter, and examine any mine, whether underground or on the surface, and may call for the assistance of any district mine inspector or inspectors whenever assistance is necessary in the examination of any mine. The operator of every coal mine shall furnish the director or his or her authorized representative proper facilities for entering the mine and making examination or obtaining information.

(b) If miners or one of their authorized representatives, have reason to believe, at any time, that dangerous conditions are existing or that the law is not being complied with, they may request the director to have an immediate investigation made: Provided, That miners are always encouraged to work with mine management with regards to safety concerns.

(c) Mine inspectors shall devote their full-time and undivided attention to the performance of their duties, and they shall examine all of the mines in their respective districts at least four times annually, and as often, in addition thereto, as the director may direct, or the necessities of the case or the condition of the mine or mines may require, with no advance notice of inspection provided to any person, and they shall make a personal examination of each working face and all entrances to abandoned parts of the mine where gas is known to liberate, for the purpose of determining whether an imminent danger, referred to in section fifteen of this article, exists in the mine, or whether any provision of article two of this chapter is being violated or has been violated within the past forty-eight hours in the mine. No

other person shall, with the intent of undermining the integrity of an unannounced mine inspection, provide advance notice of any inspection or of an inspector's presence at a mine to any person at that mine. Any person who, with the requisite intent, knowingly causes or conspires to provide advance notice of any inspection or of an inspector's presence at a mine is guilty of a felony and, upon conviction thereof, shall be fined not more than \$15,000 or imprisoned in a state correctional facility not less than one year and not more than five years, or both fined and imprisoned.

(d) In addition to the other duties imposed by this article and article two of this chapter, it is the duty of each inspector to note each violation he or she finds and issue a finding, order, or notice, as appropriate for each violation so noted. During the investigation of any accident, any violation may be noted whether or not the inspector actually observes the violation and whether or not the violation exists at the time the inspector notes the violation, so long as the inspector has clear and convincing evidence the violation has occurred or is occurring.

(e) ~~On or after July 1, 2012, an~~ An inspector shall require the operator or other employer to investigate all complaints received by the Office of Miners' Health, Safety and Training involving a certified person's substance abuse or alcohol related impairment at a mine. Within thirty days following notification by the Office of Miners' Health, Safety and Training to the operator or other employer of the complaint, the operator or other employer shall file with the Director a summary of its investigation into the alleged substance abuse or alcohol related impairment of a certified person.

(f) The mine inspector shall visit the scene of each fatal accident occurring in any mine within his or her district and shall make an examination into the particular facts of the accident; make a report to the director, setting forth the results of the examination, including the condition of the mine and the cause or causes of the fatal accident, if known, and all the reports shall be made available to the interested parties, upon written requests.

(g) At the commencement of any inspection of a coal mine by an authorized representative of the director, the authorized representative of the miners at the mine, as well as a salaried employee of management, at the time of the inspection shall be given an opportunity to accompany the authorized representative of the director on the inspection.

§22A-1-15. Findings, orders and notices.

(a) If upon any inspection of a coal mine an authorized representative of the director finds that an imminent danger exists, the representative shall determine the area throughout which the danger exists and shall immediately issue an order requiring the operator of the mine or the operator's agent to cause immediately all persons, except those referred to in subdivisions (1), (2), (3) and (4), subsection (e) of this section, to be withdrawn from and to be prohibited from entering the area until an authorized representative of the director determines that the imminent danger no longer exists.

(b) If upon any inspection of a coal mine an authorized representative of the director finds that there has been a violation of the law, but the violation has not created an imminent danger, he or she shall issue a notice to the operator or the operator's agent fixing a reasonable time for the abatement of the violation. If upon the expiration of the period of time, as originally fixed or subsequently extended, an authorized representative of the director finds that the violation has not been totally abated, and if the director also finds that the period of time should not be further extended, the director shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of the mine or the operator's agent to cause immediately all persons, except those referred to in subdivisions (1), (2), (3) and (4), subsection (e) of this section, to be withdrawn from and to be prohibited from entering the area until an authorized representative of the director determines that the violation has been abated.

(c) If upon any inspection of a coal mine an authorized representative of the director finds that an imminent danger exists in an area of the mine, in addition to issuing an order pursuant to subsection (a) of this section, the director shall review the compliance record of the mine.

(1) A review of the compliance record conducted in accordance with this subsection shall, at a minimum, include a review of the following:

(A) Any closure order issued pursuant to subsection (a) of this section;

(B) Any closure order issued pursuant to subsection (b) of this section;

(C) Any enforcement measures taken pursuant to this chapter, other than those authorized under subsections (a) and (b) of this section;

(D) Any evidence of the operator's lack of good faith in abating significant and substantial violations at the mine;

(E) Any accident, injury or illness record that demonstrates a serious safety or health management problem at the mine; and

~~(F) The number of employees at the mine, the size, layout and physical features of the mine and the length of time the mine has been in operation; and~~

~~(G)~~ (F) Any mitigating circumstances.

(2) If, after review of the mine's compliance record, the director determines that the mine has a history of repeated significant and substantial violations of a particular standard caused by unwarrantable failure to comply or a history of repeated significant and substantial violations of standards related to the same hazard caused by unwarrantable failure to comply and the history or histories

demonstrate the operator's disregard for the health and safety of miners, the director shall issue a closure order for the entire mine or area throughout which the director determines the dangerous condition exists and shall immediately issue an order requiring the operator of the mine or the operator's agent to cause immediately all persons, except those referred to in subdivisions (1), (2), (3) and (4), subsection (e) of this section, to be withdrawn from and to be prohibited from entering the mine or area throughout which the director determines the dangerous condition until a thorough inspection of the mine or area has been conducted by the office and the director determines that the operator has abated all violations related to the imminent danger and any violations unearthed in the course of the inspection.

(d) All employees on the inside and outside of a mine who are idled as a result of the posting of a withdrawal order by a mine inspector shall be compensated by the operator at their regular rates of pay for the period they are idled, but not for more than the balance of the shift. If the order is not terminated prior to the next working shift, all the employees on that shift who are idled by the order are entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of the shift.

(e) The following persons are not required to be withdrawn from or prohibited from entering any area of the coal mine subject to an order issued under this section:

(1) Any person whose presence in the area is necessary, in the judgment of the operator or an authorized representative of the director, to eliminate the condition described in the order;

(2) Any public official whose official duties require him or her to enter the area;

(3) Any representative of the miners in the mine who is, in the judgment of the operator or an authorized representative of the director, qualified to make coal mine examinations or who is accompanied by such a person and whose presence in the area is

necessary for the investigation of the conditions described in the order; and

(4) Any consultant to any of the persons set forth in this subsection.

(f) Notices and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger or a violation of any mandatory health or safety standard and, where appropriate, a description of the area of the coal mine from which persons must be withdrawn and prohibited from entering.

(g) Each notice or order issued under this section shall be given promptly to the operator of the coal mine or the operator's agent by an authorized representative of the director issuing the notice or order and all the notices and orders shall be in writing and shall be signed by the representative and posted on the bulletin board at the mine.

(h) A notice or order issued pursuant to this section may be modified or terminated by an authorized representative of the director.

(i) Each finding, order and notice made under this section shall promptly be given to the operator of the mine to which it pertains by the person making the finding, order or notice.

(j) *Definitions.* — For the purposes of this section only, the following terms have the following meanings:

(1) 'Unwarrantable failure' means aggravated conduct, constituting more than ordinary negligence, by a mine operator in relation to a violation of this chapter of the code; and

(2) 'Significant and substantial violation' shall have the same meaning as that established in 6 FMSHRC 1 (1984).

§22A-1-19. Judicial review.

(a) Any order or decision issued by the director under this law, ~~except an order or decision under section fifteen of this article~~ is subject to judicial review by the circuit court of the county in which the mine affected is located ~~or the circuit court of Kanawha County~~ upon the filing in such court or with the judge thereof in vacation of a petition by any person aggrieved by the order or decision praying that the order or decision be modified or set aside, in whole or in part, except that the court shall not consider such petition unless such person has exhausted the administrative remedies available under this law and files within thirty days from date of such order or decision.

(b) The party making such appeal shall forthwith send a copy of such petition for appeal, by registered mail, to the other party. Upon receipt of such petition for appeal, the director shall promptly certify and file in such court a complete transcript of the record upon which the order or decision complained of was issued. The court shall hear such petition on the record made before the director. The findings of the director, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate or modify any order or decision or may remand the proceedings to the director for such further action as it may direct.

(c) In the case of a proceeding to review any order or decision issued by the director under this law, except an order or decision pertaining to an order issued under subsection (a), section fifteen of this article or an order or decision pertaining to a notice issued under subsection (b), section fifteen of this article, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceedings if:

(A) All parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(B) The person requesting such relief shows that there is a substantial likelihood that the person will prevail on the merits of the final determination of the proceeding; and

(C) Such relief will not adversely affect the health and safety of miners in the coal mine.

(d) The judgment of the court is subject to review only by the Supreme Court of Appeals of West Virginia upon a writ of certiorari filed in such court within sixty days from the entry of the order and decision of the circuit court upon such appeal from the director.

(e) The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the director.

(f) Subject to the direction and control of the attorney general, attorneys appointed for the director may appear for and represent the director in any proceeding instituted under this section.

§22A-1-20. Injunctions.

The director may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the circuit court of the county in which the mine is located ~~or the circuit court of Kanawha County~~, whenever the operator or the operator's agent: (a) Violates or fails or refuses to comply with any order or decision issued under this law;² or (b) interferes with, hinders or delays the director or his or her authorized representative in carrying out the provisions of this law;² or (c) refuses to admit such representatives to the mine;² or (d) refuses to permit the inspection of the mine, or the investigation of an accident or occupational disease occurring in, or connected with, such mine;² or (e) refuses to furnish any information or report requested by the director in furtherance of the provisions of this law;² or (f) refuses to permit access to, and copying of, such records as the director determines necessary in carrying out the provisions of this law. ~~Each~~ The court shall have jurisdiction to provide such relief as may be appropriate. Except as otherwise provided herein, any relief granted by the court to enforce an order under clause (a) of this section shall continue in effect until the completion or final termination of all proceedings for review

of such order under this law, unless, prior thereto, the circuit court granting such relief sets it aside or modifies it. In any action instituted under this section to enforce an order or decision issued by the director after a public hearing, the findings of the director, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

§22A-1-31. Withdrawal of certification.

(a) *Charge of breach of duty.* — A mine inspector or the director may charge a mine foreman, assistant mine foreman, fire boss or any other certified person with neglect or failure to perform any duty mandated pursuant to this article or article two of this chapter. The charge shall state the name of the person charged, the duty or duties he or she is alleged to have violated, the approximate date and place so far as is known of the violation of duty, the capacity of the person making the charge, and shall be verified on the basis of information and belief or personal knowledge. The charge is initiated by filing it with the director or with the board of appeals. A copy of any charge filed with the board of appeals or any member thereof, shall be transmitted promptly to the director. The director shall maintain a file of each charge and of all related documents which shall be open to the public.

(b) *Evaluation of charge by board of appeals.* — Within twenty days after receipt of the charge the board shall evaluate the charge and determine whether or not a violation of duty has been stated. In making such a determination the board shall evaluate all documents submitted to it by all persons to determine as nearly as possible the substance of the charge and if the board of appeals is unable to determine the substance of the charge it may request the director to investigate the charge. Upon request, the director shall cause the charge to be investigated and report the results of the investigation to the board of appeals within ten days of the director's receipt of the charge. If the board determines that probable cause exists to support the allegation that the person charged has violated his or her duty, the board by the end of the twenty-day period shall set a date for hearing which date

shall be within eighty days of the filing of the charge. Notice of the hearing or notice of denial of the hearing for failure to state a charge and a copy of the charge shall be mailed by certified mail, return receipt requested, to the charging party, the charged party, the director, the representative of the miner or miners affected and to any interested person of record. Thereafter the board shall maintain the file of the charge which shall contain all documents, testimony and other matters filed which shall be open for public inspection.

(c) *Hearing.* — The board of appeals shall hold a hearing, may appoint a hearing examiner to take evidence and report to the board of appeals within the time allotted, may direct or authorize taking of oral depositions under oath by any participant, or adopt any other method for the gathering of sworn evidence which affords the charging party, the charged party, the director and any interested party of record due process of law and a fair opportunity to present and make a record of evidence. Any member of the board shall have the power to administer oaths. The board may subpoena witnesses and require production of any books, papers, records or other documents relevant or material to the inquiry. The board shall consider all evidence offered in support of the charge and on behalf of the persons so charged at the time and place designated in the notice. Each witness shall be sworn and a transcript shall be made of all evidence presented in any such hearing. No continuance shall be granted except for good cause shown.

The board of appeals may accept as evidence a notarized affidavit of drug testing procedures and results from a Medical Review Officer (MRO) in lieu of live testimony by the MRO. If the Board of Appeals desires testimony in lieu of a notarized affidavit, the MRO may testify under oath telephonically or by an Internet based program in lieu of physically attending the hearing.

At the conclusion of the hearing the board shall proceed to determine the case upon consideration of all the evidence offered and shall render a decision containing its findings of fact and conclusions of law. If the board finds by a preponderance of the evidence that the

certificate or certificates of the charged person should be suspended or revoked, as hereinafter provided, it shall enter an order to that effect. No renewal of the certificate shall be granted except as herein provided.

(d) *Failure to cooperate.* — Any person charged who without just cause refuses or fails to appear before the board or cooperate in the investigation or gathering of evidence shall forfeit his or her certificate or certificates for a period to be determined by the board, not to exceed five years, and such certificate or certificates may not be renewed except upon a successful completion of the examination prescribed by the law for mine foremen, assistant mine foremen, fire bosses or other certified persons.

(e) *Penalties.* — The board may suspend or revoke the certificate or certificates of a charged party for a minimum of thirty days or more including an indefinite period or may revoke permanently the certificate or certificates of the charged party, as it sees fit, subject to the prescribed penalties and monetary fines imposed elsewhere in this chapter.

(f) *Integrity of penalties imposed.* — No person whose certification is suspended or revoked under this provision can perform any duties under any other certification issued under this chapter, during the period of the suspension imposed herein.

(g) Any party adversely affected by a final order or decision issued by the board hereunder is entitled to judicial review thereof pursuant to section four, article five, chapter twenty-nine-a of this code.

§22A-1-35. Mine rescue teams.

(a) ~~It is the responsibility of the~~ The operator to shall provide mine rescue coverage at each active underground mine.

(b) Mine rescue coverage may be provided by:

(1) Establishing at least two mine rescue teams which are available at all times when miners are underground; or

(2) Entering into an arrangement for mine rescue services which assures that at least two mine rescue teams are available at all times when miners are underground.

(3) A West Virginia Office of Miners' Health, Safety and Training Mine Rescue Team may serve as a second or backup team for mines within the state and qualify as one of the two teams required under subdivision (1) of this subsection and in accordance with 30 CFR, Part 49.20(4). The operator shall contact the office and obtain the state's agreement to serve as a backup team in the form of a written notification signed by the director and this notification shall be kept posted at the mine.

(c) As used in this section, mine rescue teams shall be considered available where teams are capable of presenting themselves at the mine site(s) within a reasonable time after notification of an occurrence which might require their services. Rescue team members will be considered available even though performing regular work duties or while in an off-duty capacity. The requirement that mine rescue teams be available does not apply when teams are participating in mine rescue contests or providing rescue services to another mine.

(d) In the event of a fire, explosion or recovery operations in or about any mine, the director is hereby authorized to assign any mine rescue team to said mine to protect and preserve life and property. The director may also assign mine rescue and recovery work to inspectors, instructors or other qualified employees of the office as he or she deems necessary.

(e) The ground travel time between any mine rescue station and any mine served by that station shall not exceed two hours. To ensure adequate rescue coverage for all underground mines, no mine rescue station may provide coverage for more than seventy mines within the two-hour ground travel limit as defined in this subsection.

(f) Each mine rescue team shall consist of five members and one alternate, who are fully qualified, trained and equipped for providing

emergency mine rescue service. Each mine rescue team shall be trained by a state certified mine rescue instructor.

(g) Each member of a mine rescue team must have been employed in an underground mine for a minimum of one year. For the purpose of mine rescue work only, miners who are employed on the surface but work regularly underground meet the experience requirement. The underground experience requirement is waived for those members of a mine rescue team on the effective date of this statute.

(h) An applicant for initial mine rescue training shall pass, on at least an annual basis, a physical examination by a licensed physician certifying his or her fitness to perform mine rescue work. A record that such examination was taken, together with pertinent data relating thereto, shall be kept on file by the operator and a copy shall be furnished to the director.

(i) Upon completion of the initial training, all mine rescue team members shall receive at least forty hours of refresher training annually. This training shall be given at least four hours each month, or for a period of eight hours every two months, and shall include:

(1) Sessions underground at least once every six months;

(2) The wearing and use of a breathing apparatus by team members for a period of at least two hours, while under oxygen, once every two months;

(3) Where applicable, the use, care, capabilities and limitations of auxiliary mine rescue equipment, or a different breathing apparatus;

(4) Mine map training and ventilation procedures.

(j) When engaged in rescue work required by an explosion, fire or other emergency at a mine, all members of mine rescue teams assigned to rescue operations shall, during the period of their rescue work, be employees of the operator of the mine where the emergency exists, and shall be compensated by the operator at the rate established in the area

for such work. In no case shall this rate be less than the prevailing wage rate in the industry for the most skilled class of inside mine labor. During the period of their emergency employment, members of mine rescue teams shall be protected by the workers' compensation subscription of ~~such emergency employer~~ the mine operator.

(k) During the recovery work and prior to entering any mine at the start of each shift, all rescue or recovery teams shall be properly informed of existing conditions and work to be performed by the designated company official in charge.

(1) For every two teams performing rescue or recovery work underground, one six-member team shall be stationed at the mine portal.

(2) Each rescue or recovery team performing work with a breathing apparatus shall be provided with a backup team of equal number, stationed at each fresh air base.

(3) ~~Two-way~~ The mine operator shall provide two-way communication and a lifeline or its equivalent ~~shall be provided~~ at each fresh air base for all mine rescue or recovery teams and no mine rescue team member shall advance more than one thousand feet in by the fresh air base: *Provided*, That if a life may possibly be saved and existing conditions do not create an unreasonable hazard to mine rescue team members, the rescue team may advance a distance agreed upon by those persons directing the mine rescue or recovery operations: *Provided, however*, That the mine operator shall provide a lifeline or its equivalent ~~shall be provided~~ in each fresh air base for all mine rescue or recovery teams.

(4) A rescue or recovery team shall immediately return to the fresh air base when the atmospheric pressure of any member's breathing apparatus depletes to sixty atmospheres, or its equivalent.

(l) Mine rescue stations shall provide a centralized storage location for rescue equipment. This storage location may be either at the mine

site, affiliated mines or a separate mine rescue structure. All mine rescue teams shall be guided by the mine rescue apparatus and auxiliary equipment manual. Each mine rescue station shall be provided with at least the following equipment:

(1) Twelve self-contained oxygen breathing apparatuses, each with a minimum of two hours capacity, and any necessary equipment for testing such breathing apparatuses;

(2) A portable supply of liquid air, liquid oxygen, pressurized oxygen, oxygen generating or carbon dioxide absorbent chemicals, as applicable to the supplied breathing apparatuses and sufficient to sustain each team for six hours while using the breathing apparatuses during rescue operations;

(3) One extra, fully charged, oxygen bottle for each self-contained compressed oxygen breathing apparatus, as required under subdivision (1) of this subsection;

(4) One oxygen pump or a cascading system, compatible with the supplied breathing apparatuses;

(5) Twelve permissible cap lamps and a charging rack;

(6) Two gas detectors appropriate for each type of gas which may be encountered at the mines served;

(7) Two oxygen indicators ~~or two flame safety lamps~~;

(8) One portable mine rescue communication system or a sound-powered communication system. The wires or cable to the communication system shall be of sufficient tensile strength to be used as a manual communication system. The communication system shall be at least one thousand feet in length; and

(9) Necessary spare parts and tools for repairing the breathing apparatuses and communication system, as presently prescribed by the manufacturer.

(m) Mine rescue apparatuses and equipment shall be maintained in a manner that will ensure readiness for immediate use. A person trained in the use and care of breathing apparatuses shall inspect and test the apparatuses at intervals not exceeding thirty days and shall certify by signature and date that the inspections and tests were done. When the inspection indicates that a corrective action is necessary, the corrective action shall be made and recorded by said person. The certification and corrective action records shall be maintained at the mine rescue station for a period of one year and made available on request to an authorized representative of the director.

(n) Authorized representatives of the director have the right of entry to inspect any designated mine rescue station.

(o) When an authorized representative finds a violation of any of the mine rescue requirements, the representative shall take appropriate corrective action in accordance with section fifteen of this article.

(p) Operators affiliated with a station issued an order by an authorized representative will be notified of that order and that their mine rescue program is invalid. The operators shall have twenty-four hours to submit to the director a revised mine rescue program.

(q) Every operator of an underground mine shall develop and adopt a mine rescue program for submission to the director within thirty days of the effective date of this statute: *Provided*, That a new program need only be submitted when conditions exist as defined in subsection (p) of this section, or when information contained within the program has changed.

(r) A copy of the mine rescue program shall be posted at the mine and kept on file at the operator's mine rescue station or rescue station affiliate and the state regional office where the mine is located. A copy of the mine emergency notification plan filed pursuant to 30 CFR §49.9(a) will satisfy the requirements of subsection (q) of this section if submitted to the director.

(s) The operator shall immediately notify the director of any changed conditions materially affecting the information submitted in the mine rescue program.

ARTICLE 1A. OFFICE OF MINERS' HEALTH, SAFETY AND TRAINING; ADMINISTRATION; SUBSTANCE ABUSE.

§22A-1A-2. Board of Appeals hearing procedures.

(a) Any hearing conducted after the temporary suspension of a certified person's certificate pursuant to this article, shall be conducted within sixty days of the temporary suspension. The Board of Appeals shall make every effort to hold the hearing within forty days of the temporary suspension.

(b) All hearings of the Board of Appeals pursuant to this section shall be conducted in accordance with the provisions of subsection (c), section thirty-one, article one of this chapter. In addition to the rules and procedures in section thirty-one, article one of this chapter in hearings under this section, the Board of Appeals may accept as evidence a notarized affidavit of drug testing procedures and results from a Medical Review Officer (MRO) in lieu of live testimony by the MRO. If the Board of Appeals desires testimony in lieu of a notarized affidavit, the MRO may testify under oath telephonically or by an Internet based program in lieu of physically attending the hearing. The Board of Appeals may suspend the certificate or certificates of a certified person for violation of this article or for any other violation of this chapter pertaining to substance abuse. The Board of Appeals may impose further disciplinary actions for repeat violations. The director shall have the authority to propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code to establish the disciplinary actions referenced in this section following the receipt of recommendations from the Board of Coal Mine Health and Safety following completion of the study required pursuant to section fourteen, article six of this chapter. The legislative rules

authorized by this subsection shall not, however, include any provisions requiring an employer to take or refrain from taking any specific personnel action or mandating any employer to establish or maintain an employer-funded substance abuse rehabilitation program.

(c) No person whose certification is suspended or revoked under this section may perform any duties under any other certification issued under this chapter, during the period of the suspension imposed by the Board of Appeals.

(d) Any party adversely affected by a final order or decision issued by the Board of Appeals hereunder is entitled to judicial review thereof pursuant to section four, article five, chapter twenty-nine-a of this code.

ARTICLE 2. UNDERGROUND MINES.

§22A-2-3. Fans.

(a) The ventilation of mines, the systems for which extend for more than two hundred feet underground and which are opened after the effective date of this article, shall be produced by a mechanically operated fan or mechanically operated fans. Ventilation by means of a furnace is prohibited in any mine. The fan or fans shall be kept in continuous operation, unless written permission to do otherwise be granted by the director. In case of interruption to a ventilating fan or its machinery whereby the ventilation of the mine is interrupted, immediate action shall be taken by the mine operator or the operator's management personnel, in all mines, to cut off the power and withdraw the men from the face regions or other areas of the mine affected. If ventilation is restored in fifteen minutes, the face regions and other places in the affected areas where gas (methane) is likely to accumulate, shall be reexamined by a certified person; and if found free of explosive gas, power may be restored and work resumed. If ventilation is not restored in fifteen minutes, all underground employees shall be removed from the mine, all power shall be cut off in a timely manner, and the underground employees shall not return

until ventilation is restored and the mine examined by certified persons, mine examiners or other persons holding a certificate to make preshift examination. If ventilation is restored to the mine before miners reach the surface, the miners may return to underground working areas only after an examination of the areas is made by a certified person and the areas are determined to be safe.

(b) All main fans installed after the effective date of this article shall be located on the surface in fireproof housings offset not less than fifteen feet from the nearest side of the mine opening, equipped with fireproof air ducts, provided with explosion doors or a weak wall, and operated from an independent power circuit. In lieu of the requirements for the location of fans and pressure-relief facilities, a fan may be directly in front of, or over a mine opening: *Provided*, That such opening is not in direct line with possible forces coming out of the mine if an explosion occurs: *Provided, however*, That there is another opening having a weak wall stopping or explosion doors that would be in direct line with forces coming out of the mine. All main fans shall be provided with pressure-recording gauges or water gauges. A daily inspection shall be made of all main fans and machinery connected therewith by a certified electrician and a record kept of the same in a book prescribed for this purpose or by adequate facilities provided to permanently record the performance of the main fans and to give warning of an interruption to a fan.

(c) Auxiliary fans and tubing shall be permitted to be used in lieu of or in conjunction with line brattice to provide adequate ventilation to the working faces: *Provided*, That auxiliary fans be so located and operated to avoid recirculation of air at any time. Auxiliary fans shall be approved and maintained as permissible.

(d) If the auxiliary fan is stopped or fails, the electrical equipment in the place shall be stopped and the power disconnected at the power source until ventilation in the working place is restored. During such stoppage, the ventilation shall be by means of the primary air current conducted into the place in a manner to prevent accumulation of methane.

(e) In places where auxiliary fans and tubing are used, the ventilation between shifts, weekends and idle shifts shall be provided to face areas with line brattice or the equivalent to prevent accumulation of methane.

(f) The director may require that when continuous mine equipment is being used, all face ventilating systems using auxiliary fans and tubing shall be provided with machine-mounted diffuser fans, and such fans shall be continuously operated during mining operations.

(g) In the event of a fire or explosion in any coal mine, the ventilating fan or fans shall not intentionally be started, stopped, speed increased or decreased or the direction of the air current changed without the approval of the general mine foreman, and, if he or she is not immediately available, a representative of the Office of Miners' Health, Safety and Training. A duly authorized representative of the employees should be consulted if practical under the circumstances.

§22A-2-8. Duties; ventilation; loose coal, slate or rocks; props; drainage of water; man doors; instruction of apprentice miners.

(a) The duties of the mine foreman shall be to keep a careful watch over the ventilating apparatus, the airways, traveling ways, pumps and drainage. He or she shall see that, as the miners advance their excavations, proper breakthroughs are made so as to ventilate properly the mine; that all loose coal, slate and rock overhead in the working places and along the haulways are removed or carefully secured so as to prevent danger to persons employed in such mines, and that sufficient suitable props, caps, timbers, roof bolts or other approved methods of roof supports are furnished for the places where they are to be used and delivered at suitable points. The mine foreman shall have all water drained or hauled out of the working places where practicable, before the miners enter, and such working places shall be kept dry as far as practicable while the miners are at work. It shall be the duty of the mine foreman to see that proper crosscuts are made, and

that the ventilation is conducted by means of such crosscuts through the rooms by means of checks or doors placed on the entries or other suitable places, and he or she shall not permit any room to be opened in advance of the ventilation current. The mine foreman, or other certified persons designated by him or her, shall measure the air current with an anemometer or other approved device at least weekly at the inlet and outlet at or near the faces of the advanced headings, and shall keep a record of such measurements in a book or upon a form prescribed by the director. Signs directing the way to outlets or escapeways shall be conspicuously placed throughout the mine.

(b) After July 1, 1971, hinged man doors, at least thirty inches square or the height of the coal seam, shall be installed between the intake and return at intervals of three hundred feet when the height of the coal is below forty-eight inches and at intervals of ~~five~~ six hundred feet when the height of the coal is above forty-eight inches.

(c) The duties of the mine foreman and assistant mine foreman shall include the instruction of apprentice miners in the hazards incident to any new work assignments; to assure that any individual given a work assignment in the working face without prior experience on the face is instructed in the hazards incident thereto and supervised by a miner with experience in the tasks to be performed.

§22A-2-14. Safety inspections; removal of gases.

It shall be the duty of the mine foreman, assistant mine foreman or fire boss to examine all working places under his or her supervision for hazards at least once every two hours during each coal-producing shift, or more often if necessary for safety. In all mines such examinations shall include tests with an approved detector for methane and oxygen deficiency. ~~which tests for oxygen deficiency may be with a permissible flame safety lamp: *Provided*, That a flame safety lamp may be used for methane testing when a malfunction occurs with a methane~~ ~~detector~~ It shall also be his or her duty to remove as soon as possible after its discovery any accumulations of explosive or noxious gases in

active workings, and where practicable, any accumulations of explosive or noxious gases in the worked out and abandoned portions of the mine. It shall be the duty of the mine foreman, assistant mine foreman or fire boss to examine each mine within three hours prior to the beginning of a shift and before any miner in such shift enters the active workings of the mine.

§22A-2-20. Preparation of danger signal by fire boss or certified person acting as such prior to examination; report; records open for inspection.

(a) It is the duty of the fire boss, or a certified person acting as such, to prepare a danger signal (a separate signal for each shift) with red color at the mine entrance at the beginning of his or her shift or prior to his or her entering the mine to make his or her examination and, except for those persons already on assigned duty, no person except the mine owner, operator or agent, and only then in the case of necessity, shall pass beyond this danger signal until the mine has been examined by the fire boss or other certified person and the mine or certain parts thereof reported by him or her to be safe. When reported by him or her to be safe, the danger sign or color thereof shall be changed to indicate that the mine is safe in order that employees going on shift may begin work. Each person designated to make the fire boss examinations shall be assigned a definite underground area of the mine, and, in making his or her examination shall examine all active working places in the assigned area and make tests with an approved device for accumulations of methane and oxygen deficiency; examine seals and doors; examine and test the roof, face and ribs in the working places and on active roadways and travelways, approaches to abandoned workings, accessible falls in active sections and areas where any person is scheduled to work or travel underground. He or she shall place his or her initials and the date at or near the face of each place he or she examines. Should he or she find a condition which he or she considers dangerous to persons entering the areas, he or she shall place a conspicuous danger sign at all entrances to the place or places. Only persons authorized by the mine management may enter the places

while the sign is posted and only for the purpose of eliminating the dangerous condition. Upon completing his or her examination he or she shall report by suitable communication system or in person the results of this examination to a certified person trained as a certified miner with at least two years mining experience designated by mine management to receive and record the report, at a designated station on the surface of the premises of the mine or underground, before other persons enter the mine to work in coal-producing shifts. He or she shall also record the results of his or her examination with ink or indelible pencil in a book prescribed by the director, kept for the purpose at a place on the surface of the mine designated by mine management. All records of daily and weekly reports, as prescribed herein, shall be open for inspection by interested persons.

(b) *Supplemental examination.* — When it becomes necessary to have workers enter areas of the mine not covered during the preshift examination, a supplemental examination shall be performed by a fire boss or certified person acting as such within three hours before any person enters the area. The fire boss or certified person acting as such shall examine the area for hazardous conditions, determine if air is traveling in its proper direction and test for oxygen deficiency and methane.

(c) Each examined area shall be certified by date, time and the initials of the examiner.

(d) The results of the examination shall be recorded with ink or indelible pencil by the examiner in the book referenced in subsection (a) of this section before he or she leaves the mine on that shift.

ROOF-FACE-RIBS

§22A-2-25. Roof control programs and plans; refusal to work under unsupported roof.

(a) Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each coal mine and

the means and measures to accomplish such system. The roof and ribs of all active underground roadways, travelways and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revisions thereof suitable to the roof conditions and mining systems of each coal mine and approved by the director shall be adopted and set out in printed form before new operations. The safety committee of the miners of each mine where such committee exists shall be afforded the opportunity to review and submit comments and recommendations to the director and operator concerning the development, modification or revision of such roof control plans. The plan shall show the type of support and spacing approved by the director. Such plan shall be reviewed periodically, at least every six months by the director, taking into consideration any falls of roof or rib or inadequacy of support of roof or ribs. A copy of the plan shall be furnished to the director or his or her authorized representative and shall be available to the miners and their representatives.

(b) The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in the coal mine, as the director may prescribe, an ample supply of suitable materials of proper size with which to secure the roof thereof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. When overhangs or brows occur along rib lines they shall be promptly removed. All sections shall be maintained as near as possible on center. Except in the case of recovery work, supports knocked out shall be replaced promptly. Apprentice miners shall not be permitted to set temporary supports on a working section without the direct immediate supervision of a certified miner.

(c) The operator of a mine has primary responsibility to prevent injuries and deaths resulting from working under unsupported roof. Every operator shall require that no person may proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(d) The immediate supervisor of any area in which unsupported roof is located shall not direct or knowingly permit any person to proceed beyond the last permanent support unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miners.

(e) No miner shall proceed beyond the last permanent support in violation of a direct or standing order of an operator, a foreman or an assistant foreman, unless adequate temporary support is provided or temporary support is not required under an approved roof control plan and absence of such support will not pose a hazard to the miner.

(f) The immediate supervisor of each miner who will be engaged in any activity involving the securing of roof or rib during a shift shall, at the onset of any such shift, orally review those parts of the roof control plan relevant to the type of mining and roof control to be pursued by such miner. ~~The time and parts of the plan reviewed shall be recorded in a log book kept for such purpose. Each log book entry so recorded shall be signed by such immediate supervisor making such entry.~~

(g) Any action taken against a miner due, in whole or in part, to his or her refusal to work under unsupported roof, where such work would constitute a violation of this section, is prohibited as an act of discrimination pursuant to section twenty-two, article one of this chapter. Upon a finding of discrimination by the appeals board pursuant to subsection (b), section twenty-two, article one of this chapter, the miner shall be awarded by the appeals board all reliefs

available pursuant to subsections (b) and (c), section twenty-two, article one of this chapter.

HOISTING

§22A-2-36. Hoisting machinery; telephones; safety devices; hoisting engineers and drum runners.

(a) The operator of every coal mine worked by shaft shall provide and maintain a metal tube, telephone or other approved means of communication from the top to the bottom and intermediate landings of such shafts, suitably adapted to the free passage of sound, through which conversation may be held between persons at the top and at the bottom of the shaft; a standard means of signaling; an approved safety catch, bridle chains, automatic stopping device, or automatic overwind; a sufficient cover overhead on every cage used for lowering or hoisting persons; an approved safety gate at the top of the shaft; and an adequate brake on the drum of every machine used to lower or hoist persons in such shaft. Such operator shall have the machinery used for lowering and hoisting persons into or out of the mine kept in safe condition, equipped with a reliable indicator, and inspected once in each twenty-four hours by a qualified electrician. Where a hoisting engineer is required, he or she shall be readily available at all times when men are in the mine. He or she shall operate the empty cage up and down the shaft at least one round trip at the beginning of each shift; ~~and after the hoist has been idle for one hour or more before hoisting or lowering men;~~ there shall be cut out around the side of the hoisting shaft or driven through the solid strata at the bottom thereof, a traveling way, not less than five feet high and three feet wide to enable a person to pass the shaft in going from one side of it to the other without passing over or under the cage or other hoisting apparatus. Positive stop blocks or derails shall be placed near the top and at all intermediate landings of slopes and surface inclines and at approaches to all shaft landings. A waiting station with sufficient room, ample clearance from moving equipment, and adequate seating facilities shall be provided where men are required to wait for man trips or man cages,

and the miners shall remain in such station until the man trip or man cage is available.

(b) No operator of any coal mine worked by shaft, slope or incline, shall place in charge of any engine or drum used for lowering or hoisting persons employed in such mine any but competent and sober engineers or drum runners; and no engineer or drum runner in charge of such machinery shall allow any person, except such as may be designated for this purpose by the operator, to interfere with any part of the machinery; and no person shall interfere with any part of the machinery; and no person shall interfere with or intimidate the engineer or drum runner in the discharge of his or her duties. Where the mine is operated or worked by shaft or slope, a minimum space of two and one-half square feet per person shall be available for each person on any cage or car where men are transported. In no instance shall more than twenty miners be transported on a cage or car without the approval of the director. No person shall ride on a loaded cage or car in any shaft, slope, or incline: *Provided*, That this does not prevent any trip rider from riding in the performance of his or her authorized duties. No engineer is required for automatically operated cages, elevators, or platforms. Cages and elevators shall have an emergency power source unless provided with other escapeway facilities.

(c) Each automatic elevator shall be provided with a telephone or other effective communication system by which aid or assistance can be obtained promptly.

(d) A stop switch shall be provided in the automatic elevator compartment that will permit the elevator to be stopped at any location in the shaft.

§22A-2-55. Protective equipment and clothing.

(a) Welders and helpers shall use proper shields or goggles to protect their eyes. All employees shall have approved goggles or shields and use the same where there is a hazard from flying particles or other eye hazards.

(b) Employees engaged in haulage operations and all other persons employed around moving equipment on the surface and underground shall wear snug-fitting clothing.

(c) Protective gloves shall be worn when material which may injure hands is handled, but gloves with gauntleted cuffs shall not be worn around moving equipment.

(d) Safety hats and safety-toed shoes shall be worn by all persons while in or around a mine: *Provided*, That metatarsal guards are not required to be worn by persons when working in those areas of underground mine workings which average less than forty-eight inches in height as measured from the floor to the roof of the underground mine workings.

(e) Approved eye protection shall be worn by all persons while being transported in open-type man trips.

(f) (1) A self-contained self-rescue device approved by the director shall be worn by each person underground or kept within his or her immediate reach and the device shall be provided by the operator. The self-contained self-rescue device shall be adequate to protect a miner for one hour or longer. Each operator shall train each miner in the use of the device and refresher training courses for all underground employees shall be held once each quarter. Quarters shall be based on a calendar year.

(2) In addition to the requirements of subdivision (1) of this subsection, the operator shall also provide caches of additional self-contained self-rescue devices throughout the mine in accordance with a plan approved by the director. Each additional self-contained self-rescue device shall be adequate to protect a miner for one hour or longer. The total number of additional self-contained self-rescue devices, the total number of storage caches and the placement of each cache throughout the mine shall be established by rule pursuant to subsection (i) of this section. A luminescent sign with the words 'SELF-CONTAINED SELF-RESCUER' or 'SELF-CONTAINED

SELF-RESCUERS' shall be conspicuously posted at each cache and luminescent direction signs shall be posted leading to each cache. Lifeline cords or other similar device, with reflective material at twenty-five foot intervals, shall be attached to each cache from the last open crosscut to the surface. The operator shall conduct weekly inspections of each cache and each lifeline cord or other similar device to ensure operability.

(3) Any person that, without the authorization of the operator or the director, knowingly removes or attempts to remove any self-contained self-rescue device or lifeline cord from the mine or mine site with the intent to permanently deprive the operator of the device or lifeline cord or knowingly tampers with or attempts to tamper with the device or lifeline cord shall be guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than one year nor more than ten years or fined not less than \$10,000 nor more than \$100,000, or both.

(g) (1) A wireless emergency communication device approved by the director and provided by the operator shall be worn by each person underground: Provided, That if a miner's wireless emergency communications device shall malfunction or cease to operate then such miner shall be assigned to be in sight or sound of a certified miner until such time an operating device shall be delivered. The wireless emergency communication device shall, at a minimum, be capable of receiving emergency communications from the surface at any location throughout the mine. Each operator shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator shall install in or around the mine any and all equipment necessary to transmit emergency communications from the surface to each wireless emergency communication device at any location throughout the mine.

(2) Any person that, without the authorization of the operator or the director, knowingly removes or attempts to remove any wireless emergency communication device or related equipment, from the mine

or mine site with the intent to permanently deprive the operator of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment shall be guilty of a felony and, upon conviction ~~thereof~~, shall be imprisoned in a state correctional facility for not less than one year nor more than ten years or fined not less than \$10,000 nor more than \$100,000, or both fined and confined.

(h) (1) A wireless tracking device approved by the director and provided by the operator shall be worn by each person underground. In the event of an accident or other emergency, the tracking device shall, at a minimum, be capable of providing real-time monitoring of the physical location of each person underground: *Provided*, That no person shall discharge or discriminate against any miner based on information gathered by a wireless tracking device during nonemergency monitoring. Each operator shall train each miner in the use of the device and provide refresher training courses for all underground employees during each calendar year. The operator shall install in or around the mine all equipment necessary to provide real-time emergency monitoring of the physical location of each person underground.

(2) Any person that, without the authorization of the operator or the director, knowingly removes or attempts to remove any wireless tracking device or related equipment, approved by the director, from a mine or mine site with the intent to permanently deprive the operator of the device or equipment or knowingly tampers with or attempts to tamper with the device or equipment shall be guilty of a felony and, upon conviction ~~thereof~~, shall be imprisoned in a state correctional facility for not less than one year nor more than ten years or fined not less than \$10,000 nor more than \$100,000, or both fined and confined.

(i) The director may promulgate emergency and legislative rules to implement and enforce this section pursuant to the provisions of article three, chapter twenty-nine-a of this code.

§22A-2-66. Accident; notice; investigation by Office of Miners' Health, Safety and Training.

(a) For the purposes of this section, the term accident means:

(1) The death of an individual at a mine;

(2) An injury to an individual at a mine which has a reasonable potential to cause death;

(3) The entrapment of an individual;

(4) The unplanned inundation of a mine by a liquid or gas;

(5) The unplanned ignition or explosion of gas or dust;

(6) The unplanned ignition or explosion of a blasting agent or an explosive;

(7) An unplanned fire in or about a mine not extinguished within five minutes of ignition;

(8) An unplanned roof fall at or above the anchorage zone in active workings where roof bolts are in use or an unplanned roof or rib fall in active workings that impairs ventilation or impedes passage;

(9) A coal or rock outburst that causes withdrawal of miners or which disrupts regular mining activity for more than one hour;

(10) An unstable condition at an impoundment, refuse pile or culm bank which requires emergency action in order to prevent failure, or which causes individuals to evacuate an area, or the failure of an impoundment, refuse pile or culm bank;

(11) Damage to hoisting equipment in a shaft or slope which endangers an individual or which interferes with use of the equipment for more than thirty minutes; and

(12) An event at a mine which causes death or bodily injury to an individual not at the mine at the time the event occurs.

(b) Whenever any accident occurs in or about any coal mine or the machinery connected therewith, it is the duty of the operator or the

mine foreman in charge of the mine to give notice, within fifteen minutes of ascertaining the occurrence of an accident, to the Mine and Industrial Accident Emergency Operations Center at the statewide telephone number established by the Director of the Division of Homeland Security and Emergency Management pursuant to the provisions of article five-b, chapter fifteen of this code stating the particulars of the accident: *Provided*, That the operator or the mine foreman in charge of the mine may comply with this notice requirement by immediately providing notice to the appropriate local organization for emergency services as defined in section eight, article five of said chapter, or the appropriate local emergency telephone system operator as defined in article six, chapter twenty-four of this code: *Provided, however*, That if, immediately upon ascertaining the occurrence of an accident, the operator or the mine foreman in charge of the mine provides notice to the local organization for emergency services as defined in section eight, article five, chapter fifteen of this code, or the appropriate local emergency telephone system operator as defined in article six, chapter twenty-four of this code, then, in order to comply with this subsection, the operator or mine foreman in charge of the mine shall also give notice to the Mine and Industrial Accident Emergency Operations Center at the statewide number identified in this subsection within fifteen minutes of completing the telephone call to the local organization for emergency services or the appropriate local emergency telephone system operator, as applicable: *Provided further*, That nothing in this subsection shall be construed to relieve the operator from any reporting or notification requirement under federal law.

(c) The Director of the Office of Miners' Health, Safety and Training shall impose, pursuant to rules authorized in this section, a civil administrative penalty of up to \$100,000 on the operator if it is determined that the operator or the mine foremen in charge of the mine failed to give immediate notice as required in this section. The director may later amend the assessment of a penalty under this section if so warranted: *Provided*, That the director may waive imposition of the

civil administrative penalty at any time if he or she finds that the failure to give immediate notice was caused by circumstances wholly outside the control of the operator: *Provided, however,* That the assessment of the civil administrative penalty set forth in this subsection may be appealed to the Board of Appeals, and the Board of Appeals may, by ~~unanimous vote~~ a vote of two Board of Appeals Members, reduce the amount of the civil administrative penalty upon a finding of mitigating circumstances warranting the imposition of a lesser amount.

(d) If anyone is fatally injured, the inspector shall immediately go to the scene of the accident and make recommendations and render assistance as he or she may deem necessary for the future safety of the men and investigate the cause of the explosion or accident and make a record. He or she shall preserve the record with the other records in his or her office. The cost of the investigation records shall be paid by the Office of Miners' Health, Safety and Training. A copy shall be furnished to the operator and other interested parties. To enable him or her to make an investigation, he or she has the power to compel the attendance of witnesses and to administer oaths or affirmations. The director has the right to appear and testify and to offer any testimony that may be relevant to the questions and to cross-examine witnesses.

§22A-2-77. ~~Monthly~~ Quarterly report by operator of mine; exception as to certain inactive mines.

On or before the end of each ~~calendar month~~ quarter, the operator of each mine, regulated under the provisions of this chapter or article three or four, chapter twenty-two of this code, shall file with the director a report with respect thereto covering the next preceding ~~calendar month~~ quarter which shall reflect the number of accidents which have occurred at each such mine, the number of persons employed, the days worked and the actual raw tonnage mined. Quarters are based on a calendar year. Such report shall be made upon forms furnished by the director. Other provisions of this section to the contrary notwithstanding, no such report shall be required with respect

to any mine on approved inactive status if no employees were present at such mine at any time during the next preceding calendar month.

ARTICLE 7. BOARD OF MINER TRAINING, EDUCATION AND CERTIFICATION

§22A-7-7. Continuing education requirements for underground mine foreman-fire boss.

(a) ~~An existing underground mine foreman-fire boss certified pursuant to this article shall complete the continuing education requirements in this section within two years from the effective date of this section and every two years thereafter.~~ An underground mine foreman-fire boss certified pursuant to this article on or after the effective date of this section shall complete the continuing education requirements in this section within two years of their certification and every two years thereafter. The continuing education requirements of this section may not be satisfied by the completion of other training requirements mandated by the provisions of this chapter.

(b) In order to receive continuing education credit pursuant to this section, a mine foreman-fire boss shall satisfactorily complete a mine foreman-fire boss continuing education course approved by the board and taught by a qualified instructor approved by the director. The mine foreman-fire boss shall not suffer a loss in pay while attending a continuing education course. The mine foreman-fire boss shall submit documentation to the office certified by the instructor that indicates the required continuing education has been completed prior to the deadlines set forth in this subsection: *Provided*, That a mine foreman-fire boss may submit documentation of continuing education completed in another state for approval and acceptance by the board.

(c) The mine foreman-fire boss shall complete at least eight hours of continuing education every two years.

(d) The content of the continuing education course shall include, but not be limited to:

(1) Selected provisions of this chapter and 30 U. S. C. § 801, *et seq.*;

(2) Selected provisions of the West Virginia and federal underground coal mine health and safety rules and regulations;

(3) The responsibilities of a mine foreman-fire boss;

(4) Selected policies and memoranda of the Office of Miners' Health, Safety and Training, the ~~board~~ Board of Coal Mine Health and Safety, ~~and the board~~ Board of Miner Training, Education and Certification, and from any safety analysis performed by the company.

(5) A review of fatality and accident trends in underground coal mines; and

(6) Other subjects as determined by the Board of Miner Training, Education and Certification. The board shall solicit input from mining companies on the substance of the training and discuss how the training shall be scheduled during the year.

(e) The board may approve alternative training programs tailored to specific mines.

(f) ~~Failure~~ A mine foreman-fire boss who fails to complete the requirements of this section shall ~~result in suspension of a mine foreman-fire boss certification~~ have his or her certification suspended pending completion of the continuing education requirements. During the pendency of the suspension, the individual may not perform statutory duties assigned to a mine foreman-fire boss under West Virginia law. The office shall send notice of any suspension to the last address the certified mine foreman-fire boss reported to the director. If the requirements are not met within two years of the suspension date, the director may file a petition with the board of appeals pursuant to the procedures set forth in section thirty-one, article one of this chapter and, upon determining that the requirements have not been met, the board of appeals may revoke the mine foreman-fire boss' certification,

which shall not be renewed except upon successful completion of the examination prescribed by law for mine foremen-fire bosses or upon completion of other training requirements established by the board: *Provided*, That an individual having his or her mine foreman-fire boss certification suspended pursuant to this section who also holds a valid mine foreman-fire boss certification from another state may have the suspension lifted by completing training requirements established by the board.

(g) The office shall make a program of instruction that meets the requirements for continuing education set forth in this section regularly available in regions of the State, based on demand, for individuals possessing mine foreman-fire boss certifications who are not serving in a mine foreman-fire boss capacity: *Provided*, That the office may collect a fee from program participants to offset the cost of the program.

(h) The office shall make available to operators and other interested parties a list of individuals whose mine foreman-fire boss certification is in suspension or has been revoked.”

And,

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

H. B. 4726 — “A Bill to repeal §22-3A-1, §22-3A-2, §22-3A-3, §22-3A-4, §22-3A-5, §22-3A-6, §22-3A-7, §22-3A-8, §22-3A-9 and §22-3A-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-4C-6c of said code; to amend and reenact §22-1-7 of said code; to amend and reenact §22-3-2, §22-3-4, §22-3-13, §22-3-13a, §22-3-22a and §22-3-30a of said code; to amend said code by adding thereto six new sections, designated §22-3-34, §22-3-35, §22-3-36, §22-3-37 and §22-3-38; to amend and reenact §22-11-6 of said code; to amend and reenact §22A-1-13, §22A-1-14, §22A-1-15, §22A-1-19, §22A-1-20, §22A-1-31 and §22A-1-35 of said code; to amend and reenact §22A-1A-2 of said code; to amend and reenact §22A-2-3, §22A-2-8, §22A-2-14, §22A-2-20, §22A-2-25, §22A-2-36,

§22A-2-55, §22A-2-66 and §22A-2-77 of said code; and to amend and reenact §22A-7-7 of said code, all relating generally to coal mining; making findings; eliminating the Department of Environmental Protection Office of Explosives and Blasting and consolidating the remaining duties and responsibilities related to blasting to the Department of Environmental Protection Division of Mining and Reclamation; adding blasting oversight; providing that the Department of Environmental Protection to revise rules on hydrologic protection and stormwater runoff analyses on mining operations and to promulgate rules that conform with the federal regulations requirements to minimize the disturbances to the prevailing hydrologic balance at a mine site and in associated off-site areas; providing that cumulative hydrologic impact assessment may be conducted; requiring a statement of probable hydrologic consequences and to prevent flooding; modifying certain findings, ventilation requirements, and roof or rib requirements; requiring the Department of Environmental Protection to follow deadlines for approving or denying applications for site specific water quality criteria; providing that state mine rescue teams may serve as backup mine rescue teams for mines in this state; providing that the Board of Mine Health and Safety to have the authority to propose rules for the use of diesel equipment in the state's mines; transferring certification authority to the Director of the Office of Miners' Health Safety and Training for mining emergency medical technicians; requiring the State Board of Appeals to allow evidence of testing procedures and test results be introduced through notarized affidavits from Medical Review Officers and testify if necessary; providing for telephonic testimony under oath; providing that the penalty for not reporting accidents in fifteen minutes to the Office of Miners' Health, Safety and Training be modified to up to \$100,000; providing that the Director of Office of Miners' Health, Safety and Training shall have the authority to modify assessed penalties and penalties may be modified by the State Board of Appeals based on a vote of two Board members; providing a method incase a miners' wireless emergency communications device fails; and allowing

company input into state supervisory training and how it is scheduled during the year.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 551**), and there were’—yeas 88, nays 6, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Guthrie, Pushkin, Rowe, Shaffer and Skinner.

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4726) 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, to take effect October 1, 2016, as follows:

H. B. 4734, Relating to mine subsidence insurance.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §33-30-6 and §33-30-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows” and a colon.

And,

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

H. B. 4734 — “A Bill to amend and reenact §33-30-6 and §33-30-8 of the Code of West Virginia, 1931, as amended, all relating to mine subsidence insurance; increasing the maximum amount of total insured value reinsured by Board of Risk and Insurance Management; and deleting threshold provision for loss coverage.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 552**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4734) passed.

Delegate Cowles moved that the bill take effect October 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 553**), 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: Arvon, Deem, Flanigan, E. Nelson, Westfall and B. White.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4734) takes effect October 1, 2016.

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

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

Committee Reports

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

By Delegates Skinner, Folk, Foster, McCuskey, Fleischauer, Manchin, Rowe and Shott:

H. C. R. 115 - "Requesting the Joint Committee on Government and Finance to study all versions of call for a constitutional convention before the Legislature."

Whereas, A national effort is underway to pass state resolutions and bills calling for a constitutional convention to modify the U.S. Constitution; and

Whereas, The legislature has under consideration several versions the study should consider, including but not be limited to call of Article V convention, Convention of States, Compact of States versions before the legislature, and make any recommendations to ensure that the Constitution and West Virginia's priorities are protected as this body considers any version of this national call; and

Whereas, Some versions include the call to sharply limit what the federal government can do to advance the nation's priorities, invest in the country's future, and protect the rights and opportunities of all Americans; and

Whereas, Among the many Constitutional amendments that could emerge from this effort include but are in no way limited to the consideration of a balanced budget amendment, impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and

for members of Congress, overturn of the Citizens United decision, alter and strike current amendments as well as alter or strike the entire U.S. Constitution; and

Whereas, A Constitutional convention would open up the Constitution to any amendments its delegates should choose to propose. While West Virginia has considered the control of a West Virginia delegate chosen for a convention, the state is trusting that other states are giving the same thoughtful processes to delegate consideration, in turn opening up the constitution with varying state opinions of delegate authority; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study all versions of call for a constitutional convention before the legislature; and, be it

Further Resolved, For the study to include but not be limited to the call of Article V convention, Convention of States, Compact of States versions before the legislature; and, be it

Further Resolved, This study should include but not be limited to questions of if a convention can be limited to certain issues; how the delegates would be selected; and make any recommendations to ensure that the Constitution and West Virginia's priorities are protected by passing any version of this national call; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the Legislature on the first day of the regular session, 2017, 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.

At the request of Delegate Cowles, and by unanimous consent, the resolution (H. C. R. 115) was taken up for immediate consideration and adopted.

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

Unfinished Business

H. C. R. 36, Applying for an Article V Amendments Convention to Propose a Constitutional Amendment; having been postponed in earlier proceedings, was taken up for further consideration.

Debate resumed on the amendment offered by Delegate J. Nelson, on page one, line one, by striking out everything beginning with the word “Applying” and inserting in lieu thereof the following:

“Requesting the Joint Committee on the Judiciary to study the proposal of urging Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress.

Whereas, The elected West Virginia State Senators and Delegates have a need for a study to research and determine the viability and limits of such a convention process, as well as provide answers to the many outstanding questions of the members and the public at large.

Whereas, Article IV, Section 4 of the Constitution of the United States guarantees to every state a republican form of government which gives each state equal standing when calling for an amendments convention. Article V of the Constitution of the United States reserves to the several states the right to call for a convention for the purpose of amending the United States Constitution when Congress or the courts

or both Congress and the courts refuse to address an egregious wrong suffered by the people; and

Whereas, The states alone have the authority to “limit” the agenda and authority of a convention. The states alone can call for a ‘Single Issue’ convention by agreeing among themselves the purpose, terms, conditions, duration and agenda for the convention. Congress does not have the authority to define a ‘Single Issue’ convention. The authority of Congress, under Article V of the United States Constitution, empowers it to convene a convention as called for and defined by the several states; and

Whereas, The founders of our Constitution empowered state legislators to be guardians of liberty against future abuses of power by the federal government which has created a crushing national debt through improper and imprudent spending; and

Whereas, The federal government has invaded the legitimate roles of the states through the manipulative process of federal mandates, most of which are unfunded to a great extent, and the federal government has ceased to live under a proper interpretation of the Constitution of the United States; and

Whereas, It is the solemn duty of the states to protect the liberty of the people—particularly for the generations to come—by proposing amendments to the Constitution of the United States through a Convention of the States under Article V for the purpose of restraining these and related abuses of power; therefore, be it

Resolved by the Legislature of West Virginia:

That the State of West Virginia strongly condemns the prolonged and unlawful expansion of Federal authority upon the rights and self-governance of the people of West Virginia and is contemplating this action as a method of self-preservation against such abuses; and, be it;

Further Resolved, For the purposes of determining whether the Legislature should ~~That the Legislature hereby urges Congress call a convention of the states, under the authority reserved to the states in Article V of the United States Constitution, limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress, the Legislature hereby requests that the Joint Committee on the Judiciary to determine the viability, limits, and answer other questions about the process should the State of West Virginia proceed with the application;~~ and, be it

~~Further Resolved, That the State of West Virginia 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 limited to proposing amendments to the Constitution of the United States that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government and limit the terms of office for its officials and for members of Congress and absolutely no other business will be authorized at this convention;~~ and, be it

~~Further Resolved, That this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until the legislatures of at least two thirds of the several states have made applications on the same subject;~~ and, be it

Further Resolved, That the Joint Committee on the Judiciary report to the regular session of the Legislature, 2017, 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 the Judiciary.

~~Further Resolved, That the Clerk of the Senate is hereby directed to forward this resolution and application to the President and~~

~~Secretary of the United States Senate, to the Speaker and Clerk of the United States House of Representatives, to the members of West Virginia's congressional delegation and to the presiding officers of each of the legislative houses in the several states requesting their cooperation.~~

Delegate Kurcaba was addressing the House when Delegate Overington arose to a point of order, regarding the content of the Gentleman's remarks, to which point the Speaker asked the Members to confine their remarks to the amendment before the House.

Delegate Hanshaw arose to a point of inquiry, stating that the proposition now before the House was substantially the same as the proposition contained in H. C. R. 115.

To the point the Speaker replied, stating that there were distinctions between the two propositions and that the amendment was in order.

On the adoption of the amendment, Delegate J. Nelson demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 554**), and there were—including 4 paired—yeas 41, nays 52, absent and not voting 7, with the paired, yeas, absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Hornbuckle Nay: Walters

Yea: Morgan Nay: Faircloth

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Cowles, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hamilton, Hartman,

Hicks, Kelly, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Moye, J. Nelson, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Skinner, P. Smith, Sponaugle, Trecost, Wagner and P. White.

Absent and Not Voting: Arvon, Border, Deem, Flanigan, E. Nelson, Westfall and B. White.

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

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. 555**), and there were, including 4 paired—yeas 66, nays 27, absent and not voting 7, with the paired, nays absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Faircloth Nay: Morgan

Yea: Hanshaw Nay: Hornbuckle

Nays: Bates, Boggs, Byrd, Caputo, Duke, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Longstreth, Lynch, Manchin, McGeehan, Miley, Moore, J. Nelson, Pushkin, Reynolds, Rodighiero, Rowe, Skinner, P. Smith, Sponaugle and P. White.

Absent and Not Voting: Arvon, Border, Deem, Flanigan, E. Nelson, Westfall and B. White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. C. R. 36) adopted.

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

Leaves of Absence

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

Miscellaneous Business

Delegate Boggs noted to the Clerk that he was absent on today when the votes were taken on Roll Nos. 494 and 495, and that had he been present, he would have voted “Yea” thereon.

Delegate Guthrie noted to the Clerk that she was absent on today when the vote was taken on Roll No. 493, and that had she been present, she would have voted “Yea” thereon.

Delegate Hamilton noted to the Clerk that he was absent on today when the vote was taken on Com. Sub. for S. B. 159, and that had he been present, he would have voted “Yea” thereon.

Delegate Bates noted to the Clerk that he was absent when the votes were taken on Roll Nos. 544 and 545, and that had he been present, he would have voted “Yea” thereon.

Delegate Blackwell noted to the Clerk that he was absent when the votes were taken on H. B. 4741, and that had he been present, he would have voted “Nay” thereon.

Delegate P. Smith noted to the Clerk that she was absent when the vote was taken on S. B. 454, and that had she been present, she would have voted “Yea” thereon.

Delegate Byrd noted to the Clerk that he was absent when the votes were taken on Roll Nos. 516, 517, 519, 520, 447 and 448, and that had he been present, he would have voted “Yea” thereon.

Delegates Marcum, Hartman, McGeehan and Trecost asked and obtained unanimous consent to be removed as cosponsors of H. C. R. 36.

At 9:55 p.m., the House of Delegates adjourned until 10:00 a.m., Saturday, March 12, 2016.

SATURDAY, MARCH 12, 2016

SIXTIETH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 10:00 a.m., and was called to order by the Honorable Tim Armstead, 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 11, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate McCuskey, 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 11th day of March, 2016, 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. 2122), Making it illegal for first responders to photograph a corpse; Jonathan's Law,

(Com. Sub. for H. B. 2801), Permitting county commissions and municipalities to designate areas of special interest which will not affect the use of property in those areas,

(Com. Sub. for H. B. 2823), Eliminating the street and interurban and electric railways tax,

(H. B. 4160), Making a supplementary appropriation to the Department of Revenue, Tax Division,

(Com. Sub. for H. B. 4209), Relating generally to health care provider taxes,

(Com. Sub. for H. B. 4225), Relating to patriotic displays at public buildings,

(Com. Sub. for H. B. 4322), Expanding the Learn and Earn Program,

(Com. Sub. for H. B. 4377), Eliminating exemption from hotel occupancy taxes on rental of hotel and motel rooms for thirty or more consecutive days,

(Com. Sub. for H. B. 4433), Allowing an adjustment to gross income for calculating the personal income tax liability of certain retirees,

(Com. Sub. for H. B. 4520), Clarifying that certain hospitals have only one governing body whose meetings shall be open to the public,

(H. B. 4617), Authorizing legislative rules of the Higher Education Policy Commission regarding the Underwood-Smith Teacher Scholarship Program and Nursing Scholarship Program,

(S. B. 29), Tolling statute of limitations in certain cases,

(Com. Sub. for S. B. 102), Conforming to federal Law-Enforcement Officers Safety Act,

(S. B. 271), Conforming definition of attest services to Uniform Accountancy Act,

(Com. Sub. for S. B. 274), Relating to increasing civil jurisdictional amount in magistrate courts,

(**Com. Sub. for S. B. 303**), Providing for 5-day resident fishing license,

(**S. B. 483**), Marshall County LSIC waiver,

(**Com. Sub. for S. B. 500**), Authorizing Superintendent of State Police hold training classes to use West Virginia Automated Police Network,

And,

(**S. B. 507**), Exempting motor vehicles engaged in nonemergency transport of Medicaid recipients from PSC permit requirements.

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

S. C. R. 1, Urging Congress propose regulation freedom amendment,

And reports the same back with recommendation that it be adopted.

At the respective requests of Delegate Cowles, and by unanimous consent, the resolution was taken up for immediate consideration and adopted.

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

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

Your Committee on Rules has had under consideration:

Com. Sub. for H. C. R. 16, U.S. Army PFC John Ira Pinkerman Memorial Bridge,

Com. Sub. for H. C. R. 22, U. S. Army SGT Gary Lee DeBoard Memorial Intersection,

Com. Sub. for H. C. R. 26, Corporal Gary Wayne Weekley Memorial Bridge,

Com. Sub. for H. C. R. 27, Michael Angiulli Memorial Bridge,

Com. Sub. for H. C. R. 30, U.S. Army PFC Everett Henry Woody Memorial Bridge,

Com. Sub. for H. C. R. 33, U.S. Army Air Force S/SGT Harold 'Dean' Baker Memorial Bridge,

Com. Sub. for H. C. R. 37, U.S. Army SGT Arthur George Roush Memorial Bridge,

H. C. R. 42, WVSP Tpr. Phillip S. Kesner Memorial Bridge,

Com. Sub. for H. C. R. 75, U.S. Army SSG James C. Vickers and U.S. Marine Corps PFC Randall Carl Phelps Memorial Bridge,

H. C. R. 84, U.S. Marine Corps Cpl Mark Douglas Cool Memorial Bridge,

Com. Sub. for H. C. R. 85, U.S. Navy MM2 Carl E. Keeney and U.S. Army PFC Carl M. Nicholas Memorial Bridge,

Com. Sub. for H. C. R. 92, Captain John Bond and the West Virginia State Troops Memorial Bridge,

H. C. R. 98, Study on lowering the state's overall sales and use tax rate,

H. C. R. 99, Requesting the Joint Committee on Government and Finance to study and review current law, procedure and public services intended to protect against senior citizen financial abuse,

H. C. R. 106, Requesting the Joint Committee on Government and Finance to study direct primary care,

H. C. R. 107, Requesting the Joint Committee on Government and Finance to study the civil commitment laws within West Virginia,

H. C. R. 108, Requesting the Joint Committee on Government and Finance to study and review surprise medical bills,

H. C. R. 109, Requesting the Joint Committee on Government and Finance conduct an interim study of the feasibility of public virtual online schools,

H. C. R. 111, Requesting the Joint Committee on Government and Finance to study the issues, needs and challenges facing senior citizens,

H. C. R. 112, Requesting study on interscholastic student athlete safety issues,

H. C. R. 113, Requesting Joint Committee on Government and Finance to establish a select committee to study all aspects of the lottery,

H. C. R. 114, Requesting the Joint Committee on Government and Finance to conduct an interim study on the best practices in technology procurement,

Com. Sub. for S. C. R. 27, Herman Daner Rogers Memorial Bridge,

S. C. R. 32, CW2 Robert D. Taylor Memorial Bridge,

S. C. R. 36, US Army SPC5 Joseph Richard “Rick” Schafer Memorial Bridge,

S. C. R. 39, Clifford Family Memorial Bridge,

S. C. R. 45, US Army SGT Deforest Lee Talbert Memorial Bridge,

And,

S. C. R. 64, Requesting DOH study 2015 performance audit and report to Joint Committee on Government and Finance any action taken as result of audit,

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

At the respective requests of Delegate Cowles, and by unanimous consent, the resolutions were taken up for immediate consideration and adopted.

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

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 10, 2016, he approved H. B. 4157, H. B. 4159, Com. Sub. for H. B. 4279, H. B. 4324, Com. Sub. for H. B. 4540, H. B. 4654, H. B. 4674, H. B. 4735 and S. B. 379.

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. 4013, Requiring a person desiring to vote to present documentation identifying the voter.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the following Senate amendments were reported by the Clerk:

“That §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §3-1-51; that §3-2-11 and §3-2-12 of said code be amended and reenacted; and that §17B-2-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 3. ELECTIONS.**ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.****§3-1-34. Voting procedures generally; identification; assistance to voters; voting records; penalties.**

(a) ~~Any~~ A person desiring to vote in an election shall, upon entering the election room, clearly state his or her name and residence to one of the poll clerks who shall thereupon announce the same in a clear and distinct tone of voice. For elections occurring on or after January 1, 2018, the person desiring to vote shall present to one of the poll clerks a valid identifying document meeting the requirements of subdivision (1) of this subsection, and the poll clerk shall inspect and confirm that the name on the identifying document conforms to the name in the individual's voter registration record and that the image displayed is truly an image of the person presenting the document. If that person is found to be duly registered as a voter at that precinct, he or she shall sign his or her name in the designated location provided at the precinct. If that person is physically or otherwise unable to sign his or her name, his or her mark shall be affixed by one of the poll clerks in the presence of the other and the name of the poll clerk affixing the voter's mark shall be indicated immediately under the affixation. No ballot may be given to the person until he or she signs his or her name on the designated location or his or her signature is affixed thereon.

(1) A document shall be deemed to be a valid identifying document if it:

(A) Has been issued either by the State of West Virginia, or one of its subsidiaries, or by the United States Government; and

(B) Contains the name and a photograph of the person desiring to vote.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the following documents, if they contain the voter's name,

shall be considered valid identifying documents, and a person desiring to vote may produce any of the following:

(A) A valid West Virginia driver's license or valid West Virginia identification card issued by the West Virginia Division of Motor Vehicles;

(B) A valid driver's license issued by a state other than the State of West Virginia;

(C) A valid United States passport or passport card;

(D) A valid employee identification card with a photograph of the eligible voter issued by any branch, department, agency, or entity of the United States Government or of the State of West Virginia, or by any county, municipality, board, authority, or other political subdivision of West Virginia;

(E) A valid student identification card with a photograph of the eligible voter issued by an institution of higher education in West Virginia, or a valid high school identification card issued by a West Virginia high school;

(F) A valid military identification card issued by the United States with a photograph of the person desiring to vote;

(G) A valid concealed carry (pistol/revolver) permit issued by the sheriff of the county with a photograph of the person desiring to vote;

(H) A valid Medicare card or Social Security card;

(I) A valid birth certificate;

(J) A valid voter registration card issued by a county clerk in the State of West Virginia;

(K) A valid hunting or fishing license issued by the State of West Virginia;

(L) A valid identification card issued to the voter by the West Virginia Supplemental Nutrition Assistance (SNAP) program;

(M) A valid identification card issued to the voter by the West Virginia Temporary Assistance for Needy Families (TANF) program;

(N) A valid identification card issued to the voter by West Virginia Medicaid;

(O) A valid credit card;

(P) A valid bank card or valid debit card;

(Q) A valid utility bill issued within six months of the date of the election;

(R) A valid paycheck issued within six months of the date of the election;

(S) A valid bank statement issued within six months of the date of the election; or

(T) A valid health insurance card issued to the voter.

(3) In lieu of providing identifying documents, as required by this section, a registered voter may be accompanied at the polling place by an adult known to the registered voter for at least six months. That adult may sign an affidavit on a form provided to clerks and poll workers by the Secretary of State, which states under oath or affirmation that the adult has known the registered voter for at least six months, and that in fact the registered voter is the same person who is present for the purpose of voting. For the affidavit to be considered valid, the adult shall present a valid identifying document with his or her name, address, and photograph.

(4) A poll worker may allow a voter known to the poll worker at least six months to vote without presenting a valid identifying document.

(5) If the person desiring to vote is unable to furnish a valid identifying document which contains his or her name and a photograph or, if the poll clerk determines that the proof of identification presented by the voter does not qualify as a valid identifying document based on the above listed criteria, the person desiring to vote shall be permitted to cast a provisional ballot after executing an affidavit affirming his or her identity pursuant to paragraph (B) of this subdivision.

(A) The provisional ballot is entitled to be counted once the election authority verifies the identity of the individual by comparing that individual’s signature to the current signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast.

(B) The affidavit to be used for voting shall be substantially in the following form:

‘State of West Virginia

County of

I do solemnly swear (or affirm) that my name is; that I reside at.....; and that I am the person listed in the precinct register under this name and at this address.

I understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution.

.....

Signature of voter

Subscribed and affirmed before me this day of, 20....

.....

Name of Election Official

.....

Signature of Election Official’.

(6) A voter who votes in person at a precinct polling place that is located in a building which is part of a state licensed care facility where the voter is a resident is not required to provide proof of identification as a condition before voting in an election.

(7) If the voter objects to the photograph requirement because of religious beliefs, the voter may cast a ballot if he or she executes an affidavit of religious exemption, which shall be in the following form:

‘State of West Virginia

County of

I,....., residing at, do hereby swear or affirm that because of my religious beliefs, I object to having my photograph taken and that I do not possess a form of identification that meets the requirements of the election laws of this state showing my photograph.

I understand that knowingly providing false information is a violation of law and subjects me to a fine of up to \$1,000 and/or confinement in jail for up to one year.

I hereby swear or affirm, under the penalties for providing false information, that I am the identical person whom I represent myself to be and that to the best of my knowledge and belief the information above is true and correct.

.....

Signature of voter

Subscribed and affirmed before me this day of, 20....

.....

Name of Election Official

.....

Signature of Election Official'.

(8) The person entering voter information into the centralized voter registration database shall cause the records to indicate when a voter has not presented a valid identifying document and has executed a voter identity affidavit.

(9) If a voter participating in the Address Confidentiality Program established by section one hundred three, article twenty-eight-a, chapter forty-eight of this code, executes a voter identity affidavit, the program participant's residential or mailing address is subject to the confidentiality provisions of section one hundred eight, article twenty-eight-a, chapter forty-eight of this code and shall be used only for those statutory and administrative purposes authorized by this section.

(10) Prior to the primary and general elections to be held in calendar year 2018, the Secretary of State shall educate voters about the requirement to present a valid identifying document and develop a program to help ensure that all eligible voters are able to obtain an identifying document.

(b) The clerk of the county commission is authorized, upon verification that the precinct at which a handicapped person is registered to vote is not handicap accessible, to transfer that person's registration to the nearest polling place in the county which is handicap accessible. A request by a handicapped person for a transfer of registration must be received by the county clerk no later than thirty days prior to the date of the election. ~~Any~~ A handicapped person who has not made a request for a transfer of registration at least thirty days prior to the date of the election may vote a provisional ballot at a

handicap accessible polling place in the county of his or her registration. If during the canvass the county commission determines that the person had been registered in a precinct that is not handicap accessible, the voted ballot, if otherwise valid, shall be counted. The handicapped person may vote in the precinct to which the registration was transferred only as long as the disability exists or the precinct from which the handicapped person was transferred remains inaccessible to the handicapped. To ensure confidentiality of the transferred ballot, the county clerk processing the ballot shall provide the voter with an unmarked envelope and an outer envelope designated 'provisional ballot/handicapped voter'. After validation of the ballot at the canvass, the outer envelope shall be destroyed and the handicapped voter's ballot shall be placed with other approved provisional ballots prior to removal of the ballot from the unmarked envelope.

(c) When the voter's signature is properly marked and the voter has presented a valid identifying document, the two poll clerks shall sign their names in the places indicated on the back of the official ballot and deliver the ballot to the voter to be voted by him or her without leaving the election room. If he or she returns the ballot spoiled to the clerks, they shall immediately mark the ballot "spoiled" and it shall be preserved and placed in a spoiled ballot envelope together with other spoiled ballots to be delivered to the board of canvassers and deliver to the voter another official ballot, signed by the clerks on the reverse side. The voter shall thereupon retire alone to the booth or compartment prepared within the election room for voting purposes and there prepare his or her ballot. In voting for candidates in general and special elections, the voter shall comply with the rules and procedures prescribed in section five, article six of this chapter.

(d) It is the duty of a poll clerk, in the presence of the other poll clerk, to indicate by a check mark, or by other means, inserted in the appropriate place on the registration record of each voter the fact that the voter voted in the election. In primary elections the clerk shall also ~~insert thereon~~ on the registration record of each voter a distinguishing initial or initials of the political party for whose candidates the voter

voted. If a person is challenged at the polls, the challenge shall be indicated by the poll clerks on the registration record, together with the name of the challenger. The subsequent removal of the challenge shall be recorded on the registration record by the clerk of the county commission.

(e) (1) No voter may receive any assistance in voting unless, by reason of blindness, disability, advanced age or inability to read and write, that voter is unable to vote without assistance. Any voter so qualified to receive assistance in voting ~~under the provisions of this section~~ may:

(A) Declare his or her choice of candidates to an Election Commissioner of each political party who, in the presence of the voter and in the presence of each other, shall prepare the ballot for voting in the manner ~~hereinbefore~~ provided in this section and, on request, shall read to the voter the names of the candidates selected on the ballot;

(B) Require the Election Commissioners to indicate to him or her the relative position of the names of the candidates on the ballot, ~~whereupon~~ the voter shall then retire to one of the booths or compartments to prepare his or her ballot in the manner ~~hereinbefore~~ provided in this section;

(C) Be assisted by any person of the voter's choice, other than the voter's present or former employer or agent of that employer, the officer or agent of a labor union of which the voter is a past or present member or a candidate on the ballot or an official write-in candidate; or

(D) If he or she is handicapped, vote from an automobile outside the polling place or precinct by the absentee balloting method provided in subsection (e), section five, article three of this chapter in the presence of an Election Commissioner of each political party if all of the following conditions are met:

(i) The polling place is not handicap accessible; and

(ii) No voters are voting or waiting to vote inside the polling place.

(2) The voted ballot shall then be returned to the precinct officials and secured in a sealed envelope to be returned to the clerk of the county commission with all other election materials. The ballot shall then be tabulated using the appropriate method provided in section eight of this chapter as it relates to the specific voting system in use.

(3) ~~Any~~ A voter who requests assistance in voting but who is believed not to be qualified for assistance under the provisions of this section shall nevertheless be permitted to vote a provisional ballot with the assistance of any person herein authorized to render assistance.

(4) ~~Any~~ One or more of the Election Commissioners or poll clerks in the precinct may challenge the ballot on the ground that the voter ~~thereof~~ received assistance in voting it when in his, her or their opinion the person who received assistance in voting is not so illiterate, blind, disabled or of such advanced age as to have been unable to vote without assistance. The Election Commissioner or poll clerk or commissioners or poll clerks making the challenge shall enter the challenge and ~~reason therefor~~ the reason for such challenge on the form and in the manner prescribed or authorized by article three of this chapter.

(5) An Election Commissioner or other person who assists a voter in voting:

(A) May not in any manner request or seek to persuade or induce the voter to vote ~~any~~ a particular ticket or for any particular candidate or for or against any public question and must not keep or make any memorandum or entry of anything occurring within the voting booth or compartment and must not, directly or indirectly, reveal to any person the name of ~~any~~ a candidate voted for by the voter, or which ticket he or she had voted or how he or she had voted on any public question or anything occurring within the voting booth, or compartment, or voting machine booth except when required ~~pursuant~~

to by law to give testimony as to the matter in a judicial proceeding; and

(B) Shall sign a written oath or affirmation before assisting the voter on a form prescribed by the Secretary of State stating that he or she will not override the actual preference of the voter being assisted, attempt to influence the voter's choice or mislead the voter into voting for someone other than the candidate of voter's choice. The person assisting the voter shall also swear or affirm that he or she believes that the voter is voting free of intimidation or manipulation. ~~Provided, That~~ No person providing assistance to a voter is required to sign an oath or affirmation where the reason for requesting assistance is the voter's inability to vote without assistance because of blindness as defined in section three, article fifteen, chapter five of this code and the inability to vote without assistance because of blindness is certified in writing by a physician of the voter's choice and is on file in the office of the clerk of the county commission.

(6) In accordance with instructions issued by the Secretary of State, the clerk of the county commission shall provide a form entitled 'list of assisted voters', ~~the form of which list shall likewise be~~ on a form as prescribed by the Secretary of State. The commissioners shall enter the name of each voter receiving assistance in voting the ballot, together with the poll slip number of that voter and the signature of the person or the commissioner from each party who assisted the voter. If no voter has been assisted in voting, the commissioners shall ~~likewise~~ make and subscribe to an oath of that fact on the list.

(f) After preparing the ballot, the voter shall fold the ballot so that the face is not exposed and ~~so that~~ the names of the poll clerks ~~thereon~~ on it are seen. The voter shall announce his or her name and present his or her ballot to one of the commissioners who shall hand the same to another commissioner, of a different political party, who shall deposit it in the ballot box if the ballot is the official one and properly signed. The commissioner of election may inspect every ballot before it is deposited in the ballot box to ascertain whether it is single; but without unfolding or unrolling it so as to disclose its content. When the voter

has voted, he or she shall retire immediately from the election room and beyond the sixty-foot limit ~~thereof and may~~ and not return except by permission of the commissioners.

(g) Following the election, the oaths or affirmations required by this section from those assisting voters, together with the 'list of assisted voters', shall be returned by the Election Commissioners to the clerk of the county commission along with the election supplies, records and returns. The clerk of the county commission shall make the oaths, affirmations and list available for public inspection and ~~shall~~ preserve them for a period of twenty-two months or until disposition is authorized or directed by the Secretary of State or court of record. ~~Provided, That~~ The clerk may use these records to update the voter registration records in accordance with subsection (d), section eighteen, article two of this chapter.

(h) Any person making an oath or affirmation required under the provisions of this section who knowingly swears falsely or any person who counsels, advises, aids or abets another in the commission of false swearing under this section, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for a period of not more than one year, or both fined and confined.

(i) Any Election Commissioner or poll clerk who authorizes or provides unchallenged assistance to a voter when the voter is known to the Election Commissioner or poll clerk not to require assistance in voting, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in a state correctional facility for a period of not less than one year nor more than five years, or both fined and imprisoned.

§3-1-41. Challenged and provisional voter procedures; counting of provisional voters' ballots; ballots of election officials.

(a) It is the duty of the members of the receiving board, jointly or severally, to challenge the right of any person requesting a ballot to vote in any election:

(1) If the person's registration record is not available at the time of the election;

(2) If the signature written by the person in the poll book does not correspond with the signature purported to be his or hers on the registration record;

(3) If the registration record of the person indicates any other legal disqualification; or

(4) If the person fails to present a valid identifying document pursuant to section thirty-four of this article; or

~~(4)~~(5) If any other valid challenge exists against the voter pursuant to section ten, article three of this chapter.

(b) Any person challenged shall nevertheless be permitted to vote in the election. He or she shall be furnished an official ballot not endorsed by the poll clerks. In lieu of the endorsements, the poll clerks shall complete and sign an appropriate form indicating the challenge, the reason thereof and the name or names of the challengers. The form shall be securely attached to the voter's ballot and deposited together with the ballot in a separate box or envelope marked 'provisional ballots'.

(c) At the time that an individual casts a provisional ballot, the poll clerk shall give the individual written information stating that an individual who casts a provisional ballot will be able to ascertain under the free access system established in this section whether the vote was counted and, if the vote was not counted, the reason that the vote was not counted.

(d) Before an individual casts a provisional ballot, the poll clerk shall provide the individual written instructions, supplied by the board of ballot commissioners, stating that if the voter is casting a ballot in the incorrect precinct, the ballot cast may not be counted for that election: *Provided*, That if the voter is found to be in the incorrect precinct, then the poll worker shall attempt to ascertain the appropriate

precinct for the voter to cast a ballot and immediately give the voter the information if ascertainable.

(e) Provisional ballots may not be counted by the election officials. The county commission shall, on its own motion, at the time of canvassing of the election returns, sit in session to determine the validity of any challenges according to the provisions of this chapter. If the county commission determines that the challenges are unfounded, each provisional ballot of each challenged voter, if otherwise valid, shall be counted and tallied together with the regular ballots cast in the election. The county commission, as the board of canvassers, shall protect the privacy of each provisional ballot cast. The county commission shall disregard technical errors, omissions or oversights if it can reasonably be ascertained that the challenged voter was entitled to vote.

(f) Any person duly appointed as an Election Commissioner or clerk under the provisions of section twenty-eight of this article who serves in that capacity in a precinct other than the precinct in which the person is legally entitled to vote may cast a provisional ballot in the precinct in which the person is serving as a commissioner or clerk. The ballot is not invalid for the sole reason of having been cast in a precinct other than the precinct in which the person is legally entitled to vote. The county commission shall record the provisional ballot on the voter's permanent registration record: *Provided*, That the county commission may count only the votes for the offices that the voter was legally authorized to vote for in his or her own precinct.

(g) The Secretary of State shall establish a free access system, which may include a toll-free telephone number or an Internet website, that may be accessed by any individual who casts a provisional ballot to discover whether his or her vote was counted and, if not, the reason that the vote was not counted.

§3-1-51. Identity verification of voters executing voter identity affidavit.

(a) The clerk of the county commission shall cause a letter to be mailed by first class mail to each voter who executed a voter identity affidavit pursuant to section thirty-four of this article. The letter shall be mailed within sixty days after the election. The clerk shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information. The letter shall notify the addressee that a person who did not present valid photo identification voted using his or her name and address and instruct the addressee to contact the clerk immediately if he or she did not vote. The letter shall also inform the addressee of the procedure for obtaining a nondriver's picture identification card for voting purposes.

(b) The clerk of the county commission shall cause letters mailed pursuant to subsection (a) of this section that are returned as undeliverable by the United States Post Office to be referred to the Secretary of State. The clerk shall also prepare and forward to the Secretary of State a list of all persons who were mailed letters under subsection (a) of this section and who notified the clerk that they did not vote. Upon receipt of notice from a person who receives a letter mailed pursuant to subsection (a) of this section that the person did not vote, or upon receipt of a referral from the clerk, the Secretary of State shall cause an investigation to be made to determine whether fraudulent voting occurred. Beginning July 1, 2019 and each year thereafter, the Secretary of State shall submit a report to the Joint Committee on the Judiciary and the Joint Committee on Government and Finance detailing the results of all investigations of voter identity affidavits, including, but not limited to, the number of investigations, the number of ballots cast, and the number and results of any determinations made regarding fraudulent voting.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-11. Registration in conjunction with driver licensing.

(a) The Division of Motor Vehicles or other division or department that may be established by law to perform motor vehicle driver

licensing services shall obtain, provide each qualified registrant, as an integral and simultaneous part of every process of application for the issuance, renewal or change of address of a motor vehicle driver's license or official identification card pursuant to the provisions of article two, chapter seventeen b of this code, ~~a voter registration application as prescribed in section five of this article~~ when the division's regional offices are open for regular business. ~~An individual may apply for voter registration using an approved electronic voter registration system if available at a Division of Motor Vehicles regional office.~~ the following information from each qualified registrant:

(1) Full name, including first, middle, last and any premarital names;

(2) Date of birth;

(3) Residence address and mailing address, if different;

(4) The applicant's electronic signature;

(5) Telephone number, if available;

(6) Email address, if available;

(7) Political party membership, if any;

(8) Driver's license number and last four digits of social security number;

(9) A notation that the applicant has attested that he or she meets all voter eligibility requirements, including United States citizenship;

(10) Whether the applicant affirmatively declined to become registered to vote during the transaction with the Division of Motor Vehicles;

(11) Date of application; and

(12) Any other information specified in rules adopted to implement this section.

(b) Unless the applicant affirmatively declines to become registered to vote or update their voter registration during the transaction with the Division of Motor Vehicles, the Division of Motor Vehicles shall release all of the information obtained pursuant to subsection (a) of this section to the Secretary of State who shall forward the information to the county clerk for the relevant county to process the newly registered voter or updated information for the already registered voter pursuant to law. Notwithstanding any other provision of this code to the contrary, if the applicant affirmatively declines to become registered to vote, the Division of Motor Vehicles is required to release the first name, middle name, last name, premarital name, if applicable, complete residence address, complete date of birth of an applicant and the applicant's electronic signature, entered in the division's records for driver license or nonoperator identification purposes to the Office of the Secretary of State in order to facilitate any future attempt of the applicant to register to vote online, along with the notation that the applicant affirmatively declined to become registered at that time. The Division of Motor Vehicles shall notify that applicant that by submitting his or her signature, the applicant grants written consent for the submission of the information obtained and required to be submitted to the Office of the Secretary of State pursuant to this section. upon notice and written consent of the applicant. The notice and consent is a required component of an electronic voter registration application made available to the general public by the Secretary of State. The release of an applicant's signature by the Division of Motor Vehicles to the Office of the Secretary of State applies to any voter registration application approved through an electronic voter registration system approved by the Secretary of State regardless of the location of the online user and provided the user grants written consent.

(c) A person who fails to sign the voter registration application or who fails to return the voter registration application to a driver

~~licensing facility or to an appropriate voter registration office is considered to have declined to register.~~ Information regarding a person's failure to sign the voter registration application is confidential and may not be used for any purpose other than to determine voter registration.

(d) A qualified voter who submits the application for registration required information and does not affirmatively decline to become registered or update their voter registration, pursuant to the provisions of subsection (a) of this section, in person at a driver licensing facility at the time of applying for, obtaining, renewing or transferring his or her driver's license or official identification card and who presents identification and proof of age at that time is not required to make his or her first vote in person or to again present identification in order to make that registration valid.

(e) A qualified voter who submits by mail or by delivery by a third party an application for registration on the form used in conjunction with driver licensing is required to make his or her first vote in person and present identification as required for other mail registration in accordance with the provisions of subsection (g), section ten of this article. If the applicant has been previously registered in the jurisdiction and the application is for a change of address, change of name, change of political party affiliation or other correction, the presentation of identification and first vote in person is not required.

(f) An application for voter registration submitted pursuant to the provisions of this section updates a previous voter registration by the applicant and authorizes the cancellation of registration in any other county or state in which the applicant was previously registered.

(g) A change of address from one residence to another within the same county which is submitted for driver licensing or nonoperator's identification purposes in accordance with applicable law serves as a notice of change of address for voter registration purposes if requested by the applicant after notice and written consent of the applicant.

(h) Completed applications for voter registration or change of address for voting purposes received by an office providing driver licensing services shall be forwarded to the Secretary of State within five days of receipt unless other means are available for a more expedited transmission. The Secretary of State shall remove and file any forms which have not been signed by the applicant and shall forward completed, signed applications to the clerk of the appropriate county commission within five days of receipt.

(i) Voter registration application forms containing voter information which are returned to a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted to the Secretary of State and maintained by the Secretary of State's office according to the retention policy adopted by the Secretary of State.

(j) The Secretary of State shall establish procedures to protect the confidentiality of the information obtained from the Division of Motor Vehicles, including any information otherwise required to be confidential by other sections of this code.

(k) A person registered to vote pursuant to this section may cancel his or her voter registration at any time by any method available to any other registered voter.

(l) This section shall not be construed as requiring the Division of Motor Vehicles to determine eligibility for voter registration and voting.

(m) The changes made to this section during the 2016 Regular Legislative Session shall become effective on July 1, 2017, and any costs associate therewith shall be paid by the Division of Motor Vehicles. If the Division of Motor Vehicles is unable to meet the requirements of this section by February 1, 2017, it shall make a presentation to the Joint Committee on Government and Finance explaining any resources necessary to meet the requirements or any changes to the code that it recommends immediately prior to the 2017 Regular Legislative Session.

(n) The Secretary of State may propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code in order to implement the requirements of this section.

§3-2-12. Combined voter registration and driver licensing fund; transfer of funds.

(a) Fifty cents of each license fee collected pursuant to the provisions of section one, article three, chapter seventeen of this code shall be paid into the State Treasury to the credit of a special revenue fund to be known as the 'Combined Voter Registration and Driver Licensing Fund'. The moneys so credited to such fund may be used by the Secretary of State for the following purposes:

(1) Printing and distribution of combined driver licensing or other agency applications and voter registration forms, or for the printing of voter registration forms to be used in conjunction with driver licensing or other agency applications, or for implementing the automatic voter registration program authorized in section eleven of this article;

(2) Printing and distribution of mail voter registration forms for purposes of this article;

(3) Supplies, postage and mailing costs for correspondence relating to voter registration for agency registration sites and for the return of completed voter registration forms to the appropriate state or county election official;

(4) Reimbursement of postage and mailing costs incurred by clerks of the county commissions for sending a verification mailing, confirmation of registration or other mailings directly resulting from an application to register, change or update a voter's registration through a driver licensing or other agency;

(5) Reimbursement to state funded agencies, with the exception of the Division of Motor Vehicles, designated to provide voter

registration services under this chapter for personnel costs associated with the time apportioned to voter registration services and assistance;

(6) The purchase, printing and distribution of public information and other necessary materials or equipment to be used in conjunction with voter registration services provided by state funded agencies designated pursuant to the provisions of this article;

(7) The development and continued maintenance of a statewide program of uniform voter registration computerization for use by each county registration office and the Secretary of State, purchase of uniform voter registration software, payment of software installation costs and reimbursement to the county commissions of not more than fifty percent of the cost per voter for data entry or data conversion from a previous voter registration software program;

(8) Efforts to maintain correct voter information and conduct general list maintenance to remove ineligible voters and ensure new residents receive voter registration information, including collaborating with other states and non-profit corporations dedicated to improving the election system; ~~Payment of up to fifty percent of the costs of conducting a joint program with participating counties to identify ineligible voters by using the United States postal service information as provided in section twenty-five of this article: *Provided*, That such assistance shall be available only to counties which maintain voter registration lists on the statewide uniform voter data system; and~~

(9) Payment of any dues or fees associated with a program to match and transfer data to and from other states;

(10) Resources related to voter registration and list maintenance;
and

~~(9)~~ (11) Payment or reimbursement of other costs associated with implementation of the requirements of the National Voter Registration Act of 1993 (42 U. S. C. 1973gg): *Provided*, That revenue received by

the fund in any fiscal year shall first be allocated to the purposes set forth in subdivisions (1) through ~~(8)~~ (10), inclusive, of this subsection.

(b) The Secretary of State shall promulgate rules pursuant to the provisions of chapter twenty-nine-a of this code to provide for the administration of the fund established in subsection (a) of this section.

(c) Any balance in the fund created by subsection (a) of this section which exceeds \$100,000 as of June 30, 2017, and on June 30 of each year thereafter, shall be transferred to the General Revenue Fund.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-1. Drivers must be licensed; types of licenses; licensees need not obtain local government license; motorcycle driver license; identification cards.

(a) (1) No person, except those hereinafter expressly exempted, may drive ~~any~~ a motor vehicle upon a street or highway in this state or upon ~~any~~ a subdivision street used by the public generally unless the person has a valid driver's license issued pursuant to this code for the type or class of vehicle being driven.

(2) Any person licensed to operate a motor vehicle pursuant to this code may exercise the privilege thereby granted in the manner provided in this code and, except as otherwise provided by law, is not required to obtain any other license to exercise the privilege by ~~any~~ a county, municipality or local board or body having authority to adopt local police regulations.

(b) The division, upon issuing a driver's license, shall indicate on the license the type or general class or classes of vehicles the licensee may operate in accordance with this code, federal law or rule. Licenses shall be issued in different colors for those drivers under age eighteen, those drivers age eighteen to twenty-one and adult drivers. The

commissioner is authorized to select and assign colors to the licenses of the various age groups.

(c) The following drivers licenses classifications are hereby established:

(1) A Class A, B or C license shall be issued to those persons eighteen years of age or older with two years of driving experience who have qualified for the commercial driver's license established by chapter seventeen-e of this code and the federal Motor Carrier Safety and Improvement Act of 1999 and subsequent rules and have paid the required fee.

(2) A Class D license shall be issued to those persons eighteen years and older with one year of driving experience who operate motor vehicles other than those types of vehicles which require the operator to be licensed under the provisions of chapter seventeen-e of this code and federal law and rule and whose primary function or employment is the transportation of persons or property for compensation or wages and have paid the required fee. For the purpose of regulating the operation of motor vehicles, wherever the term 'chauffeur's license' is used in this code, it ~~shall be construed to mean~~ means the Class A, B, C or D license described in this section or chapter seventeen-e of this code or federal law or rule: *Provided*, That anyone not required to be licensed under the provisions of chapter seventeen-e of this code and federal law or rule and who operates a motor vehicle registered or required to be registered as a Class A motor vehicle, as that term is defined in section one, article ten, chapter seventeen-a of this code, with a gross vehicle weight rating of less than eight thousand one pounds, is not required to obtain a Class D license.

(3) A Class E license shall be issued to ~~those~~ persons who have qualified for a driver's license under the provisions of this chapter and who are not required to obtain a Class A, B, C or D license and who have paid the required fee. The Class E license may be endorsed under the provisions of section seven-b of this article for motorcycle

operation. The Class E or ~~(G)~~ G license for ~~any~~ a person under the age of eighteen may also be endorsed with the appropriate graduated driver license level in accordance with the provisions of section three-a of this article.

(4) A Class F license shall be issued to those persons who successfully complete the motorcycle examination procedure provided by this chapter and have paid the required fee but who do not possess a Class A, B, C, D or E driver's license.

(5) A Class G driver's license or instruction permit shall be issued to a person using bioptic telescopic lenses who has successfully completed an approved driver training program and complied with all other requirements of article two-b of this chapter.

(d) All licenses issued under this section may contain information designating the licensee as a diabetic, organ donor, as deaf or hard-of-hearing, or as having any other handicap or disability or that the licensee is an honorably discharged veteran of any branch of the Armed Forces of the United States, according to criteria established by the division, if the licensee requests this information on the license. An honorably discharged veteran may be issued a replacement license without charge if the request is made before the expiration date of the current license and the only purpose for receiving the replacement license is to get the veterans designation placed on the license.

(e) No person, except those hereinafter expressly exempted, may drive ~~any~~ a motorcycle ~~upon~~ on a street or highway in this state or ~~upon any~~ on a subdivision street used by the public generally unless the person has a valid motorcycle license, a valid license which has been endorsed under section seven-b of this article for motorcycle operation or a valid motorcycle instruction permit.

(f) (1) An identification card may be issued to any a person who:

(A) Is a resident of this state in accordance with the provisions of section one-a, article three, chapter seventeen-a of this code;

(B) Has reached the age of two years ~~The division may also issue an identification card to a person under the age of two years, for good cause shown, or, for good cause shown, under the age of two.~~

(C) Has paid the required fee of \$2.50 per year: *Provided*, That ~~the fee is not~~ no fees or charges, including renewal fees, are required if the applicant:

(i) Is sixty-five years or older; ~~or~~

(ii) Is legally blind; ~~and~~ or

(iii) Will be at least eighteen years of age at the next general, municipal or special election and intends to use this identification card as a form of identification for voting; and

(D) Presents a birth certificate or other proof of age and identity acceptable to the division with a completed application on a form furnished by the division.

(2) The identification card shall contain the same information as a driver's license except that the identification card shall be clearly marked as an identification card. The division may issue an identification card with less information to persons under the age of sixteen. An identification card may be renewed annually on application and payment of the fee required by this section.

(A) Every identification card issued to a person who has attained his or her twenty-first birthday expires on the licensee's birthday in those years in which the licensee's age is evenly divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card may be issued for less than three years or for more than seven years and expires on the licensee's birthday in those years in which the licensee's age is evenly divisible by five.

(B) Every identification card issued to a person who has not attained his or her twenty-first birthday expires thirty days after the licensee's twenty-first birthday.

(C) Every identification card issued to persons under the age of sixteen shall be issued for a period of two years and shall expire on the last day of the month in which the applicant's birthday occurs.

(3) The division may issue an identification card to an applicant whose privilege to operate a motor vehicle has been refused, canceled, suspended or revoked under the provisions of this code.

(g) For any person over the age of fifty years who wishes to obtain a driver's license or identification card under the provisions of this section:

(1) A raised seal or stamp on the birth certificate or certified copy of the birth certificate is not required if the issuing jurisdiction does not require one; and

(2) If documents are lacking to prove all changes of name in the history of any such applicant, applicants renewing a driver's license or identification card under the provisions of this section may complete a Name Variance Approval Document as instituted by the division, so long as they can provide:

(A) Proof of identity;

(B) Proof of residency; and

(C) A valid Social Security number.

(3) The division may waive any documents necessary to prove a match between names, so long as the division determines the person is not attempting to:

(A) Change his or her identity;

(B) Assume another person's identity; or

(C) Commit a fraud.

(h) A person over the age of seventy years, or who is on Social Security disability, who wishes to obtain or renew a driver's license or identification card under the provisions of this section, may not be required to furnish a copy of a birth certificate if they can provide:

(1) Proof of identity;

(2) Proof of residency;

(3) A valid Social Security number; and

(4) One of the following identifying items:

(A) A form of military identification, including a DD214 or equivalent;

(B) An US passport, whether valid or expired;

(C) School records, including a yearbook;

(D) A religious document, that in the judgment of the Division is sufficient and authentic to reflect that the person was born in the United States; or

(E) An expired driver's license, employment identification card, or other reliable identification card with a recognizable photograph of the person.

~~(g)~~ (i) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500 and, upon a second or subsequent conviction, shall be fined not more than \$500 or confined in jail not more than six months, or both fined and confined.”

And,

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

Com. Sub. for H. B. 4013 — “A Bill to amend and reenact §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §3-1-51; to amend and reenact §3-2-11 and §3-2-12 of said code; and to amend and reenact §17B-2-1 of said code, all relating to voting procedures; requiring a person desiring to vote on or after January 1, 2018, to present valid document identifying the voter to one of the poll clerks; requiring poll clerk to inspect valid identifying document and confirm information with individual’s voter registration record; requiring poll clerk to confirm that displayed image is truly an image of the person presenting the document; setting forth requirements for valid identifying document; identifying documents considered to be valid identifying document; permitting registered voter to be accompanied to polling place by adult known to registered voter for at least six months; permitting voter to vote if accompanying adult signs affidavit and presents valid identifying document; authorizing poll worker to allow voter known to the poll worker for at least six months to vote without presenting valid identifying document; permitting person desiring to vote to cast provisional ballot after executing affidavit; setting conditions for counting of provisional ballot; setting content of affidavit to be used for casting provisional ballot; permitting voter who votes in person at precinct polling place located in building which is part of state licensed care facility where voter is resident without presenting valid identifying document; permitting voter to cast ballot if voter objects to photograph requirement because of religious beliefs if he or she executes an affidavit of religious exemption; providing text of affidavit for religious exemption; requiring person entering voter information into centralized voter registration database to notate when a voter has not presented valid identifying documentation and executed a voter identity affidavit; making confidential voter’s residential or mailing address if voter is participant in Address Confidentiality Program except for certain statutory and administrative purposes; directing Secretary of State to educate voters about requirement to present valid identifying document; requiring Secretary of State to develop a program to help ensure that all eligible

voters obtain identification; directing members of receiving board to challenge the right of person requesting ballot to vote in election if person fails to present valid identifying documentation; modifying provisional ballot procedures; requiring clerk of county commission to send letter to voters who execute voter identity affidavit; setting deadline for letters to be mailed; specifying contents of letter; directing clerk of county commission to cause letters returned as undeliverable to be referred to Secretary of State; directing clerk of county commission to forward to Secretary of State a list of persons who were mailed letters and notified clerk that they did not vote; requiring Secretary of State to investigate to determine whether fraudulent voting occurred; requiring Secretary of State to submit report to Joint Committee on the Judiciary and Joint Committee on Government and Finance detailing results of all investigations of voter identity affidavits; requiring Division of Motor Vehicles to collect certain information from individuals who are being issued, are renewing, or changing address for a driver's license or official identification card; requiring Division of Motor Vehicles to release all information obtained to Secretary of State unless applicant affirmatively declines to become registered to vote or update voter registration; requiring Secretary of State to forward information to county clerk for relevant county to process newly registered voter or updated information for already-registered voter; requiring Division of Motor Vehicles to release certain information to Secretary of State if applicant affirmatively declines to become registered to vote; requiring Division of Motor Vehicles to notify applicant that signature submission grants written consent for submission of that information; clarifying that qualified voter who is automatically registered to vote need not present identification in order to make registration valid; directing Secretary of State to establish procedures to protect confidentiality of information obtained from Division of Motor Vehicles; permitting person registered to vote to cancel voter registration at any time; clarifying that Division of Motor Vehicles not required to determine eligibility for voter registration and voting; making changes regarding automatic voter registration effective July 1, 2017; requiring Division

of Motor Vehicles report to Joint Committee on Government and Finance if unable to meet requirements by February 1, 2017; authorizing Secretary of State promulgate legislative rules; permitting certain uses of moneys in Combined Voter Registration and Driver Licensing Fund; requiring balance in Fund in excess of \$100,000 be transferred to General Revenue annually; prohibiting Division of Motor Vehicles from charging fees for issuance of identification card if applicant intends to use identification card as form of identification for voting; providing certain provisions for issuance of driver's license or identification card to persons over the age of fifty years; and providing certain provisions for issuance of driver's license or identification card to persons over the age of seventy years."

On motion of Delegate Cowles, the House of Delegates refused to concur in the Senate amendments and requested the Senate to recede therefrom.

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. 4174, Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the following Senate amendments were reported by the Clerk:

On page one, by striking out everything following the enacting section and inserting in lieu thereof the following:

“CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-58. Shooting across road or near building or crowd; penalty.

(a) In addition to any other prohibitions which may exist by law, it shall be unlawful for any person to shoot or discharge any firearms:

(1) Across or in any public road in this state, at any time;

(2) Within five hundred feet of any school or church; or

(3) Within five hundred feet of any dwelling house: *Provided*, That a person who is a resident of a dwelling house, and his or her authorized guest, may shoot or discharge a firearm in a lawful manner within five hundred feet of the dwelling house where the person lives, if the firearm is being discharged with the express or implied knowledge and consent of all residents of that dwelling house, and no other dwelling houses are located within five hundred feet of where the firearm is discharged; or

(4) ~~On In or near any state, county or municipal park in areas of which the discharge of firearms is prohibited or other place where persons gather for purposes of pleasure.~~

(b) Any person violating 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 for not more than one hundred days, or both fined and confined.

~~(b)~~ (c) Notwithstanding the provisions of subsection (a) of this section, any person operating a gun repair shop, licensed to do business in the State of West Virginia and duly licensed under applicable federal statutes, may be exempted from the prohibition established by this section and section twelve, article seven, chapter sixty-one of this code for the purpose of test firing a firearm. The director of the Division of Natural Resources shall prescribe such rules as may be necessary to carry out the purposes of the exemption under this section and section twelve, article seven, chapter sixty-one and shall ensure that any person residing in any dwelling home within five hundred feet of such gun

repair shop be given an opportunity to protest the granting of such exemption.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-23. Shooting range; limitations on nuisance actions.

(a) As used in this section:

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

(2) ‘Shooting range’ or “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 range was established as of the date of the person acquiring the property. If there is a substantial change in use of the range or there is a period of shooting inactivity at a range exceeding one year after the person acquires the property, 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 range, or the resumption of shooting activity.

(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 range only if the action is brought within ~~four~~ two years after establishment of the range or two years after a substantial change in use of the range or from the time shooting activity is resumed.

~~(d) If there has been no shooting activity at a range for a period of two years, resumption of shooting is considered establishment of a new range for the purposes of this section. Actions authorized by the~~

provisions of this section are not applicable to indoor shooting ranges the owner or operator of which holds all necessary and required licenses and the shooting range is in compliance with all applicable state, county and municipal laws, rules or ordinances regulating the design and operation of such facilities.”

And,

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

Com. Sub. for H. B. 4174 – “A Bill to amend and reenact §20-2-58 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-6-23 of said code, all relating to shooting ranges generally; exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house; amending the definition of ‘shooting range’ to include an indoor range; exempting activity at indoor shooting ranges from criminal penalties for violations for shooting or discharging a firearm within five hundred feet of any church or dwelling house; modifying and clarifying the limitations on nuisance actions against shooting ranges; and exempting indoor shooting ranges which have necessary licenses and are compliant with applicable laws, rules or ordinance from nuisance law.”

On motion of Delegate Cowles, the House of Delegates refused to concur in the Senate amendments and requested the Senate to recede therefrom.

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. 4014, Preventing the State Board of Education from implementing common core academic standards and assessments.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendment with further amendment:

On pages five through eleven, section five, lines eighty-four through two hundred thirty, by striking out all of subsections (d) and (e) and inserting in lieu thereof the following:

“(d) West Virginia Academic Standards. —

(1) Legislative authority B Sections one, two and twelve, article XII of the Constitution of the State of West Virginia impose a duty upon the Legislature, as a separate but equal branch of government:

(A) To ‘provide, by general law, for a thorough and efficient system of free schools’;

(B) To prescribe by law the duties of the state board in the general supervision of free public schools;

(C) To prescribe by law the powers and duties of the state superintendent; and

(D) To foster and encourage moral, intellectual, scientific and agricultural improvement in schools.

(2) For purposes of this subsection, ‘academic standards’ are concise, written descriptions of what students are expected to know and be able to do at a specific stage of their education. Academic standards describe what students should have learned by the end of a course, grade level or grade span.

(3) The Legislature recognizes that on December 15, 2015, the state board adopted what it represented were academic standards no longer aligned with Common Core State Standards and renamed them ‘West Virginia College–and–Career–Readiness Standards for English Language Arts (Policy 2520.1A)’ and ‘West Virginia

College-and-Career-Readiness Standards for Mathematics (Policy 2520.1B)'.

(4) The Legislature hereby establishes an Academic Standards Evaluation Panel. The panel shall consist of six appointed members and one ex officio member. The deans responsible for the math programs, the deans responsible for the English programs and the deans responsible for the science programs at West Virginia University and Marshall University shall each appoint one member: *Provided*, That any dean that is responsible for more than one of the three programs shall appoint one member for each program he or she is responsible for. The Chancellor of the Higher Education Policy Commission, or his or her designee, shall serve as an ex officio member and be responsible for facilitating the work of the panel. The Academic Standards Evaluation Panel shall:

(A) Using the West Virginia College-and-Career-Readiness Standards for English Language Arts and Mathematics as a framework, evaluate and recommend revisions to the standards based on empirical research and data to ensure grade-level alignment to the standards of states with a proven track record of consistent high-performing student achievement in English Language Arts on the National Assessment of Educational Progress; and in Mathematics, on both the National Assessment of Educational Progress and Trends in Math and Science Study International Assessment;

(B) Review the Next Generation Content Standards and Objectives for Science in West Virginia Schools and recommend revisions that it considers appropriate;

(C) Remove common core strategies that require instructional methods;

(D) Use facilities, staff and supplies provided by the Higher Education Policy Commission;

(E) Submit its evaluation and recommended revisions to the state board and the Legislative Oversight Commission on Education Accountability by October 1, 2016.

(5) The state board shall withdraw from the Memorandum of Agreement entered into with the Council of Chief State School Officers and the National Governors Association for Best Practices, which required the state board to agree that common core represents eighty-five percent of West Virginia's standards in English Language Arts and Mathematics and withdraw as a governing state in the Smarter Balanced Assessment Consortium.

(6) Any academic standard adopted by the state board shall meet the following criteria:

(A) Be age level and developmentally appropriate, particularly as it relates to sequencing of content standards and the measurement of student academic performance;

(B) Be free of instructional strategies;

(C) Meet national and international benchmarks empirically proven to increase and sustain student achievement; and

(D) Be based solely on academic content.

(7) The Legislative Oversight Commission on Education and Accountability shall review any proposed rules relating to academic standards to determine whether the board has exceeded the scope of its statutory authority in approving the proposed legislative rule and whether the proposed legislative rule is in conformity with the legislative intent of the provisions of this subsection. The Legislative Oversight Commission on Education and Accountability may, at its discretion, hold public hearings, recommend to the board any changes needed to comply with the legislative intent of this subsection and make recommendations to the Legislature for any statutory changes needed to clarify the legislative intent of this statute.

~~(d)~~(e) *Comprehensive statewide student assessment program.* — The state board shall establish a comprehensive statewide student assessment program to assess student performance and progress in grades three through through twelve. The assessment program is subject to the following:

(1) The state board shall promulgate a rule in accordance with the provisions of article three b, chapter twenty nine a of this code establishing the comprehensive statewide student assessment program;

(2) Prior to the 2014-2015 school year, the state board shall align the comprehensive statewide student assessment for all grade levels in which the test is given with the college readiness standards adopted pursuant to section thirty nine, article two of this chapter or develop other aligned tests to be required at each grade level so that progress toward college readiness in English/language arts and math can be measured:

(3) The state board may require that student proficiencies be measured through the ACT EXPLORE and the ACT PLAN assessments or other comparable assessments, which are approved by the state board and provided by future vendors;

(1) For federal and state accountability purposes, the state board shall review and approve a summative assessment system for administration to all public school students, beginning in school year 2016-2017, in grades three through eight and once in early high school that assesses students in English, reading, writing, science and mathematics: *Provided*, That the assessment in science may only be administered once during the grade span of three through five and once during the grade span of six through eight. The assessment shall include those students as required by the federal Individuals with Disabilities Education Act and by Title I of the Elementary and Secondary Education Act. The summative assessment system must meet the following requirements:

(A) Be a vertically-scaled, benchmarked, standards-based system of summative assessments;

(B) Document student progress toward national college and career readiness benchmarks derived from empirical research and state standards;

(C) Be capable of measuring individual student performance in English, reading, writing, science and mathematics: *Provided*, That the assessment in science may only be administered once during the grade span of three through five and once during the grade span of six through eight;

(D) Be available in paper-and-pencil and computer-based formats;

(E) Be a predictive measure of student progress toward a national college readiness assessment used by higher education institutions for admissions purposes; and

(F) Be aligned or augmented to align with the standards in effect at the time the test is administered.

(2) The state board shall review and approve a college readiness assessment to be administered to all students in the eleventh grade for the first time in school year 2016-2017 and subsequent years. The eleventh grade college readiness assessment shall be administered at least once to each eleventh grade student and shall meet the following requirements:

(A) Be a standardized, curriculum-based, achievement college entrance examination;

(B) Assess student readiness for first-year, credit-bearing coursework in postsecondary education;

(C) Test in the areas of English, reading, writing, science and mathematics;

(D) Have content area benchmarks for measuring student achievement;

(E) Be administered throughout the United States;

(F) Be relied upon by institutions of higher education for admissions; and

(G) Be aligned or augmented to align with the standards in effect at the time the test is administered.

(3) The state board shall review and approve career readiness assessments and assessment-based credentials that measure and document foundational workplace skills. The assessments shall be administered to public secondary school students in grades eleven or twelve for the first time in school year 2016-2017 and subsequent years: *Provided*, That the career readiness assessment is voluntary and may only be administered to students who elect to take the assessment. The assessment-based credential shall be available to any student who achieves at the required level on the assessments. The assessments shall meet the following requirements:

(A) Be a standardized, criterion-referenced, measure of broadly relevant foundational workplace skills;

(B) Assess and document student readiness for a wide range of jobs;

(C) Measure skills in all or any of the following areas:

(i) Applied mathematics;

(ii) Locating information; or

(iii) Reading for information;

(D) Align with research-based skill requirement profiles for specific industries and occupations;

(E) Lead to a work readiness certificate for students who meet the minimum proficiency requirements on the component assessments; and

(F) Be available in paper-and-pencil and computer-based formats.

(4) The state board shall not acquire or implement any assessment instrument or instruments developed to specifically align with the Common Core State Standards including Smarter Balanced Assessment or Partnership for Assessment of Readiness for College and Careers (PARCC).

(5) For any online assessment, the state board shall provide online assessment preparation to ensure that students have the requisite digital literacy skills necessary to be successful on the assessment.

(6) The state board shall develop a plan and make recommendations regarding end-of- course assessments and student accountability measures and submit its findings to the Legislative Oversight Commission on Education and Accountability by December 31, 2016.

(7) The state board shall develop a policy which sets forth accountability measures for students taking the comprehensive statewide assessment.

(8) Any summative assessment approved by the state board shall take no more than two percent of a student's instructional time.

~~(4)~~ (9) The state board may require that student proficiencies be measured through the West Virginia writing assessment at any grade levels determined by the state board to be appropriate.

~~(6)~~ (10) The state board may provide through ~~the statewide assessment program~~ policy other optional testing or assessment instruments applicable to grade levels kindergarten through eight and grade eleven which may be used by each school to promote student achievement. The state board annually shall publish and make available, electronically or otherwise, to school curriculum teams and teacher collaborative processes the optional testing and assessment instruments.”

On page eighteen, section five, line four hundred eighteen, after the word “appeals” and the period, by striking out the remainder of the subdivision.

And,

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

Com. Sub. for H. B. 4014 – “A Bill to amend and reenact §18 2E 5 of the Code of West Virginia, 1931, as amended, all relating generally to process for improving education; removing reference to No Child Left Behind Act; adding digital literacy to list of areas that State Board of Education is required to adopt high-quality education standards in; making findings with respect to Legislature’s constitutional authority; defining ‘academic standards’; recognizing state board’s adoption and renaming of certain standards; establishing Academic Standards Evaluation Panel; establishing membership of panel; establishing duties of panel; requiring withdrawal from Memorandum of Agreement relating to adoption of Common Core State Standards; requiring withdrawal as governing state in Smarter Balanced Assessment Consortium; establishing criteria for any academic standards adopted by state board; requiring Legislative Oversight Commission on Education and Accountability to review any proposed rules relating to academic standards; removing requirement for state board rule establishing comprehensive statewide student assessment program; removing requirement that assessment be aligned with certain standards and associated alterative; removing state board authority to require ACT EXPLORE and ACT PLAN or other comparable assessments; requiring state board to review and approve summative assessment for certain grade levels to assess in certain subject areas; requiring summative assessment include students as required by certain federal laws; requiring that summative assessment meet certain requirements; requiring state board to review and approve college readiness assessment for students in eleventh grade; requiring college readiness assessment to be administered at least once to each eleventh-grade student; requiring college readiness assessment meet

certain requirements; requiring state board to review and approve career readiness assessments and assessment based credentials; providing that career readiness assessment is voluntary for students; requiring that assessment-based credential be available to any student that achieves at required level on the required assessments; requiring career readiness assessments meet certain requirements; prohibiting implementation of any assessment developed specifically to align with Common Core State Standards; requiring online assessment preparation for any online assessment; requiring state board to develop plan and make recommendations regarding end-of-course assessments and student accountability measures; establishing reporting requirements; requiring the state board to develop policy that sets forth accountability measures for students taking comprehensive statewide assessment; establishing maximum percentage of instructional time for summative assessment; and removing required report to Legislative Oversight Commission on Education Accountability pertaining to on-site review finding appeals.”

On motion of Delegate Cowles, the amendment was amended on page four, section five, line seventy-nine, after the word “eight”, by striking out the words “and once in early high school”.

On page six, section five, line one hundred thirty-three, after the word “instruments”, by inserting the words “or test items”.

And,

One page seven, section five, line one hundred forty-two, by striking out all of subdivision seven and renumbering the remaining subdivisions.

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. 556**), 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: Arvon.

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. 4014) passed.

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

Com. Sub. for H. B. 4014 – “A Bill to amend and reenact §18 2E 5 of the Code of West Virginia, 1931, as amended, all relating generally to process for improving education; removing reference to No Child Left Behind Act; adding digital literacy to list of areas that State Board of Education is required to adopt high-quality education standards in; making findings with respect to Legislature’s constitutional authority; defining ‘academic standards’; recognizing state board’s adoption and renaming of certain standards; establishing Academic Standards Evaluation Panel; establishing membership of panel; establishing duties of panel; requiring withdrawal from Memorandum of Agreement relating to adoption of Common Core State Standards; requiring withdrawal as governing state in Smarter Balanced Assessment Consortium; establishing criteria for any academic standards adopted by state board; requiring Legislative Oversight Commission on Education and Accountability to review any proposed rules relating to academic standards; removing requirement for state board rule establishing comprehensive statewide student assessment program; removing requirement that assessment be aligned with certain standards and associated alterative; removing state board authority to require ACT EXPLORE and ACT PLAN or other comparable assessments; requiring state board to review and approve summative assessment for certain grade levels to assess in certain subject areas; requiring summative assessment include students as required by certain federal laws; requiring that summative assessment meet certain requirements; requiring state board to review and approve college readiness assessment for students in eleventh grade; requiring college readiness assessment to be administered at least once to each

eleventh-grade student; requiring college readiness assessment meet certain requirements; requiring state board to review and approve career readiness assessments and assessment based credentials; providing that career readiness assessment is voluntary for students; requiring that assessment-based credential be available to any student that achieves at required level on the required assessments; requiring career readiness assessments meet certain requirements; prohibiting implementation of any assessment or test items developed specifically to align with Common Core State Standards; requiring online assessment preparation for any online assessment; requiring state board to develop plan and make recommendations regarding end-of-course assessments and student accountability measures; establishing reporting requirements; establishing maximum percentage of instructional time for summative assessment; and removing required report to Legislative Oversight Commission on Education Accountability pertaining to on-site review finding appeals.”

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

Resolutions Introduced

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

H. C. R. 119 – “Requesting the Joint Committee on Government and Finance to study a mechanism to allow nonresidents of a municipality who are users of that municipality’s fire service to opt out of fire protection coverage by the municipality.”

Whereas, The Joint Committee on Government and Finance is hereby requested to conduct a study on how to allow nonresidents of a municipality who own property within rural fire protection districts to opt out of fire protection coverage by a municipality while remaining financially responsible for services actually rendered to such property; and

Whereas, In conducting this study, the Joint Committee on Government and Finance is requested to review the following measures: capping the amount of fire protection fees which may be imposed; providing for a referendum on the issue of fire service; and the appropriate petition requirements for triggering a referendum; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study a mechanism to allow persons with property within rural fire protection districts to opt out of fire protection coverage by a municipality for a specified property while remaining financially responsible for services actually rendered to such property; and, be it

Further Resolved, That The Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, 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 Canterbury offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 120 – “Requesting the Joint Committee on Government and Finance to study potential improvements to pensions for retired teachers and public employees who have been retired for ten or more years, including potential one-time improvements, potential ongoing improvements, and potential improvements for specific classes of retirees categorized by length of retirement in five year increments.”

Whereas, Current pension programs for retired teachers and public employees, TRS (Teacher’s Retirement System) and PERS (Public

Employment Retirement System), do not allow for cost-of-living adjustments to pension distributions over time that account for rising inflation and cost-of-living, causing retired teachers and public employees substantial hardship in meeting basic living expenses; and

Whereas, With an average national inflation rate of 3.22% per year over the past twenty years, the pensions distributed to retired teachers and public employees who have been retired for twenty years or longer have lost more than half of their value during that time; and

Whereas, A large percentage of retired teachers and public employees receive less than \$1,000 per month in pension income, placing many individuals that rely on pensions as a sole source of income near or below the federal poverty line; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Joint Committee on Government and Finance study potential improvements to pensions for retired teachers and public employees who have been retired for ten or more years, including potential one-time improvements, potential ongoing improvements, and potential improvements for specific classes of retirees categorized by length of retirement in five year increments (individuals retired for 10-15 years, individuals retired 15-20 years, individuals retired 20-25 years, and so forth); and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, 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 Phillips offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 121 – “Requesting the Joint Committee on Government and Finance to study creating a mechanism for more frequent assessment procedures for County Commissions to reevaluate and appraise properties in areas that have been affected by a severe economic downturn.”

Whereas, Some regions of the State of West Virginia have been affected by economic downturn, and particularly on our coal mining regions, causing many residents to leave the state in search of jobs; and

Whereas, This exodus has resulted in rapidly falling property values in many abandoned properties in areas that have not been reflected in tax assessments of these properties; and

Whereas, County Commissions currently have no authority to reevaluate and reappraise properties in areas that have been affected by severe economic downturn outside of regularly scheduled reviews; and

Whereas, A lower property tax rate could encourage people to purchase property in this area, boosting the population and spurring future economic development; and

Whereas, Establishing a mechanism to allow more frequent property tax assessment in declining regions of the state would allow greater fairness and more accurate assessments of these properties, and provide tax relief to citizens who remain in their areas; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study creating a mechanism for more frequent assessment procedures for County Commissions to reevaluate and reappraise properties in areas that have been affected by severe economic downturn; and, be it

Further Resolved, That The Joint Committee on Government and Finance report to the Regular Session of the Legislature 2017, 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.

Mr. Speaker, Mr. Armstead, offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 122 – “Expressing the Legislature’s support for continued research by the medical community to find a cure for Multiple System Atrophy.”

Whereas, Multiple System Atrophy is an adult-onset, rapidly progressive, neurodegenerative disorder that affects both the autonomic nervous system and movement; and

Whereas, Multiple System Atrophy is a rare disease with symptoms appearing in a person’s fifties and affecting men twice as frequently as women; and

Whereas, Multiple System Atrophy advances rapidly over the course of five to ten years, with progressive loss of motor function and eventual confinement to bed and death; and

Whereas, While there are currently some treatments that help individuals cope with the symptoms of Multiple System Atrophy, there are no treatments to delay the progressive neurodegeneration and there is no cure; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature expresses support for continued research by the medical community to find a cure for Multiple System Atrophy.

Delegates A. Evans, Hamilton and Eldridge offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 123 – “Requesting the Joint Committee on Government and Finance study the impact of providing for the issuance of a home-based micro-processing permit for use by farmers market vendors.”

Whereas, The U. S. Food and Drug Administration has promulgated Recommendations of the United States Public Health Service which are also known as the “Federal Food Code”, and the 2005 edition of the Federal Food Code has been adopted by West Virginia in a legislative rule of the Department of Health and Human Resources, Title 64, Series 17, “Food Establishments”; and

Whereas, The Federal Food Code requires that a “food establishment” at which food is prepared and then sold be subject to commercial kitchen requirements; and

Whereas, West Virginia’s legislative rule contains several exceptions to the definition of the term “food establishment” and specifically excludes from that term “a kitchen in a private home if only food that is not potentially hazardous is prepared for sale”; and

Whereas, The 2009 Federal Food Code’s list of potentially hazardous foods includes the following: Meat, poultry and eggs; fish and shellfish; cooked vegetables; dairy products; mushrooms; cut melons; unmodified cut tomatoes or mixtures of cut tomatoes; untreated garlic-in-oil mixtures; baked goods subject to spoilage; reduced sugar jams and jellies; pickles and salsa; and raw seed sprouts; and

Whereas, Legislation has been proposed to provide for the issuance of a home-based micro-processing permit to allow the holder of such permit to prepare micro-processed foods in a kitchen in a private home or community kitchen for sale at a farmers market; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the potential economic benefits as well as the public health and food safety ramifications of amending article thirty-five, chapter nineteen of the Code of West Virginia to include a new section providing for the issuance of a home-based micro-processing permit and providing that a kitchen in a private home or community kitchen where home-based micro-processed foods are prepared for sale by a vendor at a farmers market is permitted if the vendor has a micro-processing permit; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2017, 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 reports and draft necessary legislation, be paid from legislative appropriations to the Joint Committee on Government and Finance.

Delegates A. Evans, Hamilton and Eldridge offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 124 – “Requesting the Joint Committee on Agriculture and Rural Development study the impact of amending section five, article twelve-e, chapter nineteen of the Code of West Virginia to expand the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp.”

Whereas, Section five, article twelve-e, chapter nineteen of the Code of West Virginia permits a person to apply to the Commissioner of Agriculture for the issuance of a license to grow industrial hemp for commercial purposes; and

Whereas, Subsection (e), section five, article twelve-e, chapter nineteen of the Code of West Virginia provides that only the Department of Agriculture and state institutions of higher learning, licensed and authorized by the commissioner to do so, may lawfully grow or cultivate industrial hemp in this state; and

Whereas, Legislation has been proposed to expand the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp in this state; therefore, be it

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the Joint Committee on Agriculture and Rural Development to study the impact, including, but not limited to, potential economic benefits and regulatory issues, of amending subsection (e), section five, article twelve-e, chapter nineteen of the Code of West Virginia to provide that, in addition to the Department of Agriculture and state institutions of higher learning, the Commissioner of Agriculture may license other persons qualified under article twelve-e, chapter nineteen of the Code of West Virginia to lawfully grow or cultivate industrial hemp in this state; and, be it

Further Resolved, That the Joint Committee on Agriculture and Rural Development report to the regular session of the Legislature, 2017, 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 these studies, to prepare reports and draft necessary legislation be paid from legislative appropriations to the Joint Committee on Agriculture and Rural Development.

Delegates Perdue, Ambler, Bates, Byrd, Ellington, D. Evans, Flanigan, Fleischauer, Hicks, Manchin, Marcum, Morgan, Moye, Pushkin, Rodighiero, Skinner, R. Smith and P. White offered the

following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 125 – “Requesting the Congressional Representatives of the State of West Virginia ask the federal government of the United States of America to reinstitute the Compassionate Investigational New Drug Program.”

Whereas, The Compassionate Investigational New Drug Program ceased to accept new patients beginning in 1992, leaving thousands without access to medication that could potentially cure their affliction; and

Whereas, The Compassionate Investigational New Drug Program allowed patients suffering from terminal illnesses or illnesses with no known cure the opportunity to try unapproved drugs and medications, including medical marihuana; and

Whereas, Medical marihuana has been proven to aid patients with terminal illnesses in recovering from other forms of treatment, such as chemotherapy; and

Whereas, More and more anecdotal reports from people that may have qualified for the Compassionate Investigational New Drug Program are showing that medical marihuana has helped them recover from severe illnesses and helped those with terminal illnesses with comfort and general well-being; and

Whereas, Studies produced by the National Organization for the Reform of Marijuana Laws show that medicinal cannabis could help people suffering from many other illnesses, including Alzheimer’s, Post Traumatic Stress Disorder, Multiple Sclerosis and Parkinson’s; and

Whereas, The reinstatement of the Compassionate Investigational New Drug Program would allow current and future patients suffering from painful, incurable or terminal illnesses an alternative to traditional medicine, which has shown to be addictive; therefore, be it

Resolved by the Legislative of West Virginia:

That the Legislature of the State of West Virginia hereby requests the Congressional Delegation from West Virginia request the federal government to reinstitute the Compassionate Investigational New Drug Program to aid suffering citizens in their fight against their terrible illnesses; and, be it

Further Resolved, That the Clerk of the House of Delegates forward a certified copy of this resolution to the United States Senators Joe Manchin, III and Shelley Moore Capito and to Congressional Representatives David McKinley, Alex Mooney and Evan Jenkins.

Delegates Summers, Fleischauer, Campbell, Ellington, Lane, Kurcaba, Cooper, Householder, Moore, Hornbuckle and Longstreth offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 126 – “Requesting the Joint Committee on Government and Finance to study the health care workforce in the State of West Virginia.”

Whereas, The delivery of health care is in a state of flux, with the addition of nearly 200,000 West Virginians attaining health care coverage; and

Whereas, Many areas of the state are underserved in terms of the number of various health care providers who are unavailable; and

Whereas, West Virginia residents score very poorly when it comes to many health conditions; and

Whereas, There is a need to evaluate the effectiveness, accessibility, and quality of our state’s health care workforce, both currently and in terms of the need for various professionals in the future; and

Whereas, A paraprofessional is an individual who works directly with patients, serving an important role as a provider of care and a collaborator with physicians and nurses; and

Whereas, Paraprofessionals perform tasks such as minor first aid and taking blood pressure and temperature. They also frequently work in physical and occupational therapy environments, helping patients navigate exercises and other activities; and

Whereas, The use of paraprofessionals, including community health workers, is increasing in the state and is expected to reach all counties as “Last to First” expands across the state; and

Whereas, Several pilot projects using paraprofessionals are evaluating their effectiveness, but there is not consensus on where or what type of state regulation might be needed; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to study the health care workforce needs in the future for 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, 2017, 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.

Petitions

Delegates Caputo, Longstreth and Manchin presented a petition from citizens of Marion County in opposition to Com. Sub. for H. B. 4352, Relating to the selling of certain state owned health care facilities

by the Secretary of the Department of Health and Human Resources; which was referred to the Committee on Health and Human Resources.

Motions

At the request of Delegate Cowles, and by unanimous consent, permission was granted the Joint Committee on Enrolled Bills, after it had examined, found truly enrolled and presented to His Excellency, the Governor, for his action, bills passed but not presented to him prior to adjournment of this session of the Legislature, to file its report with the Clerk and that such reports be included in the final Journal of this session; that communications from His Excellency, the Governor, as to his action on bills after adjournment of the session, also be included in the Journal.

Delegate Cowles further obtained unanimous consent that Messages and reports received by the Clerk after the 60th Day, which did not require action by the House, be considered received by the House and filed with the Clerk and recorded in the Journal.

Special Calendar

Third Reading

Com. Sub. for S. B. 272, Allowing investigators from Attorney General's office to carry concealed weapons; on third reading, coming up in regular order, was reported by the Clerk.

On motion of Delegate Cowles, the House reconsidered the actions taken on the adoption of the Judiciary Committee amendment as amended.

On motion of Delegate Cowles, the House then reconsidered the amendment offered by Delegate Marcum.

Delegate Marcum then asked and obtained unanimous consent to withdraw his amendment to the Committee amendment.

Delegate Cowles 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.

An amendment recommended by the Committee on the Judiciary was then reported by the Clerk and adopted, amending the bill on page one, immediately following the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §5-3-6 and §60-3-24a, to read as follows:

**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 3. ATTORNEY GENERAL.

**§5-3-6. Attorney General’s investigators authority to carry
concealed weapon.**

Notwithstanding any provision of this code to the contrary, the Attorney General may designate investigators in his or her employ to carry a firearm in the course of performing their official duties: *Provided*, That as a precondition of being authorized to carry a concealed weapon in the course of their official duties, any such designated investigator must have first successfully completed a firearms training and certification program and maintain certification in a manner which is equivalent to that which is required of members of the State Police. The designated investigator must also obtain and maintain a license to carry a concealed deadly weapon issued pursuant to article seven, chapter sixty-one of this code.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 3. SALES BY COMMISSIONER.**§60-3-24a. Authority of employees of the Commission to carry concealed weapon.**

Notwithstanding any provision of this code to the contrary, the Commissioner may designate certain employees of the Enforcement Division in his or her employ to carry a firearm in the course of performing their official duties: *Provided*, That as a precondition of being authorized to carry a concealed weapon in the course of their official duties, any such designated employee must have first successfully completed a firearms training and certification program and maintain certification in a manner which is equivalent to that which is required of members of the State Police. The designated employee must also obtain and maintain a license to carry a concealed deadly weapon issued pursuant to article seven, chapter sixty-one of this code.”

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. 557**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Moore.

Absent and Not Voting: Arvon.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 272) 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. 278, Clarifying physicians’ mutual insurance company is not state or quasi-state actor; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 558**), and there were—yeas 89, nays 10, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Fleischauer, Longstreth, Manchin, Marcum, Miley, Moore, Skinner, Sponaugle and P. White.

Absent and Not Voting: Arvon.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 278) passed.

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

On this question, the yeas and nays were taken (**Roll No. 559**), and there were—yeas 90, nays 9, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Fleischauer, Longstreth, Manchin, Miley, Moore, Reynolds, Skinner and Sponaugle.

Absent and Not Voting: Arvon.

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. 278) 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. 404, Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 560**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Arvon.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 404) 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. 404 – “A Bill to amend and reenact §16-3C-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §16-4-19 of said code, all relating to testing for HIV and sexually transmitted diseases; authorizing billing of persons for HIV and sexually transmitted disease testing or sexually transmitted disease treatment done by state or local public health agencies; informing persons who wish to opt-out of HIV-related testing that anonymous testing is available; providing that costs associated with testing may be borne by the state when the person charged with certain sex crimes is financially unable to pay; authorizing billing of a person charged with certain sex crimes health insurance provider; providing for mandatory disease testing when a person renders or receives certain services and comes in contact with inflected bodily fluids; providing that the costs for mandated testing and counseling are to be paid by the individual receiving the tests or counseling; providing that a person who is tested for sexually transmitted diseases at a local health department are responsible for the costs of such testing; providing for fee schedules by which local health departments may charge for such testing; removing limitation on amount that can be charged for medication used to treat sexually transmitted diseases; and removing language related to testing of sexually transmitted diseases.”

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

S. B. 427, Transferring funds from State Excess Lottery Fund to Department of Revenue; 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. 561**), and there were—yeas 84, nays 14, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Byrd, Caputo, D. Evans, Fluharty, Hornbuckle, McGeehan, Miley, Pushkin, Reynolds, Rowe, Shaffer, Skinner, Storch and Weld.

Absent and Not Voting: Arvon and Morgan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 427) passed.

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

On this question, the yeas and nays were taken (**Roll No. 562**), and there were—yeas 79, nays 19, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bates, Byrd, Caputo, Fleischauer, Fluharty, Manchin, McGeehan, Miley, Moore, Perdue, Pushkin, Reynolds, Rowe, Shaffer, Skinner, Storch, Trecost, Weld and Zatezalo.

Absent and Not Voting: Arvon and Morgan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 427) 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. 465, Allowing professional employer insure certain risks through pure insurance captive; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 563**), and there were—yeas 90, nays 7, absent

and not voting 3, with the nays and absent and not voting being as follows:

Nays: Caputo, Fleischauer, Longstreth, Lynch, Manchin, Moore and Sponaugle.

Absent and Not Voting: Arvon, Marcum and Morgan.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 465) passed.

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

Com. Sub. for S. B. 465 – “A Bill to amend and reenact §33-31-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-46A-9 of said code, all relating to allowing professional employer organizations to insure certain risks; permitting professional employer organizations to insure certain risks through a pure insurance captive; permitting professional employer organizations to sponsor health benefit plans for covered employees; requiring professional employer organizations to comply with captive insurance law if a benefit plan is not fully insured; and authorizing insurance commissioner to promulgate and adopt rules with respect to professional employer organizations sponsoring health benefit plans.”

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

S. B. 578, Protecting utility workers from crimes against person on third reading, coming up in regular order, was read a third time.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the passage of S. B. 578 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Armstead would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse him from voting.

Delegate Espinosa requested to be excused from voting on S. B. 578 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

Mr. Speaker, Mr. Armstead, in the Chair

Delegates Trecoast and Reynolds requested to be excused from voting on S. B. 578 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegates would be as a member of a class of persons possibly to be affected by the passage of the bill, 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. 564**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Ihle, Lynch, McGeehan and Sobonya.

Absent and Not Voting: Arvon.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 578) passed.

At 11:40 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 1:00 p.m.

Still being in possession of the Clerk, S. B. 578 bill was taken up for further consideration.

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

S. B. 578 – “A Bill to amend and reenact §61-2-10b of the Code of West Virginia, 1931, as amended, relating to protection of utility workers and law-enforcement officers from crimes against the person; defining terms; adding law-enforcement officers and utility workers among the list of professionals the malicious assault, unlawful assault, battery or assault of which carries increased criminal penalties; clarifying the criminal offense of battery to require that the perpetrator have knowledge that the victim was acting in his or her official capacity; and clarifying the criminal offense of assault to require that the perpetrator have knowledge that the victim was acting in his or her official capacity.”

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 concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

S. B. 306, Permitting sale of county or district property online.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

Delegate Ireland arose to inquire about a ruling related to Rule 49 that had been previously granted, which ruling was reaffirmed.

On motion of Delegate Cowles, the House of Delegate concurred in the following Senate title amendment:

S. B. 306 – “A Bill to amend and reenact §7-3-3 of the Code of West Virginia, 1931, as amended, relating to sale of county or district

property; permitting property be sold either at an on-site public auction or by utilizing an internet-based public auction service; and requiring notice of sale include notice of the time, terms, manner and place of sale or the internet-based public auction service to be utilized.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 565**), and there were—yeas 95, nays 2, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Fleischauer and Shaffer.

Absent and Not Voting: Blackwell, Miller and Statler.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 306) 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, with further amendment, and the passage, as amended, of

Com. Sub. for S. B. 524, Rewriting Board of Barbers and Cosmetologists article.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page two, section three, line twenty-eight, by striking out all of subdivision (4) and inserting in lieu thereof a new subdivision, designated subdivision (4), to read as follows:

“(4) The waxing and tweezing of hair on another person’s body” and a semicolon.

On page eight, section four, line one hundred sixty-four, by striking out all of subdivision (6) and inserting in lieu thereof a new subdivision, designated subdivision (6), to read as follows:

“(6) Four citizen members representing the public” and a semicolon.

And,

On page eleven, section five, lines sixty-one through sixty-eight, by striking out all of subdivision (d) and inserting in lieu thereof a new subdivision, designated subdivision (d), to read as follows:

“(d) Notwithstanding any other provision of this code, the board may not restrict a certificate holder or licensee from practicing his or her licensed craft at temporary on-site events in connection with, but not limited to: Fairs, carnivals, weddings, pageants or photographs: *Provided*, That the certificate holder or licensee is compliant with all other prescribed requirements and rules under this code. If an out-of-state licensee works in a temporary capacity, less than five days, in connection with an event or temporary commercial enterprise, he or she may be granted a temporary permit to work after submitting his or her current license certification to this state and paying the applicable fee: *Provided, however*, That the licensee shall display or have immediately available their license for the duration of his or her practice at a temporary event.”

And,

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

Com. Sub. for S. B. 524 – “A Bill to amend and reenact §30-27-1, §30-27-3, §30-27-4, §30-27-5, §30-27-8, §30-27-8a, §30-27-9, §30-27-10, §30-27-11, §30-27-12, §30-27-13, §30-27-14, §30-27-16, §30-27-17, §30-27-18 and §30-27-19 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-27-8b, all relating to the Board of Barbers and

Cosmetologists; providing jurisdiction to the board over hairstyling, waxing and shampoo assisting; amending definitions; providing for required clock hours of training; licensing of schools or programs by the Department of Education; modifying composition of the board; requiring examinations meet national standards; requiring licensed schools have one chair per student; regulation of on-site and temporary services; barber apprentice program; requirements to sponsor a barber apprentice; providing for certifications; providing for certification of waxing specialists; modifying reciprocity standards; modifying continuing education requirements; modifying instructor certification; and eliminating biennial license renewal.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 566**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Fleischauer.

Absent and Not Voting: Blackwell, Miller and Statler.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 524) 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. 2205, Creating the crime of prohibited sexual contact by a psychotherapist.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §61-8-30, to read as follows:

**ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY
AND DECENCY.**

§61-8-30. Therapeutic deception; penalties.

(a) In this section, unless a different meaning plainly is required:

(1) ‘Client’ or ‘patient’ means a person who is being treated clinically or medically by a psychotherapist for more than one session or initial visit.

(2) ‘Psychotherapist’ means any of the following:

(A) A psychiatrist licensed pursuant to article three, chapter thirty of this code;

(B) A psychologist licensed pursuant to article twenty-one, chapter thirty of this code or a medical psychologist licensed pursuant to article three, chapter thirty of this code;

(C) A licensed clinical social worker licensed pursuant to article thirty, chapter thirty of this code; or

(D) A mental health counselor licensed pursuant to article thirty-one, chapter thirty of this code.

(3) ‘Sexual contact’ has the same meaning as provided in article eight-b, chapter sixty-one of this code.

(4) ‘Sexual intercourse’ has the same meaning as provided in article eight-b, chapter sixty-one 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 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.”

And,

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

Com. Sub. for H. B. 2205 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8-30, relating to creating the offense of a psychotherapist, or one fraudulently representing himself or herself as a psychotherapist, to engage in sexual contact or sexual intercourse with a patient or client by means of therapeutic deception; establishing elements of the crime; providing exceptions; providing definitions; and providing criminal penalties.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 567**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Blackwell and Miller.

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. 2205) 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. 4038, Relating to insurance requirements for the refilling of topical eye medication.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §33-15-4m; that said code be amended by adding thereto a new section, designated §33-16-3y; that said code be amended by adding thereto a new section, designated §33-24-7n; that said code be amended by adding thereto a new section, designated §33-25-8k; that said code be amended by adding thereto a new section, designated §33-25A-8m, all to read as follows” and a semicolon.

And,

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

Com. Sub. for H. B. 4038 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7n; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to insurance requirements for the refilling of topical eye medication; requiring a refill take place at a certain time; and establishing when a refill is permitted.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 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: Blackwell and Miller.

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. 4038) 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. 4146, Providing insurance cover abuse-deterrent opioid analgesic drugs.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §33-15-4m; that said code be amended by adding thereto a new section, designated §33-16-3y; that said code be amended by adding thereto a new section, designated §33-24-7n; that said code be amended by adding thereto a new section, designated §33-25-8k; and that said code be amended by adding thereto a new section, designated §33-25A-8m, all to read as follows:

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4m. Deductibles, copayments and coinsurance for abuse-deterrent opioid analgesic drugs.

(a) As used in this section:

(1) ‘Abuse-deterrent opioid analgesic drug product’ means a brand name or generic opioid analgesic drug product approved by the United States Food and Drug Administration with abuse-deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its abuse;

(2) ‘Cost-sharing’ means any coverage limit, copayment, coinsurance, deductible or other out-of-pocket expense requirements;

(3) ‘Opioid analgesic drug product’ means a drug product that contains an opioid agonist and is indicated by the United States Food and Drug Administration for the treatment of pain, regardless of whether the drug product:

(A) Is in immediate release or extended release form; or

(B) Contains other drug substances.

(b) Notwithstanding any provision of any accident and sickness insurance policy issued by an insurer, on or after January 1, 2017:

(1) Coverage shall be provided for at least one abuse-deterrent opioid analgesic drug product for each active opioid analgesic ingredient;

(2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription drug coverage;

(3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered pursuant to this section shall not exceed the lowest cost-sharing level applied to generic prescription drugs covered under the applicable health plan or policy; and

(4) An entity subject to this section may not require an insured or enrollee to first use an opioid analgesic drug product without abuse-deterrent labeling before providing coverage for an abuse-deterrent opioid analgesic drug product covered on the entity's formulary for prescription drug coverage.

(c) Notwithstanding subdivision (3), subsection (b) of this section, an entity subject to this section may undertake utilization review, including preauthorization, for an abuse-deterrent opioid analgesic drug product covered by the entity, if the same utilization review requirements are applied to nonabuse-deterrent opioid analgesic drug products and with the same type of drug release, immediate or extended.

(d) For purposes of subsection (b) of this section, the lowest tier and the lowest cost-sharing level shall not mean the cost-sharing tier applicable to preventive care services which are required to be provided at no cost-sharing under the Patient Protection and Affordable Care Act.

**ARTICLE 16. GROUP ACCIDENT AND SICKNESS
INSURANCE.**

**§33-16-3y. Deductibles, copayments and coinsurance for
abuse-deterrent opioid analgesic drugs.**

(a) As used in this section:

(1) ‘Abuse-deterrent opioid analgesic drug product’ means a brand name or generic opioid analgesic drug product approved by the United States Food and Drug Administration with abuse-deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its abuse;

(2) ‘Cost-sharing’ means any coverage limit, copayment, coinsurance, deductible or other out-of-pocket expense requirements;

(3) ‘Opioid analgesic drug product’ means a drug product that contains an opioid agonist and is indicated by the United States Food and Drug Administration for the treatment of pain, regardless of whether the drug product:

(A) Is in immediate release or extended release form; or

(B) Contains other drug substances.

(b) Notwithstanding any provision of any group accident and sickness insurance policy issued by an insurer pursuant to this article, on or after January 1, 2017:

(1) Coverage shall be provided for at least one abuse-deterrent opioid analgesic drug product for each active opioid analgesic ingredient;

(2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not exceed the lowest tier for brand name prescription drugs on the entity’s formulary for prescription drug coverage;

(3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered pursuant to this section shall not exceed the lowest cost-sharing level applied to generic prescription drugs covered under the applicable health plan or policy; and

(4) An entity subject to this section may not require an insured or enrollee to first use an opioid analgesic drug product without abuse-deterrent labeling before providing coverage for an abuse-deterrent opioid analgesic drug product covered on the entity's formulary for prescription drug coverage.

(c) Notwithstanding subdivision (3), subsection (b) of this section, an entity subject to this section may undertake utilization review, including preauthorization, for an abuse-deterrent opioid analgesic drug product covered by the entity, if the same utilization review requirements are applied to nonabuse-deterrent opioid analgesic drug products and with the same type of drug release, immediate or extended.

(d) For purposes of subsection (b) of this section, the lowest tier and the lowest cost-sharing level shall not mean the cost-sharing tier applicable to preventive care services which are required to be provided at no cost-sharing under the Patient Protection and Affordable Care Act.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS,
MEDICAL SERVICE CORPORATIONS,
DENTAL SERVICE CORPORATIONS
AND HEALTH SERVICE
CORPORATIONS.**

**§33-24-7n. Deductibles, copayments and coinsurance for
abuse-deterrent opioid analgesic drugs.**

(a) As used in this section:

(1) 'Abuse-deterrent opioid analgesic drug product' means a brand name or generic opioid analgesic drug product approved by the United

States Food and Drug Administration with abuse-deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its abuse;

(2) ‘Cost-sharing’ means any coverage limit, copayment, coinsurance, deductible or other out-of-pocket expense requirements;

(3) ‘Opioid analgesic drug product’ means a drug product that contains an opioid agonist and is indicated by the United States Food and Drug Administration for the treatment of pain, regardless of whether the drug product:

(A) Is in immediate release or extended release form; or

(B) Contains other drug substances.

(b) Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, on or after January 1, 2017:

(1) Coverage shall be provided for at least one abuse-deterrent opioid analgesic drug product for each active opioid analgesic ingredient;

(2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not exceed the lowest tier for brand name prescription drugs on the entity’s formulary for prescription drug coverage;

(3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered pursuant to this section shall not exceed the lowest cost-sharing level applied to generic prescription drugs covered under the applicable health plan or policy; and

(4) An entity subject to this section may not require an insured or enrollee to first use an opioid analgesic drug product without abuse-deterrent labeling before providing coverage for an

abuse-deterrent opioid analgesic drug product covered on the entity's formulary for prescription drug coverage.

(c) Notwithstanding subdivision (3), subsection (b) of this section, an entity subject to this section may undertake utilization review, including preauthorization, for an abuse-deterrent opioid analgesic drug product covered by the entity, if the same utilization review requirements are applied to nonabuse-deterrent opioid analgesic drug products and with the same type of drug release, immediate or extended.

(d) For purposes of subsection (b) of this section, the lowest tier and the lowest cost-sharing level shall not mean the cost-sharing tier applicable to preventive care services which are required to be provided at no cost-sharing under the Patient Protection and Affordable Care Act.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8k. Deductibles, copayments and coinsurance for abuse-deterrent opioid analgesic drugs.

(a) As used in this section:

(1) 'Abuse-deterrent opioid analgesic drug product' means a brand name or generic opioid analgesic drug product approved by the United States Food and Drug Administration with abuse-deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its abuse;

(2) 'Cost-sharing' means any coverage limit, copayment, coinsurance, deductible or other out-of-pocket expense requirements;

(3) 'Opioid analgesic drug product' means a drug product that contains an opioid agonist and is indicated by the United States Food and Drug Administration for the treatment of pain, regardless of whether the drug product:

(A) Is in immediate release or extended release form; or

(B) Contains other drug substances.

(b) Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, on or after January 1, 2017:

(1) Coverage shall be provided for at least one abuse-deterrent opioid analgesic drug product for each active opioid analgesic ingredient;

(2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription drug coverage;

(3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered pursuant to this section shall not exceed the lowest cost-sharing level applied to generic prescription drugs covered under the applicable health plan or policy; and

(4) An entity subject to this section may not require an insured or enrollee to first use an opioid analgesic drug product without abuse-deterrent labeling before providing coverage for an abuse-deterrent opioid analgesic drug product covered on the entity's formulary for prescription drug coverage.

(c) Notwithstanding subdivision (3), subsection (b) of this section, an entity subject to this section may undertake utilization review, including preauthorization, for an abuse-deterrent opioid analgesic drug product covered by the entity, if the same utilization review requirements are applied to nonabuse-deterrent opioid analgesic drug products and with the same type of drug release, immediate or extended.

(d) For purposes of subsection (b) of this section, the lowest tier and the lowest cost-sharing level shall not mean the cost-sharing tier

applicable to preventive care services which are required to be provided at no cost-sharing under the Patient Protection and Affordable Care Act.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8m. Deductibles, copayments and coinsurance for abuse-deterrent opioid analgesic drugs.

(a) As used in this section:

(1) ‘Abuse-deterrent opioid analgesic drug product’ means a brand name or generic opioid analgesic drug product approved by the United States Food and Drug Administration with abuse-deterrent labeling that indicates its abuse-deterrent properties are expected to deter or reduce its abuse;

(2) ‘Cost-sharing’ means any coverage limit, copayment, coinsurance, deductible or other out-of-pocket expense requirements;

(3) ‘Opioid analgesic drug product’ means a drug product that contains an opioid agonist and is indicated by the United States Food and Drug Administration for the treatment of pain, regardless of whether the drug product:

(A) Is in immediate release or extended release form; or

(B) Contains other drug substances.

(b) Notwithstanding any provision of any policy, provision, contract, plan or agreement to which this article applies, on or after January 1, 2017:

(1) Coverage shall be provided for at least one abuse-deterrent opioid analgesic drug product for each active opioid analgesic ingredient;

(2) Cost-sharing for brand name abuse-deterrent opioid analgesic drug products shall not exceed the lowest tier for brand name prescription drugs on the entity's formulary for prescription drug coverage;

(3) Cost-sharing for generic abuse-deterrent opioid analgesic drug products covered pursuant to this section shall not exceed the lowest cost-sharing level applied to generic prescription drugs covered under the applicable health plan or policy; and

(4) An entity subject to this section may not require an insured or enrollee to first use an opioid analgesic drug product without abuse-deterrent labeling before providing coverage for an abuse-deterrent opioid analgesic drug product covered on the entity's formulary for prescription drug coverage.

(c) Notwithstanding subdivision (3), subsection (b) of this section, an entity subject to this section may undertake utilization review, including preauthorization, for an abuse-deterrent opioid analgesic drug product covered by the entity, if the same utilization review requirements are applied to nonabuse-deterrent opioid analgesic drug products and with the same type of drug release, immediate or extended.

(d) For purposes of subsection (b) of this section, the lowest tier and the lowest cost-sharing level shall not mean the cost-sharing tier applicable to preventive care services which are required to be provided at no cost-sharing under the Patient Protection and Affordable Care Act.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 569**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Azinger, Cadle, Ihle and McGeehan.

Absent and Not Voting: Blackwell and Miller.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4146) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4307, Clarifying that a firearm may be carried for self defense in state parks, state forests and state recreational areas.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5. Unlawful methods of hunting and fishing and other unlawful acts.

Except as authorized by the director or by law, it is unlawful at any time for any person to:

(1) Shoot at any wild bird or wild animal unless it is plainly visible;

(2) Dig out, cut out, smoke out, or in any manner take or attempt to take any live wild animal or wild bird out of its den or place of refuge;

(3) Use or attempt to use any artificial light or any night vision technology, including image intensification, thermal imaging or active illumination while hunting, locating, attracting, taking, trapping or killing any wild bird or wild animal: *Provided*, That it is lawful to hunt or take coyote, fox, raccoon, opossum or skunk by the use of artificial light or night vision technology. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, shall for each offense be fined not less than \$100 nor more than \$500, and shall be confined in jail for not less than ten days nor more than one hundred days;

(4) Hunt, take, kill, wound or shoot at wild animals or wild birds from an airplane or other airborne conveyance, a drone or other unmanned aircraft, an automobile or other land conveyance, or from a motor-driven water conveyance;

(5) Use a drone or other unmanned aircraft to hunt, take or kill a wild bird or wild animal, or to use a drone or other unmanned aircraft to drive or herd any wild bird or wild animal for the purposes of hunting, trapping or killing;

(6) Take any beaver or muskrat by any means other than a trap;

(7) Catch, capture, take, hunt or kill by seine, net, bait, trap or snare or like device a bear, wild turkey, ruffed grouse, pheasant or quail;

(8) Intentionally destroy or attempt to destroy the nest or eggs of any wild bird or have in his or her possession the nest or eggs;

(9) Carry an uncased or loaded firearm in the woods of this state or in state parks, state forests, state wildlife management areas or state rail trails with the following permissible exceptions:

(A) A person in possession of a valid license or permit during open firearms hunting season for wild animals and nonmigratory wild birds where hunting is lawful;

(B) A person hunting or taking unprotected species of wild animals, wild birds and migratory wild birds during the open season, in the open fields, open water and open marshes of the state where hunting is lawful;

(C) A person carrying a firearm pursuant to sections six and six-a of this article; ~~or~~

(D) A person carrying a ~~firearm~~ handgun for self-defense who is not prohibited from possessing firearms ~~by section seven, article seven, chapter sixty-one of this code~~; or

(E) A person carrying a rifle or shotgun for self-defense who is not prohibited from possessing firearms under state or federal law: *Provided, That this exception does not apply to an uncased rifle or shotgun carried specifically in state park or state forest recreational facilities and marked trails within state park and/or state forest borders or on state rail trails: *Provided, however, That nothing in this subdivision shall be construed as authorizing any county or municipality to limit the right of any person to possess, transfer, own, carry or transport any firearm or ammunition.**

(10) Have in his or her possession a crossbow with a nocked bolt, or a rifle or shotgun with cartridges that have not been removed or a magazine that has not been detached, in or on any vehicle or conveyance, or its attachments. For the purposes of this section, a rifle or shotgun whose magazine readily detaches is considered unloaded if the magazine is detached and no cartridges remain in the rifle or shotgun itself. Except that between five o'clock post meridian of day one and seven o'clock ante meridian, Eastern Standard Time, of the following day, any unloaded firearm or crossbow may be carried only when in a case or taken apart and securely wrapped. During the period from July 1 to September 30, inclusive, of each year, the requirements relative to carrying unloaded firearms are permissible only from eight-thirty o'clock post meridian to five o'clock ante meridian, Eastern Standard Time: *Provided, That the time periods for carrying*

unloaded and uncased firearms are extended for one hour after the post meridian times and one hour before the ante meridian times established in this subdivision, if a person is transporting or transferring the firearms to or from a hunting site, campsite, home or other abode;

(11) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement by which wildlife may be taken after the hour of five o'clock ante meridian on Sunday on private land without the written consent of the landowner any wild animals or wild birds except when a big game season opens on a Monday, the Sunday prior to that opening day will be closed for any taking of wild animals or birds after five o'clock ante meridian on that Sunday: *Provided*, That traps previously and legally set may be tended after the hour of five o'clock ante meridian on Sunday and the person tending the traps may carry firearms for the purpose of humanely dispatching trapped animals. Any person violating this subdivision is guilty of a misdemeanor and, upon conviction thereof, in addition to any fines that may be imposed by this or other sections of this code, is subject to a \$100 fine;

(12) Hunt, catch, take, kill, injure or pursue a wild animal or wild bird with the use of a ferret;

(13) Buy raw furs, pelts or skins of fur-bearing animals unless licensed to do so;

(14) Catch, take, kill or attempt to catch, take or kill any fish by any means other than by rod, line and hooks with natural or artificial lures: *Provided*, That snaring of any species of suckers, carp, fallfish and creek chubs is lawful;

(15) Employ, hire, induce or persuade, with money, things of value or by any means, any person to hunt, take, catch or kill any wild animal or wild bird except those species in which there is no closed season; or to fish for, catch, take or kill any fish, amphibian or aquatic life that is protected by rule, or the sale of which is otherwise prohibited;

(16) Hunt, catch, take, kill, capture, pursue, transport, possess or use any migratory game or nongame birds except as permitted by the Migratory Bird Treaty Act, 16 U. S. C. §703, *et seq.*, and its regulations;

(17) Kill, take, catch, sell, transport or have in his or her possession, living or dead, any wild bird other than a game bird including the plumage, skin or body of any protected bird, irrespective of whether the bird was captured in or out of this state, except the English or European sparrow (*Passer domesticus*), starling (*Sturnus vulgaris*) and cowbird (*Molothrus ater*), which may be killed at any time;

(18) Use dynamite, explosives or any poison in any waters of the state for the purpose of killing or taking fish. Any person violating this subdivision is guilty of a felony and, upon conviction thereof, shall be fined not more than \$500 or imprisoned for not less than six months nor more than three years, or both fined and imprisoned;

(19) Have a bow and gun, or have a gun and any arrow, in the fields or woods at the same time;

(20) Have a crossbow in the woods or fields, or use a crossbow to hunt for, take or attempt to take any wildlife except as otherwise provided in sections five-g and forty-two-w of this article;

(21) Take or attempt to take turkey, bear, elk or deer with any arrow unless the arrow is equipped with a point having at least two sharp cutting edges measuring in excess of three fourths of an inch wide;

(22) Take or attempt to take any wildlife with an arrow having an explosive head or shaft, a poisoned arrow or an arrow which would affect wildlife by any chemical action;

(23) Shoot an arrow across any public highway;

(24) Permit any dog owned or under his or her control to chase, pursue or follow the tracks of any wild animal or wild bird, day or night, between May 1 and August 15: *Provided*, That dogs may be trained on wild animals and wild birds, except deer and wild turkeys, and field trials may be held or conducted on the grounds or lands of the owner, or by his or her bona fide tenant, or upon the grounds or lands of another person with his or her written permission, or on public lands at any time. Nonresidents may not train dogs in this state at any time except during the legal small game hunting season. A person training dogs may not have firearms or other implements in his or her possession during the closed season on wild animals and wild birds;

(25) Conduct or participate in a trial, including a field trial, shoot-to-retrieve field trial, water race or wild hunt: *Provided*, That any person, group of persons, club or organization may hold a trial upon obtaining a permit pursuant to section fifty-six of this article. The person responsible for obtaining the permit shall prepare and keep an accurate record of the names and addresses of all persons participating in the trial and make the records readily available for inspection by any natural resources police officer upon request;

(26) Hunt, catch, take, kill or attempt to hunt, catch, take or kill any wild animal, wild bird or wild fowl except during open seasons;

(27) Hunting on public lands on Sunday after five o'clock ante meridian is prohibited;

(28) Hunt, catch, take, kill, trap, injure or pursue with firearms or other implement which wildlife can be taken, on private lands on Sunday after the hour of five o'clock ante meridian: *Provided*, That the provisions of this subdivision do not apply in any county until the county commission of the county holds an election on the question of whether the provisions of this subdivision prohibiting hunting on Sunday shall apply within the county and the voters approve the allowance of hunting on Sunday in the county. The election is determined by a vote of the resident voters of the county in which the

hunting on Sunday is proposed to be authorized. The county commission of the county in which Sunday hunting is proposed shall give notice to the public of the election by publication of the notice as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication is the county in which the election is to be held. The date of the last publication of the notice shall fall on a date within the period of the fourteen consecutive days next preceding the election.

On the local option election ballot shall be printed the following:

Shall hunting on Sunday be authorized on private lands only with the consent of the land owner in _____ County?

Yes

No

(Place a cross mark in the square opposite your choice.)

Any local option election to approve or disapprove of the proposed authorization of Sunday hunting within a county shall be in accordance with procedures adopted by the commission. The local option election may be held in conjunction with a primary or general election or at a special election. Approval shall be by a majority of the voters casting votes on the question of approval or disapproval of Sunday hunting at the election.

If a majority votes against allowing Sunday hunting, an election on the issue may not be held for a period of one hundred four weeks. If a majority votes 'yes', an election reconsidering the action may not be held for a period of five years. A local option election may thereafter be held if a written petition of qualified voters residing within the county equal to at least five percent of the number of persons who were registered to vote in the next preceding general election is received by the county commission of the county in which Sunday hunting is authorized. The petition may be in any number of counterparts. The

election shall take place at the next primary or general election scheduled more than ninety days following receipt by the county commission of the petition required by this subsection: *Provided*, That the issue may not be placed on the ballot until all statutory notice requirements have been met. No local law or regulation providing any penalty, disability, restriction, regulation or prohibition of Sunday hunting may be enacted and the provisions of this article preempt all regulations, rules, ordinances and laws of any county or municipality in conflict with this subdivision.

Amendments to this subdivision promulgated during the 2015 regular session of the Legislature shall have no effect upon the results of elections held prior to their enactment; and

(29) Hunt or conduct hunts for a fee when the person is not physically present in the same location as the wildlife being hunted within West Virginia.”

And,

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

Com. Sub. for H. B. 4307 – “A Bill to amend and reenact §20-2-5 of the Code of West Virginia, 1931, as amended, relating to carrying a firearm for self-defense in state parks and state forests generally; providing exceptions; and clarifying that nothing in the section authorizes counties or municipalities to limit a person’s ability to possess, transfer over, carry or transport a firearm or ammunition.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 570**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fleischauer and Moore.

Absent and Not Voting: Blackwell and Miller.

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. 4307) 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. 4323, Relating to the reporting of emergency incidents by well operators and pipeline operators.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, section one, line three, by striking out the words “in the Department of Military Affairs and Public Safety”.

On page one, section one, line six after the word “injury”, by inserting the word “or”.

And,

On page two, section one, line nineteen, after the word “farm”, by adding a comma and the words “commercial structure”.

And,

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

Com. Sub. for H. B. 4323 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-5C-1 and §15-5C-2, all relating to the reporting of emergency incidents by well operators and pipeline operators; defining terms; establishing reporting requirements; establishing time by which report

must be made; setting forth contents of report; establishing obligations of local emergency telephone operators; providing for recording and handling of calls; providing that certain information is available to the public pursuant to the West Virginia Freedom of Information Act; setting forth civil administrative penalty; setting forth situations in which civil administrative penalty shall be waived; permitting pipeline operator or well operator to request reconsideration of civil administrative penalty; and providing right to appeal.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 571**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Azinger, McGeehan, J. Nelson and R. Smith.

Absent and Not Voting: Blackwell and Miller.

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. 4323) 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. 4365, Relating to the certificate of need process.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendment with amendment:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 2D. CERTIFICATE OF NEED.**§16-2D-1. Legislative findings.**

It is declared to be the public policy of this state:

(1) That the offering or development of all health services shall be accomplished in a manner which is orderly, economical and consistent with the effective development of necessary and adequate means of providing for the health services of the people of this state and to avoid unnecessary duplication of health services, and to contain or reduce increases in the cost of delivering health services.

(2) That the general welfare and protection of the lives, health and property of the people of this state require that the type, level and quality of care, the feasibility of providing such care and other criteria as provided for in this article, including certificate of need standards and criteria developed by the authority pursuant to provisions of this article, pertaining to health services within this state, be subject to review and evaluation before any health services are offered or developed in order that appropriate and needed health services are made available for persons in the area to be served.

§16-2D-2. Definitions.

As used in this article:

(1) ‘Affected person’ means:

(A) The applicant;

(B) An agency or organization representing consumers;

(C) An individual residing within the geographic area but within this state served or to be served by the applicant;

(D) An individual who regularly uses the health care facilities within that geographic area;

(E) A health care facility located within this state which provide services similar to the services of the facility under review and which will be significantly affected by the proposed project;

(F) A health care facility located within this state which, before receipt by the authority of the proposal being reviewed, have formally indicated an intention to provide similar services within this state in the future;

(G) Third-party payors who reimburse health care facilities within this state similar to those proposed for services;

(H) An agency that establishes rates for health care facilities within this state similar to those proposed; or

(I) An organization representing health care providers.

(2) ‘Ambulatory health care facility’ means a facility that provides health services to noninstitutionalized and nonhomebound persons on an outpatient basis.

(3) ‘Ambulatory surgical facility’ means a facility not physically attached to a health care facility that provides surgical treatment to patients not requiring hospitalization.

(4) ‘Applicant’ means a person proposing a proposed health service;

(5) ‘Authority’ means the West Virginia Health Care Authority as provided in article twenty-nine-b of this chapter.

(6) ‘Bed capacity’ means the number of beds licensed to a health care facility or the number of adult and pediatric beds permanently staffed and maintained for immediate use by inpatients in patient rooms or wards in an unlicensed facility.

(7) ‘Behavioral health services’ means services provided for the care and treatment of persons with mental illness in an inpatient or outpatient setting.

(8) 'Birthing center' means a short-stay ambulatory health care facility designed for low-risk births following normal uncomplicated pregnancy.

(9) 'Campus' means the adjacent grounds and buildings, or grounds and buildings not separated by more than a public right-of-way, of a health care facility.

(10) 'Capital expenditure' means:

(A) An expenditure made by or on behalf of a health care facility, which:

(i) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance; or (ii) is made to obtain either by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part; and

(B)(i) Exceeds the expenditure minimum; (ii) is a substantial change to the bed capacity of the facility with respect to which the expenditure is made; or (iii) is a substantial change to the services of such facility;

(C) The transfer of equipment or facilities for less than fair market value if the transfer of the equipment or facilities at fair market value would be subject to review; or

(D) A series of expenditures, if the sum total exceeds the expenditure minimum and if determined by the state agency to be a single capital expenditure subject to review. In making this determination, the state agency shall consider: Whether the expenditures are for components of a system which is required to accomplish a single purpose; or whether the expenditures are to be made within a two-year period within a single department such that they will constitute a significant modernization of the department.

(11) 'Charges' means the economic value established for accounting purposes of the goods and services a hospital provides for all classes of purchasers;

(12) ‘Community mental health and intellectual disability facility’ means a facility which provides comprehensive services and continuity of care as emergency, outpatient, partial hospitalization, inpatient or consultation and education for individuals with mental illness, intellectual disability.

(13) ‘Diagnostic imaging’ means the use of radiology, ultrasound, mammography, fluoroscopy, nuclear imaging, densitometry to create a graphic depiction of the body parts;

(14) ‘Drug and Alcohol Rehabilitation Services’ means a medically or psychotherapeutically supervised process for assisting individuals on an inpatient or outpatient basis through the processes of withdrawal from dependency on psychoactive substances.

(15) ‘Expenditure minimum’ means the cost of acquisition, improvement, expansion of any facility, equipment, or services including the cost of any studies, surveys, designs, plans, working drawings, specifications and other activities, including staff effort and consulting at and above \$5 million.

(16) ‘Health care facility’ means a publicly or privately owned facility, agency or entity that offers or provides health services, whether a for-profit or nonprofit entity and whether or not licensed, or required to be licensed, in whole or in part.

(17) ‘Health care provider’ means a person authorized by law to provide professional health service in this state to an individual.

(18) ‘Health services’ means clinically related preventive, diagnostic, treatment or rehabilitative services.

(19) ‘Home health agency’ means an organization primarily engaged in providing professional nursing services either directly or through contract arrangements and at least one of the following services:

(A) Home health aide services;

(B) Physical therapy;

(C) Speech therapy;

(D) Occupational therapy;

(E) Nutritional services; or

(F) Medical social services to persons in their place of residence on a part-time or intermittent basis.

(20) 'Hospice' means a coordinated program of home and inpatient care provided directly or through an agreement under the direction of a licensed hospice program which provides palliative and supportive medical and other health services to terminally ill individuals and their families.

(21) 'Hospital' means a facility licensed pursuant to the provisions of article five-b of this chapter 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.

(22) 'Intermediate care facility' means an institution that provides health-related services to individuals with conditions that require services above the level of room and board, but do not require the degree of services provided in a hospital or skilled-nursing facility.

(23) 'Like equipment' means medical equipment in which functional and technological capabilities are similar to the equipment being replaced; and the replacement equipment is to be used for the same or similar diagnostic, therapeutic, or treatment purposes as currently in use; and it does not constitute a substantial change in health service or a proposed health service.

(24) 'Major medical equipment' means a single unit of medical equipment or a single system of components with related functions which is used for the provision of medical and other health services

and costs in excess of the expenditure minimum. This term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs ten and eleven, Section 1861(s) of such act, Title 42 U.S.C. §1395x. In determining whether medical equipment is major medical equipment, the cost of studies, surveys, designs, plans, working drawings, specifications and other activities essential to the acquisition of such equipment shall be included. If the equipment is acquired for less than fair market value, the term 'cost' includes the fair market value.

(25) 'Medically underserved population' means the population of an area designated by the authority as having a shortage of a specific health service.

(26) 'Nonhealth-related project' means a capital expenditure for the benefit of patients, visitors, staff or employees of a health care facility and not directly related to health services offered by the health care facility.

(27) 'Offer' means the health care facility holds itself out as capable of providing, or as having the means to provide, specified health services.

(28) 'Person' means an individual, trust, estate, partnership, limited liability corporation, committee, corporation, governing body, association and other organizations such as joint-stock companies and insurance companies, a state or a political subdivision or instrumentality thereof or any legal entity recognized by the state.

(29) 'Personal care agency' means entity that provides personal care services approved by the Bureau of Medical Services.

(30) 'Personal care services' means personal hygiene; dressing; feeding; nutrition; environmental support and health-related tasks provided by a home health agency.

(31) 'Physician' means an individual who is licensed by the Board of Medicine or the Board of Osteopathy to practice in West Virginia.

(32) 'Proposed health service' means any service as described in section eight of this article.

(33) 'Purchaser' means an individual who is directly or indirectly responsible for payment of patient care services rendered by a health care provider, but does not include third-party payers.

(34) 'Rates' means charges imposed by a health care facility for health services.

(35) 'Records' means accounts, books and other data related to health service costs at health care facilities subject to the provisions of this article which do not include privileged medical information, individual personal data, confidential information, the disclosure of which is prohibited by other provisions of this code and the laws enacted by the federal government, and information, the disclosure of which would be an invasion of privacy.

(36) 'Rehabilitation facility' means an inpatient facility licensed in West Virginia operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services.

(37) 'Related organization' means an organization, whether publicly owned, nonprofit, tax-exempt or for profit, related to a health care facility through common membership, governing bodies, trustees, officers, stock ownership, family members, partners or limited partners, including, but not limited to, subsidiaries, foundations, related corporations and joint ventures. For the purposes of this subdivision 'family members' means parents, children, brothers and sisters whether by the whole or half blood, spouse, ancestors and lineal descendants.

(38) 'Skilled nursing facility' means an institution, or a distinct part of an institution, that primarily provides inpatient skilled nursing

care and related services, or rehabilitation services, to injured, disabled or sick persons.

(39) ‘Standard’ means a health service guideline developed by the authority and instituted under section six.

(40) ‘State health plan’ means a document prepared by the authority that sets forth a strategy for future health service needs in the state.

(41) ‘Substantial change to the bed capacity’ of a health care facility means any change, associated with a capital expenditure, that increases or decreases the bed capacity or relocates beds from one physical facility or site to another, but does not include a change by which a health care facility reassigns existing beds as swing beds between acute care and long-term care categories or a decrease in bed capacity in response to federal rural health initiatives.

(43) ‘Substantial change to the health services’ means:

(A) The addition of a health service offered by or on behalf of the health care facility which was not offered by or on behalf of the facility within the twelve-month period before the month in which the service is first offered; or

(B) The termination of a health service offered by or on behalf of the facility but does not include the termination of ambulance service, wellness centers or programs, adult day care or respite care by acute care facilities.

(44) ‘Third-party payor’ means an individual, person, corporation or government entity responsible for payment for patient care services rendered by health care providers.

(45) ‘To develop’ means to undertake those activities which upon their completion will result in the offer of a proposed health service or the incurring of a financial obligation in relation to the offering of such a service.

§16-2D-3. Powers and duties of the authority.

(a) The authority shall:

(1) Administer the certificate of need program;

(2) Review the state health plan, the certificate of need standards, and the cost effectiveness of the certificate of need program and make any amendments and modifications to each that it may deem necessary, no later than September 1, 2017, and biennially thereafter.

(3) Shall adjust the expenditure minimum annually and publish to its website the updated amount on or before December 31, of each year. The expenditure minimum adjustment shall be based on the DRI inflation index published in the Global Insight DRI/WEFA Health Care Cost Review.

(4) Create a standing advisory committee to advise and assist in amending the state health plan, the certificate of need standards, and performing the state agencies' responsibilities.

(b) The authority may:

(1) (A) Order a moratorium upon the offering or development of a health service when criteria and guidelines for evaluating the need for the health service have not yet been adopted or are obsolete or when it determines that the proliferation of the health service may cause an adverse impact on the cost of health services or the health status of the public.

(B) A moratorium shall be declared by a written order which shall detail the circumstances requiring the moratorium. Upon the adoption of criteria for evaluating the need for the health service affected by the moratorium, or one hundred eighty days from the declaration of a moratorium, whichever is less, the moratorium shall be declared to be over and applications for certificates of need are processed pursuant to section eight.

(2) Issue grants and loans to financially vulnerable health care facilities located in underserved areas that the authority and the Office of Community and Rural Health Services determine are collaborating with other providers in the service area to provide cost effective health services.

(3) Approve an emerging health service or technology for one year.

(4) Exempt from certificate of need or annual assessment requirements to financially vulnerable health care facilities located in underserved areas that the state agency and the Office of Community and Rural Health Services determine are collaborating with other providers in the service area to provide cost effective health services.

§16-2D-4. Rule-making Authority.

(a) The authority shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the following:

(1) Information a person shall provide when applying for a certificate of need;

(2) Information a person shall provide when applying for an exemption;

(3) Process for the issuance of grants and loans to financially vulnerable health care facilities located in underserved areas;

(4) The required information in a letter of intent;

(5) Process for an expedited certificate of need;

(6) Determine medically underserved population. The authority may consider unusual local conditions that are a barrier to accessibility or availability of health services. The authority may consider when making its determination of a medically underserved population designated by the federal Secretary of Health and Human Services

under Section 330(b)(3) of the Public Health Service Act, as amended, Title 42 U.S.C. §254;

(7) Process to review an approved certificate of need; and

(8) Process to review approved proposed health services for which the expenditure maximum is exceeded or is expected to be exceeded.

(b) The authority shall propose emergency rules by December 31, 2016, to effectuate the changes to this article.

(c) All of the authority's rules in effect and not in conflict with the provisions of this article, shall remain in effect until they are amended or rescinded.

§16-2D-5. Fee; special revenue account; administrative fines.

(a) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the State Treasury which is continued and shall be known as the 'Certificate of Need Program Fund'. Expenditures from this 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 article three, chapter twelve of this code and upon fulfillment of the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending June 30, 2017, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature.

(b) Any amounts received as administrative fines imposed pursuant to this article shall be deposited into the General Revenue Fund of the State Treasury.

§16-2D-6. Changes to certificate of need standards.

(a) When the authority proposes a change to the certificate of need standards, it shall file with the Secretary of State, for publication in the

State Register, a notice of proposed action, including the text of all proposed changes, and a date, time and place for receipt of general public comment. To comply with the public comment requirement of this section, the authority may hold a public hearing or schedule a public comment period for the receipt of written statements or documents.

(b) When changing the certificate of need standards, the authority shall identify relevant criteria contained in section twelve and apply those relevant criteria to the proposed health service in a manner that promotes the public policy goals and legislative findings contained in section one.

(c) The authority shall form task forces to assist it in satisfying its review and reporting requirements. The task forces shall be comprised of representatives of consumers, business, providers, payers and state agencies.

(d) The authority shall coordinate the collection of information needed to allow the authority to develop recommended modifications to certificate of need standards.

(e) The authority may consult with or rely upon learned treatises in health planning, recommendations and practices of other health planning agencies and organizations, recommendations from consumers, recommendations from health care providers, recommendations from third-party payors, materials reflecting the standard of care, the authority's own developed expertise in health planning, data accumulated by the authority or other local, state or federal agency or organization and any other source deemed relevant to the certificate of need standards proposed for change.

(f) All proposed changes to the certificate of need standards, with a record of the public hearing or written statements and documents received pursuant to a public comment period, shall be presented to the Governor. Within thirty days of receiving the proposed amendments or modifications, the Governor shall either approve or disapprove all or

part of the amendments and modifications and, for any portion of amendments or modifications not approved, shall specify the reason or reasons for disapproval. Any portions of the amendments or modifications not approved by the Governor may be revised and resubmitted.

(g) The certificate of need standards adopted pursuant to this section which are applicable to the provisions of this article are not subject to article three, chapter twenty-nine-a of this code. The authority shall follow the provisions set forth in this section for giving notice to the public of its actions, holding hearings or receiving comments on the certificate of need standards. The certificate of need standards in effect on July 1, 2016, and all prior versions promulgated and adopted in accordance with the provisions of this section are and have been in full force and effect from each of their respective dates of approval by the Governor.

(h) After approval from the Governor, the authority shall prepare a report detailing its review findings and submit the report to the Legislative Oversight Commission on Health and Human Resources Accountability with its annual report before January 1, each year.

§16-2D-7. Determination of reviewability.

A person may make a written request to the authority for it to determine whether a proposed health service is subject to the certificate of need or exemption process. The authority may require that a person submit certain information in order to make this determination. A person shall pay a \$100 fee to the authority to obtain this determination. A person is not required to obtain this determination before filing an application for a certificate of need or an exemption.

§16-2D-8. Proposed health services that require a certificate of need.

(a) Except as provided in sections nine, ten and eleven of this article, the following proposed health services may not be acquired,

offered or developed within this state except upon approval of and receipt of a certificate of need as provided by this article:

(1) The construction, development, acquisition or other establishment of a health care facility;

(2) The partial or total closure of a health care facility with which a capital expenditure is associated;

(3) (A) An obligation for a capital expenditure incurred by or on behalf of a health care facility, in excess of the expenditure minimum;
or

(B) An obligation for a capital expenditure incurred by a person to acquire a health care facility.

(4) An obligation for a capital expenditure is considered to be incurred by or on behalf of a health care facility:

(i) When a valid contract is entered into by or on behalf of the health care facility for the construction, acquisition, lease or financing of a capital asset;

(ii) When the health care facility takes formal action to commit its own funds for a construction project undertaken by the health care facility as its own contractor; or

(iii) In the case of donated property, on the date on which the gift is completed under state law.

(5) A substantial change to the bed capacity of a health care facility with which a capital expenditure is associated;

(6) The addition of ventilator services by a hospital;

(7) The elimination of health services previously offered on a regular basis by or on behalf of a health care facility which is associated with a capital expenditure;

(8) (A) A substantial change to the bed capacity or health services offered by or on behalf of a health care facility, whether or not the change is associated with a proposed capital expenditure;

(B) If the change is associated with a previous capital expenditure for which a certificate of need was issued; and

(C) If the change will occur within two years after the date the activity which was associated with the previously approved capital expenditure was undertaken.

(9) The acquisition of major medical equipment;

(10) A substantial change in an approved health service for which a certificate of need is in effect;

(11) An expansion of the service area for hospice or home health agency regardless of the time period in which the expansion is contemplated or made; and

(12) The addition of health services offered by or on behalf of a health care facility which were not offered on a regular basis by or on behalf of the health care facility within the twelve- month period prior to the time the services would be offered.

(b) The following health services are required to obtain a certificate of need regardless of the minimum expenditure:

(1) Constructing, developing, acquiring or establishing of a birthing center;

(2) Providing radiation therapy;

(3) Providing computed tomography;

(4) Providing positron emission tomography;

(5) Providing cardiac surgery;

- (6) Providing fixed magnetic resonance imaging;
 - (7) Providing comprehensive medical rehabilitation;
 - (8) Establishing an ambulatory care center;
 - (9) Establishing an ambulatory surgical center;
 - (10) Providing diagnostic imaging;
 - (11) Providing cardiac catheterization services;
 - (12) Constructing, developing, acquiring or establishing of kidney disease treatment centers, including freestanding hemodialysis units;
 - (13) Providing megavoltage radiation therapy;
 - (14) Providing surgical services;
 - (15) Establishing operating rooms;
 - (16) Adding acute care beds;
 - (17) Providing intellectual developmental disabilities services;
 - (18) Providing organ and tissue transplants;
 - (19) Establishing an intermediate care facility for individuals with intellectual disabilities;
 - (20) Providing inpatient services;
 - (21) Providing hospice services;
 - (22) Establishing a home health agency; and
 - (23) Providing personal care services.
- (c) A certificate of need previously approved under this article remains in effect unless revoked by the authority.

§16-2D-9. Health services that cannot be developed.

Notwithstanding section eight and eleven, these health services require a certificate of need but the authority may not issue a certificate of need to:

(1) A health care facility adding intermediate care or skilled nursing beds to its current licensed bed complement, except as provided in subdivision twenty-three, subsection (c), section eleven;

(2) A person developing, constructing or replacing a skilled nursing facility except in the case of facilities designed to replace existing beds in existing facilities that may soon be deemed unsafe or facilities utilizing existing licensed beds from existing facilities which are designed to meet the changing health care delivery system;

(3) Beds in an intermediate care facility for individuals with an intellectual disability, except that prohibition does not apply to an intermediate care facility for individuals with intellectual disabilities beds approved under the Kanawha County circuit court order of August 3, 1989, civil action number MISC-81-585 issued in the case of E.H. v. Matin, 168 W.V. 248, 284 S.E. 2d 232 (1981); and

(4) An opioid treatment facility or program.

§16-2D-10. Exemptions from certificate of need.

Notwithstanding section eight, a person may provide the following health services without obtaining a certificate of need or applying to the authority for approval:

(1) The creation of a private office of one or more licensed health professionals to practice in this state pursuant to chapter thirty of this code.

(2) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees that does not contain inpatient or resident beds for patients or

employees who generally remain in the facility for more than twenty-four hours;

(3) A place that provides remedial care or treatment of residents or patients conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

§16-2D-11. Exemptions from certificate of need which require approval from the authority.

(a) To obtain an exemption under this section a person shall:

(1) File an exemption application;

(2) Pay the \$1,000 application fee; and

(3) Provide a statement detailing which exemption applies and the circumstances justifying the approval of the exemption.

(b) The authority has forty-five days to review the exemption request. The authority may not hold an administrative hearing to review the application. An affected party may not file an objection to the request for an exemption. The applicant may request or agree with the authority to a fifteen day extension of the timeframe. If the authority does not approve or deny the application within forty-five days, then the exemption is immediately approved. If the authority denies the approval of the exemption, the applicant may appeal the authority's decision to the Office of Judges or refile the application with the authority. The Office of Judges shall follow the procedure provided in section sixteen to perform the review.

(c) Notwithstanding section eight and ten and except as provided in section nine, these health services are exempt from the certificate of need process:

(1) A computed tomography scanner that is installed in a private office practice where at minimum seventy five percent of the scans are

for the patients of the practice and the fair market value of the installation and purchase is less than \$250,000 for calendar year 2016. The authority shall adjust the dollar amount specified in this subdivision annually and publish an update of the amount on or before December 31, of each year. The adjustment of the dollar amount shall be based on the DRI inflation index published in the Global Insight DRI/WEFA Health Care Cost Review. The authority may at any time request from the private office practice information concerning the number of patients who have been provided scans;

(2) (A) A birthing center established by nonprofit primary care center that has a community board and provides primary care services to people in their community without regard to ability to pay; or

(B) A birthing center established by a nonprofit hospital with less than one hundred licensed acute care beds.

(i) To qualify for this exemption, an applicant shall be located in an area that is underserved with respect to low-risk obstetrical services; and

(ii) Provide a proposed health service area.

(3) (A) A health care facility acquiring major medical equipment, adding health services or obligating a capital expenditure to be used solely for research;

(B) To qualify for this exemption, the health care facility shall show that the acquisition, offering or obligation will not:

(i) Affect the charges of the facility for the provision of medical or other patient care services other than the services which are included in the research;

(ii) Result in a substantial change to the bed capacity of the facility; or

(iii) Result in a substantial change to the health services of the facility.

(C) For purposes of this subdivision, the term 'solely for research' includes patient care provided on an occasional and irregular basis and not as part of a research program;

(4) The obligation of a capital expenditure to acquire, either by purchase, lease or comparable arrangement, the real property, equipment or operations of a skilled nursing facility.

(5) Shared health services between two or more hospitals licensed in West Virginia providing health services made available through existing technology that can reasonably be mobile. This exemption does not include providing mobile cardiac catheterization;

(6) The acquisition, development or establishment of a certified interoperable electronic health record or electronic medical record system;

(7) The addition of forensic beds in a health care facility;

(8) A behavioral health service selected by the Department of Health and Human Resources in response to its request for application for services intended to return children currently placed in out-of-state facilities to the state or to prevent placement of children in out-of-state facilities is not subject to a certificate of need;

(9) The replacement of major medical equipment with like equipment;

(10) Renovations within a hospital. The renovations may not expand the health care facility's current square footage, incur a substantial change to the health services, or a substantial change to the bed capacity;

(11) Renovations to a skilled nursing facility;

(12) The construction, development, acquisition or other establishment by a licensed West Virginia hospital of an ambulatory health care facility in the county in which it is located and in a contiguous county within or outside this state;

(13) The donation of major medical equipment to replace like equipment for which a certificate of need has been issued and the replacement does not result in a substantial change to health services. This exemption does not include the donation of major medical equipment made to a health care facility by a related organization;

(14) A person providing specialized foster care personal care services to one individual and those services are delivered in the provider's home;

(15) A hospital converting the use of beds except a hospital may not convert a bed to a skilled nursing home bed and conversion of beds may not result in a substantial change to health services provided by the hospital;

(16) The construction, renovation, maintenance or operation of a state owned veterans skilled nursing facilities established pursuant to the provisions of article one-b of this chapter;

(17) A nonprofit community group designated by a county to develop and operate a nursing home bed facility with no more than thirty-six beds in any county in West Virginia that currently is without a skilled nursing facility;

(18) A critical access hospital, designated by the state as a critical access hospital, after meeting all federal eligibility criteria, previously licensed as a hospital and subsequently closed, if it reopens within ten years of its closure;

(19) The establishing of a health care facility or offering of health services for children under one year of age suffering from Neonatal Abstinence Syndrome;

(20) The construction, development, acquisition or other establishment of community mental health and intellectual disability facility;

(21) Providing behavioral health services;

(22) The construction, development, acquisition or other establishment of kidney disease treatment centers, including freestanding hemodialysis units but only to a medically underserved population;

(23) The transfer or acquisition of intermediate care or skilled nursing beds from an existing health care facility to a nursing home providing intermediate care and skilled nursing services.

(24) The construction, development, acquisition or other establishment by a health care facility of a nonhealth related project;

(25) A facility owned and operated by one or more health professionals authorized or organized pursuant to chapter thirty or ambulatory health care facility which offers laboratory or imaging services to patients regardless of the cost associated with the proposal. To qualify for this exemption seventy five percent of the laboratory services are for the patients of the practice or ambulatory health care facility of the total laboratory services performed and seventy-five percent of imaging services are for the patients of the practice or ambulatory health care facility of the total imaging services performed;

(26) The construction, development, acquisition or other establishment of an alcohol or drug treatment facility and drug and alcohol treatment services unless the construction, development, acquisition or other establishment is an opioid treatment facility or programs as set forth in subdivision (4) of section nine of this article;

(27) Assisted living facilities and services; and

(28) The creation, construction, acquisition or expansion of a community-based nonprofit organization with a community board that provides or will provide primary care services to people without regard to ability to pay and receives approval from the Health Resources and Services Administration.

§16-2D-12. Minimum criteria for certificate of need reviews.

(a) A certificate of need may only be issued if the proposed health service is:

(1) Found to be needed; and

(2) Consistent with the state health plan, unless there are emergency circumstances that pose a threat to public health.

(b) The authority may not grant a certificate of need unless, after consideration of the appropriateness of the use of existing facilities within this state providing services similar to those being proposed, the authority makes each of the following findings in writing:

(1) That superior alternatives to the services in terms of cost, efficiency and appropriateness do not exist within this state and the development of alternatives is not practicable;

(2) That existing facilities providing services within this state similar to those proposed are being used in an appropriate and efficient manner;

(3) That in the case of new construction, alternatives to new construction, such as modernization or sharing arrangements, have been considered and have been implemented to the maximum extent practicable; and

(4) That patients will experience serious problems in obtaining care within this state of the type proposed in the absence of the proposed health service.

(c) In addition to the written findings required in this section, the authority shall make a written finding regarding the extent to which the proposed health service meets the needs of the medically underserved population, except in the following cases:

(1) Where the proposed health service is one described in subsection (d) of this section to eliminate or prevent certain imminent

safety hazards or to comply with certain licensure or accreditation standards; or

(2) Where the proposed health service is a proposed capital expenditure not directly related to the provision of health services or to beds or to major medical equipment.

(d) Notwithstanding the review criteria in subsection (b), an application for a certificate of need shall be approved, if the authority finds that the facility or service with respect to which such capital expenditure is proposed to be made is needed and that the obligation of such capital expenditure is consistent with the state health plan, for a capital expenditure which is required:

(1) To eliminate or prevent imminent safety hazards as defined by federal, state or local fire building or life safety codes, statutes or rules.

(2) To comply with state licensure standards; or

(3) To comply with accreditation or certification standards. Compliance with which is required to receive reimbursement under Title XVIII of the Social Security Act or payments under the state plan for medical assistance approved under Title XIX of such act.

(e) In the case where an application is made by a health care facility to provide ventilator services which have not previously been provided for a nursing facility bed, the authority shall consider the application in terms of the need for the service and whether the cost exceeds the level of current Medicaid services. A facility providing ventilator services, may not provide a higher level of services for a nursing facility bed without demonstrating that the change in level of service by provision of the additional ventilator services will result in no additional fiscal burden to the state.

(f) The authority shall consider the total fiscal liability to the state for a submitted application.

(g) Criteria for reviews may vary according to the purpose for which a particular review is being conducted or the types of health services being reviewed.

(h) An application for a certificate of need may not be made subject to any criterion not contained in this article or in the certificate of need standards.

§16-2D-13. Procedures for certificate of need reviews.

(a) An application for a certificate of need shall be submitted to the authority prior to the offering or development of a proposed health service.

(b) A person proposing a proposed health service shall:

(1) Submit a letter of intent ten days prior to submitting the certificate of need application. The information required within the letter of intent shall be detailed by the authority in legislative rule;

(2) Submit the appropriate application fee;

(A) Up to \$1,500,000 a fee of \$1,500.00;

(B) From \$1,500,001 to \$ 5,000,000 a fee of \$5,000.00;

(C) From \$5,000,001 to 25,000,000 a fee of \$25,000.00; and

(D) From \$25,000,001 and above a fee of \$35,000.00.

(3) Submit to the Director of the Office of Insurance Consumer Advocacy a copy of the application;

(c) The authority shall determine if the submitted application is complete within ten days of receipt of the application. The authority shall provide written notification to the applicant of this determination. If the authority determines an application to be incomplete, the authority may request additional information from the applicant.

(d) Within five days of receipt of a letter of intent, the authority shall provide notification to the public through a newspaper of general circulation in the area where the health service is being proposed and by placing of copy of the letter of intent on its website. The newspaper notice shall contain a statement that, further information regarding the application is on the authority's website.

(e) The authority may batch completed applications for review on the fifteenth day of the month or the last day of month in which the application is deemed complete.

(f) When the application is submitted, ten days after filing the letter of intent, the application shall be placed on the authority's website.

(g) An affected party has thirty days starting from the date the application is batched to request the authority hold an administrative hearing.

(1) A hearing order shall be approved by the authority within fifteen days from the last day an affected person may requests an administrative hearing on a certificate of need application.

(2) A hearing shall take place no later than three months from that date the hearing order was approved by the authority.

(3) The authority shall conduct the administrative hearing in accordance with administrative hearing requirements in article five, chapter twenty-nine-a of this code.

(4) In the administrative hearing an affected person has the right to be represented by counsel and to present oral or written arguments and evidence relevant to the matter which is the subject of the public hearing. An affected person may conduct reasonable questioning of persons who make factual allegations relevant to its certificate of need application.

(5) The authority shall maintain a verbatim record of the administrative hearing.

(6) After the commencement of the administrative hearing on the application and before a decision is made with respect to it, there may be no ex parte contacts between:

(A) The applicant for the certificate of need, any person acting on behalf of the applicant or holder of a certificate of need or any person opposed to the issuance of a certificate for the applicant; and

(B) Any person in the authority who exercises any responsibility respecting the application.

(7) The authority may not impose fees to hold the administrative hearing.

(8) The authority shall render a decision within forty-five days of the conclusion of the administrative hearing.

(h) If an administrative hearing is not conducted during the review of an application, the authority shall provide a file closing date five days after an affected party may no longer request an administrative hearing, after which date no other factual information or evidence may be considered in the determination of the application for the certificate of need. A detailed itemization of documents in the authority's file on a proposed health service shall, on request, be made available by the authority at any time before the file closing date.

(i) The extent of additional information received by the authority from the applicant for a certificate of need after a review has begun on the applicant's proposed health service, with respect to the impact on the proposed health service and additional information which is received by the authority from the applicant, may be cause for the authority to determine the application to be a new proposal, subject to a new review cycle.

(j) The authority shall have five days to provide the written status update upon written request by the applicant or an affected person. The

status update shall include the findings made in the course of the review and any other appropriate information relating to the review.

(k) (1) The authority shall annually prepare and publish to its website, a status report of each ongoing and completed certificate of need application reviews.

(2) For a status report of an ongoing review, the authority shall include in its report all findings made during the course of the review and any other appropriate information relating to the review.

(3) For a status report of a completed review, the authority shall include in its report all the findings made during the course of the review and its detailed reasoning for its final decision.

(l) The authority shall provide for access by the public to all applications reviewed by the authority and to all other pertinent written materials essential to agency review.

§16-2D-14. Procedure for an uncontested application for a certificate of need.

The authority shall review an uncontested certificate of need application within sixty days from the date the application is batched. An uncontested application is deemed approved if the review is not completed within sixty days from the date the application is batched, unless an extension, up to fifteen days is requested by the applicant.

§16-2D-15. Agency to render final decision; issue certificate of need; write findings; specify capital expenditure maximum.

(a) The authority shall render a final decision on an application for a certificate of need in the form of an approval, a denial or an approval with conditions. The final decision with respect to a certificate of need shall be based solely on:

(1) The authority's review conducted in accordance with procedures and criteria in this article and the certificate of need standards; and

(2) The record established in the administrative hearing held with respect to the certificate of need.

(b) Approval with conditions does not give the authority the ability to mandate a health service not proposed by the health care facility. Issuance of a certificate of need or exemption may not be made subject to any condition unless the condition directly relates to criteria in this article, or in the certificate of need standards. Conditions may be imposed upon the operations of the health care facility for not longer than a three-year period.

(c) The authority shall send its decision along with written findings to the person proposing the proposed health service or exemption and shall make it available to others upon request.

(d) In the case of a final decision to approve or approve with conditions a proposal for a proposed health service, the authority shall issue a certificate of need to the person proposing the proposed health service.

(e) The authority shall specify in the certificate of need the maximum amount of capital expenditures which may be obligated. The authority shall adopt legislative rules pursuant to section four to prescribe the method used to determine capital expenditure maximums and a process to review the implementation of an approved certificate of need for a proposed health service for which the capital expenditure maximum is exceeded or is expected to be exceeded.

§16-2D-16. Appeal of certificate of need decision.

(a) The authority's final decision shall upon request of an affected person be reviewed by the Office of Judges. The request shall be received within thirty days after the date of the authority's decision.

The appeal hearing shall commence within thirty days of receipt of the request.

(b) The office of judges shall conduct its proceedings in conformance with the West Virginia Rules of Civil Procedure for trial courts of record and the local rules for use in the civil courts of Kanawha County and shall review appeals in accordance with the provisions governing the judicial review of contested administrative cases in article five, chapter twenty-nine-a of this code.

(c) The decision of the office of judges shall be made in writing within forty-five days after the conclusion of the hearing.

(d) The written findings of the office of judges shall be sent to the person who requested the review, to the person proposing the proposed health service and to the authority, and shall be made available by the authority to others upon request.

(e) The decision of the office of judges shall be considered the final decision of the authority; however, the office of judges may remand the matter to the authority for further action or consideration.

(f) Upon the entry of a final decision by the office of judges, a person adversely affected by the review may within thirty days after the date of the decision of the review agency make an appeal in the circuit court of Kanawha County. The decision of the office of judges shall be reviewed by the circuit court in accordance with the provisions for the judicial review of administrative decisions contained in article five, chapter twenty-nine-a of this code.

§16-2D-17. Nontransference, time period compliance and withdrawal of certificate of need.

(a) A certificate of need is nontransferable and is valid for a maximum of one year from the date of issuance. Upon the expiration of the certificate or during the certification period, the person proposing the proposed health service shall provide the authority

information on the development of the project as the authority may request. The authority shall periodically monitor capital expenditures obligated under certificates, determine whether sufficient progress is being made in meeting the timetable specified in the approved application for the certificate and whether there has been compliance with the application and any conditions of certification. The certificate of need may be extended by the authority for additional periods of time as are reasonably necessary to expeditiously complete the project.

(b) A certificate of need may no longer be in effect, and may no longer be required, after written notice of substantial compliance with the approved application and any conditions of certification is issued to the applicant, after the activity is undertaken for which the certificate of need was issued, and after the authority is provided written notice of such undertaking.

(c) A person proposing a proposed health service may not be issued a license, if applicable, until the authority has issued a written notice of substantial compliance with the approved application and any conditions of certification, nor may a proposed health service be used until the person has received such notice. A proposed health service may not be found to be in substantial compliance with the approved application and any conditions of certification if there is a substantial change in the approved proposed health service for which change a certificate of need has not been issued.

(d) (1) A certificate of need may be withdrawn by the authority for:

(A) Noncompliance with any conditions of certification;

(B) A substantial change in an approved proposed health service for which change a certificate of need has not been issued;

(C) Material misrepresentation by an applicant upon which the authority relied in making its decision; or

(D) Other reasons that may be established by the authority in legislative rules adopted pursuant to section four of this article.

(2) Any decision of the authority to withdraw a certificate of need shall be based solely on:

(A) The provisions of this article and on legislative rules adopted in accordance with section four of this article; and

(B) The record established in administrative hearing held with respect to the authority's proposal to withdraw the certificate.

(3) In the case of a proposed withdrawal of a certificate of need:

(A) After commencement of an administrative hearing on the authority's proposal to withdraw a certificate of need and before a decision is made on withdrawal, there may be no ex parte contacts between:

(i) The holder of the certificate of need, any person acting on behalf of the holder, or any person in favor of the withdrawal; and

(ii) Any person in the authority who exercises responsibility respecting withdrawal of the certificate;

(B) The authority shall follow the review procedure established in section thirteen; and

(C) Appeals of withdrawals of certificates of need shall be made pursuant to section sixteen of this article.

(4) A proposed health service may not be acquired, offered, or developed within this state if a certificate of need authorizing that proposed health service has been withdrawn by the authority and the acquisition, offering, or developing of the proposed health service is subject to review under this article.

§16-2D-18. Denial or revocation of license for operating without certificate.

A person who violates the provisions of this article is subject to denial or revocation of a license, in whole or in part, to operate a proposed health service or health care facility. Upon a showing to the

authority that a person is offering or developing a proposed health service without having first obtained a certificate of need or that a person is otherwise in violation of the provisions of this article, the authority shall provide a person with written notice which shall state the nature of the violation and the time and place at which the person shall appear to show good cause why its license should not be revoked or denied, at which time and place the person shall be afforded a reasonable opportunity to present testimony and other evidence in support of the person's position. If, thereafter, the authority determines that the person's license to operate the health service or health care facility should be revoked or denied, the authority shall issue a written order to the appropriate licensing agency of the state, requiring that the person's license to operate the proposed health service or health care facility be revoked or denied. The order is binding upon the licensing agency.

§16-2D-19. Injunctive relief; civil penalty.

(a) A person who acquires, offers or develops a proposed health service for which a certificate of need is required without first having a certificate of need therefore or violates any other provision of this article, or any legislative rule promulgated thereunder, the authority may maintain a civil action in the circuit court of the county where the violation has occurred, or where the person may be found, to enjoin, restrain or prevent the violation. An injunction bond is not required to be filed.

(b) The authority may assess a civil penalty for violation of this article.

(c) Upon the authority determining that there is probable cause to believe that a person is in violation of the provisions of this article, or any lawful rule promulgated thereunder, the authority shall provide the person with written notice which states the nature of the alleged violation and the time and place at which an administrative hearing shall take place. The hearing shall be conducted in accordance with the

administrative hearing provisions of article five, chapter twenty-nine-a of this code.

(d) If the authority determines that the person is in violation of the provisions of this article or legislative rule, the authority shall assess a civil penalty of not less than \$500 nor more than \$25,000.

(e) In determining the amount of the penalty, the authority shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage.

(f) A person assessed shall be notified of the assessment in writing, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the authority within thirty days, the authority may institute a civil action in the circuit court of the county where the violation has occurred, or where the person may be found to recover the amount of the assessment. In the civil action, the scope of the court's review of the authority's action, which shall include a review of the amount of the assessment, shall be as provided in article five, chapter twenty-nine-a of this code for the judicial review of contested administrative cases.

§16-2D-20. Statute of limitations.

The authority has a period of three years to correct violations of the provisions of this article. The three-year period begins from the date the authority knows or should have known of the violation. Each new act of a continuing violation shall provide a basis for restarting the calculation of the limitations period.”

On motion of Delegate Cowles, the House of Delegates concurred in the Senate amendment with further amendment, on page two, section two, line thirty, after the word “illness”, by inserting the words, “or developmental disabilities”.

On page six, section two, line one hundred twenty-three, by striking out the words, “home health” and inserting the words, “personal care”.

On page nineteen, section eleven, line ninety-two, by striking out the word “and” and inserting the word, “or”.

And,

On page nineteen, section eleven, line ninety-seven, by striking out the word “imagining” and inserting the word, “imaging”.

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. 572**), and there were—yeas 91, nays 5, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Fluharty, Lynch, Storch and Weld.

Absent and Not Voting: Blackwell, Boggs, D. Evans and Miller.

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. 4365) 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. 4383, Making individuals responsible for the costs relating to the filing of excessive false complaints.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

Delegate Cowles then moved that the House concur in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 30. EXCESSIVE FILING OF FALSE COMPLAINTS.

§5-30-1. Filing of false claims; suspension of investigatory obligations; notice; exceptions; civil actions and remedies.

(a) For purposes of this section:

(1) ‘Complaint’ means a claim, allegation, report or action that prompts a required inspection or investigation by an agency or department of the state, excluding any complaint filed in the courts of this state.

(2) ‘False complaint’ means a complaint received by an agency or department of the state that the agency or department of the state determines, after investigation, that the person who filed the complaint did so knowing the material statements in the complaint were not true, filed a complaint in reckless disregard of the truth or falsity of the statements contained therein or filed a complaint which constitutes an abuse of process.

(b) If any agency or department of the state that is required by statute, rule, regulation or policy to conduct inspections or investigate complaints by individuals to determine whether there is violation of a statute, rule or regulation determines, by clear and convincing evidence, that a person filed a false complaint, as defined in this section, may, in its sole discretion, suspend any obligations with respect to such required inspections or investigations as to that individual if the agency or department determines that the individual has made three or more false complaints in a two-month period: *Provided*, That any such suspension shall not last longer than six months and the agency or department may still undertake any inspections or investigations as a result of a complaint by the individual within this time period: *Provided, however*, That the agency

or department must maintain written records of, at least, the name and telephone number of the person making the complaint to avail itself of the provisions of this section.

(c) Any individual whose complaint is determined to be a false complaint shall be advised of the same, in writing, within forty-eight hours of the conclusion of the inspection or investigation. A copy of this article shall be provided with the written notice. The agency shall also forward a copy of any such written communication to the Governor, the Speaker of the House and the President of the Senate.

(d) This article does not apply to any agency or department inspections or investigations that are required in the event of emergencies or the West Virginia State Police.

(e) In the event an agency or department subject to this article suspends its obligations to an individual, the agency or department is authorized to file a civil action against the individual and, upon proof by a preponderance of the evidence that any of the complaints giving rise to the suspension were false complaints, is entitled to recover its actual costs associated with the inspection or investigation and resolution of those false complaints, plus attorney's fees and costs, as well as any injunctive or equitable relief.

(f) Nothing in this article is intended to affect or supersede any other available legal or administrative remedies of any agency or department.”

And,

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

Com. Sub. for H. B. 4383 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, relating to excessive filing of false complaints; defining terms; providing for the discretionary suspension of investigatory

obligations by agencies or departments under certain circumstances; setting forth time frames for determination of excessive false complaints; requiring false complaints, as defined, be shown by clear and convincing evidence; limiting the time frame investigatory obligations may be suspended; requiring the agency or department of the state to keep written records related to false complaints; providing for exceptions in the agency's or department's sole discretion; providing for written notice of determinations that a complaint was a false complaint; providing that a copy of this article accompany notices; providing that written notice also be provided to the Governor, Speaker of the House and President of the Senate; providing for exceptions to this article for emergency investigations and the West Virginia State Police; providing for civil actions; establishing burden of proof and remedies for civil actions; and preserving other available remedies of an agency or department."

Delegate Cowles then asked and obtained unanimous consent to withdraw the motion to concur in the Senate amendments.

Unanimous consent having been obtained, the bill was then placed at the foot of Senate messages.

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. 4537, Relating to the regulation of chronic pain clinics.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 5H. CHRONIC PAIN CLINIC LICENSING ACT.**§16-5H-2. Definitions.**

(a) ‘Chronic pain’ means pain that has persisted after reasonable medical efforts have been made to relieve the pain or cure its cause and that has continued, either continuously or episodically, for longer than three continuous months. For purposes of this article, ‘chronic pain’ does not include pain directly associated with a terminal condition. ~~or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition~~

(b) ‘Director’ means the Director of the Office of Health Facility Licensure and Certification within the Office of the Inspector General.

(c) ‘Owner’ means any person, partnership, association or corporation listed as the owner of a pain management clinic on the licensing forms required by this article.

(d) ‘Pain management clinic’ means all privately owned pain management clinics, facilities or offices not otherwise exempted from this article and which meets both of the following criteria:

(1) ~~Where in any month more than fifty percent of patients of the prescribers or dispensers~~ clinic are prescribed or dispensed opioids or other controlled substances specified in rules promulgated pursuant to this article for chronic pain resulting from ~~nonmalignant~~ conditions that are not terminal; and

(2) The facility meets any other identifying criteria established by the secretary by rule.

(e) ‘Physician’ means an individual authorized to practice medicine or surgery or osteopathic medicine or surgery in this state.

(f) ‘Prescriber’ means an individual who is authorized by law to prescribe drugs or drug therapy related devices in the course of the individual’s professional practice, including only a medical or

osteopathic physician authorized to practice medicine or surgery; a physician assistant or osteopathic physician assistant who holds a certificate to prescribe drugs; or an advanced nurse practitioner who holds a certificate to prescribe.

(g) ‘Secretary’ means the Secretary of the West Virginia Department of Health and Human Resources. The secretary may define in rules any term or phrase used in this article which is not expressly defined.

§16-5H-5. Exemptions.

(a) The following facilities are not pain management clinics subject to the requirements of this article:

~~(1) A facility that is affiliated with an accredited medical school at which training is provided for medical or osteopathic students, residents or fellows, podiatrists, dentists, nurses, physician assistants, veterinarians or any affiliated facility to the extent that it participates in the provision of the instruction;~~

~~(2) (1) A facility that does not prescribe or dispense controlled substances for the treatment of chronic pain;~~

~~(3) (2) A hospital licensed in this state, a facility located on the campus of a licensed hospital that is owned, operated or controlled by that licensed hospital, and an ambulatory health care facility as defined by section two, article two-d, chapter sixteen of this code that is owned, operated or controlled by a licensed hospital;~~

~~(4) (3) A physician practice owned or controlled, in whole or in part, by a licensed hospital or by an entity that owns or controls, in whole or in part, one or more licensed hospitals;~~

~~(5) (4) A hospice program licensed in this state;~~

~~(6) (5) A nursing home licensed in this state;~~

(7) (6) An ambulatory surgical facility as defined by section two, article two-d, chapter sixteen of this code; and

(8) (7) A facility conducting clinical research that may use controlled substances in studies approved by a hospital-based institutional review board or an institutional review board accredited by the association for the accreditation of human research protection programs.

(b) Any facility that is not included in this section may petition to the secretary for an exemption from the requirements of this article. All such petitions are subject to the administrative procedures requirements of chapter twenty-nine-a of this code.

§16-5H-7. Suspension; revocation.

(a) The secretary may suspend or revoke a license issued pursuant to this article if the provisions of this article or of the rules promulgated pursuant to this article are violated. The secretary may revoke a clinic's license and prohibit all physicians associated with that pain management clinic from practicing at the clinic location based upon an annual or periodic inspection and evaluation.

(b) Before any such license is suspended or revoked, however, written notice shall be given to the licensee, stating the grounds of the complaint and shall provide notice of the right to request a hearing. ; and the date, time and place set for the hearing on the complaint, which date shall not be less than thirty days from the time notice is given The notice shall be sent by certified mail to the licensee at the address where the pain management clinic concerned is located. The licensee shall be entitled to be represented by legal counsel at the hearing.

(c) If a license is revoked ~~as herein provided~~ pursuant to this article, a new application for a license ~~shall~~ may be considered by the secretary if, when and after the conditions upon which revocation was based have been corrected, and evidence of this fact has been furnished to the secretary. A new license ~~shall~~ may then be granted after proper

inspection has been made and all provisions of this article and rules promulgated pursuant to this article have been satisfied.

(d) All of the pertinent provisions of article five, chapter twenty-nine-a of this code shall apply to and govern any hearing authorized and required by the provisions of this article and the administrative procedure in connection therewith.

(e) Any applicant or licensee who is dissatisfied with the decision of the secretary as a result of the hearing provided in this section may, within thirty days after receiving notice of the decision, appeal the decision to the circuit court of Kanawha County, in term or in vacation, for judicial review of the decision.

(f) The court may affirm, modify or reverse the decision of the secretary and either the applicant or licensee or the secretary may appeal from the court's decision to the Supreme Court of Appeals.

(g) If the license of a pain management clinic is revoked or suspended, the designated physician of the clinic, any other owner of the clinic or the owner or lessor of the clinic property shall cease to operate the facility as a pain management clinic as of the effective date of the suspension or revocation. The owner or lessor of the clinic property is responsible for removing all signs and symbols identifying the premises as a pain management clinic within thirty days.

(h) Upon the effective date of the suspension or revocation, the designated physician of the pain management clinic shall advise the secretary and the Board of Pharmacy of the disposition of all drugs located on the premises. The disposition is subject to the supervision and approval of the secretary. Drugs that are purchased or held by a pain management clinic that is not licensed may be deemed adulterated.

(i) If the license of a pain management clinic is suspended or revoked, any person named in the licensing documents of the clinic, including persons owning or operating the pain management clinic,

may not, as an individual or as part of a group, apply to operate another pain management clinic for five years after the date of suspension or revocation.

(j) The period of suspension for the license of a pain management clinic shall be prescribed by the secretary, but may not exceed one year.”

And.

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

Com. Sub. for H. B. 4537 – “A Bill to amend and reenact §16-5H-2, §16-5H-5 and §16-5H-7 of the Code of West Virginia, 1931, as amended, all relating to the regulation of chronic pain clinics; updating definitions; deleting an exemption for affiliation with a medical school; and clarifying due process concerns regarding the process for hearing notices upon appeal.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 573**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Ihle, McGeehan, Shaffer and Sobonya.

Absent and Not Voting: Blackwell.

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. 4537) 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. 4554, Allowing an increase of gross weight limitations on certain roads in Greenbrier County.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“WEIGHT LIMITATIONS ON CERTAIN ROADS IN GREENBRIER COUNTY.

§1. Authority of the Commissioner of the Division of Highways to increase weight limitations on certain highways within Greenbrier County.

(a) If the Commissioner of the Division of Highways determines that the design, construction and safety of the highways in Greenbrier County described in subsection (c) of this section are such that gross weight limits and dimensional restrictions may be increased without damage and without unreasonable danger to the public, the commissioner may set new limitations applicable to the highways or portions thereof.

(b) The commissioner may not establish any weight limitation or dimensional restriction in excess or in conflict with any weight limitation or dimensional restriction prescribed by or pursuant to acts of Congress for any road or highway that is part of the National System of Interstate and Defense Highways.

(c) Notwithstanding any provisions of the Code of West Virginia, 1931, as amended, to the contrary, if the commissioner determines that those portions of Greenbrier County Route 10/1 north and southbound from milepost 6.10 to milepost 11.60 are designed and constructed to allow the gross weight and dimensional limitation to be increased without damage, including damage to the road and related

infrastructure, and without unreasonable danger to the public, the commissioner may increase the gross weight and vehicle dimensional limitations on the highway section described above: *Provided*, That any person, organization or corporation or other entity proposing to exceed the gross weight and vehicle dimension limitations of current state law while using these routes must first obtain a permit from the commissioner before proceeding: *Provided, however*, That the increased weight limitations and dimensional restrictions are not barred by an act of the United States Congress.

(d) The commissioner shall create a permit that must be obtained by any person or entity wishing to use the provisions of subsection (c) of this section. The commissioner is authorized to make the permit subject to any restrictions and requirements the commissioner deems necessary to protect the public, road and other infrastructure.

(e) The commissioner shall adopt procedures for the issuance of the permit and those procedures shall be consistent with the existing procedures for the issuance of similar permits. The permit issued shall be valid for one year from the date of issuance.

(f) The information required in the application for the permit includes:

- (1) Vehicle and trailer information;
- (2) Number of axles;
- (3) Axle spacings;
- (4) Overall dimensions;
- (5) Load information;
- (6) Load weight and gross weight; and
- (7) Effective dates.

(g) Upon submission of this information the applicant shall be provided an appropriate permit based on the information provided in subsection (f) of this section.

(h) The commissioner shall charge a permit fee of \$500 for each permitted vehicle.

(i) The commissioner may immediately reduce the weight limit and dimensional restrictions if new information indicates that such reduction is needed to protect the public or road or other infrastructure.”

And,

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

Com. Sub. for H. B. 4554 – “A Bill to authorize the Commissioner of the Division of Highways to allow an increase of gross weight limitations and dimensional restrictions on certain roads in Greenbrier County; specifying roadway location; and providing for permit application, restrictions, requirements, fees and limitations.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 574**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo and Marcum.

Absent and Not Voting: Blackwell.

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. 4554) 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. 4558, Relating to victim notification and designation of additional individuals to receive notice of an offender's release.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 11A. VICTIM PROTECTION ACT OF 1984.

§61-11A-8. Notification to victim of offender's release, placement, or escape from custody.

(a) At the time a criminal prosecution is commenced by the filing of a complaint, if the complaint charges a person with committing an offense described in subsection (e) of this section, then ~~in such case~~ the prosecuting attorney is required to provide notice, in writing or by telephone, to the victim or a family member that he or she may request that they be notified prior to or at the time of any release of the accused from custody pending judicial proceedings.

(b) If a person is convicted of an offense described in subsection (e) of this section, the prosecuting attorney is required to provide notice, in writing or by telephone, to the victim or a family member that he or she may request that they be notified prior to or at the time of sentencing if the convicted person will be placed on work release, home confinement or probation.

(c) If a person is convicted of an offense described in subsection (e) of this section and is imprisoned in a state correctional facility or confined in a county or regional jail, the commissioner of corrections, the regional jail supervisor or the sheriff, as the case may be, is

required to provide notice, in writing or by telephone, to the victim or a family member that he or she may request that they be notified prior to or at the time of:

(1) Releasing the convicted person from imprisonment in any correctional facility;

(2) Releasing the convicted person from confinement in any ~~county or regional~~ jail;

(3) Placing the convicted person in a halfway house or other nonsecure facility to complete his or her sentence; or

(4) Any escape by the convicted person from a state correctional facility or a ~~county or regional~~ jail.

(d) The notice shall include instructions for the victim or the victim's family member on how to request the notification.

(e) Offenses which are subject to the provisions of this section are as follows:

(1) Murder;

(2) Aggravated robbery;

(3) Sexual assault in the first degree;

(4) Kidnapping;

(5) Arson;

(6) Any sexual offense against a minor; or

(7) Any violent crime against a person.

(f) The Commissioner of Corrections, a regional jail supervisor, a sheriff or a prosecuting attorney who receives a written request for

notification shall provide notice, in writing or by telephone, to the last known address or addresses or telephone number or numbers provided by the victim or a member of the victim's family, or in the case of a minor child, to the custodial parent, guardian or custodian of the child, in accordance with the provisions of this section. In case of escape, notification shall be by telephone, if possible.

(g) If one or more family members of a victim request notification and if the victim is an adult and is alive and competent, notification shall be sent to the victim, if possible, notwithstanding that ~~the victim~~ he or she did not request the notification. If the victim is deceased or an adult who is alive but not competent, the notice shall be sent to the first family member requesting notice in conformity with this section.

(h) If notification by telephone to a victim is attempted, notification is not complete unless it is given directly to the person requesting notification and after that person's identity has been verified. An attempted notification made to a voice mail or another recording device or to another member of the household is insufficient.

(i) For the purposes of this section, the following words or phrases defined in this subsection have the meanings ascribed to them. These definitions are applicable unless a different meaning clearly appears from the context.

(1) 'Filing of a complaint' means the filing of a complaint in accordance with the ~~requirements of rules~~ West Virginia Rules of Criminal Procedure promulgated by the Supreme Court of Appeals or the provisions of this code.

(2) 'Victim' means a victim of a crime listed in subsection (e) of this section who is alive and competent.

(3) 'Victim's family member' means a member of the family of a victim of a crime listed in subsection (e) of this section who is not alive and competent.

(j) In addition to those persons required to be notified under this section, a victim may designate an additional adult individual to receive notice provided for by this section: *Provided, That the obligation to notify the additional individuals under this section only arises if the additional adult individual's contact information is provided in writing by the victim to the appropriate notifying entity.*"

And,

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

H. B. 4558 – “A Bill to amend and reenact ‘61-11A-8 of the Code of West Virginia, 1931, as amended, relating to victim notification and designation of additional individuals to receive notice of an offender’s release, sentencing, placement or escape; providing an option to victims to designate an additional adult individual to receive notification; and requiring the victim to provide the additional adult individual’s contact information in writing to the appropriate notifying entity.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 575**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Blackwell and Miller.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4558) 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. 4561, Creating a special hiring process for West Virginia Division of Highways employees.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, section four-a, line three, by striking out the word “hourly”.

On page one, section four-a, line thirteen, by striking out the word “hourly”.

On page two, section four-a, line sixteen, by striking out the word “January” and inserting in lieu thereof the word “July”.

On page three, section four-a, line forty-five, by striking out the word “January” and inserting in lieu thereof the word “July”.

And,

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

Com. Sub. for H. B. 4561 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §29-6-4a, relating to requiring the Commissioner of the Division of Highways and the Director of the Division of Personnel to collaborate to develop a special hiring procedure for personnel positions in the Division of Highways; establishing requirements for the special hiring procedure; exempting the Division of Highways and the Division of Personnel from classified service hiring procedures upon implementation of the special hiring process; exceptions; establishing reporting requirements; and requiring emergency and legislative rulemaking.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 576**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: P. Smith.

Absent and Not Voting: Blackwell and Miller.

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. 4561) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

Com. Sub. for H. C. R. 3, North River Mills Historic Trace.

On motion of Delegate Cowles, the resolution was taken up for immediate consideration and the House concurred in the following Senate amendments:

On page one, in the first Whereas clause, line seven, by striking out the word “raik” and inserting in lieu thereof the word “Craik”.

On page five, in the twentieth Whereas clause, line nine, by striking out the word “ninety-six” and inserting in lieu thereof the words “the Siege of Ninety Six”.

On page six, in the twenty-fifth Whereas clause, line two, by striking out the word “where” and inserting in lieu thereof the word “when”.

On page six, in the Resolved clause, line nineteen, after the word “ending” by inserting the word “at”.

And,

By striking out the title and substituting therefor a new title, to read as follows:

Com. Sub. for H. C. R. 3 – “Requesting the Division of Highways to name the section of County Route 45/20, known as Coldstream Road, beginning at a point, latitude 39.336997, longitude -78.494499, and ending at a point, latitude 39.349509, longitude -78.511901, along the North River, Hiett Run and Maple Run, in Hampshire County, the ‘North River Mills Historic Trace’.”

The resolution (Com. Sub. for H. C. R. 3) 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:

Com. Sub. for H. C. R. 5, U.S. Army PV2 Eskridge A. Waggoner Memorial Bridge.

On motion of Delegate Cowles, the resolution was taken up for immediate consideration and the House concurred in the following Senate amendments:

On page two, in the first Further Resolved clause, by striking out “PV2” and inserting in lieu thereof “PVT”.

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:

Com. Sub. for H. C. R. 17, SGT Larry Joseph Whitt Bridge.

On motion of Delegate Cowles, the resolution was taken up for immediate consideration and the House concurred in the following Senate amendments:

On page two, in the Resolved clause, before “SGT”, by inserting the words “U. S. Army”.

On page two, in the first Further Resolved clause, before “SGT” by inserting the words “U. S. Army”.

And,

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

Com. Sub. for H. C. R. 17 – “Requesting the Division of Highways name Greenville Road Bridge, located in Logan County near the town of Man which traverses Rock House Creek, the ‘U. S. Army SGT Larry Joseph Whitt 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:

Com. Sub. for H. C. R. 56, U.S. Army CPL Robert Eugene Jackson Memorial Bridge.

On motion of Delegate Cowles, the resolution was taken up for immediate consideration and the House concurred in the following Senate amendment:

On page one, in the third Whereas clause, line ten, by striking out the word “Booth’s” and inserting in lieu thereof the word “Booths”.

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:

Com. Sub. for H. C. R. 57, U.S. Army PVT Leander Reel Memorial Bridge.

On motion of Delegate Cowles, the resolution was taken up for immediate consideration and the House concurred in the following Senate amendments:

On page one, in the second Whereas clause, line six, after the words “served in”, by inserting the word “the”.

And,

On page two, in the fifth Whereas clause, line ten, by striking out the word “infantry” and inserting in lieu thereof the word “Infantry”.

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:

Com. Sub. for H. C. R. 72, Max G. Parkinson Memorial Bridge.

On motion of Delegate Cowles, the resolution was taken up for immediate consideration and the House concurred in the following Senate amendments:

On page one, in the fourth Whereas clause, line fourteen, by striking out the word “Realtor” and inserting in lieu thereof the word “realtor”.

And,

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

Com. Sub. for H. C. R. 72 – “Requesting the Division of Highways to name Bridge Number 02-13-0.81 (02A172) (39.46979, -77.97913), locally known as New North Tennessee Avenue Bridge, carrying County Route 13 over Tuscarora Creek in Berkeley County, the ‘Max G. Parkinson 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.

At the request of Delegate Cowles, and by unanimous consent, the House of Delegates returned to further consideration of **Com. Sub. for H. B. 4383**, Making individuals responsible for the costs relating to the filing of excessive false complaints.

On motion of Delegate Cowles, the House concurred in the Senate amendments, as previously reported, with further amendment as follows:

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

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §5-30-1, to read as follows:

ARTICLE 30. EXCESSIVE FILING OF FALSE COMPLAINTS.

§5-30-1. Filing of false claims; suspension of investigatory obligations; notice; exceptions; civil actions and remedies.

(a) For purposes of this section:

(1) ‘Complaint’ means a claim, allegation, report or action that prompts a required inspection or investigation by an agency or department of the state, excluding any complaint filed in the courts of this state.

(2) ‘False complaint’ means a complaint received by an agency or department of the state by an individual that, after it has been investigated and concluded, is found to be frivolous, without merit, or made with reckless disregard of the truth or falsity of the subject of the complaint.

(b) Any agency or department of the state that is required by statute, rule, regulation or policy to conduct inspections or investigate complaints by individuals to determine whether there is violation of a statute, rule or regulation may, in its sole discretion, suspend any obligations with respect to such required inspections or investigations as to that individual if the agency or department determines that the individual has made three or more false complaints in a two-month period: *Provided*, That any such suspension shall not last longer than six months and the agency or department may still undertake any inspections or investigations as a result of a complaint by the individual within this time period: *Provided, however*, That the agency or department must maintain written records of, at least, the name and telephone number of the person making the complaint to avail itself of the provisions of this section.

(c) Any individual whose complaint is determined to be a false complaint shall be advised of the same, in writing, within forty-eight hours of the conclusion of the inspection or investigation. A copy of this article shall be provided with the written notice.

(d) This article does not apply to any agency or department inspections or investigations that are required in the event of emergencies or the West Virginia State Police.

(e) In the event an agency or department subject to this article suspends its obligations to an individual, the agency or department is authorized to file a civil action against the individual and, upon proof by a preponderance of the evidence that any of the complaints giving rise to the suspension were false complaints, is entitled to recover its actual costs associated with the inspection or investigation and resolution of those false complaints, plus attorney's fees and costs, as well as any injunctive or equitable relief.

(f) Nothing in this article is intended to affect or supersede any other available legal or administrative remedies of any agency or department.”

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. 577**), 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: Cadle and Miller.

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. 4383) passed.

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

Com. Sub. for H. B. 4383 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5-30-1, relating to excessive filing of false complaints; defining terms; providing for the discretionary suspension of investigatory obligations by agencies or departments under certain circumstances; setting forth time frames for determination of excessive false complaints; limiting the time frame investigatory obligations may be suspended; requiring the agency or department of the state to keep

written records related to false complaints; providing for exceptions in the agency's or department's sole discretion; providing for written notice of determinations that a complaint was a false complaint; providing that a copy of this article accompany notices; providing for exceptions to this article for emergency investigations and the West Virginia State Police; providing for civil actions; establishing burden of proof and remedies for civil actions; and preserving other available remedies of an agency or department."

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 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. 4174, Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Ashley, Cline and Beach.

On motion of Delegate Cowles, 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 Azinger, Foster and Moore.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to 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. 4013, Requiring a person desiring to vote to present documentation identifying the voter.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Gaunch, Ferns and Palumbo.

On motion of Delegate Cowles, 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 Lane, McCuskey and Rowe.

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

At 2:47 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 4:00 p.m.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with further amendment, and the passage, as amended, of

Com. Sub. for S. B. 157, Authorizing Department of Revenue to promulgate legislative rules.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF REVENUE TO PROMULGATE LEGISLATIVE RULES, AND REPEAL OF UNAUTHORIZED AND OBSOLETE RULES OF THE DEPARTMENT OF REVENUE.

§64-7-1. Alcohol Beverage Control Commission.

(a) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section twenty-two, article sixteen, chapter eleven of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 4, 2015, relating to the Alcohol Beverage Control Commission (nonintoxicating beer licensing and operations procedures, 176 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section ten, article seven, chapter sixty of this code, relating to the Alcohol Beverage Control Commission (private club licensing, 175 CSR 2), is authorized.

(c) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section sixteen, article two, chapter sixty of this code, modified by the Alcohol Beverage Control Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 4,

2015, relating to the Alcohol Beverage Control Commission (distilleries and mini-distilleries, 175 CSR 10), is authorized.

§64-7-2. Racing Commission.

(a) The legislative rule filed in the State Register on July 22, 2015, authorized under the authority of section six, article twenty-three, chapter nineteen of this code, relating to the Racing Commission (thoroughbred racing, 178 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 22, 2015, authorized under the authority of section six, article twenty-three, chapter nineteen of this code, relating to the Racing Commission (pari-mutuel wagering, 178 CSR 5), is authorized.

§64-7-3. Department of Revenue.

(a) The legislative rule filed in the State Register on July 29, 2015, authorized under the authority of section five-t, article ten, chapter eleven of this code, modified by the Department of Revenue to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 18, 2015, relating to the Department of Revenue (payment of taxes by electronic funds transfer, 110 CSR 10F), is authorized.

(b) The legislative rule filed in the State Register on July 29, 2015, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Department Revenue (exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Secretary of the Department of Commerce, the Secretary of the Department of Environmental Protection, the Director of the Division of Forestry of the Department of Commerce and the Commissioners of the Public Service Commission, 110 CSR 50H), is authorized, with the amendment set forth below:

On page one, subsection 3.1, line six, following the word “Commerce”, by inserting the words “Secretary of State”.

(c) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (listing of interests in natural resources for purposes of first statewide appraisal, 110 CSR 1B), is repealed.

(d) The legislative rule effective on May 13, 1987, authorized under the authority of section twenty-nine-a, article one-a, chapter eleven of this code, relating to the Tax Division (guidelines for assessors to assure fair and uniform nonutility personal property values, 110 CSR 1C), is repealed.

(e) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review by circuit court on certiorari, 110 CSR 1D), is repealed.

(f) The legislative rule effective on June 12, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review of appraisals by the county commission sitting as an administrative appraisal review board, 110 CSR 1E), is repealed.

(g) The legislative rule effective on May 13, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (additional review and implementation of property appraisals, 110 CSR 1F), is repealed.

(h) The legislative rule effective on May 13, 1987, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (review by circuit court on certiorari, 110 CSR 1G), is repealed.

(i) The Legislature directs the Department of Revenue to promulgate the legislative rule filed in the State Register on May 5, 1999, authorized under the authority of section five-a, article one-c, chapter eleven, of this code, relating to the Department Revenue

(Valuation of Timberland and Managed Timberland, 110 CSR 1H), with the amendments set forth below:

§110-1H-1. General.

1.1 Scope. — This legislative rule establishes the procedure for the classification and valuation of timberland and managed timberland.

1.2. Authority. — W. Va. Code §'11-1C-5(a)(2)(B), 11-1C-11(c)(1) and 11-1C-11b(c).

1.3. Filing Date. —

1.4. Effective Date. — July 1, 2016.

1.5. Repeal of former rule. — This legislative rule repeals and replaces WV 110 C.S.R.1H “Valuation of Timberland and Managed Timberland” filed April 16, 1999 and effective May 1, 1999.

§110-1H-2. Introduction.

2.1. The appraised value of managed timberland shall be determined by the State Tax Commissioner on the basis of the potential of the land to produce future income according to its use and productive potential. Potential future net income is discounted to its present value utilizing a discounted cash flow; this is the appraised value. The ability of a stand of timber to produce wood products for sale or use depends primarily on the quality of the soil and certain topographic and climatic features which can be expressed as a site index. Site index is the principal criterion influencing the appraised value of managed timberland. These factors shall be reviewed annually by the Tax Commissioner for necessary updating of the method described in order to properly reflect future changes in the values of managed timberland.

2.2. The appraised value of timberland (woodland/wasteland) shall be determined on the basis of market comparable derived through analysis of sales prices of comparable timberland (forested) properties.

Timberland appraisal value shall always be more than the appraised value of equivalent grades of properties being classified as managed timberland in the county. The appraised value of timberland shall be determined by the county assessor based upon the Timberland Classification Schedule found in Appendix 1 of this rule.

2.3. The county assessor shall collect and analyze market data, including sales of timberland, segregated into the classes contained in the previously referenced classification schedule. Based upon this market analysis, the county assessor shall select the value for each class of timberland that best reflects the market value of the property if exposed to the market for sale as timberland. The values by class thus selected shall be entered, by the assessor, into the respective county land pricing tables and shall be used by the assessor to estimate the appraised value of timberland for property tax purposes.

§110-1H-3. Definitions.

As used in this rule and unless the context clearly requires a different meaning, the following terms shall have the meaning ascribed in this section.

3.1. “Capitalization rate” means the rate used to convert an estimate of income into an estimate of present value. Details of the procedure for determining the capitalization rate are found in Section 12 of this rule.

3.2. “Certified managed timberland plan” means the managed timberland plan that is certified by the landowner when the landowner certifies that the property is maintained as managed timberland.

3.3. “Cost” means a component of management costs and property taxes.

3.4. “dbh” means the diameter of trees at breast height, which is 4.5' above ground level.

3.5. “Division of Forestry” means the West Virginia Bureau of Commerce, Division of Forestry.

3.6. “Farm wood lot” means that portion of a farm in timber but may not include land used primarily for the growing of timber for commercial purposes except that Christmas trees, or nursery stock and woodland products, such as nuts or fruits harvested for human consumption, shall be considered farm products and not timber products.

3.7. “Harvest income per acre” means the expected after tax revenue and accrued interest for each harvesting interval. Interest is assumed to accrue at the rate of return from the period of harvest to the end of the 80 year rotation cycle.

3.8 “Integrated Moisture Index” means soil moisture data derived from a methodology described in “A GIS-Derived Integrated Moisture Index”; by Louis R. Iverson and Anantha M. Prasad; USDA Forest Service, Northeastern Research Station, Delaware, Ohio; 2003, as the same is refined and applied, from time to time, by subsequent professional studies conducted, or contracted for, by the Division of Forestry to determine current measures of the same.

3.9 “MBF” means thousand board feet.

3.10. “Management cost” means the cost determined tri-annually by the Tax Commissioner to be the average annual cost of maintaining and protecting a producing forest. Maintenance costs may include costs of inventory, boundary survey, security, maps, and any other items as can be shown to have been necessary. Protection may include costs of protection against forest fires; harmful insect and tree diseases; costs of repair and replacement resulting from damages reported to appropriate police agencies, including all-terrain vehicles (ATV’s) and other vehicular damages, and costs of replacing and replanting forest production and/or plantations destroyed or injured by deer or other wild animals whose populations exceed the maximum carrying capacity of the site. Management costs shall be determined as an

average for the entire State or by regions, by Managed Timberlands Productivity Grades or by parcel acreage and shall be deducted from gross annual income per acre to obtain net annual income per acre.

3.11. “Managed Timberland” means surface real property, except farm woodlots, of not less than ten contiguous acres which is devoted primarily to forest use and which, in consideration of their size, has sufficient numbers of commercially valuable species of trees to constitute at least forty percent normal stocking of forest trees which are well distributed over the growing site, and that it is managed pursuant to a plan as defined in subsection 3.12 and appendix 2 of this rule.

3.12. “Managed Timberland Plan” means the planned timberland management program that conforms to the following standards established by the Division of Forestry in the plan:

3.12.1. Includes the owner’s multipurpose objectives for the property;

3.12.2. Provides for the land:

3.12.2.a. to remain in at least 40% or greater forest cover of well distributed commercially important trees,

3.12.2.b. to produce continuous crops of timber according to the site’s productivity, and,

3.12.2.c. to be monitored for and action taken against threats from injurious agencies;

3.12.3. Ensures that harvesting will be done in a manner that assures regeneration of the landowner’s preferred species; and

3.12.4. Assures sustainability of forest resources and compliance with the Logging Sediment control Act, W. Va. Code §19-1B-1 *et seq.*

3.13. “Managed Timberland Productivity Grades” means timberland classified as Grade 1 (excellent to very good), Grade 2

(good to fair), or Grade 3 (poor), according to the table in Appendix 4 of this rule.

3.14. “Owner of surface less timber” means any person who owns an interest in the surface where the timber rights have been sold to someone else.

3.15. “Owner of Timber” means any person who owns an interest in timber, including a lessor or sublessor and an owner of a contract right to cut timber. The owner of timber must have a right to cut timber for sale on his, her or its own account for use in his, hers, or its trade or business in order to have property rights that are subject to ad valorem property taxes.

3.16. “Site Index” means a method of measuring the potential of a site to grow trees to the height that the average dominant and co-dominant trees on the site will attain at a given age. The site index will be determined using the applicable Integrated Moisture Index (IMI) as shown on Appendix 4 of this rule.

3.17. “Stumpage Price” means the market value of standing trees (on the stump) prior to felling and removal, and is expressed in dollars per unit of volume (MBF or cords). For appraisal purposes, real stumpage price will be adjusted to real price changes over various harvest periods (i.e., 35,45, 55 or 80 years) during the 80 year rotation cycle. The real price change shall be determined using historical West Virginia saw timber and pulpwood prices based upon 16 inch (dbh) logs provided by the West Virginia Division of Forestry (i.e. data from the last 20 years or more depending on data availability). . Stumpage price projections over various harvest periods shall be calculated using the real price change derived from historical saw timber and pulpwood prices in West Virginia. Thus, since stumpage prices provided by the Division of Forestry are in nominal terms, those prices shall be converted to real dollars (i.e. real terms) before stumpage projections are calculated. A five-year weighted moving average shall be computed in order to minimize the effects of short-term fluctuations.

Stumpage prices shall be computed for each stumpage price region in order to reflect regional differences in markets, topography, and accessibility.

3.18. “Stumpage Price Region” means a geographical region of the State, usually consisting of several counties, in which conditions of the timber, timber markets, topography, and accessibility are sufficiently similar to result in similar stumpage prices at any given time. The counties involved in each stumpage price region have been identified by the Division of Forestry and are found in Appendix 3 of this rule.

3.19. “Timber” means trees of any marketable species, whether planted or of natural growth, standing or down, located on public or privately owned land, which are suitable for commercial or industrial use.

3.20. “Timberland (Woodland/Wasteland)” means any surface real property, except Managed Timberland and farm woodlots of not less than ten contiguous acres, which is primarily in forest and which has, in consideration of their size, sufficient numbers of commercially-valuable species of trees to constitute at least forty percent (40%) normal stocking of forest trees, as shown Appendix 2 of this rule, which are well distributed over the growing site. Additionally, land that has been recently harvested of merchantable timber and is growing into or being planted as a new forest may be classified as timberland.

§110-1H-4. Classification of Timberland and Managed Timberland.

4.1. Managed Timberland. — For property to qualify for managed timberland valuation, the owner of the surface real property identified on the county tax mapping system shall annually certify in writing to the Division of Forestry that the property satisfies the requirements of managed timberland, as defined in Section 3 of this rule, and enter into a contract with the Division of Forestry to use the real estate in a

planned program of multiple purpose forest management, including erosion control during timbering operations, as specified in the West Virginia Forest Practices Standards and the West Virginia Silvicultural Nonpoint Source Management Program, and as explained in Section 13 of this rule. Multipurpose forest management contemplates the periodic selection of timber on the property for harvesting as an integral part of silvicultural management practices. The silvicultural manipulation subjects the property to periodic commercial use that may have an effect on the property's classification for property tax purposes. Therefore, in recognition of the silvicultural manipulation, the following guidelines shall be observed by the Division of Forestry when classifying managed timberland for property tax purposes.

4.1.1. Property containing managed timberland, which may have been properly taxed as Class II property prior to the managed timberland application, shall remain as Class II property unless there is some other event or change in the use of the property that disqualifies it from being taxed as Class II property.

4.1.2. Property containing managed timberland, which may have been properly taxed as Class III or Class IV property prior to the managed timberland application, shall be taxed as Class III or Class IV property depending upon location.

4.2. Timberland. — Timberland shall be taxed as Class II, Class III, or Class IV property in accordance with provisions of West Virginia Code § 11-8-5. In order for timberland to be taxed as Class II property, the timberland shall be used and occupied by the owner exclusively for residential purposes. (This section does not apply to farm woodlots - See, Valuation of Farmland and Structures Situated Thereon For Ad Valorem Property Tax Purposes, 110 C.S.R. 1H, § 110-1H-5.)

4.3. Surface less timber — Property where the owner of the surface does not include the timber rights is not eligible for managed timberland classification and shall be valued by the assessor.

4.4. Timber — Property where the owner of the timber rights does not include the surface, is not eligible for managed timberland classification and shall be valued by the assessor.

§110-1H-5. Valuation of Farm Wood Lots.

Farm wood lots shall be included in the valuation of farm property under W. Va. Code.

§11-1A-10, except when the farm wood lot is a separate parcel or tract entered in the land books, and/or except when the primary use of the farm wood lot is in commercial forestry or in a managed timberland contract.

§110-1H-6. Timberland Improvements.

Improvements such as roads and service buildings that are a required (usual) part of timber management operations are not subject to an additional market value appraisal over and above the appraisal of the managed timberland. Improvements that are not a necessary part of the timber management operations, such as dwellings, cottages, hunting camps, other recreational facilities, and associated real estate are subject to additional market value appraisals. Additionally, haul roads, strip and/or mountaintop removal mines, plant facilities, powerline and gas/oil pipeline rights-of-way, and gas/oil well pads shall not be valued as managed timberland.

§110-1H-7. Appraised Value of Timberland.

The appraised value per acre of timberland shall be determined based upon market comparables and shall be estimated by the county assessor. There are at least five (5) various timberland rates based on the timberland classification schedule described in Appendix 1 of this rule. Assessors shall tri-annually review and grade these non-managed timberland properties in order to assign the proper rate per acre to the property. The rate per acre shall be established by the assessor in conformity with requirements of subsection 2.2 of this rule.

§110-1H-8. Valuation of Less Than 10 Acres.

A parcel, or contiguous parcels, of timberland totaling less than ten (10) acres shall not be considered for classification as managed timberland and shall be valued by the county assessor based upon market comparables.

§110-1H-9. Harvest Volumes Per Acre.

Harvest Volumes per acre shall be based on site index and the ability of the site to yield timber measured in thousands of board feet (MBF) per acre (Scribner rule) or cords per acre with harvest intervals at thirty-five (35), fifty-five (55) and eighty (80) years for Grade 1 and Grade 2 soils, and at forty-five (45) and eighty (80) years for Grade 3 soil.

§110-1H-10. Appraised Value Per Acre of Managed Timberland.

The appraised value per acre of managed timberland is the present worth of an infinite periodic net income from the land less a property tax adjustment for Class II, and a blend of Class III and Class IV tax rates for Class III and Class IV properties using, for all measures required by this rule to compute such appraised value per acre of managed timberland, real values and not nominal values. Except as required by the provisions of subsection 2.2 of this rule, in no case shall the appraised value per acre for any grade of managed timberland in any county be less than eighty percent of the value per acre of the comparable grade of managed timberland in the immediately preceding tax year in that same county. The appraised value is the net present worth of all revenues and costs associated with growing timber on the land in perpetuity. Net income is the difference between projected revenues (e.g. harvest revenues in years 35, 55 and 80) and projected costs (e.g. management costs).

§110-1H-11. Procedure for Determining Value Per Acre of Managed Timberland.

The following is a step-by-step procedure for determining the appraised value per acre of managed timberland.

11.1. The Tax Commissioner shall enter the surface ownership maps (typically 1 inch ' 400 feet or 1 inch ' 800 feet) into a Geographic Information System (GIS). The GIS shall be used to register the surface ownership parcels to the same geographic coordinate system and scale as that of the Integrated Moisture Index. This process allows the calculation of the area of each soil productivity grade in each parcel.

11.2. Average stumpage price (5 year weighted moving average) is determined by the State Tax Commissioner, based on stumpage price reports from the Division of Forestry and other available sources.

11.3. Total harvest income per acre over a rotation cycle of thirty-five (35) years, fifty-five (55) years and eighty (80) years for Grade 1 and 2 soils, and forty-five (45) years and eighty (80) years for Grade 3 soils shall be compounded at the end of the rotation (i.e. harvest income value at year 80) less applicable state and federal tax payments, if any.

11.4. End of rotation (80 year) total management costs per acre shall be determined by compounding the annual management costs at the end of the rotation (i.e. management cost value in year 80) using the after tax management costs and accrued interest on those costs.

11.5. Appraised value per acre for managed timberland shall be determined by first deducting the cumulative end of rotation total management costs from the cumulative end of rotation total harvest income per acre as defined in paragraph 3.7 of this rule; second, calculating the present worth of that difference, assuming an infinite periodic income from the managed timberland; and third, adjusting that value by the annual ad valorem property tax rate (either Class II or a blended Class III/IV).

11.6. The GIS shall be used to calculate the appraised value of managed timberland property on an annual basis. The appraised value of each managed timberland property shall be calculated using the formula found in Appendix 6 of this rule.

11.6.1. Those acreages involved in a managed timberland application where the use of the property is not for managed timberland purposes (e.g., homesite, pasture, tillable, recreation, stripmine, etc.) shall not be classified as managed timberland and shall be appraised by the county assessor.

§110-1H-12. Capitalization Rate.

The average statewide capitalization rate (based on a 5-year weighted moving average of various components) for managed timberland shall be determined annually by the Tax Commissioner through the use of generally accepted methods of determining those rates. The rate shall be based on the assumption of a discounted cash flow model based upon harvest intervals reflected in Appendix 4 of this rule. The capitalization rate used to value managed timberland shall be developed considering the following:

12.1. Discount Component. — The summation technique shall be used in developing a discount component of the capitalization rate. The five subcomponents of the discount component are:

12.1.1. Safe Rate. — The safe rate shall reflect a rate of return that an investor could expect on an investment of minimal risk. This rate shall be developed through weighted averages of interest rates offered on five-year United States Treasury Bills for the five years immediately preceding the appraisal date.

12.1.2. Non-liquidity Premium. — The non-liquidity premium rate shall be developed through an annual review to determine a reasonable estimate of time that timberland, when exposed for sale, remains on the market before being sold. The time thus determined shall be used to identify United States Treasury Bills with similar time differentials in excess of thirteen-week Treasury Bills. The interest differential between these securities shall be used to represent the nonliquidity rate. For example, if it is determined that a tract of timberland remains on the market for an average of nine months (39 weeks) before being sold, the nonliquidity rate shall be derived by subtracting the rate on

13-week Treasury Bills from the rate on one year Treasury Bills. This review shall consider the weighted average of these differences for a five year period immediately preceding the appraisal date.

12.1.3 Default Risk Premium B The Default Risk Premium, being the premium added to the safe rate to compensate for the chance that the obligor will default on a loan, is the difference between the rate on a U.S. Treasury Bond and the average rate on investment grade corporate bonds, (i.e. rate on AAA, AA, A and BBB rated bonds) of equal maturity and marketability. The Default Risk Premium will take into account the weighted average of these differences for a five-year period immediately preceding the appraisal date.

12.1.4. Management Rate. — The management rate represents the cost of managing the investment, not the cost of managing the timberland. Historically, the management rate has been one-half of one percent (0.5%); therefore, this rate shall be considered the industry standard for current applications.

12.1.5. Discount Component. — In determining the discount component of the capitalization rate, the Tax Commissioner shall take the sum of the safe rate, the nonliquidity rate, the default risk rate, and the management rate. The resulting discount rate is a nominal discount rate.

12.2. Property Tax Component. — The property tax component shall be derived by multiplying the assessment rate by the statewide five year weighted average of tax rates on Class II and on a blended rate for Class III and Class IV properties. The discounted property tax rates shall be deducted from the discounted difference between total cumulative harvest income and end of rotation management costs.

§110-1H-13. Application for Certification and Valuation as Managed Timberland.

In order to qualify, under the provisions of this rule, for managed timberland valuation purposes, the owner of the timberland shall, on or before the first day of September, enter into a contract with the

Division of Forestry. The contract shall state that the real estate is being used in a planned program of timber management and erosion control practices intended to enhance the growth of commercially desirable species through generally accepted silvicultural practices and the use of Best Management Practices as specified in the West Virginia Forest Practice Standards and the West Virginia Nonpoint Source Management Program. The contract shall be assignable with the sale of the land when the land is sold to be used for managed timberland purposes. Annually, on or before September 1, the owner shall file an application for certification as managed timberland with the Division of Forestry. The application shall include either (a) a commitment to maintain and protect timberland certified as managed timberland by demonstrating land-use objectives to include resource management and soil and water protection; or (b) a written plan prepared by a professional forester. Falsification of certification or failure to follow a professionally prepared plan shall result in loss of valuation as managed timberland. In any event, the following information shall be provided:

13.1. The county, district, map, parcel number, deed book surface acreage and actual surveyed surface acreage, if available, for each parcel that is to be valued as managed timberland;

13.1.1. The amount of acreage in each parcel that should be classified as managed timberland. For those properties where managed timberland acreage is different than deed acreage, information identifying the use of the non-managed acreage is required;

13.1.2. The signature of owner (including all fractional interests) acknowledging that the contract with the Division of Forestry has been annually reviewed and approved and that the property is being managed in accordance with the Best Management Practices for forestry as outlined in the West Virginia Forest Practice Standards and the Best Management Practices for water quality as outlined in the West Virginia Nonpoint Source Management Program. If a written plan is provided in accordance with Section 13 of this rule, that plan

shall be approved and signed by a registered timber management forester.

13.2. The Division of Forestry shall, on or before October 1 of each year, provide the State Tax Commissioner with a copy of the certifications and reports and provide a list of those properties certified as managed timberland and those denied certification. After the October 1 report is filed, the Division of Forestry has until January 15 of the next calendar year to review any applications questioned by the State Tax Commissioner or county officials.

13.3. The property owner whose managed timberland application was denied or who has been refused certification pending demonstration of specific facts may, on or before November 1 of the assessment year, file an appeal of the denial or file the requested data with the Director of the Division of Forestry. On or before the following December 1, the Division of Forestry shall advise the Tax Commissioner of any changes of application denials.

§110-1H-14. Summary of Method of Determining Appraised Value.

The formula to be used in determining the appraised value of property categorized as managed timberland is found in Appendix 5 of this rule.

APPENDIX 1

Timberland Classification Schedule

Class “A”

This land is adaptable for use as forest property. It may be adaptable to other profitable uses. There is a stand of trees of commercial species, the size being from fourteen (14) to twenty (20) inches d.b.h. and above.

Class “B”

This land is also adaptable for use as forest property. It may be adaptable for other profitable uses. There is a stand of trees of commercial species, the size being from ten (10) to fourteen (14) inches d.b.h.

Class “C”

This land is adaptable for use as forest property. There is a stand of trees of commercial species, the size being from six (6) to ten (10) inches d.b.h.

Class “D”

This land is adaptable for use as forest property. There is a stand of trees of commercial species, the size being from four (4) to six (6) inches d.b.h.

Class “E”

This land is adaptable for use as forest property. There are trees of commercial species less than four (4) inches d.b.h. This class of timberland also includes clear cut property and property subjected to total harvest where the remaining commercial species are less than four (4) inches d.b.h.

APPENDIX 2

Minimum Number of Trees Required Per Acre to Determine

30 Square Feet of Tree Basel Area of 40%

Stocking for Classification as Forest Land

D.B.H. Range	D.B.H. in 2" Classes	Basel Area Per Tree	Per Acre	Per 1/5 Acre	Per 1/10 Acre
Up to 2.9"	Seedlings		400	80	40

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3.0-4.9"	4	0.0873	400	80	40
5.0-6.9"	6	0.1964	153	31	15
7.0-8.9"	8	0.3491	86	17	9
9.0-10.9"	10	0.5454	55	11	6
11.0-12.9"	12	0.7854	38	8	4
13.0-14.9"	14	1.0690	28	6	3
15.0"+	16+	1.3983+	21	4	2

NOTE:

(a) Area 1/5 acre, circle, diameter 105'4"; square 93.4" per side

(b) Area 1/10 acre; circle, diameter 74'6"; square 66'

(c) Number of seedlings present may qualify on a percentage basis; Example, 100 seedlings would be equivalent of 7.5 square feet of basal area (25% x 30 = 7.5)

(d) Seedlings per acre are based on total pine and hardwood stems. Where intensive pine management is practiced a minimum of 250 well distributed pine seedlings will qualify.

APPENDIX 3

Stumpage Price Regions

Region 1	Region 2	Region 3	Region 4	Region 5
Brooke	Braxton	Barbour	Berkeley	Boone
Cabell	Calhoun	Greenbrier	Grant	Fayette
Hancock	Clay	Monroe	Hampshire	Kanawha

Jackson	Doddridge	Nicholas	Hardy	Lincoln
Marshall	Gilmer	Pendleton	Jefferson	Logan
Mason	Harrison	Pocahontas	Mineral	McDowell
Ohio	Lewis	Preston	Morgan	Mercer
Pleasants	Marion	Randolph		Mingo
Putnam	Monongalia	Tucker		Raleigh
Tyler	Ritchie	Upshur		Summers
Wetzel	Roane	Webster		Wayne
Wood	Taylor			Wyoming
	Wirt			

APPENDIX 4

TABLE OF HARVEST VOLUMES PER ACRE WITH HARVEST INTERVALS OVER AN 80 YEARS ROTATION CYCLE

	35 Years	55 Years	80 Years	Total
Grade 1				
IMI \geq 45	4.6 Cords	2.6 Cords	3.3 Cords	10.5 Cords
(Very Good to Excelllent)	1.5 MBFs	4.4 MBFs	8.6 MBFs	14.5 MBFs
Grade 2				
IMI \geq 30 AND \leq 44.99	3.3 Cords	7.0 Cords	4.6 Cords	14.9 Cords

(Fair to Good) 1.0 MBFs 4.4 MBFs 8.6 MBFs 14.5 MBFs

Grade 3

IMI \leq 29.99 3.1 Cords 15.4 Cords 18.5 Cords

(Poor) 8 MBFs 3.7 MBFs 4.5 MBFs

Scribner rule. Schnur, G. Luther. UNITED STATES DEPARTMENT OF AGRICULTURE Tech. Bul. No. 560. 1937. The Tax Commissioner may adopt a different timber scale and revise yields as standards of timber utilization change or as new information becomes available on timber yields of forest stands.

APPENDIX 5

For Class II Parcels:

Appraised Value Per Acre = ((Future Value of Harvest Revenues – Future Value of Management Costs)/((1 + Real Discount Rate)ⁿ - 1)) less discounted property tax Class II rate.

Where:

n = 80 years

Future Value of Harvest Revenues – value of harvest revenues in year 80 using compounding formula below

$$V_n = V_o(1 + i)^n - 1$$

Where: V_o = harvest revenue in year 0) (i.e. 35, 45, 55 or 80)

i = capitalization rate

n = rotation length

V_n = future value of harvest revenues

Future Value of Management Costs – value of management costs in year 80 using the formula for calculating the future value of a terminating annual series as given below:

$$V_n = a \left\{ (1 + i)^n - 1 \right\} / i$$

Where: a = annual management costs

i = capitalization rate

n = rotation length

V_n = future value of management costs

For Class III & IV Parcels:

Same formula except the discounted property tax rate for Class III and Class IV properties is used. Until the present natural resource and county computer systems can be programmed to change appraisals based on tax classifications or until a new computerized appraisal system can be put into effect, the property tax discount shall be a blended rate including both Class III and Class IV rates.

APPENDIX 6

$$AV = (P1V1) + (P2V2) + (P3V3)$$

Where:

AV = Property Appraised Value

P1 = Total Acreage of Parcel in Soil Productivity Grade 1

P2 = Total Acreage of Parcel in Soil Productivity Grade 2

P3 = Total Acreage of Parcel in Soil Productivity Grade 3

V1 = Value of Soil Productivity Grade 1

V2 = Value of Soil Productivity Grade 2

V3 = Value of Soil Productivity Grade 3

(j) The legislative rule effective on June 29, 1964, authorized under the authority of article one, chapter eleven of this code, relating to the Tax Division (revision of levy estimates, 110 CSR 8), is repealed.

(k) The legislative rule effective on September 16, 1966, authorized under the authority of article ten, chapter eleven of this code, relating to the Tax Division (inheritance and transfer tax, 110 CSR 11), is repealed.

(l) The legislative rule effective on January 1, 1974, authorized under the authority of section five-a, article ten, chapter eleven of this code, relating to the Tax Division (annual tax on incomes of certain carriers, 110 CSR 12A), is repealed.

(m) The legislative rule effective on April 4, 1988, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Tax Division (telecommunications tax, 110 CSR 13B), is repealed.

(n) The legislative rule effective on May 1, 1996, authorized under the authority of section three, article thirteen-i, chapter eleven of this code, relating to the Tax Division (tax credit for employing former members of Colin Anderson Center, 110 CSR 13I), is repealed.

(o) The legislative rule effective on May 1, 1999, authorized under the authority of section seven, article thirteen-m, chapter eleven of this code, relating to the Tax Division (tax credits for new value-added, wood manufacturing facilities, 110 CSR 13M), is repealed.

(p) The legislative rule effective on May 1, 1999, authorized under the authority of section seven, article thirteen-n, chapter eleven of this code, relating to the Tax Division (tax credits for new steel, aluminum and polymer manufacturing operations, 110 CSR 13N), is repealed.

(q) The legislative rule effective on May 1, 1995, authorized under the authority of section five, article ten, chapter eleven of this code, relating to the Tax Division (business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit, 110 CSR 13C), is repealed.

(r) The legislative rule effective on April 4, 1988, authorized under the authority of section one, article one-a, chapter eleven of this code, relating to the Tax Division (appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes, 110 CSR 1), is repealed.

§64-7-4. Banking Commissioner.

(a) The legislative rule effective on April 23, 1982, authorized under the authority of section four, article three, chapter thirty-one-a of this code, relating to the Banking Commissioner (West Virginia Consumer Credit and Protection Act, 106 CSR 8), is repealed.

(b) The procedural rule effective on January 10, 1975, authorized under the authority of section two, article three, chapter thirty-one-a of this code, relating to the Banking Commissioner (West Virginia Board of Banking and Financial Institutions, 107 CSR 5), is repealed.

§64-7-5. Office of the Insurance Commissioner.

(a) The legislative rule effective on May 16, 1997, authorized under the authority of section four, article twenty-five-a, chapter thirty-three of this code, relating to the Office of the Insurance Commissioner (utilization management, 114 CSR 51), is repealed.

(b) The legislative rule effective on December 28, 1981, authorized under the authority of section ten, article two, chapter thirty-three of this code, relating to the Office of the Insurance Commissioner (Medicare supplement insurance coverage, 114 CSR 17), is repealed.

§64-7-6. Lottery Commission.

The Legislature directs the Lottery Commission to promulgate the legislative rule filed in the State Register on May 20, 2009, authorized under the authority of section four hundred two, article twenty-two-b, chapter twenty-nine of this code, relating to the Lottery Commission (limited video lottery, 179 CSR 5), with the amendment set forth below:

On page 3, after subsection 2.11, by adding a new subsection 12.2 to read as follows:

2.12. “Licensed limited video lottery location approved by the commission” as it appears in W. Va. Code, §29-22B-1201(a) means the location in excess of the following straight-line distances from any of the following places:

2.12.a. The location is at least one hundred fifty feet from, or has an external structural connection not amounting to a common internal wall to, a premises that already has a retail license for video lottery terminals or the perimeter of a public park;

2.12.b. The location is at least three hundred feet from a church, school or daycare center; or

12.12.c. The location is at least one hundred fifty feet from a business that sells petroleum products capable of being used as fuel in an internal combustion engine.”

And,

By renumbering the remaining subsections.

And,

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

Com. Sub. for S. B. 157 – “A Bill to amend and reenact article seven, chapter sixty-four of the Code of West Virginia, 1931, as amended, relating generally to promulgation of administrative rules by Department of Revenue; relating generally to repealing certain legislative, procedural or interpretive rules promulgated by certain agencies and boards under the Department of Revenue which are no longer authorized or are obsolete; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments recommended by the Legislature; directing various agencies to amend and promulgate certain legislative rules; authorizing Alcohol Beverage Control Commission to promulgate legislative rule relating to nonintoxicating beer licensing and operations procedures; authorizing Alcohol Beverage Control Commission to promulgate legislative rule relating to private club licensing; authorizing Alcohol Beverage Control Commission to promulgate legislative rule relating to distilleries and mini-distilleries; authorizing the Racing Commission to promulgate legislative rule relating to thoroughbred racing; authorizing Racing Commission to promulgate legislative rule relating to pari-mutuel wagering; authorizing Department of Revenue to promulgate legislative rule relating to payment of taxes by electronic funds transfer; authorizing Department of Revenue to promulgate legislative rule relating to an exchange of information agreement between Commissioner of the Tax Division of the Department of Revenue and Secretary of the Department of Commerce, Secretary of State, Secretary of the Department of Environmental Protection, Director of the Division of Forestry of the Department of Commerce and Commissioners of the Public Service Commission; repealing certain legislative and

procedural rule promulgated by certain agencies and boards under the Department of Revenue; repealing the Tax Division legislative rule relating to listing of interests in natural resources for purposes of first statewide appraisal; repealing the Tax Division legislative rule relating to guidelines for assessors to assure fair and uniform nonutility personal property values; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; repealing the Tax Division legislative rule relating to review of appraisals by the county commission sitting as an administrative appraisal review board; repealing the Tax Division legislative rule relating to additional review and implementation of property appraisals; repealing the Tax Division legislative rule relating to review by circuit court on certiorari; directing the State Tax Department to amend and promulgate legislative rule relating to valuation of timberland and managed timberland; repealing the Tax Division legislative rule relating to revision of levy estimates; repealing the Tax Division legislative rule relating to inheritance and transfer tax; repealing the Tax Division legislative rule relating to annual tax on incomes of certain carriers; repealing the Tax Division legislative rule relating to the telecommunications tax; repealing the Tax Division legislative rule relating to tax credit for employing former members of Colin Anderson Center; repealing the Tax Division legislative rule relating to tax credits for new value-added, wood manufacturing facilities; repealing the Tax Division legislative rule relating to tax credits for new steel, aluminum and polymer manufacturing operations; repealing the Tax Division legislative rule relating to the business investment and jobs expansion tax credit, corporation headquarters relocation tax credit and small business tax credit; repealing the Tax Division legislative rule relating to appraisal of property for periodic statewide reappraisals for ad valorem property tax purposes; repealing the Banking Commissioner legislative rule relating to the West Virginia Consumer Credit and Protection Act; repealing the Banking Commissioner procedural rule relating to West Virginia Board of Banking and Financial Institutions; repealing the Office of the Insurance Commissioner legislative rule relating to utilization management;

repealing the Office of the Insurance Commissioner legislative rule relating to Medicare supplement insurance coverage; and directing the Lottery Commission to amend and promulgate legislative rule relating to limited video lottery.”

On motion of Delegate Cowles, the House of Delegates refused to concur in the Senate amendments and requested the Senate to recede therefrom.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for S. B. 267, Modifying removal procedure for certain county, school district and municipal officers.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House concurred in the following Senate title amendment:

Com. Sub. for S. B. 267 – “A Bill to amend and reenact §6-6-1 and §6-6-7 of the Code of West Virginia, 1931, as amended, relating to modifying the procedure for removal of certain county, school district and municipal officers; modifying definitions; and providing political subdivisions be responsible for costs associated with removal proceedings when the outcome is in favor of a challenged officer acting in good faith.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 578**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Shaffer.

Absent and Not Voting: Moore and O'Neal.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 267) passed.

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

Conference Committee Report Availability

At 4:59 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on Com. Sub. for S. B. 597, Relating generally to Health Care Authority.

At 4:59 p.m., the Clerk announced availability in his office of the report of the Committee of Conference on Com. Sub. for H. B. 4174, Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for S. B. 298, Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House concurred in the following Senate title amendment:

Com. Sub. for S. B. 298 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-1-3pp; to amend and reenact §11-16-18 of said code; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend and reenact §60-7-12 of said code; and to amend and reenact §60-8-34 of said code, all relating to regulation of alcoholic liquor, wine and non-intoxicating beer generally; allowing county commissions to conduct a county option election on the question of whether to allow restaurants, private clubs, Class A retailers, wineries and wine serving entities to sell alcoholic liquors, wine and non-intoxicating beer as their licenses allow, and distilleries and mini-distilleries to offer complimentary samples of alcohol beginning at 10:00 a.m. on Sundays for on-premises consumption only; and establishing publication requirements for providing notice of election.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 579**), and there were—yeas 83, nays 13, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Frich, Hicks, Marcum, Moye, Perdue, Phillips, Rodighiero, Rowan, Shaffer, Sobonya, Sponaule, P. White and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Lane, McCuskey, Moore and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 298) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

S. B. 311, Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable program.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House concurred in the following Senate title amendment:

S. B. 311 – “A Bill to amend and reenact §31-17-8 and §31-17-17 of the Code of West Virginia, 1931, as amended, all relating to exceptions from certain requirements for certain mortgage modifications or refinancing loans; authorizing exception from certain requirements for mortgage modifications or refinancing loans made in participation with and in compliance with the federal Homes Affordable Modification Program or any other mortgage modification or refinancing loan eligible under any government sponsored enterprise requirements or funded through any federal or state program or litigation settlement; and allowing exceptions from nullification or actions brought for certain mortgage modifications or refinancing loans made in participation with and in compliance with the federal Homes Affordable Modification Program or any other mortgage modification or refinancing loan eligible under any government sponsored enterprise requirements or funded through any federal or state program or litigation settlement.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 580**), 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: Lane, McCuskey, Moore and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 311) 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 refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 378, Relating to truancy intervention.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree 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 Cowles, Zatezalo and Byrd.

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 refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 454, Licensing and regulating medication-assisted treatment programs for substance use disorders.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment, insisting on its position.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of a bill of the House of Delegates, as follows:

Com. Sub. for S. B. 621, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage.

On motion of Delegate Cowles, the bill was taken up for immediate consideration. The following Senate amendment was reported by the Clerk.

On page two, section one, subsection (b), by deleting all of subdivision (8) and inserting a new subdivision (8) to read as follows:

“(8) Taxicab drivers of taxicab companies operating under Article 2, Chapter 24A of this code, who provide taxicab service pursuant to a written or electronic agreement that identifies the taxicab driver as an independent contractor consistent with the United States Internal Revenue code requirements for persons acting as independent contractors: *Provided*, That any such taxicab driver identified as an independent contractor shall not be eligible for workers compensation benefits under this chapter as an employee of the taxicab company.”

On motion of Delegate Cowles the House of Delegates concurred in the amendment of the Senate, with further amendment, as follows:

On page two, section one, subsection (8), by striking out the words “Taxicab drivers for a taxi company operating under” and inserting in lieu thereof the words “Taxicab companies for taxicab drivers operating under”.

The question being on the passage of the bill as amended by the Senate and further amended by the House, the yeas and nays were taken (**Roll No. 581**), and there were—yeas 92, nays 4, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Lynch, Pushkin and Shaffer.

Absent and Not Voting: Lane, McCuskey, Moore and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 621) passed.

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

Com. Sub. for S. B. 621 – “A Bill to amend and reenact §23-2-1 the Code of West Virginia, 1931, as amended, relating to exempting taxicab companies whose drivers are independent contractors from providing workers’ compensation coverage for the drivers.”

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of

Com. Sub. for S. B. 634, Creating William R. Laird IV Second Chance Driver’s License Act.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House concurred in the Senate amendments to the House of Delegates amendment as follows:

On page one, section two, line two, after the word “costs”, by inserting the words “to obtain a stay of the driver’s license suspension or revocation”.

On page four, section five, line thirty-seven, by striking out “(a)” and inserting in lieu thereof “(c)”.

On page six, section seven, line five, by striking out the word “Commissioner” and inserting in lieu thereof the word “commissioner”.

On page seven, section nine, line one, by striking out the word “money” and inserting in lieu thereof the word “moneys”.

And,

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

Com. Sub. for S. B. 634 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17B-7-1, §17B-7-2, §17B-7-3, §17B-7-4, §17B-7-5, §17B-7-6, §17B-7-7, §17B-7-8, §17B-7-9 and §17B-7-10, all relating to creation of the Second Chance Driver’s License Act; creating short title and designating that the article may be cited as the William R. Laird IV Second Chance Driver’s License Act; setting forth legislative findings and purpose; defining terms; establishing program; directing the Director of the Division of Justice and Community Services to administer program; setting eligibility requirements to become program participant; requiring application from person wishing to participate; directing the director to coordinate with courts and Commissioner of the Division of Motor Vehicles to verify total amount of unpaid court costs; setting deadlines for providing information regarding unpaid court costs to director; requiring courts to provide an accounting that separately identifies the portion of court costs that constitute fine, forfeiture or penalty; prohibiting separate collection of unreported unpaid court costs while applicant is participant of program; directing how unreported court costs are to be handled; requiring notification to applicant concerning acceptance into program within thirty days; directing the director to develop consolidated repayment schedule for participant; setting certain requirements for consolidated repayment schedule; permitting modification of consolidated repayment schedule; permitting hardship waiver; clarifying that participant is under no obligation to make separate or additional payments directly to court if those costs are included in consolidated repayment schedule; establishing moratorium on collection of unpaid court fees by a court or its designee while participant is in good standing with program; requiring monthly remittance of payments to director; directing issuance of certificate of compliance, certificate of noncompliance, program removal notice and program completion certificate under certain circumstances; directing courts to enter order acknowledging receipt of program completion

certificate; directing Division of Motor Vehicles to place stay or lift stay on suspension or revocation of participant's driver's license under certain circumstances; authorizing Division of Motor Vehicles to place certain restrictions on driver's license of program participant; permitting Division of Motor Vehicles to require retesting under certain circumstances; exempting participants from certain retesting fees and reinstatement fees; creating Second Chance Driver's License Program Account; providing for administration of account; directing deposit of funds into account; authorizing expenditure of funds from account for certain purposes; providing legislative and emergency rule-making authority for Division of Justice and Community Services; and providing legislative and emergency rule-making authority for Division of Motor Vehicles."

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 582**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Moffatt.

Absent and Not Voting: Lane, McCuskey, Moore and Rowe.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 634) 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. 2110, Relating generally to the tax treatment of manufacturing entities.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the passage of Com. Sub. for H. B. 2110 under the provisions of House Rule 49.

The Speaker Pro Tempore replied that any impact on Mr. Speaker, Mr. Armstead, would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Delegate from voting.

Mr. Speaker, Mr. Armstead, in the Chair

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendment was reported by the Clerk:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 6F. SPECIAL METHOD FOR APPRAISING QUALIFIED CAPITAL ADDITIONS TO MANUFACTURING FACILITIES.

§11-6F-2. Definitions.

As used in this article, the term:

(a) ‘Certified capital addition property’ means all real property and personal property included within or to be included within a qualified capital addition to a manufacturing facility that has been certified by the State Tax Commissioner in accordance with section four of this article: *Provided*, That airplanes and motor vehicles licensed by the Division of Motor Vehicles shall in no event constitute certified capital addition property.

(b) ‘Manufacturing’ means any business activity classified as having a sector identifier, consisting of the first two digits of the six-

digit North American Industry Classification System code number of thirty-one, thirty-two or thirty-three or the six digit code number 211112.

(c) ‘Manufacturing facility’ means any factory, mill, chemical plant, refinery, warehouse, building or complex of buildings, including land on which it is located, and all machinery, equipment, improvements and other real property and personal property located at or within the facility used in connection with the operation of the facility in a manufacturing business.

(d) ‘Personal property’ means all property specified in subdivision (q), section ten, article two, chapter two of this code and includes, but is not limited to, furniture, fixtures, machinery and equipment, pollution control equipment, computers and related data processing equipment, spare parts and supplies.

(e) ‘Qualified capital addition to a manufacturing facility’ means either:

(1) All real property and personal property, the combined original cost of which exceeds \$50 million to be constructed, located or installed at or within two miles of a manufacturing facility owned or operated by the person making the capital addition that has a total original cost before the capital addition of at least \$100 million. If the capital addition is made in a steel, chemical or polymer alliance zone as designated from time to time by executive order of the Governor, then the person making the capital addition may for purposes of satisfying the requirements of this subsection join in a multiparty project with a person owning or operating a manufacturing facility that has a total original cost before the capital addition of at least \$100 million if the capital addition creates additional production capacity of existing or related products or feedstock or derivative products respecting the manufacturing facility, consists of a facility used to store, handle, process or produce raw materials for the manufacturing facility, consists of a facility used to store, handle or process natural

gas to produce fuel for the generation of steam or electricity for the manufacturing facility or consists of a facility that generates steam or electricity for the manufacturing facility, including but not limited to a facility that converts coal to a gas or liquid for the manufacturing facility's use in heating, manufacturing or generation of electricity. Beginning on and after July 1, 2011, when the new capital addition is a facility that is or will be classified under the North American Industry Classification System with a six digit code number 211112, or is a manufacturing facility that uses product produced at a facility with code number 211112, then wherever the term '100 million' is used in this subsection, the term '20 million' shall be substituted and where the term '50 million' is used, the term '10 million' shall be substituted; and that beginning on and after July 1, 2016, when the new capital addition is a facility that is or will be classified under the North American Industry Classification System with a six-digit North American Industry Classification System code a product produced at a facility with code numbers 332992 and 332994, then wherever the term '100 million' is used in this subsection, the term '2 million' shall be substituted and where the term '50 million' is used, the term '1 million' shall be substituted; or

(2) (A) All real property and personal property, the combined original cost of which exceeds \$2 ~~billion~~ million to be constructed, located or installed at a facility, or a combination of facilities by a single entity or combination of entities engaged in a unitary business, that:

(i) Is or will be classified under the North American Industry Classification System with a six-digit code number 211112, 332992 or 332994; ~~or~~

(ii) Is a manufacturing facility that uses one or more products produced at a facility with code number 211112; 332992 or 332994; or

(iii) Is a manufacturing facility that uses one or more products produced at a facility described in subparagraph (ii) of this subdivision.

(B) No preexisting investment made, or in place before the capital addition shall be required for property specified in this subdivision (2). The requirements set forth in subdivision (1) of this subsection shall not apply to property specified in this subdivision (2) relating to:

(i) Location or installation of investment at or within two miles of a manufacturing facility owned or operated by the person making the capital addition;

(ii) Total original cost of preexisting investment before the capital addition of at least \$100 million or \$20 million; or

(iii) Multiparty projects.

(f) 'Real property' means all property specified in subdivision (p), section ten, article two, chapter two of this code and includes, but is not limited to, lands, buildings and improvements on the land such as sewers, fences, roads, paving and leasehold improvements: *Provided*, That for capital additions certified on or after July 1, 2011, the value of the land before any improvements shall be subtracted from the value of the capital addition and the unimproved land value shall not be given salvage value treatment.

ARTICLE 13S. MANUFACTURING INVESTMENT TAX CREDIT.

§11-13S-3. Definitions.

(a) Any term used in this article has the meaning ascribed by this section unless a different meaning is clearly required by the context of its use or by definition in this article.

(b) For purpose of this article, the term:

(1) 'Eligible taxpayer' means an industrial taxpayer who purchases new property for the purpose of industrial expansion or for the purpose of industrial revitalization of an existing industrial facility in this state.

(2) 'Industrial expansion' means capital investment in a new or expanded industrial facility in this state.

(3) 'Industrial facility' means any factory, mill, plant, refinery, warehouse, building or complex of buildings located within this state, including the land on which it is located, and all machinery, equipment and other real and tangible personal property located at or within the facility primarily used in connection with the operation of the manufacturing business.

(4) 'Industrial revitalization' or 'revitalization' means capital investment in an industrial facility located in this state to replace or modernize buildings, equipment, machinery and other tangible personal property used in connection with the operation of the facility in an industrial business of the taxpayer including the acquisition of any real property necessary to the industrial revitalization.

(5) 'Industrial taxpayer' means any taxpayer who is primarily engaged in a manufacturing business.

(6) 'Manufacturing' means any business activity classified as having a sector identifier, consisting of the first two digits of the six digit North American Industry Classification System code number, of thirty one, thirty two or thirty three or the six digit code number 211112.

(7) 'Property purchased for manufacturing investment' means real property, and improvements thereto, and tangible personal property but only if the property was constructed or purchased on or after January 1, 2003, for use as a component part of a new, expanded or revitalized industrial facility. This term includes only that tangible personal property with respect to which depreciation, or amortization in lieu of depreciation, is allowable in determining the federal income tax liability of the industrial taxpayer, that has a useful life, at the time the property is placed in service or use in this state, of four years or more. Property acquired by written lease for a primary term of ten years or

longer, if used as a component part of a new or expanded industrial facility, is included within this definition.

(A) 'Property purchased for manufacturing investment' does not include:

(i) Repair costs, including materials used in the repair, unless for federal income tax purposes, the cost of the repair must be capitalized and not expensed;

(ii) Motor vehicles licensed by the Department of Motor Vehicles;

(iii) Airplanes;

(iv) Off premises transportation equipment;

(v) Property which is primarily used outside this state; and

(vi) Property which is acquired incident to the purchase of the stock or assets of an industrial taxpayer which property was or had been used by the seller in his or her industrial business in this state or in which investment was previously the basis of a credit against tax taken under any other article of this chapter.

(B) Purchases or acquisitions of land or depreciable property qualify as purchases of property purchased for manufacturing investment for purposes of this article only if:

(i) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of deductions under section 267 or 707(b) of the United States Internal Revenue Code of 1986, as amended;

(ii) The property is not acquired from a related person or by one component member of a controlled group from another component member of the same controlled group. The Tax Commissioner may waive this requirement if the property was acquired from a related party for its then fair market value; and

(iii) The basis of the property for federal income tax purposes, in the hands of the person acquiring it, is not determined, in whole or in part, by reference to the federal adjusted basis of the property in the hands of the person from whom it was acquired or under Section 1014(e) of the United States Internal Revenue Code of 1986, as amended.

(8) ‘Qualified manufacturing investment’ means that amount determined under section five of this article as qualified manufacturing investment.

(9) ‘Taxpayer’ means any person subject to any of the taxes imposed by article thirteen-a, twenty-three or twenty-four of this chapter or any combination of those articles of this chapter.

§11-13S-4. Amount of credit allowed for manufacturing investment.

(a) *Credit allowed.* — There is allowed to eligible taxpayers and to persons described in subdivision (5), subsection (b) of this section a credit against the taxes imposed by articles thirteen-a, twenty-three and twenty-four of this chapter: *Provided*, That a tax credit for any eligible taxpayer operating a business activity classified as having a sector identifier, consisting of the six-digit code number 211112 such eligible taxpayer must comply with the provisions of subsection (e) of this section for all construction related thereto in order to be eligible for any credit under this article. The amount of credit shall be determined as hereinafter provided in this section.

(b) *Amount of credit allowable.* — The amount of allowable credit under this article is equal to five percent of the qualified manufacturing investment (as determined in section five of this article): *Provided*, That the amount of allowable credit under this article is equal to fifty percent of the qualified manufacturing investment (as determined in section five of this article) for any eligible taxpayer operating a business activity classified as having a sector identifier, consisting of the six-digit code number 332992 or 332994. This credit and shall

reduce the severance tax, imposed under article thirteen-a of this chapter, the business franchise tax imposed under article twenty-three of this chapter and the corporation net income tax imposed under article twenty-four of this chapter, in that order, subject to the following conditions and limitations:

(1) The amount of credit allowable is applied over a ten-year period, at the rate of one-tenth thereof per taxable year, beginning with the taxable year in which the property purchased for manufacturing investment is first placed in service or use in this state;

(2) *Severance tax.* — The credit is applied to reduce the severance tax imposed under article thirteen-a of this chapter (determined before application of the credit allowed by section three, article twelve-b of this chapter and before any other allowable credits against tax and before application of the annual exemption allowed by section ten, article thirteen-a of this chapter). The amount of annual credit allowed may not reduce the severance tax, imposed under article thirteen-a of this chapter, below fifty percent of the amount which would be imposed for such taxable year in the absence of this credit against tax: *Provided*, That for tax years beginning on and after January 1, 2009, the amount of annual credit allowed may not reduce the severance tax, imposed under article thirteen-a of this chapter, below forty percent of the amount which would be imposed for such taxable year in the absence of this credit against tax. When in any taxable year the taxpayer is entitled to claim credit under this article and article thirteen-d of this chapter, the total amount of all credits allowable for the taxable year may not reduce the amount of the severance tax, imposed under article thirteen-a of this chapter, below fifty percent of the amount which would be imposed for such taxable year (determined before application of the credit allowed by section three, article twelve-b of this chapter and before any other allowable credits against tax and before application of the annual exemption allowed by section ten, article thirteen-a of this chapter): *Provided, however*, That when in any taxable year beginning on and after January 1, 2009, the taxpayer is entitled to claim credit under this article and article thirteen-d of this

chapter, the total amount of all credits allowable for the taxable year may not reduce the amount of the severance tax imposed under article thirteen-a of this chapter, below forty percent of the amount which would be imposed for such taxable year as determined before application of the credit allowed by section three, article twelve-b of this chapter and before any other allowable credits against tax and before application of the annual exemption allowed by section ten, article thirteen-a of this chapter;

(3) *Business franchise tax.* —

After application of subdivision (2) of this subsection, any unused credit is next applied to reduce the business franchise tax imposed under article twenty-three of this chapter (determined after application of the credits against tax provided in section seventeen, article twenty-three of this chapter, but before application of any other allowable credits against tax). The amount of annual credit allowed will not reduce the business franchise tax, imposed under article twenty-three of this chapter, below fifty percent of the amount which would be imposed for such taxable year in the absence of this credit against tax: *Provided*, That for tax years beginning on and after January 1, 2009, the amount of annual credit allowed will not reduce the business franchise tax, imposed under article twenty-three of this chapter, below forty percent of the amount which would be imposed for such taxable year in the absence of this credit against tax. When in any taxable year the taxpayer is entitled to claim credit under this article and article thirteen-d of this chapter, the total amount of all credits allowable for the taxable year will not reduce the amount of the business franchise tax, imposed under article twenty-three of this chapter, below fifty percent of the amount which would be imposed for the taxable year (determined after application of the credits against tax provided in section seventeen, article twenty-three of this chapter, but before application of any other allowable credits against tax): *Provided, however*, That when in any taxable year beginning on and after January 1, 2009, the taxpayer is entitled to claim credit under this article and article thirteen-d of this chapter, the total amount of all credits

allowable for the taxable year will not reduce the amount of the business franchise tax, imposed under article twenty-three of this chapter, below forty percent of the amount which would be imposed for the taxable year as determined after application of the credits against tax provided in section seventeen, article twenty-three of this chapter, but before application of any other allowable credits against tax;

(4) *Corporation net income tax.* —

After application of subdivision (3) of this subsection, any unused credit is next applied to reduce the corporation net income tax imposed under article twenty-four of this chapter (determined before application of any other allowable credits against tax). The amount of annual credit allowed will not reduce corporation net income tax, imposed under article twenty-four of this chapter, below fifty percent of the amount which would be imposed for such taxable year in the absence of this credit against tax: *Provided*, That for tax years beginning on and after January 1, 2009, the amount of annual credit allowed will not reduce corporation net income tax, imposed under article twenty-four of this chapter, below forty percent of the amount which would be imposed for such taxable year in the absence of this credit against tax. When in any taxable year the taxpayer is entitled to claim credit under this article and article thirteen-d of this chapter, the total amount of all credits allowable for the taxable year may not reduce the amount of the corporation net income tax, imposed under article twenty four of this chapter, below fifty percent of the amount which would be imposed for the taxable year (determined before application of any other allowable credits against tax): *Provided, however*, That when in any taxable year beginning on and after January 1, 2009, the taxpayer is entitled to claim credit under this article and article thirteen-d of this chapter, the total amount of all credits allowable for the taxable year may not reduce the amount of the corporation net income tax, imposed under article twenty-four of this chapter, below forty percent of the amount which would be imposed for the taxable year as determined before application of any other allowable credits against tax;

(5) *Pass through entities.* —

(A) If the eligible taxpayer is a limited liability company, small business corporation or a partnership, then any unused credit (after application of subdivisions (2), (3) and (4) of this subsection) is allowed as a credit against the taxes imposed by article twenty-four of this chapter on owners of the eligible taxpayer on the conduit income directly derived from the eligible taxpayer by its owners. Only those portions of the tax imposed by article twenty-four of this chapter that are imposed on income directly derived by the owner from the eligible taxpayer are subject to offset by this credit.

(B) The amount of annual credit allowed will not reduce corporation net income tax, imposed under article twenty-four of this chapter, below fifty percent of the amount which would be imposed on the conduit income directly derived from the eligible taxpayer by each owner for such taxable year in the absence of this credit against the taxes (determined before application of any other allowable credits against tax): *Provided*, That for tax years beginning on and after January 1, 2009, the amount of annual credit allowed will not reduce corporation net income tax, imposed under article twenty-four of this chapter, below forty percent of the amount which would be imposed on the conduit income directly derived from the eligible taxpayer by each owner for such taxable year in the absence of this credit against the taxes as determined before application of any other allowable credits against tax.

(C) When in any taxable year the taxpayer is entitled to claim credit under this article and article thirteen-d of this chapter, the total amount of all credits allowable for the taxable year will not reduce the corporation net income tax imposed on the conduit income directly derived from the eligible taxpayer by each owner below fifty percent of the amount that would be imposed for such taxable year on the conduit income (determined before application of any other allowable credits against tax): *Provided*, That when in any taxable year beginning on and after January 1, 2009, the taxpayer is entitled to claim credit

under this article and article thirteen-d of this chapter, the total amount of all credits allowable for the taxable year will not reduce the corporation net income tax imposed on the conduit income directly derived from the eligible taxpayer by each owner below forty percent of the amount that would be imposed for such taxable year on the conduit income as determined before application of any other allowable credits against tax;

(6) Small business corporations, limited liability companies, partnerships and other unincorporated organizations shall allocate any unused credit after application of subdivisions (2), (3) and (4) of this subsection among their members in the same manner as profits and losses are allocated for the taxable year; and

(7) No credit is allowed under this article against any tax imposed by article twenty-one of this chapter.

(c) No carryover to a subsequent taxable year or carryback to a prior taxable year is allowed for the amount of any unused portion of any annual credit allowance. Any unused credit is forfeited.

(d) *Application for credit required.* -

(1) *Application required.* — Notwithstanding any provision of this article to the contrary, no credit is allowed or may be applied under this article for any qualified investment property placed in service or use until the person claiming the credit makes written application to the Tax Commissioner for allowance of credit as provided in this section. This application shall be in the form prescribed by the Tax Commissioner and shall provide the number and type of jobs created, if any, by the manufacturing investment, the average wage rates and benefits paid to employees filling the new jobs and any other information the Tax Commissioner may require. This application shall be filed with the Tax Commissioner no later than the last day for filing the annual return, determined by including any authorized extension of time for filing the return, required under article twenty-one or twenty-

four of this chapter for the taxable year in which the property to which the credit relates is placed in service or use.

(2) *Failure to file.* — The failure to timely apply the application for credit under this section results in forfeiture of fifty percent of the annual credit allowance otherwise allowable under this article. This penalty applies annually until the application is filed.

(e) (1) Any person or entity undertaking any construction related to any business activity included within North American Industrial Code six-digit code number 211112, the value of which is an amount equal to or greater than \$500,000, shall hire at least seventy-five percent of employees for said construction from the local labor market, to be rounded off, with at least two employees from outside the local labor market permissible for each employer per project, ‘the local labor market’ being defined as every county in West Virginia and any county outside of West Virginia if any portion of that county is within fifty miles of the border of West Virginia.

(2) Any person or entity unable to employ the minimum number of employees from the local labor market shall inform the nearest office of the bureau of employment programs’ division of employment services of the number of qualified employees needed and provide a job description of the positions to be filled.

(3) If, within three business days following the placing of a job order, the division is unable to refer any qualified job applicants to the person or entity engaged in said construction or refers less qualified job applicants than the number requested, then the division shall issue a waiver to the person or entity engaged in said construction stating the unavailability of applicants and shall permit the person or entity engaged in said construction to fill any positions covered by the waiver from outside the local labor market. The waiver shall be either oral or in writing and shall be issued within the prescribed three days. A waiver certificate shall be sent to the person or entity engaged in said construction for its permanent project records.”

And,

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

Com. Sub. for H. B. 2110 – “A Bill to amend and reenact §11-6F 2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-13S-3 and §11-13S-4 of said code, all relating to the tax treatment of manufacturing entities generally; amending definition of manufacturing for purposes of special method for appraising qualified capital additions to manufacturing facilities for property tax purposes; amending definition of manufacturing for purposes of manufacturing investment tax credit; amending the formula for calculating credit allowed for manufacturing investment to include Small Arms Ammunition Manufacturing and Small Arms, Ordinance and Ordinance Accessories Manufacturing; and increasing the amount of such allowable credit.”

On motion of Delegate Cowles, the House of Delegates concurred in the amendment of the Senate, with further amendment as follows:

On page three, section two, line forty-six, after the number “2”, by striking out the word “million” and inserting in lieu thereof the word “billion”.

On page three, section two, line forty-nine, after the number “211112”, by striking out the comma and the words “332992 or 332994”.

On page three, section two, line fifty-one, after the number “211112”, by striking out the comma and the words “332992 or 332994”.

On page three, section two, beginning on line fifty-four, by inserting the following and renumbering the remaining paragraphs accordingly:

“(B) All real property and personal property, the combined original cost of which exceeds \$2 million to be constructed, located or installed

at a facility, or a combination of facilities by a single entity or combination of entities engaged in a unitary business, that is or will be classified under North American Industry Classification System with a six-digit code number 332992 or 332994.”

And,

On page three, section two, on line sixty, after the word “100 million”, by striking out “or \$20 million” and inserting in lieu thereof a comma and “\$20 million or \$2 million”.

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. 583**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Fleischauer.

Absent and Not Voting: Lane, McCuskey, Moore and Rowe.

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. 2110) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 2494, Creating a provisional plea process in criminal cases.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended, by adding thereto a new section, designated §61-11-22a to read as follows:

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 11. GENERAL PROVISIONS CONCERNING CRIMES.

§61-11-22a. Deferred adjudication.

(a) Upon the entry of a guilty plea to a felony or misdemeanor before a circuit or magistrate court of this state entered in compliance with the provisions of West Virginia Rule of Criminal Procedure 11 or Rule 10 of the West Virginia Rules of Criminal Procedure for Magistrate Courts and applicable judicial decisions, the court may, upon motion, defer acceptance of the guilty plea and defer further adjudication thereon and release the defendant upon such terms and conditions as the court deems just and necessary. Terms and conditions may include, but are not limited to, periods of incarceration, drug and alcohol treatment, counseling and participation in programs offered under articles eleven-a, eleven-b and eleven-c, chapter sixty-two of this code.

(b) If the offense to which the plea of guilty is entered is a felony, the circuit court may defer adjudication for a period not to exceed five years. If the offense to which the plea of guilty is entered is a misdemeanor, the court may defer adjudication for a period not to exceed two years.

(c) If the defendant complies with the court-imposed terms and conditions he or she shall be permitted to withdraw his or her plea of guilty and the matter dismissed or, as may be agreed upon by the court and the parties, enter a plea of guilty or no contest to a lesser offense.

(d) In the event the defendant is alleged to have violated the terms and conditions imposed upon him or her by the court during the period of deferral the prosecuting attorney may file a motion to accept the defendant's plea of guilty and, following notice, a hearing shall be held on the matter.

(e) In the event the court determines that there is reasonable cause to believe that the defendant violated the terms and conditions imposed at the time the plea was entered, the court may accept the defendant's plea to the original offense and impose a sentence in the court's discretion in accordance with the statutory penalty of the offense to which the plea of guilty was entered or impose such other terms and conditions as the court deems appropriate.

(f) The procedures set forth in this section are separate and distinct from that set forth in West Virginia Rule of Criminal Procedure 11(a)(2)."

And,

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

H. B. 2494 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-11-22a, relating to codifying deferred adjudication process for persons charged with felony and misdemeanor offenses in circuit and magistrate court; authorizing courts, upon motion, to defer acceptance and adjudication of entered guilty pleas for certain periods based upon severity of offense; authorizing court to impose such conditions and terms as it deems just and necessary as a condition of participation; authorizing periods of incarceration and participation in referenced programs as conditions of participation in the deferred adjudication process; authorizing acceptance of previously entered guilty plea upon violation of the terms and conditions of deferral; authorizing court to impose additional terms and conditions upon defendant if violation occurs; and clarifying that procedure hereby authorized is distinct from conditional

plea under Rule 11(a)(2) of the West Virginia Rules of Criminal Procedure.”

On motion of Delegate Cowles, the House of Delegates concurred in the Senate amendments with further amendment on page one, section twenty-two-a, line ten, by striking out the word “five” and inserting in lieu thereof the word “three”.

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—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Lane, McCuskey, Moore 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. 2494) 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. 2665, Relating to participation in Motor Vehicle Alcohol Test and Lock Program.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 5. SERIOUS TRAFFIC OFFENSES.**§17C-5-2b. Deferral of further proceedings for certain first offenses upon condition of participation in motor vehicle alcohol test and lock program; procedure on charge of violation of conditions.**

(a) Except as provided in subsection (g) of this section, whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to driving under the influence alcohol, any controlled substance or any other drug:

(1) Notifies the court within thirty days of his or her arrest of his or her intention to participate in a deferral pursuant to this section; and

(2) Pleads guilty to or is found guilty of driving under the influence of alcohol under subsection (d), section two of this article, the court, without entering a judgment of guilt and with the consent of the accused, shall defer further proceedings and, notwithstanding any provisions of this code to the contrary, place him or her on probation, which conditions shall include that he or she successfully completes the Motor Vehicle Alcohol Test and Lock Program as provided in section three-a, article five-a of this chapter. Participation therein shall be for a period of at least one hundred and sixty-five days after he or she has served the fifteen days of license suspension imposed pursuant to section two, article five-a of this chapter.

(b) A defendant’s election to participate in deferral under this section shall constitute a waiver of his or her right to an administrative hearing as provided in section two, article five-a of this chapter.

(c) (1) If the prosecuting attorney files a motion alleging that the defendant during the period of the Motor Vehicle Alcohol Test and Lock program has been removed therefrom by the Division of Motor Vehicles, or has failed to successfully complete the program before making a motion for dismissal pursuant to subsection (d) of this

section, the court may issue such process as is necessary to bring the defendant before the court.

(2) A motion alleging such violation filed pursuant to subdivision (1) of this subsection must be filed during the period of the Motor Vehicle Alcohol Test and Lock Program or, if filed thereafter, must be filed within a reasonable time after the alleged violation was committed.

(3) When the defendant is brought before the court, the court shall afford the defendant an opportunity to be heard. If the court finds that the defendant has been rightfully removed from the Motor Vehicle Alcohol Test and Lock Program by the Division of Motor Vehicles, the court may order, when appropriate, that the deferral be terminated, and thereupon enter an adjudication of guilt and proceed as otherwise provided.

(4) Should the defendant fail to complete or be removed from the Motor Vehicle Alcohol Test and Lock Program, the defendant waives the appropriate statute of limitations and the defendant's right to a speedy trial under any applicable federal or state constitutional provisions, statutes or rules of court during the period of enrollment in the program.

(d) When the defendant shall have completed satisfactorily the Motor Vehicle Alcohol Test and Lock Program and complied with its conditions, the defendant may move the court for an order dismissing the charges. This motion shall be supported by affidavit of the defendant and by certification of the Division of Motor Vehicles that the defendant has successfully completed the Motor Vehicle Alcohol Test and Lock Program. A copy of the motion shall be served on the prosecuting attorney who shall within thirty days after service advise the judge of any objections to the motion, serving a copy of such objections on the defendant or the defendant's attorney. If there are no objections filed within the thirty-day period, the court shall thereafter dismiss the charges against the defendant. If there are objections filed

with regard to the dismissal of charges, the court shall proceed as set forth in subsection (c) of this section.

(e) Except as provided herein, unless a defendant adjudicated pursuant to this subsection be convicted of a subsequent violation of this article, discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime except for those provided in article five-a of this chapter. Except as provided in subsection (k), (l) and (m), section two of this article regarding subsequent offenses, the effect of the dismissal and discharge shall be to restore the person in contemplation of law to the status he or she occupied prior to arrest and trial. No person as to whom a dismissal and discharge have been effected shall be thereafter held to be guilty of perjury, false swearing, or otherwise giving a false statement by reason of his or her failure to disclose or acknowledge his or her arrest or trial in response to any inquiry made of him or her for any purpose other than any inquiry made in connection with any subsequent offense as that term is defined in subsection (m), section two of this article.

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

(g) No person shall be eligible for dismissal and discharge under this section: (1) In any prosecution in which any violation of any other provision of this article has been charged; (2) if the person holds a commercial driver's license or operates commercial motor vehicle(s); or (3) if the person has previously had his or her driver's license revoked under section two-a of this article or under any statute of the United States or of any state relating to driving under the influence alcohol, any controlled substance or any other drug; or (4) if the person refused the secondary chemical test pursuant to section seven of this article.

(h) (1) After a period of not less than one year which shall begin to run immediately upon the expiration of a term of probation imposed

upon any person under this section, the person may apply to the court for an order to expunge from all official records all recordations of his or her arrest, trial, and conviction, pursuant to this section except for those maintained by the Division of Motor Vehicles: *Provided*, That any person who has previously been convicted of a felony may not make a motion for expungement pursuant to this section.

(2) If the prosecuting attorney objects to the expungement, the objections shall be filed with the court within thirty days after service of a motion for expungement and copies of the objections shall be served on the defendant or the defendant's attorney.

(3) If the objections are filed, the court shall hold a hearing on the objections, affording all parties an opportunity to be heard. If the court determines after a hearing that the person during the period of his or her probation and during the period of time prior to his or her application to the court under this subsection has not been guilty of any serious or repeated violation of the conditions of his or her probation, it shall order the expungement.

(i) Notwithstanding any provision of this code to the contrary, any person prosecuted for a violation of subsection ~~(d)~~(e), section two, article five of this chapter whose case is disposed of pursuant to the provisions of this section shall be liable for any court costs assessable against a person convicted of a violation of subsection ~~(j)~~ (k), section two, article five of this chapter. Payment of such costs may be made a condition of probation. The costs assessed pursuant to this subsection, whether as a term of probation or not, shall be distributed as other court costs in accordance with section two, article three, chapter fifty; section four, article two-a, chapter fourteen; section four, article twenty-nine, chapter thirty; and sections two, seven and ten, article five, chapter sixty-two of this code.”

And,

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

Com. Sub. for H. B. 2665 – “A Bill to amend and reenact §17C-5-2b of the Code of West Virginia, 1931, as amended, relating to deferral of further proceedings for certain first offenses of driving under the influence; making ineligible for the deferral program persons who refused the secondary chemical test; and making technical corrections.”

Delegate Cowles moved that the House of Delegates refuse to concur in the Senate amendments and request the Senate to recede therefrom.

On this motion, Delegate Sponaugle demanded the yeas and nays, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 585**), and there were—yeas 13, nays 83, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Ambler, Anderson, Canterbury, Cooper, Cowles, Gearheart, Hanshaw, Ireland, Miller, O’Neal, Romine, Upson, and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Lane, McCuskey, Moore and Rowe.

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

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 586**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Lane, McCuskey, Moore and Rowe.

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. 2665) 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. 2897, Young Entrepreneur Reinvestment Act.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §59-1-2c; and by adding thereto a new section, designated §59-1-2d to read as follows:

ARTICLE 1. FEES AND ALLOWANCES.

§59-1-2c. Young Entrepreneur Reinvestment Act; certain fees waived.

(a) Beginning on July 1, 2016, a person who is under the age of thirty who resides within West Virginia is exempt from paying the fees provided in section two of this article for filing:

(1) Articles of incorporation of a domestic, for-profit corporation, for which he or she is an incorporator;

(2) Articles of incorporation of a domestic, nonprofit corporation for which he or she is an incorporator;

(3) Articles of organization of a domestic limited liability company, for which he or she is a member;

(4) Agreement of a domestic general partnership, for which he or she is a partner; or

(5) Certificate of a domestic limited partnership, for which he or she is a partner.

(b) This section is effective until and through June 30, 2018. After June 30, 2018, this section is no longer in force and effect.

§59-1-2d. Voluntary donation of certain refunds.

The Secretary of State shall provide a mechanism by which any overpayment of \$25 or less of any fee authorized by this or any other chapter of this code to the Secretary of State may be deposited in the West Virginia Children's Trust Fund authorized by section four hundred one, article two, chapter forty-nine of this code: *Provided*, That the person due the refund must voluntarily and affirmatively choose to donate the amount of the refund to the West Virginia Children's Trust Fund."

And,

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

Com. Sub. for H. B. 2897 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §59-1-2c and §59-1-2d, all relating to fees paid to the Secretary of State; creating Young Entrepreneur Reinvestment Act; waiving certain fees for individuals under thirty who create certain business organizations; expiring the waiver of those fees; requiring the Secretary of State to develop a mechanism for the deposit of the overpayment of certain fees into the Children's Trust Fund; and requiring that the individual due the refund voluntarily and affirmatively chooses to donate the amount of the overpayment.”

On motion of Delegate Cowles, the House of Delegates refused to concur in the Senate amendments and requested the Senate to recede therefrom.

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. 4001, Relating to candidates or candidate committees for legislative office disclosing contributions.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 8. REGULATIONS AND CONTROL OF ELECTIONS.

§3-8-15. Disclosure of fund-raising events during legislative session.

(a) In addition to other reporting required under this article, any current Governor, State Senator, or member of the House of Delegates who has declared his or her candidacy for election and who has a fund-raising event, as defined in section one-a of this article, while the Legislature is in Regular Session, shall disclose the existence of the event and the receipt of contributions, including the source and amounts, in accordance with the following schedule:

(1) If the fund-raising event occurs during the first thirty days of the Regular Session, within ten calendar days after the thirtieth day of the Regular Session; or

(2) If the fund-raising event occurs between days thirty-one and sixty of the Regular Session, within ten calendar days after the sixtieth day of the Regular Session.

(b) If any disclosure deadline set forth in subsections (a) or (b) falls within ten calendar days of a regularly scheduled reporting deadline under this article, then the deadline is satisfied by the filing of the regularly scheduled report.

(c) The reporting requirements under this section also apply to current Governors, State Senators or members of the House of Delegates who fund-raise in order to retire or pay-off debt of a campaign account while the Legislature is in regular session.

(d) The Secretary of State shall prepare a form for disclosure of these contributions and publish the information on the Secretary of State's website within one business day of the Secretary of State receiving the completed form: *Provided*, That in the alternative, the Secretary of State is authorized to establish a means for electronic filing and disclosure.

(e) Pursuant to article three, chapter twenty-nine-a of this code, the Secretary of State may propose rules and emergency rules for legislative approval relating to the creation and maintenance of a publically accessible database available on the Secretary of State's website; the establishment of forms and procedures for submission of information to the Secretary of State; and for other procedures and policies consistent with this section."

And,

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

Com. Sub. for H. B. 4001 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §3-8-15, relating to certain disclosures of fund-raising events while Legislature is in Regular Session; requiring current Governors, State Senators and members of the House of Delegates who have declared candidacy for election to report existence of and amounts of contributions received at fund-raising events held while Legislature in regular session; setting reporting schedule; providing

exception to reporting deadline in certain cases; making reporting requirement applicable to current legislators who hold fund-raising events while Legislature is in Regular Session; requiring Secretary of State to create a form for disclosure; requiring Secretary of State to timely publish information on the Secretary of State's website; authorizing Secretary of State to establish a means for electronic filing and disclosure in the alternative; and authorizing Secretary of State to promulgate certain legislative and emergency rules.”

On motion of Delegate Cowles, the House of Delegates refused to concur in the Senate amendments and requested the Senate to recede therefrom.

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. 4237, Supporting and Strengthening Families Act.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

**“ARTICLE 8. SUPPORTING AND STRENGTHENING
FAMILIES ACT.**

§49-8-1. Legislative findings; statement of legislative purpose.

(a) The Legislature finds that in certain circumstances where a parent, guardian or legal custodian of a child is temporarily unable to care for the child due to a crisis or other circumstances, a less intrusive

alternative to guardianship or the Department of Health and Human Resources taking custody of the child should be available. In such circumstances, a parent, guardian or legal custodian may benefit from the assistance of charitable organizations in their community that assist families by providing safe, temporary care for children and support for families during difficult times.

(b) It is the purpose of this article to ensure that a parent, guardian or legal guardian has the right to provide for the temporary care of their child with the assistance of a qualified nonprofit organization as set forth in this article.

§49-8-2. Definitions.

For purposes of this article:

(1) ‘Child’ means an individual under eighteen years of age;

(2) ‘Qualified nonprofit organization’ means a charitable or religious institution that is exempt from federal income taxation under Section 501(a) of the Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code, which assists the parent or legal guardian of a child with the process of providing for the temporary care of a child through the execution of a power of attorney as described in this section.

§49-8-3. Delegation of care and custody of a child.

(a) The following shall apply only to situations where a parent, guardian or legal custodian of a child provides for the temporary care and custody of a child with the assistance of a qualified nonprofit organization. Nothing in this section shall be interpreted to restrict the rights of parents, guardians or legal custodians providing for the care of children by power of attorney in other contexts.

(b) A parent, guardian or legal custodian of a child may, by a properly executed power of attorney, delegate to a person, for a period not to exceed one year, the care and custody of the child.

(c) A parent, guardian or legal custodian may not delegate:

(1) The power to consent to marriage or adoption of the child;

(2) The performance or inducement of an abortion on or for the child; or

(3) The termination of parental rights to the child.

(d) A delegation of care and custody of a child, under this article, does not change or modify any parental or legal rights, obligations, or authority established by an existing court order, or deprive the parent, guardian or legal custodian of any parental or legal rights, obligations, or authority regarding the custody, visitation, or support of the child.

(e) The parent, guardian or legal custodian of the child may revoke or withdraw this power of attorney at any time. Upon the termination, expiration, or revocation of the power of attorney the child shall be returned to the custody of the parent, guardian or legal custodian within forty-eight hours.

(f) Unless the authority is revoked or withdrawn by the parent, guardian or legal custodian, the designee shall exercise parental or legal authority on a continuous basis without compensation for the duration of the power of attorney.

(g) The care and custody of a child may only be delegated to the extent, and so long as, the parent, guardian or legal custodian retains care and custody. If the rights of the parent, guardian or custodian of the child are terminated, the power of attorney shall be deemed to be revoked. A court that revokes the care and custody rights of a parent, guardian or legal custodian shall notify the person to whom those parental rights has been delegated, and the child may remain with that person until the court shall finalize the subsequent placement of the child: *Provided*, That no period of placement with a person pursuant to the provisions of this article shall be considered as a factor in a custody hearing in which a family member seeks to be awarded custody of the child.

(h) The execution of a power of attorney by a parent, guardian or legal custodian does not, without other evidence, constitute abandonment, abuse or neglect unless the parent, guardian or legal custodian fails to either take custody of the child or execute a new power of attorney after the one year time limit has elapsed: *Provided*, That nothing in this article may be interpreted to prevent the West Virginia Bureau for Children and Families or law enforcement from investigating allegations of abuse, abandonment, neglect or other mistreatment of a child.

(i) If a parent, guardian or legal custodian of a child wishes to utilize the power of attorney authorized by this section to delegate any powers regarding the care and custody of the child to another person, the qualified nonprofit organization shall conduct a criminal history and federal and state background check on the person to whom powers are delegated prior to the execution of the power of attorney. The criminal history and federal and state background check shall be paid for by the qualified nonprofit organization, the parent, guardian or legal custodian, or the parent's designee. Additionally, the qualified nonprofit organization shall train the designee in the rights, duties, and limitations associated with providing care for a child under this section, including the prevention and reporting of suspected child abuse or neglect.

(j) The designee may not move from the address listed on the parental rights form without written approval of the parent, guardian or legal custodian.

(k) Any person who accepts care and custody of a child pursuant to the provisions of this article shall be deemed a person mandated to report suspected abuse and neglect pursuant to the provisions of section eight hundred three, article two, chapter forty-nine of this code.

(l) If a parent, guardian or legal custodian dies or becomes incapacitated, then the provisions of article ten, chapter forty-four of this code shall apply.

(m) Nothing in this section is intended, nor shall anything herein be interpreted, to otherwise restrict the rights of custodial parents or non-custodial parents to temporarily delegate or provide for the care and custody of a child, or to assert their right to request custody, in accordance with other provisions of West Virginia law.

§49-8-4. Delegation of parental rights form.

(a) The following statutory form of power of attorney to delegate parental or legal custody may be used:

STATE OF WEST VIRGINIA

STATUTORY FORM FOR POWER OF ATTORNEY TO DELEGATE PARENTAL OR LEGAL CUSTODIAN POWERS

(1) 'I, _____, certify that I am the parent or legal custodian of:

(Full name of minor child) (Date of birth)

(Full name of minor child) (Date of birth)

(Full name of minor child) (Date of birth)

who is/are minor children.'

(2) 'I designate _____ (Full name of designee),

(Street address, city, state and zip code of designee)

(Home phone of designee) (Work phone of designee) as the designee of each minor child named above.'

(3) 'I delegate to the designee all of my power and authority regarding the care, custody and property of each minor child named above, including but not limited to the right to enroll the child in school, inspect and obtain copies of education records and other records concerning the child, the right to attend school activities and other functions concerning the child, and the right to give or withhold any consent or waiver with respect to school activities, medical and dental treatment, and any other activity, function or treatment that may concern the child. This delegation does not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child.'

Or

(4) 'I delegate to the designee the following specific powers and responsibilities

(write in): _____

(In the event paragraph four is completed paragraph three does not apply).

This delegation does not include the power or authority to consent to marriage or adoption of the child, the performance or inducement of an abortion on or for the child, or the termination of parental rights to the child.'

(5) 'This power of attorney is effective for a period not to exceed one year, beginning,

_____, _____, and ending _____, _____. I reserve the right to revoke this authority at any time.'

By: _____ (Parent/Legal Custodian signature)

(6) 'I hereby accept my designation as designee for the minor child/children specified in this power of attorney.

By: _____ (Designee signature)

State of _____

County of _____

ACKNOWLEDGMENT

Before me, the undersigned, a Notary Public, in and for said County and State on this ____ day of _____, ____, personally appeared _____ (Name of Parent/Legal Custodian) and _____ (Name of designee), to me known to be the identical persons who executed this instrument and acknowledged to me that each executed the same as his or her free and voluntary act and deed for the uses and purposes set forth in the instrument.

Witness my hand and official seal the day and year above written.

_____ (Signature of notarial officer)

_____ (Title and Rank)

My commission expires: _____,

(b) A power of attorney is legally sufficient under this article if the wording of the form substantially complies with this section, the form is properly completed, and the signatures of the parties are acknowledged.

(c) A copy of each power of attorney executed pursuant to this article shall be retained by the qualified nonprofit organization for a period of three years following the conclusion of the power of attorney.

The qualified nonprofit organization shall, upon request, make these records available to the Department of Health and Human Resources.

§49-8-5. Mandatory disclosures by child investigative personnel.

During a child protective investigation that does not result in an out-of-home placement, a child protective investigator shall provide information to the parent, guardian or legal custodian about community service programs that provide respite care, voluntary guardianship or other support services for families in crisis.

§49-8-6. Applicability of licensing and other requirements of childcare facilities.

(a) A delegation under this article by a parent, guardian or legal custodian is not subject to the requirements of the child care facility licensing statutes or foster care licensing statutes, and does not constitute an out of home child placement under this code.

(b) A qualified nonprofit organization as defined herein shall not be considered a child care center, child placing agency, or child welfare agency as defined in section two hundred six of article one, chapter forty-nine of this Code, unless such organization also pursues these activities in addition to providing services outlined under this section.”

And,

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

Com. Sub. for H. B. 4237 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §49-8-1, §49-8-2, §49-8-3, §49-8-4, §49-8-5 and §49-8-6, all relating to the temporary delegation of certain custodial powers by a parent or legal custodian; setting forth legislative findings and purpose; defining terms; requiring qualified nonprofit organizations to register with Department of Health and Human Resources; requiring qualified nonprofit organizations to provide quarterly reports to Department of Health and Human Resources concerning child placements; permitting

the delegation of certain custodial powers; limiting scope of delegation; permitting parent or legal custodian to revoke or withdraw power of attorney at any time; clarifying that scope of delegation of power of attorney only extends to the extent, and so long as, the parent, guardian or legal custodian retains custody; providing that power of attorney shall be revoked if parental rights terminated; directing court to notify person assuming parental rights under power of attorney; permitting child to remain with person assuming parental rights under power of attorney until court finalizes subsequent placement of child; clarifying that period of placement with person shall not be considered as a factor in custody hearing in which family member seeks to be awarded custody of child; providing that execution of power of attorney does not, without other evidence, constitute abandonment, abuse or neglect; creating exception under certain circumstances; reaffirming authority of Bureau for Children and Families and law enforcement to investigate allegations of abuse, abandonment, neglect or other mistreatment of child; requiring qualified nonprofit organization to conduct criminal history and background checks prior to execution of power of attorney; providing for payment of criminal history and background checks; requiring qualified nonprofit organization to train the designee on rights, duties and limitations associated with providing care for a child, including preventing and reporting of suspected child abuse or neglect; prohibiting designee from moving without written approval of parent or legal custodian; making persons who accept custody under this article mandatory reporters of suspected child abuse and neglect; providing for circumstances in which parent or legal custodian dies or becomes incapacitated; clarifying that temporary delegation of certain custodial powers does not restrict certain other rights; creating a form for delegation of parental or legal custody; making legally sufficient a power of attorney that substantially complies with form contains acknowledged signatures of the parties; mandating certain disclosures by child investigative personnel; and clarifying applicability of licensing and other requirements of childcare facilities.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 587**), 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: Lane, McCuskey, Moore and Rowe.

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. 4237) 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. 4314, Prohibiting the sale of powdered or crystalline alcohol.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page seven, section thirty-three, line one, by striking out the words “consists solely or primarily of” and inserting in lieu thereof “is comprised of ninety percent or more”.

And,

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

Com. Sub. for H. B. 4314 – “A Bill to amend and reenact §60-1-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3-11 of said code; to amend and reenact §60-6-7 and §60-6-8 of said code; and to amend said code by adding thereto a new section,

designated §61-10-33, all relating to prohibiting the sale of powdered or crystalline alcohol and pure caffeine products; defining terms; prohibiting the commissioner from listing or stocking powdered alcohol in inventory; creating a criminal offense for anyone who manufactures or sells, aids or abets in the manufacture or sale of powdered alcohol, or possesses, uses or in any other manner provides or furnishes powdered alcohol; making a second and subsequent offense a felony and providing for increased penalties; creating a criminal offense for any licensee who sells, possesses, possesses for sale, furnishes or provides any powdered alcohol; making a second and subsequent offense a felony and providing for increased penalties; creating a criminal offense for the sale and possession of pure caffeine products; defining relevant terms; providing exclusions; and providing penalties.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 588**), and there were—yeas 92, nays 3, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Ihle, McGeehan and Pushkin.

Absent and Not Voting: Lane, McCuskey, Moore, Reynolds and Rowe.

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. 4314) 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. 4334, Clarifying the requirements for a license to practice as an advanced practice registered nurse and expanding prescriptive authority.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §30-15-1, §30-15-2, §30-15-3, §30-15-4, §30-15-5, §30-15-6, §30-15-7, §30-15-7a, §30-15-7b, §30-15-7c and §30-15-8 of the Code of West Virginia, 1931, as amended, be repealed; that §16-5-19 of said code be amended and reenacted; that §30-7-1, §30-7-2, §30-7-4, §30-7-6, §30-7-7, §30-7-15a, §30-7-15b and §30-7-15c of said code be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §30-7-15d and §30-7-15e, all to read as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 5. VITAL STATISTICS.

§16-5-19. Death registration.

(a) A certificate of death for each death which occurs in this state shall be filed with the section of vital statistics, or as otherwise directed by the state Registrar, within five days after death, and prior to final disposition, and shall be registered if it has been completed and filed in accordance with this section.

(1) If the place of death is unknown, but the dead body is found in this state, the place where the body was found shall be shown as the place of death.

(2) If the date of death is unknown, it shall be approximated. If the date cannot be approximated, the date found shall be shown as the date of death.

(3) If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where it is first removed shall be considered the place of death.

(4) If death occurs in a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state but the certificate shall show the actual place of death insofar as can be determined.

(5) In all other cases, the place where death is pronounced shall be considered the place where death occurred.

(b) The funeral director or other person who assumes custody of the dead body shall:

(1) Obtain the personal data from the next of kin or the best qualified person or source available including the deceased person's social security number or numbers, which shall be placed in the records relating to the death and recorded on the certificate of death;

(2) Within forty-eight hours after death, provide the certificate of death containing sufficient information to identify the decedent to the physician nurse responsible for completing the medical certification as provided in subsection (c) of this section; and

(3) Upon receipt of the medical certification, file the certificate of death: *Provided*, That for implementation of electronic filing of death certificates, the person who certifies to cause of death will be responsible for filing the electronic certification of cause of death as directed by the state Registrar and in accordance with legislative rule.

(c) The medical certification shall be completed and signed within twenty-four hours after receipt of the certificate of death by the physician or advance practice registered nurse in charge of the patient's care for the illness or condition which resulted in death except when

inquiry is required pursuant to chapter sixty-one, article twelve or other applicable provisions of this code.

(1) In the absence of the physician or advance practice registered nurse or with his or her approval, the certificate may be completed by his or her associate physician, any physician who has been placed in a position of responsibility for any medical coverage of the decedent, the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, provided inquiry is not required pursuant to chapter sixty-one, article twelve of this code.

(2) The person completing the cause of death shall attest to its accuracy either by signature or by an approved electronic process.

(d) When inquiry is required pursuant to article twelve, chapter sixty one, or other applicable provisions of this code, the state Medical Examiner or designee or county medical examiner or county coroner in the jurisdiction where the death occurred or where the body was found shall determine the cause of death and shall complete the medical certification within forty-eight hours after taking charge of the case.

(1) If the cause of death cannot be determined within forty-eight hours after taking charge of the case, the medical examiner shall complete the medical certification with a 'Pending' cause of death to be amended upon completion of medical investigation.

(2) After investigation of a report of death for which inquiry is required, if the state Medical Examiner or designee or county medical examiner or county coroner decline jurisdiction, the state Medical Examiner or designee or county medical examiner or county coroner may direct the decedent's family physician or the physician who pronounces death to complete the certification of death: *Provided*, That the physician is not civilly liable for inaccuracy or other incorrect statement of death unless the physician willfully and knowingly provides information he or she knows to be false.

(e) When death occurs in an institution and the person responsible for the completion of the medical certification is not available to pronounce death, another physician may pronounce death. If there is no physician available to pronounce death, then a designated licensed health professional who views the body may pronounce death, attest to the pronouncement by signature or an approved electronic process, and, with the permission of the person responsible for the medical certification, release the body to the funeral director or other person for final disposition: *Provided*, That if the death occurs in an institution during court-ordered hospitalization, in a correctional facility or under custody of law-enforcement authorities, the death shall be reported directly to a medical examiner or coroner for investigation, pronouncement and certification.

(f) If the cause of death cannot be determined within the time prescribed, the medical certification shall be completed as provided by legislative rule. The attending physician or medical examiner, upon request, shall give the funeral director or other person assuming custody of the body notice of the reason for the delay, and final disposition of the body may not be made until authorized by the attending physician, medical examiner or other persons authorized by this article to certify the cause of death.

(g) Upon receipt of autopsy results, additional scientific study, or where further inquiry or investigation provides additional information that would change the information on the certificate of death from that originally reported, the certifier, or any State Medical Examiner who provides such inquiry under authority of article twelve, chapter sixty-one of this code shall immediately file a supplemental report of cause of death or other information with the section of vital statistics to amend the record, but only for purposes of accuracy.

(h) When death is presumed to have occurred within this state but the body cannot be located, a certificate of death may be prepared by the state Registrar only upon receipt of an order of a court of competent jurisdiction which shall include the finding of facts required

to complete the certificate of death. The certificate of death will be marked "Presumptive" and will show on its face the date of death as determined by the court and the date of registration, and shall identify the court and the date of the order.

(i) The local registrar shall transmit each month to the county clerk of his or her county a copy of the certificates of all deaths occurring in the county, and if any person dies in a county other than the county within the state in which the person last resided prior to death, then the state Registrar shall furnish a copy of the death certificate to the clerk of the county commission of the county where the person last resided, from which copies the clerk shall compile a register of deaths, in a form prescribed by the state Registrar. The register shall be a public record.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 7. REGISTERED PROFESSIONAL NURSES.

§30-7-1. Definitions.

As used in this article ~~the term~~:

~~(a) The practice of 'advanced practice registered nurse' is a registered nurse who has acquired advanced clinical knowledge and skills preparing him or her to provide direct and indirect care to patients, who has completed a board-approved graduate-level education program and who has passed a board-approved national certification examination. An advanced practice registered nurse shall meet all the requirements set forth by the board by rule for an advanced practice registered nurse which shall include, at a minimum, a valid license to practice as a certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse specialist or a certified nurse practitioner.~~

(a) 'Advanced practice registered nurse' means a registered nurse who has acquired advanced clinical knowledge and skills preparing

him or her to provide direct and indirect care to patients as a certified nurse practitioner, certified nurse-midwife, certified registered nurse anesthetist, or clinical nurse specialist, who has completed a board-approved graduate-level education program and who has passed a board-approved national certification examination.

(b) ‘Board’ means the West Virginia Board of Examiners for Registered Professional Nurses;

(c) ‘Collaborative relationship’ means a working relationship, structured through a written agreement, in which an advanced practice registered nurse may prescribe drugs in collaboration with a qualified physician;

~~(c)~~ (d) The practice of ‘Practice of registered professional nursing’ or ‘registered professional nursing’ means the performance for compensation of any service requiring substantial specialized judgment and skill based on knowledge and application of principles of nursing derived from the biological, physical and social sciences, such as responsible supervision of a patient requiring skill in observation of symptoms and reactions and the accurate recording of the facts, or the supervision and teaching of other persons with respect to such principles of nursing, or in the administration of medications and treatments as prescribed by a licensed physician, or a licensed dentist or a licensed advanced practice registered nurse, or the application of such nursing procedures as involve understanding of cause and effect in order to safeguard life and health of a patient and others; and

(d) ‘Temporary permit’ means a permit authorizing the holder to practice registered professional nursing in this state until such permit is no longer effective or the holder is granted a license by the West Virginia State Board of Examiners for Registered Professional Nurses.

§30-7-2. License required to practice.

~~(a) In order to safeguard life and health, any person practicing or offering to practice registered professional nursing in this state for~~

~~compensation shall hereafter be required to submit evidence that he or she is qualified so to practice, and shall be licensed as hereinafter provided. After June 30, 1965, It shall be~~ is unlawful for any person not licensed under the provisions of this article to practice or to offer to practice registered professional nursing in this state, or to use any title, sign, card or device to indicate that such person is a registered professional nurse: *Provided*, That any professional nurse holding an active, unencumbered license to practice in another state, who accompanies a patient to whom he or she administers nursing care while such patient is in transit or being transported into, out of, or through this state, may practice without a license issued under this article with the following limitations: (a) Such nurse may only administer nursing care to the patient whom they are accompanying in this state; and (b) under no circumstances is any such nurse authorized to practice nursing in this state for longer than forty-eight hours within any three-month period; and (c) under no circumstances shall any such nurse hold him or herself out as a registered professional nurse licensed in this state. Such forty-eight hour period shall commence and run from the time such nurse first enters the borders of this state in the company of his or her patient and therefrom run continuously, whether or not such nurse dispenses nursing care, until such forty-eight hour period has elapsed.

(b) To practice as an advanced practice registered nurse in this state, a person must have a valid advanced practice registered nurse license issued by the board. It is unlawful for any person to practice or offer to practice as an advanced practice registered nurse, to use any title, sign, card or device to indicate or give the impression that such person is an advanced practice registered nurse or to practice as, perform the role of, or use any title, sign, card or device to indicate that the person is a certified registered nurse anesthetist, certified nurse-midwife, clinical nurse specialist or certified nurse practitioner, unless that person is currently licensed by the board as an advanced practice registered nurse.

§30-7-4. Organization and meetings of board; quorum; powers and duties generally; executive secretary; funds.

The board shall meet at least once each year and shall elect from its members a president and a secretary. The secretary shall also act as treasurer of the board. The board may hold such other meetings during the year as it may deem necessary to transact its business. A majority, including one officer, of the board shall constitute a quorum at any meeting. The board is hereby authorized and empowered to:

(a) Adopt and, from time to time, amend such rules and regulations, not inconsistent with this article, as may be necessary to enable it to carry into effect the provisions of this article;

(b) Prescribe standards for educational programs preparing persons for licensure to practice registered professional nursing under this article;

(c) Provide for surveys of such educational programs at such time as it may deem necessary;

(d) Accredite such educational programs for the preparation of practitioners of registered professional nursing as shall meet the requirements of this article and of the board;

(e) Deny or withdraw accreditation of educational programs for failure to meet or maintain prescribed standards required by this article and by the board;

(f) Examine, license and renew the licenses of duly qualified applicants;

(g) Conduct hearings upon charges calling for discipline of a licensee or revocation or suspension of a license;

(h) Keep a record of all proceedings of the board;

(i) Make a biennial report to the Governor and the Legislative Oversight Commission for Health and Human Resources Accountability;

(j) Appoint and employ a qualified person, who shall not be a member of the board, to serve as executive secretary to the board;

(k) Define the duties and fix the compensation for the executive secretary; and

(l) Employ such other persons as may be necessary to carry on the work of the board.

~~The executive secretary shall possess all of the qualifications prescribed in section three for members of the board, except that he or she shall (a) have had at least eight years of experience in the practice of registered professional nursing since graduation from a college or university, at least five of which shall have been devoted to the teaching in or to the administration of an educational program for the preparation of practitioners of registered nursing, or to a combination of such teaching and administration, and (b) shall have been actively engaged in the practice of registered professional nursing for at least five years preceding his or her appointment by the board.~~

All fees and other moneys collected by the board pursuant to the provisions of this article shall be kept in a separate fund and expended solely for the purpose of this article. No part of this special fund shall revert to the General Funds of this state. The compensation provided by this article and all expenses incurred under this article shall be paid from this special fund. No compensation or expense incurred under this article shall be a charge against the General Funds of this state.

§30-7-6. Qualifications; licensure; fees; temporary permits.

(a) To obtain a license to practice registered professional nursing, an applicant for such license shall submit to the board written evidence, verified by oath, that he or she: ~~(a)~~ (1) Is of good moral character; ~~(b)~~ (2) has completed an approved four-year high school course of study or the equivalent thereof, as determined by the appropriate educational agency; and ~~(c)~~ (3) has completed an accredited program of registered professional nursing education and holds a diploma of a school accredited by the board.

(b) The applicant shall also be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral examination. Upon successfully passing such examination or examinations, the board shall issue to the applicant a license to practice registered professional nursing. The board shall determine the times and places for examinations. In the event an applicant shall have failed to pass examinations on two occasions, the applicant shall, in addition to the other requirements of this section, present to the board such other evidence of his or her qualifications as the board may prescribe.

(c) The board may, upon application, issue a license to practice registered professional nursing by endorsement to an applicant who has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country if in the opinion of the board the applicant meets the qualifications required of registered professional nurses at the time of graduation.

(d) The board may, upon application and proper identification determined by the board, issue a temporary permit to practice registered professional nursing by endorsement to an applicant who has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country. Such temporary permit authorizes the holder to practice registered professional nursing in this state while the temporary permit is effective. A temporary permit shall be effective for ninety days, unless the board revokes such permit prior to its expiration, and such permit may not be renewed. Any person applying for a temporary license under the provisions of this paragraph shall, with his or her application, pay to the board a nonrefundable fee of \$10.

(e) Any person holding a valid license designated as a 'waiver license' may submit an application to the board for a license containing no reference to the fact that such person has theretofore been issued such 'waiver license.' The provisions of this section relating to examination and fees and the provisions of all other sections of this

article shall apply to any application submitted to the board pursuant to the provisions of this paragraph.

(f) Any person applying for a license to practice registered professional nursing under the provisions of this article shall, with his or her application, pay to the board a fee of \$40: *Provided*, That the fee to be paid for the year commencing July 1, 1982, shall be \$70: *Provided, however*, That the board in its discretion may, by rule or regulation, decrease either or both said license fees. In the event it shall be necessary for the board to reexamine any applicant for a license, an additional fee shall be paid to the board by the applicant for reexamination: *Provided further*, That the total of such additional fees shall in no case exceed \$100 for any one examination.

(g) Any person holding a license heretofore issued by the West Virginia state Board of Examiners for Registered Nurses and which license is valid on the date this article becomes effective shall be deemed to be duly licensed under the provisions of this article for the remainder of the period of any such license heretofore issued. Any such license heretofore issued shall also, for all purposes, be deemed to be a license issued under this article and to be subject to the provisions hereof.

(h) The board shall, upon receipt of a duly executed application for licensure and of the accompanying fee of \$70, issue a temporary permit to practice registered professional nursing to any applicant who has received a diploma from a school of nursing approved by the board pursuant to this article after the date the board last scheduled a written examination for persons eligible for licensure: *Provided*, That no such temporary permit shall be renewable nor shall any such permit be valid for any purpose subsequent to the date the board has announced the results of the first written examination given by the board following the issuance of such permit.

(i) To obtain a license to practice as an advanced practice registered nurse, an applicant must submit a written application,

verified by oath, to the board together with an application fee established by the board through an authorized legislative rule. The requirements for a license to practice as an advanced practice registered nurse in this state are listed below and must be demonstrated to the board through satisfactory evidence submitted with the application for a license:

(1) The applicant must be licensed in good standing with the board as a registered professional nurse;

(2) The applicant must have satisfactorily completed a graduate-level program accredited by a national accreditation body that is acceptable to the board; and

(3) The applicant must be currently certified by a national certification organization, approved by the board, in one or more of the following nationally recognized advance practice registered nursing roles: certified registered nurse anesthetist, certified nurse-midwife, clinical nurse specialist or certified nurse practitioner.

§30-7-7. Qualifications and licensure of persons not citizens of United States.

(a) The board may, upon application, issue a license to practice registered professional nursing by endorsement to any person who is not a citizen of the United States of America if such person: (a) Has been duly licensed as a registered professional nurse under the laws of another state, territory or foreign country, and (b) shall, in any such state, territory or foreign country, have passed a written examination in the English language which, in the opinion of the board, is comparable in content and scope to the type of written examination ~~which is authorized in the second paragraph~~ that is required in subsection (b) of section six of this article.

(b) All other provisions of this article shall be applicable to any application for or license issued pursuant to this section.

§30-7-15a. Prescriptive authority for prescription drugs; coordination with Board of Pharmacy; rule-making authority.

(a) The board may, in its discretion, authorize an advanced practice registered nurse to prescribe prescription drugs ~~in a collaborative relationship with a physician licensed to practice in West Virginia and in accordance with this article and all other applicable state and federal laws.~~ An authorized advanced practice registered nurse may write or sign prescriptions or transmit prescriptions verbally or by other means of communication.

~~(b) For purposes of this section an agreement to a collaborative relationship for prescriptive practice between a physician and an advanced practice registered nurse shall be set forth in writing. Verification of the agreement shall be filed with the board by the advanced practice registered nurse. The board shall forward a copy of the verification to the Board of Medicine and or the Board of Osteopathic Medicine. Collaborative agreements shall include, but are not limited to, the following:~~

~~(1) Mutually agreed upon written guidelines or protocols for prescriptive authority as it applies to the advanced practice registered nurse's clinical practice;~~

~~(2) Statements describing the individual and shared responsibilities of the advanced practice registered nurse and the physician pursuant to the collaborative agreement between them;~~

~~(3) Periodic and joint evaluation of prescriptive practice; and~~

~~(4) Periodic and joint review and updating of the written guidelines or protocols.~~

~~(c)~~ (b) The board shall promulgate legislative rules in accordance with the provisions of chapter twenty-nine-a of this code governing the eligibility and extent to which an advanced practice registered nurse

may prescribe drugs. Such rules shall provide, at a minimum, a state formulary classifying those categories of drugs which shall not be prescribed by advanced practice registered nurse including, but not limited to, Schedules I and II of the Uniform Controlled Substances Act, antineoplastics, radiopharmaceuticals and general anesthetics. Drugs listed under Schedule III shall be limited to a ~~seventy-two hour~~ thirty-day supply without refill. In addition to the above referenced provisions and restrictions and pursuant to a collaborative agreement as set forth in ~~subsections (a) and (b) of this section~~ fifteen-b of 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. The prescriber authorized in this section shall note on the prescription the chronic disease being treated.

(c) The board may promulgate emergency rules to implement the provisions of this article pursuant to section fifteen, article three, chapter twenty-nine-a of this code.

~~(d) The board shall consult with other appropriate boards for the development of the formulary.~~

~~(e)~~ (d) The board shall transmit to the Board of Pharmacy a list of all advanced practice registered nurses with prescriptive authority. The list shall include:

(1) The name of the authorized advanced practice registered nurse;

(2) The prescriber's identification number assigned by the board;

and

(3) The effective date of prescriptive authority.

§30-7-15b. Eligibility for prescriptive authority; application; fee; collaborative relationships and agreements.

(a) ~~An advanced practice registered nurse who applies for authorization to prescribe drugs shall be eligible to apply for authorization to prescribe drugs pursuant to section fifteen-a of this article after satisfying the following requirements:~~

~~(a)~~ (1) Be licensed and certified in West Virginia as an advanced practice registered nurse;

~~(b)~~ (2) ~~Not be less than~~ Be at least eighteen years of age;

~~(c)~~ (3) ~~Provide the board with evidence of successful completion of~~ Have completed forty-five contact hours of education in pharmacology and clinical management of drug therapy under a program approved by the board, fifteen hours of which shall ~~be~~ have been completed within the two-year period immediately ~~before the date of application~~ prior to entering into a prerequisite collaborative relationship;

~~(d)~~ (4) Provide the board with evidence that he or she is a person of good moral character and not addicted to alcohol or the use of controlled substances;

(5) Does not have his or her advanced practice registered nursing license, certification or registration in any jurisdiction suspended, limited or revoked; and

~~(e)~~ (6) Submit a completed, notarized application to the board, accompanied by a fee as established by the board by rule.

(b) The board shall authorize an applicant to prescribe prescription drugs under the terms of a collaborative agreement and in accordance with section fifteen-a of this article and applicable legislative rules if

the applicant has met the prerequisites of subsection (a) of this section and the following additional prerequisites are satisfied:

(1) The board is satisfied that the collaborating physician is licensed in good standing;

(2) The collaborative agreement is sufficient in form;

(3) The applicant has completed the education requirements; and

(4) The applicant has submitted a completed application on forms developed by the board and paid an application fee established by the board in legislative rule.

(c) A collaborative agreement for a collaborative relationship for prescriptive practice between a physician and an advanced practice registered nurse shall be set forth in writing and include, but not be limited to, the following:

(1) Mutually agreed upon written guidelines or protocols for prescriptive authority as it applies to the advanced practice registered nurse's clinical practice;

(2) Statements describing the individual and shared responsibilities of the advanced practice registered nurse and the collaborating physician;

(3) Periodic and joint evaluation of prescriptive practice; and

(4) Periodic joint review and updating of the written guidelines or protocols.

(d) Verification of a collaborative agreement shall be filed with the board by the advanced practice registered nurse with documentation of completion of the education requirements described in subsection (a) of this section. The board shall forward a copy of the verified agreement to the board through which the collaborative physician is licensed.

(e) The board shall, upon application, authorize an advanced practice registered nurse to prescribe prescription drugs in accordance with section fifteen-a of this article without the further requirement of a collaborative agreement if the applicant has satisfied the following prerequisites:

(1) Has practiced at least three years in a duly-documented collaborative relationship with granted prescriptive authority;

(2) Licensed in good standing with the board; and

(3) Has submitted a completed application on forms developed by the board and paid an application fee established by the board in legislative rule.

(f) Notwithstanding the provisions of subsection (e) of this section, the board may require an advanced practice registered nurse to practice in a collaborative agreement if the board determines, by order arising out of the board's complaint process, that a collaborative relationship is necessary for the rehabilitation of a licensee or for protection of the public.

§30-7-15c. Form of prescriptions; termination of authority; renewal; notification of termination of authority.

(a) Prescriptions authorized by an advanced practice registered nurse must comply with all applicable state and federal laws; must be signed by the prescriber with the initials 'A.P.R.N.' or the designated certification title of the prescriber; and must include the prescriber's identification number assigned by the board or the prescriber's national provider identifier assigned by the National Provider System pursuant to 45 C. F. R. §162.408.

(b) Prescriptive authorization shall be terminated if the advanced practice registered nurse has:

(1) Not maintained current authorization as an advanced practice registered nurse; or

(2) Prescribed outside the advanced practice registered nurse's scope of practice or has prescribed drugs for other than therapeutic purposes; or

(3) Has not filed verification of a collaborative agreement with the board if such an agreement is required.

(c) Prescriptive authority for an advanced practice registered nurse must be renewed biennially. Documentation of eight contact hours of pharmacology during the previous two years must be submitted at the time of renewal.

(d) The board shall notify the Board of Pharmacy, ~~the Board of Medicine and the Board of Osteopathic Medicine~~ within twenty-four hours after termination of, or change in, an advanced practice registered nurse's prescriptive authority.

§30-7-15d. Advanced practice registered nurse signatory authority.

(a) An advanced practice registered nurse may provide an authorized signature, certification, stamp, verification, affidavit or endorsement on documents within the scope of their practice, including but not limited to, the following documents:

(1) Death certificates: *Provided*, That the advanced practice registered nurse has received training from the board on the completion of death certificates;

(2) 'Physician orders for life sustaining treatment', 'physician orders for scope of treatment' and 'do not resuscitate' forms;

(3) Handicap hunting certificates; and

(4) Utility company forms requiring maintenance of utilities regardless of ability to pay.

(b) An advanced practice registered nurse may not sign a certificate of merit for a medical malpractice claim against a physician.

§30-7-15e. Joint Advisory Council on Limited Prescriptive Authority.

(a) There is hereby created the Joint Advisory Council on Limited Prescriptive Authority. The purpose of the Council is to advise the board regarding collaborative agreements and prescriptive authority for advanced practice registered nurses.

(b) The Council shall be composed of thirteen members with representation as follows:

(1) Two allopathic physicians appointed by the Board of Medicine who are in a collaborative relationship with advanced practice registered nurses;

(2) Two osteopathic physicians who are in active collaborative relationships appointed by the Board of Osteopathic Medicine who are in a collaborative relationship with advanced practice registered nurses;

(3) Six advanced practice registered nurses appointed by the Board of Examiners for Registered Professional Nurses whom have at least three years full-time practice experience, and shall include at least one certified nurse practitioner, one certified nurse-midwife, and one certified registered nurse anesthetist, all of whom actively prescribe prescription drugs;

(4) One licensed pharmacist appointed by the Board of Pharmacy;

(5) One consumer representative; and

(6) One representative from a school of public health.

(c) All members of the Council who are healthcare providers shall have at least three years full-time practice experience and hold active state licenses.

(d) Each member shall serve for a term of three years. The terms of newly appointed members shall be staggered so that no more than

five appointments shall expire annually. Two newly appointed members appointed pursuant to subdivision (1) of this section shall be appointed to a two year term. One newly appointed member appointed pursuant to subdivision (2) of this section shall be appointed to a two year term. One newly appointed member appointed pursuant to subdivision (3) of this section shall be appointed to a two year term. The member appointed pursuant to subdivision (4) of this section shall be appointed to a three year term. No member shall serve more than two consecutive terms.

(e) A majority of members appointed to the Council shall constitute a quorum to conduct official business.

(f) The Council shall choose its own chairman and shall meet at the call of the chairman at least biannually.

(g) The Council may perform the following duties:

(1) Review and evaluate applications for advanced practice registered nurses to prescribe without a collaborative agreement;

(2) Assist advanced practice registered nurses with entering into collaborative agreements in non-emergency situations, including providing the name/contact information for physicians with whom the advanced practice registered nurses may collaborate;

(3) Advise the board in emergency situations of a rescinded collaborative agreement, giving a sixty day grace period;

(4) Assist the board in developing and proposing emergency rules;

(5) Review and advise on complaints against advanced practice registered nurses;

(6) Develop pilot project allowing independent prescribing of controlled substances by advanced practice registered nurses and study results to assure patient/public safety;

(7) Develop other studies and/or pilot projects, including but not limited to:

(A) Issues of access, outcomes and cost effectiveness of services;

(B) The development of recommendations for reciprocity;

(C) The optimal length of time for transition into independent prescribing; and

(D) Methods to foster effective interprofessional communication.”

On motion of Delegate Cowles the House concurred in the Senate amendment with further amendment on page nine, section 15e, by striking out section 15e in its entirety and inserting in lieu thereof a new section 15e to read as follows:

“§30-7-15e. Joint Advisory Council on Limited Prescriptive Authority.

(a) On July 1, 2016, there is created the Joint Advisory Council on Limited Prescriptive Authority. The purpose of the Council is to advise the board regarding collaborative agreements and prescriptive authority for advanced practice registered nurses.

(b) The Governor shall appoint:

(1) Two allopathic physicians as recommended by the Board of Medicine who are in a collaborative relationship with advanced practice registered nurses;

(2) Two osteopathic physicians who are in active collaborative relationships as recommended by the Board of Osteopathic Medicine who are in a collaborative relationship with advanced practice registered nurses;

(3) Six advanced practice registered nurses as recommended by the Board of Examiners for Registered Professional Nurses whom have at

least three years full-time practice experience, and shall include at least one certified nurse practitioner, one certified nurse-midwife, and one certified registered nurse anesthetist, all of whom actively prescribe prescription drugs;

(4) One licensed pharmacist as recommended by the Board of Pharmacy;

(5) One consumer representative; and

(6) One representative from a school of public health of an institution of higher education.

(c) All members of the Council who are healthcare providers shall have at least three years full-time practice experience and hold active state licenses.

(d) Each member shall serve for a term of three years. The Governor shall stagger the terms so that no more than five appointments shall expire annually. Prior to the election of a chairman, the board shall be called together by the representative from a school of public health of an institution of higher education.

(e) A majority of members appointed to the Council shall constitute a quorum to conduct official business.

(f) The Council shall choose its own chairman and shall meet at the call of the chairman at least biannually.

(g) The Council may perform the following duties:

(1) Review and evaluate applications for advanced practice registered nurses to prescribe without a collaborative agreement;

(2) Assist advanced practice registered nurses with entering into collaborative agreements in non-emergency situations, including providing the contact information for physicians with whom the advanced practice registered nurses may collaborate;

(3) Advise the board in emergency situations of a rescinded collaborative agreement, giving a sixty day grace period;

(4) Assist the board in developing and proposing emergency rules;

(5) Review and advise on complaints against advanced practice registered nurses;

(6) Develop pilot project allowing independent prescribing of controlled substances by advanced practice registered nurses and study results to assure patient/public safety;

(7) Develop other studies and/or pilot projects, including but not limited to:

(A) Issues of access, outcomes and cost effectiveness of services;

(B) The development of recommendations for reciprocity;

(C) The optimal length of time for transition into independent prescribing; and

(D) Methods to foster effective interprofessional communication.”

And,

By amending the title to read as follows:

H. B. 4334 – “A Bill to repeal §30-15-1, §30-15-2, §30-15-3, §30-15-4, §30-15-5, §30-15-6, §30-15-7, §30-15-7a, §30-15-7b, §30-15-7c and §30-15-8 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5-19 of said code; to amend and reenact §30-7-1, §30-7-2, §30-7-4, §30-7-6, §30-7-7, §30-7-15a, §30-7-15b and §30-7-15c of said code; and to amend said code by adding thereto two new sections, designated §30-7-15d and §30-7-15e, all relating to the regulation of the practice of advanced practice registered nurses; providing advanced practice registered nurses authority relating to death certificates; defining terms; requiring a

license to practice as an advanced practice registered nurse; modifying license requirements for an advanced practice registered nurse; modifying requirements for prescriptive authority; providing rule-making authority; providing emergency rule-making authority; modifying prescriptive authority of certain controlled substances; providing collaborative practice requirements; modifying the requirements for application for prescription authority; permitting the board review qualifications of applicants; authorizing advanced practice registered nurses be granted prescriptive authority without the requirement of a collaborative agreement upon application; requiring an advanced practice registered nurses complete certain prerequisites; requiring certain reports; permitting the board to discipline advanced practice registered nurses; eliminating required qualifications of the executive secretary of the board; creating a Joint Advisory Council; providing the council's composition; providing council members' terms; providing powers of the council; providing duties of the council; providing advance practice registered nurses with certain signatory authority; and requiring certain training.”

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. 589**), and there were—yeas 91, nays 5, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Flanigan, Statler, Storch, Waxman and Zatezalo.

Absent and Not Voting: Lane, McCuskey, Moore 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. 4334) 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. 4636, Increasing the penalties for violating the Whistle-blower Law.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, section six, line eleven, after the word “information”, by striking out the remainder of the subsection and inserting in lieu thereof “the court may order the person’s suspension from public service for not more than six months. The public body may also issue appropriate discipline against the person, up to and including termination.”

And,

Amending the title of the bill to read as follows:

Com. Sub. for H. B. 4636 – “A Bill to amend and reenact §6C-1-6 of the Code of West Virginia, 1931, as amended, relating to increasing the penalties for violating the whistle-blower law; increasing the civil fine; authorizing the court to suspend a person from public service in certain circumstances; and authorizing appropriate discipline by the person’s employer up to and including termination from employment.”

On motion of Delegate Cowles, the House of Delegates refused to concur in the Senate amendments and requested the Senate to recede therefrom.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4740, Permitting that current members of the National Guard or Reserves may be excused from jury duty.

Delegate J. Nelson requested to be excused from voting on H. B. 4740 under the provisions of House Rule 49.

The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §52-1-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

ARTICLE 1. PETIT JURIES.

§52-1-11. Excuses from jury service.

(a) The court, upon request of a prospective juror or on its own initiative, shall determine on the basis of information provided on the juror qualification form or interview with the prospective juror or other competent evidence whether the prospective juror should be excused from jury service. The clerk shall enter this determination in the space provided on the juror qualification form.

(b) A person who is not disqualified for jury service under section eight of this article may be excused from jury service by the court upon a showing of undue hardship, extreme inconvenience, or public

necessity, for a period the court deems necessary, at the conclusion of which the person shall reappear for jury service in accordance with the court's direction.

(c) A person who is not disqualified for jury service under section eight of this article may be excused from jury service by the court if the person is a current member of the National Guard or reserves.”

And,

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

H. B. 4740 – “A Bill to amend and reenact §52-1-11 of the Code of West Virginia, 1931, as amended, relating to excuses from jury service; and permitting that current members of the National Guard or reserves may be excused from jury duty.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 590**), 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: Deem, Lane, McCuskey, Moore 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. 4740) passed.

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

Com. Sub. for S. B. 454, Licensing and regulating medication-assisted treatment programs for substance use disorders, still being in possession of the Clerk, was taken up for further consideration.

On motion of Delegate Cowles, the motion to insist on the position of the House was reconsidered.

On motion of Delegate Cowles, the House of Delegates refused to recede from its position and requested the Senate to agree to the appointment of a Committee of Conference of three.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Stansbury, Rohrbach and Campbell.

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

At 7:25 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 7:45 p.m.

Conference Committee Report Availability

At 7:49 p.m., the Clerk announced availability in his office of the reports of the Committees of Conference on Com. Sub. for H. B. 4013 and Com. Sub. for S. B. 454.

At 7:54 p.m., the Clerk announced availability in his office of the reports of the Committees of Conference on Com. Sub. for S. B. 378.

Messages from the Senate

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, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 597, Relating generally to Health Care Authority.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill the House of Delegates, as follows:

Com. Sub. for H. B. 2366, Relating generally to the solicitation of minors.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 3C. WEST VIRGINIA COMPUTER CRIME AND ABUSE ACT.

§61-3C-14b. Soliciting, etc. a minor via computer; soliciting a minor and traveling to engage the minor in prohibited sexual activity; penalty penalties.

(a) Any person over the age of eighteen, 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 such a minor, ~~to commit in order to engage in any illegal act proscribed by the provisions of article eight, eight-b, eight-c or eight-d of this chapter, or any felony offense under section four hundred one, article four, chapter sixty-a of this code,~~ 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 two nor more than ten years, or both.

(b) Any person over the age of eighteen 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 violations of article eight, eight-b, eight-c or eight-d of this chapter with such a minor, is guilty of a felony and shall be fined not more than \$25,000 or imprisoned in a state correctional facility for a determinate sentence of not less than five nor more than fifteen years, or both fined and imprisoned: *Provided*, That subsection (a) of this section shall be deemed a lesser included offense to that created by this subsection.

ARTICLE 8A. PREPARATION, DISTRIBUTION OR EXHIBITION OF OBSCENE MATTER TO MINORS.

§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 who distributes, offers to distribute or displays by any means any obscene matter to the minor or person he or she believes 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~~ engaging in a violation of the provisions of articles eight, eight-b, eight-c or eight-d of this chapter with the minor or person whom he or she believes is a minor at least four years younger than he or she, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$25,000, or ~~confined imprisoned~~ 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 ~~confined imprisoned~~ imprisoned in a state correctional facility for not more than ten years, or both.”

And,

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

Com. Sub. for H. B. 2366 – “A Bill to amend and reenact §61-3C-14b of the Code of West Virginia, 1931, as amended; and to

amend and reenact §61-8A-4 of said code, all relating generally to the solicitation of minors by use of a computer; clarifying the law pertaining to the use of a computer to solicit a minor for sexual activity; removing controlled substance violations as an alleged purpose; creating a new felony offense of soliciting a minor through use of a computer for specified illegal sexual acts and committing any overt act designed to bringing himself or herself within the physical presence of the minor or someone believed to be a minor to engage in prohibited sexual activity with the minor or person believed to be a minor; requiring a four year age difference between an adult and minor; establishing penalties; establishing the offense as a lesser included crime; and prohibiting the use or distribution of obscene materials by an adult to solicit or seduce a person who is or is believed to be a minor at least four years younger than the adult for unlawful sexual activity.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 591**), 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: Moore, Reynolds and Walters.

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. 2366) 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. 4309, Increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §55-7I-1, §55-7I-2, §55-7I-3, §55-7I-4, §55-7I-5 and §55-7I-6; and to amend and reenact §61-2-29b of said code, all to read as follows:

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

**ARTICLE 7I. FINANCIAL EXPLOITATION OF AN ELDERLY
PERSON, PROTECTED PERSON OR
INCAPACITATED ADULT.**

**§55-7I-1. Action for financial exploitation of an elderly person,
protected person or incapacitated adult; definitions.**

(a) Any elderly person, protected person or incapacitated adult against whom an act of financial exploitation has been committed may bring an action under this article against any person who has committed an act of financial exploitation against him or her.

(b) For the purposes of this article:

(1) ‘Incapacitated adult’ has the same meaning as prescribed under section twenty-nine, article two, chapter sixty-one of this code;

(2) ‘Elderly person’ means a person who is sixty-five 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 defendant 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 section four, article one, chapter forty-four-a of this code and who is subject to the protections of chapter forty-four-a or forty-four-c of this code.

§55-7I-2. Restriction of defenses, standing alone, based on legal relationship.

Notwithstanding any provision of this code to the contrary, acting in a position of trust and confidence, including, but not limited to, as guardian, conservator, trustee or attorney for or holding power of attorney for an elderly person, protected person or incapacitated adult shall not, standing alone, constitute a defense to an action brought under this article.

§55-7I-3. Court authorized remedies.

(a) In an action brought against a person under this article upon a finding that an elderly person, protected person or incapacitated adult has been financially exploited, the court may order:

(1) The return of property or assets improperly obtained, controlled or used; and

(2) An award of actual damages to the person who brought the action for any damages incurred or for the value of the property or assets lost as a result of the violation or violations of this article.

(b) In addition to the remedies provided in subsection (a) of this section, a court may order the following:

(1) For violations committed by a person who is not in a position of trust and confidence, payment of two times the amount of damages incurred or value of property or assets lost; and

(2) For violations committed by a person in a position of trust and confidence, and payment of treble damages.

§55-7I-4. Attorneys' fees; court costs and burden of proof; statute of limitations.

(a) The court may award reasonable attorneys' fees and costs to a person that brings an action under this section and prevails.

(b) The standard of proof in proving that a person committed financial exploitation in an action pursuant to this article is a preponderance of the evidence.

(c) An action under this article shall be brought within two years from the date of the violation or from the date of discovery, whichever is later in time.

§55-7I-5. Action to freeze assets; burden of proof; options the court may exercise.

(a) An elderly person, protected person or incapacitated adult may bring an action to enjoin the alleged commission of financial exploitation and may petition the court to freeze the assets of the person allegedly committing the financial exploitation in an amount equal to, but not greater than, the alleged value of lost property or assets for purposes of restoring to the victim the value of the lost property or assets. The burden of proof required to freeze the assets of a person allegedly committing financial exploitation shall be a preponderance of the evidence. Upon a finding that the elderly person, protected person or incapacitated adult has been formally exploited, the court may:

(1) Grant injunctive relief;

(2) Order the violator to, in escrow an amount of money equivalent to the value of the misappropriated assets for distribution to the aggrieved elderly person, protected person or incapacitated adult;

(3) Order the violator to return to the elderly person, protected person or incapacitated person any real or personal property which was misappropriated; or

(4) Provide for the appointment of a receiver;

(b) In an action under section one of this article, the court may void or limit the application of contracts or clauses resulting from the financial exploitation.

(c) In an action brought under this article, upon the filing of the complaint or on the appearance of any defendant, claimant or other party, or at any later time, the court may require the plaintiff, defendant, claimant or other party or parties to post security, or additional security, in a sum the court directs to pay all costs, expenses and disbursements that are awarded against that party or that the party may be directed to pay by any interlocutory order, by the final judgment or after appeal.

§55-7I-6. Penalty for violation of injunction; retention of jurisdiction.

Any person who violates the terms of an order issued under section five of this article shall be subject to proceeding for contempt of court. The court issuing the injunction may retain jurisdiction if, in its discretion, it determines that to do so is in the best interest of the elderly person, protected person or incapacitated adult. Whenever the court determines that an injunction issued under section five of this article has been violated, the court may award reasonable costs to the party asserting that a violation has occurred.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-29b. 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 ~~shall be guilty of larceny and subject to the penalties contained in section thirteen, article three of this chapter~~ in the amount of less than \$1,000 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

(b) Any person who financially exploits an elderly person, protected person or an incapacitated adult in the amount of \$1,000 or more is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000 and imprisoned in a state correctional facility not less than two nor more than twenty years.

(c) Any person convicted of a violation of this section shall, in addition to any other penalties at law, be subject to an order of restitution.

~~(b)~~ (d) In determining the value of the money, goods, property or services referred to in subsection (a) of this section, it shall be 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)~~ (e) Financial institutions and their employees, as defined by section one, article two-a, chapter thirty-one-a of this code and as permitted by subsection thirteen, section four of said article, others engaged in financially related activities, as defined by section one, article eight-c, chapter thirty-one-a 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 are required to 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.

~~(d)~~ (f) 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.

~~(e)~~ (g) 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.

~~(f)~~ (h) For the purposes of this section:

(1) ‘Incapacitated adult’ means a person as defined by section twenty-nine of this article;

(2) ‘Elderly person’ means a person who is sixty-five 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 section four, article one, chapter forty-four-a of this code and who is subject to the protections of chapter forty-four-a or forty-four-c of this code.

(g) (i) 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 shall not, standing alone, constitute a defense to a violation of subsection (a) of this section.”

And,

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

H. B. 4309 – “A Bill to amend the Code of West Virginia, 1931, by adding thereto a new article, designated §55-7I-1, §55-7I-2, §55-7I-3, §55-7I-4, §55-7I-5 and §55-7I-6; and to amend and reenact §61-2-29b of said code, all relating generally to protections against financial exploitation of elderly persons, protected persons and incapacitated adults; establishing a cause of action against a person who commits an act of financial exploitation against an elderly person, protected person or incapacitated adult; defining terms; restricting certain defenses which, standing alone, are based on legal relationship to an elderly person, protected person or incapacitated adult; providing for court-authorized remedies; authorizing the award of punitive damages; providing for award of costs and attorneys’ fees; establishing the standard of proof; establishing the statute of limitations for actions brought under the article; authorizing the court to freeze assets and order injunctive relief; providing options the court may exercise if a person violates an injunction; providing a penalty for violating an injunction; clarifying criminal penalties for conviction of certain offenses of financial exploitation of an elderly person, protected person or incapacitated adult; and increasing the criminal penalty for the offense of financial exploitation of \$1,000 or more.”

On motion of Delegate Shott, the House of Delegates concurred in the Senate amendments with further amendment, on page two, section three, line twelve, by striking out the word “and”.

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. 592**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Moore and Reynolds.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4309) passed.

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

H. B. 4309 – “A Bill to amend the Code of West Virginia, 1931, by adding thereto a new article, designated §55-7I-1, §55-7I-2, §55-7I-3, §55-7I-4, §55-7I-5 and §55-7I-6; and to amend and reenact §61-2-29b of said code, all relating generally to protections against financial exploitation of elderly persons, protected persons and incapacitated adults; establishing a cause of action against a person who commits an act of financial exploitation against an elderly person, protected person or incapacitated adult; defining terms; restricting certain defenses which, standing alone, are based on legal relationship to an elderly person, protected person or incapacitated adult; providing for court-authorized remedies; authorizing the award of increased damages in certain circumstances; providing for award of costs and attorneys’ fees; establishing the standard of proof; establishing the statute of limitations for actions brought under the article; authorizing the court to freeze assets and order injunctive relief; providing options the court may exercise upon a formal finding of exploitation; authorizing the court to require posting security, or additional security, under certain circumstances; clarifying criminal penalties for conviction of certain offenses of financial exploitation of an elderly person, protected person or incapacitated adult; and increasing the criminal penalty for the offense of financial exploitation of \$1,000 or more.”

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. 4662, Permitting the Superintendent of the State Police to collect \$3 dollars from the sale of motor vehicle inspection stickers.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §17C-16-5 and 17C-16-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 16. INSPECTION OF VEHICLES.

§17C-16-5. Permit for official inspection stations; fees for and certificate of inspection.

(a) The Superintendent of the State Police is responsible for the inspection as provided in this article and shall prescribe requirements and qualifications for official inspection stations. He or she shall select and designate the stations and shall issue permits for official inspection stations and furnish instructions and all necessary forms for the inspection of vehicles as required in this article and the issuance of official certificates of inspection and approval. The certificate of inspection shall be a paper sticker or decal to be affixed to the windshield of a motor vehicle, shall be serially numbered and shall properly identify the official inspection station which issued it. A charge of \$~~1~~ \$3 per sticker shall be charged by the State Police to the inspection station, and the funds received shall be deposited into the State Treasury and credited to the account of the State Police for

application in the administration and enforcement of the provisions of this article and for the purchase of vehicles, equipment for vehicles, and maintenance of vehicles. ~~Any balance remaining in the fund on the last day of June of each fiscal year, not required for the administration and enforcement of the provisions of this article, shall be transferred to the state road fund.~~ The superintendent may exchange stickers or make refunds to official inspection stations for stickers on hand when permits are revoked or when, for any reason, the stickers become obsolete.

(b) A person shall apply for a permit upon an official form prescribed by the superintendent and the superintendent shall grant permits only when the superintendent is satisfied that the station is properly equipped and has competent personnel to make the inspections and adjustments and that the inspections and adjustments will be properly conducted. The superintendent, before issuing a permit, may require the applicant to file a bond with surety approved by the superintendent, conditioned that such applicant, as a station operator, will make compensation for any damage to a vehicle during an inspection or adjustment due to negligence on the part of the station operator or employees thereof.

(c) The superintendent shall properly supervise and cause inspections to be made of the stations. Upon finding that a station is not properly equipped or conducted, the superintendent may, upon a first violation, suspend the permit for a period of up to one year. Upon a second or subsequent finding that a station is not properly equipped or conducted, the superintendent shall permanently revoke and require the surrender of the permit. The superintendent may reinstate the permit of any person whose permit was permanently revoked prior to the effective date of this section upon a first finding that a station was not properly equipped or conducted, upon application, at any time after the expiration of six months from the time of revocation and shall reinstate the permit, upon application, after the expiration of one year. He or she shall maintain and post at his or her office and at any other places as he

or she may select lists of all stations holding permits and of those whose permits have been suspended or revoked.

§17C-16-6. Assignment, transfer and posting of official inspection station permit; issuance and record of certificate of inspection; inspection fee.

(a) No permit for an official inspection station shall be assigned or transferred or used at any location other than designated in the permit and every permit shall be posted in a conspicuous place at the station location designated in the permit.

(b) The person operating the station shall issue a certificate of inspection and approval, upon an official form, to the owner of a vehicle upon inspecting the vehicle and determining that its equipment required under this article is in good condition and proper adjustment, but otherwise no certificate shall be issued, except one issued pursuant to section two of this article. When required by the superintendent, a record and report shall be made of every inspection and every certificate issued.

(c) A fee of not more than ~~\$12~~ \$14 may be charged for an inspection and any necessary headlight adjustment to proper focus, not including any replacement parts required, and the issuance of the certificate, but the imposition of the charge is not mandatory.”

And,

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

Com. Sub. for H. B. 4662 – “A Bill to amend and reenact §17C-16-5 and §17C-16-6 of the Code of West Virginia, 1931, as amended, all relating to permitting the Superintendent of the State Police to collect \$3 from the sale of motor vehicle inspection stickers to purchase, equip and maintain vehicles; and increasing the allowable fee from \$12 to \$14 for vehicle inspection and any necessary headlight adjustment.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 593**), and there were—yeas 79, nays 19, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Blair, Butler, Espinosa, Faircloth, Folk, Frich, Gearheart, Householder, Howell, Ihle, Kurcaba, Marcum, McGeehan, Moffatt, J. Nelson, P. Smith, Sobonya, Stansbury and P. White.

Absent and Not Voting: Moore and Reynolds.

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. 4662) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 594**), and there were—yeas 84, nays 14, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Blair, Folk, Hicks, Householder, Howell, Ihle, Marcum, McGeehan, Moffatt, J. Nelson, Overington, Skinner, Sobonya and Stansbury.

Absent and Not Voting: Moore and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4662) takes effect July 1, 2016.

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. 4317, Limiting factors in parenting plans.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, section two hundred nine, line twelve, by striking out the word “report” and inserting in lieu thereof the word “reports”.

And,

On page one, section two hundred nine, line twelve, after the word “abuse”, by inserting the following:

“: *Provided*, That a person’s withdrawal of or failure to pursue a report of domestic violence or child abuse shall not alone be sufficient to consider that report fraudulent”.

And,

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

Com. Sub. for H. B. 4317 – “A Bill to amend and reenact §48-9-209 of the Code of West Virginia, 1931, as amended, relating to limiting factors in parenting plans; clarifying the court’s consideration of fraudulent reports of domestic violence and child abuse in imposing limits on a parenting plan in order to protect a child from harm; clarifying that a person’s withdrawal of or failure to pursue a report of domestic violence or child abuse is not alone sufficient to establish that report as fraudulent; requiring court to impose limits that are reasonably calculated to protect the child or the child’s parent from harm if a parent who would otherwise be allocated responsibility under a parenting plan has made one or more fraudulent reports of domestic violence or child abuse; and correcting an internal code reference to clarify a parent’s ability to move the court to disclose whether other parent was the source of fraudulent reports of domestic violence or child abuse.”

On motion of Delegate Cowles, the House of Delegates concurred in the Senate amendments with further amendment, on page three, line fifty-five, by inserting the following before the words “A parent”:

“Notwithstanding any provision of this code to the contrary” and a comma.

On page three, line fifty-five, by striking out “A” and replacing in lieu thereof “a”.

And,

On page three, lines fifty-six and fifty-seven, by striking out the words “pursuant to subdivision (4), subsection (b), section one hundred one, article five, chapter forty-nine of this code”.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 595**), 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: Moore and Reynolds.

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. 4317) passed.

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

Com. Sub. for H. B. 4317 – “A Bill to amend and reenact §48-9-209 of the Code of West Virginia, 1931, as amended, relating to limiting factors in parenting plans; clarifying the court’s consideration of fraudulent reports of domestic violence and child abuse in imposing limits on a parenting plan in order to protect a child from harm; clarifying that a person’s withdrawal of or failure to pursue a report of

domestic violence or child abuse is not alone sufficient to establish that report as fraudulent; requiring court to impose limits that are reasonably calculated to protect the child or the child's parent from harm if a parent who would otherwise be allocated responsibility under a parenting plan has made one or more fraudulent reports of domestic violence or child abuse; and clarifying that a parent who believes that the other parent has made one or more fraudulent reports of domestic violence or child abuse may move the court to disclose whether the other parent was the source of the allegation.”

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. 4388, Relating to stroke centers.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.

§16-5B-18. Designation of comprehensive, primary and acute stroke-ready hospitals; reporting requirements; rulemaking.

(a) A hospital, as that term is defined in section one of this article, may apply to the Department of Health and Human Resources to be recognized and certified as a comprehensive stroke center, a primary stroke center or an acute stroke-ready hospital. The appropriate designation shall be granted by the Department of Health and Human Resources based upon criteria recognized by the American Heart

Association, the Joint Commission or other nationally recognized organization as set forth in legislative rules as provided in subsection (d) of this section.

(b) The Department of Health and Human Resources shall provide annually, by June 1, a list of all hospitals they have designated pursuant to the provisions of subsection (a) of this section to the medical director of each licensed emergency medical service agency in this state. This list shall be maintained by the Department of Health and Human Resources and shall be updated annually on its website.

(c) The Secretary of the Department of Health and Human Resources shall establish by legislative rule, as set forth in subsection (d) of this section, prehospital care protocols related to assessment, treatment and transport of patients identified as stroke patients. These protocols shall be applicable to all emergency medical service agencies, as defined in section three, article four-c of this chapter. These protocols shall include development and implementation of plans for the triage and transport within specified timeframes of onset of symptoms of acute stroke patients to the nearest comprehensive, primary or acute stroke ready hospital.

(d) The Secretary of the Department of Health and Human Resources shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to accomplish the goals of this section. These rules shall be proposed after consultation with an advisory committee selected by the Secretary of the Department of Health and Human Resources. The advisory committee shall consist of representatives of the Department of Health and Human Resources, an association with the primary purpose of promoting better heart health, a registered emergency medical technician, hospitals located in rural areas of the state and hospitals located in urban areas of this state.

These rules shall include:

(1) An application process;

(2) The criteria for designation and certification as a comprehensive stroke center, a primary stroke center or an acute stroke ready center;

(3) A means for providing a list of designated hospitals to emergency medical service agencies;

(4) Protocols for assessment, treatment and transport of stroke patients by licensed emergency medical service agencies; and

(5) Any other requirements necessary to accomplish the intent of this section.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 596**), 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: Moore and Reynolds.

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. 4388) passed.

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

Conference Committee Report

Delegate Ellington, from the Committee of Conference on matters of disagreement between the two houses, as to

Eng. Com. Sub. for S. B. 597, Relating generally to Health Care Authority.

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 House to Engrossed Committee

Substitute for Senate Bill No. 597 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate recede from its position and accept the amendments as proposed by the House, and agree to the same as follows:

That §16-29B-26 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a two new sections, designated §16-29B-28 and §16-29B-29, all to read as follows:

ARTICLE 29B. HEALTH CARE AUTHORITY.

§16-29B-26. Exemptions from antitrust laws.

Actions of the board shall be exempt from antitrust action ~~as provided in section five, article eighteen, chapter forty-seven of this code~~ under state and federal antitrust laws. Any actions of hospitals and health care providers under the board's jurisdiction, when made in compliance with orders, directives, rules, approvals or regulations issued or promulgated by the board, shall likewise be exempt. ~~Health care providers shall be subject to the antitrust guidelines of the federal trade commission and the department of justice.~~

It is the intention of the Legislature that this chapter shall also immunize cooperative agreements approved and subject to supervision by the authority and activities conducted pursuant thereto from challenge or scrutiny under both state and federal antitrust law: *Provided*, That a cooperative agreement that is not approved and subject to supervision by the authority shall not have such immunity.

§16-29B-28. Review of Cooperative agreements.

(a) *Definitions.* — As used in this section the following terms have the following meanings:

(1) “Academic medical center” means an accredited medical school, one or more faculty practice plans affiliated with the medical school or one or more affiliated hospitals which meet the requirements set forth in 42 C. F. R. 411.355(e).

(2) “Cooperative agreement” means an agreement between a qualified hospital which is a member of an academic medical center and one or more other hospitals or other health care providers. The agreement shall provide for the sharing, allocation, consolidation by merger or other combination of assets, or referral of patients, personnel, instructional programs, support services and facilities or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered by hospitals or other health care providers.

(3) “Commercial health plan” means a plan offered by any third party payor that negotiates with a party to a cooperative agreement with respect to patient care services rendered by health care providers.

(4) “Health care provider” means the same as that term is defined in section three of this article.

(5) “Teaching hospital” means a hospital or medical center that provides clinical education and training to future and current health professionals whose main building or campus is located in the same county as the main campus of a medical school operated by a state university.

(6) “Qualified hospital” means a teaching hospital, which meets the requirements of 42 C. F. R. 411.355(e) and which has entered into a cooperative agreement with one or more hospitals or other health care providers but is not a critical access hospital for purposes of this section.

(b) Findings. —

(1) The Legislature finds that the state’s schools of medicine, affiliated universities and teaching hospitals are critically important in

the training of physicians and other healthcare providers who practice health care in this state. They provide access to healthcare and enhance quality healthcare for the citizens of this state.

(2) A medical education is enhanced when medical students, residents and fellows have access to modern facilities, state of the art equipment and a full range of clinical services and that, in many instances, the accessibility to facilities, equipment and clinical services can be achieved more economically and efficiently through a cooperative agreement among a teaching hospital and one or more hospitals or other health care providers.

(c) Legislative purpose. — The Legislature encourages cooperative agreements if the likely benefits of such agreements outweigh any disadvantages attributable to a reduction in competition. When a cooperative agreement, and the planning and negotiations of cooperative agreements, might be anticompetitive within the meaning and intent of state and federal antitrust laws the Legislature believes it is in the state's best interest to supplant such laws with regulatory approval and oversight by the Health Care Authority as set out in this article. The authority has the power to review, approve or deny cooperative agreements, ascertain that they are beneficial to citizens of the state and to medical education, to ensure compliance with the provisions of the cooperative agreements relative to the commitments made by the qualified hospital and conditions imposed by the Health Care Authority.

(d) Cooperative Agreements. —

(1) A hospital which is a member of an academic medical center may negotiate and enter into a cooperative agreement with other hospitals or health care providers in the state:

(A) In order to enhance or preserve medical education opportunities through collaborative efforts and to ensure and maintain the economic viability of medical education in this state and to achieve the goals hereinafter set forth; and

(B) When the likely benefits outweigh any disadvantages attributable to a reduction in competition that may result from the proposed cooperative agreement.

(2) The goal of any cooperative agreement would be to:

(A) Improve access to care;

(B) Advance health status;

(C) Target regional health issues;

(D) Promote technological advancement;

(E) Ensure accountability of the cost of care;

(F) Enhance academic engagement in regional health;

(G) Preserve and improve medical education opportunities;

(H) Strengthen the workforce for health-related careers; and

(I) Improve health entity collaboration and regional integration, where appropriate.

(3) A qualified hospital located in this state may submit an application for approval of a proposed cooperative agreement to the authority. The application shall state in detail the nature of the proposed arrangement including the goals and methods for achieving:

(A) Population health improvement;

(B) Improved access to health care services;

(C) Improved quality;

(D) Cost efficiencies;

(E) Ensuring affordability of care;

(F) Enhancing and preserving medical education programs; and

(G) Supporting the authority's goals and strategic mission, as applicable.

(4) (A) If the cooperative agreement involves a combination of hospitals through merger, consolidation or acquisition, the qualified hospital must have been awarded a certificate of need for the project by the authority, as set forth in article two-d of this chapter prior to submitting an application for review of a cooperative agreement.

(B) In addition to a certificate of need, the authority may also require that an application for review of a cooperative agreement as provided in this section be submitted and approved prior to the finalization of the cooperative agreement, if the cooperative agreement involves the merger, consolidation or acquisition of a hospital located within a distance of twenty highway miles of the main campus of the qualified hospital, and the authority shall have determined that combination is likely to produce anti-competitive effects due to a reduction of competition. Any such determination shall be communicated to the parties to the cooperative agreement within seven days from approval of a certificate of need for the project.

(C) In reviewing an application for cooperative agreement, the authority shall give deference to the policy statements of the Federal Trade Commission.

(D) If an application for a review of a cooperative agreement is not required by the authority, the parties to the agreement may then complete the transaction following a final order by the authority on the certificate of need as set forth in article two-d of this code. The qualified hospital may apply to the authority for approval of the cooperative agreement either before or after the finalization of the cooperative agreement.

(E) A party who has received a certificate of need prior to the enactment of this provision during the 2016 regular session of the Legislature may apply for approval of a cooperative agreement whether or not the transaction contemplated thereby has been completed.

(F) The complete record in the certificate of need proceeding shall be part of the record in the proceedings under this section and information submitted by an applicant in the certificate of need proceeding need not be duplicated in proceedings under this section.

(e) Procedure for review of cooperative agreements. —

(1) Upon receipt of an application, the authority shall determine whether the application is complete. If the authority determines the application is incomplete, it shall notify the applicant in writing of additional items required to complete the application. A copy of the complete application shall be provided by the parties to the Office of the Attorney General simultaneous with the submission to the authority. If an applicant believes the materials submitted contain proprietary information that is required to remain confidential, such information must be clearly identified and the applicant shall submit duplicate applications, one with full information for the authority's use and one redacted application available for release to the public.

(2) The authority shall upon receipt of a completed application, publish notification of the application on its website as well as provide notice of such application placed in the State Register. The public may submit written comments regarding the application within ten days following publication. Following the close of the written comment period, the authority shall review the application as set forth in this section. Within thirty days of the receipt of a complete application the authority may:

(i) Issue a certificate of approval which shall contain any conditions the authority finds necessary for the approval;

(ii) Deny the application; or

(iii) Order a public hearing if the authority finds it necessary to make an informed decision on the application.

(3) The authority shall issue a written decision within seventy-five days from receipt of the completed application. The authority may

request additional information in which case they shall have an additional fifteen days following receipt of the supplemental information to approve or deny the proposed cooperative agreement.

(4) Notice of any hearing shall be sent by certified mail to the applicants and all persons, groups or organizations who have submitted written comments on the proposed cooperative agreement as well as to all persons, groups or organizations designated as affected parties in the certificate of need proceeding. Any individual, group or organization who submitted written comments regarding the application and wishes to present evidence at the public hearing shall request to be recognized as an affected party as set forth in article two-d of this chapter. The hearing shall be held no later than forty-five days after receipt of the application. The authority shall publish notice of the hearing on the authority's website fifteen days prior to the hearing. The authority shall additionally provide timely notice of such hearing in the State Register.

(5) Parties may file a motion for an expedited decision.

(f) *Standards for review of cooperative agreements.* —

(1) In its review of an application for approval of a cooperative agreement submitted pursuant to this section, the authority may consider the proposed cooperative agreement and any supporting documents submitted by the applicant, any written comments submitted by any person and any written or oral comments submitted, or evidence presented, at any public hearing.

(2) The authority shall consult with the Attorney General of this state regarding his or her assessment of whether or not to approve the proposed cooperative agreement.

(3) The authority shall approve a proposed cooperative agreement and issue a certificate of approval if it determines, with the written concurrence of the Attorney General, that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages

likely to result from a reduction in competition from the proposed cooperative agreement.

(4) In evaluating the potential benefits of a proposed cooperative agreement, the authority shall consider whether one or more of the following benefits may result from the proposed cooperative agreement:

(A) Enhancement and preservation of existing academic and clinical educational programs;

(B) Enhancement of the quality of hospital and hospital-related care, including mental health services and treatment of substance abuse provided to citizens served by the authority;

(C) Enhancement of population health status consistent with the health goals established by the authority;

(D) Preservation of hospital facilities in geographical proximity to the communities traditionally served by those facilities to ensure access to care;

(E) Gains in the cost-efficiency of services provided by the hospitals involved;

(F) Improvements in the utilization of hospital resources and equipment;

(G) Avoidance of duplication of hospital resources;

(H) Participation in the state Medicaid program; and

(I) Constraints on increases in the total cost of care.

(5) The authority's evaluation of any disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement shall include, but need not be limited to, the following factors:

(A) The extent of any likely adverse impact of the proposed cooperative agreement on the ability of health maintenance organizations, preferred provider organizations, managed health care organizations or other health care payors to negotiate reasonable payment and service arrangements with hospitals, physicians, allied health care professionals or other health care providers;

(B) The extent of any reduction in competition among physicians, allied health professionals, other health care providers or other persons furnishing goods or services to, or in competition with, hospitals that is likely to result directly or indirectly from the proposed cooperative agreement;

(C) The extent of any likely adverse impact on patients in the quality, availability and price of health care services; and

(D) The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the proposed cooperative agreement.

(6) (A) After a complete review of the record, including, but not limited to, the factors set out in subsection (e) of this section, any commitments made by the applicant or applicants and any conditions imposed by the authority, if the authority determines that the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement, the authority shall approve the proposed cooperative agreement.

(B) The authority may reasonably condition approval upon the parties' commitments to:

(i) Achieving improvements in population health;

(ii) Access to health care services;

(iii) Quality and cost efficiencies identified by the parties in support of their application for approval of the proposed cooperative agreement; and

(iv) Any additional commitments made by the parties to the cooperative agreement.

Any conditions set by the authority shall be fully enforceable by the authority. No condition imposed by the authority, however, shall limit or interfere with the right of a hospital to adhere to religious or ethical directives established by its governing board.

(7) The authority's decision to approve or deny an application shall constitute a final order or decision pursuant to the West Virginia Administrative Procedure Act (§ 29A-1-1, *et seq.*). The authority may enforce commitments and conditions imposed by the authority in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.

(g) Enforcement and supervision of cooperative agreements. C The authority shall enforce and supervise any approved cooperative agreement for compliance.

(1) The authority is authorized to promulgate legislative rules in furtherance of this section. Additionally, the authority shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to accomplish the goals of this section. These rules shall include, at a minimum:

(A) An annual report by the parties to a cooperative agreement. This report is required to include:

(i) Information about the extent of the benefits realized and compliance with other terms and conditions of the approval;

(ii) A description of the activities conducted pursuant to the cooperative agreement, including any actions taken in furtherance of

commitments made by the parties or terms imposed by the authority as a condition for approval of the cooperative agreement;

(iii) Information relating to price, cost, quality, access to care and population health improvement;

(iv) Disclosure of any reimbursement contract between a party to a cooperative agreement approved pursuant to this section and a commercial health plan or insurer entered into subsequent to the finalization of the cooperative agreement. This shall include the amount, if any, by which an increase in the average rate of reimbursement exceeds, with respect to inpatient services for such year, the increase in the Consumer Price Index for all Urban Consumers for hospital inpatient services as published by the Bureau of Labor Statistics for such year and, with respect to outpatient services, the increase in the Consumer Price Index for all Urban Consumers for hospital outpatient services for such year; and

(v) Any additional information required by the authority to ensure compliance with the cooperative agreement.

(B) If an approved application involves the combination of hospitals, disclosure of the performance of each hospital with respect to a representative sample of quality metrics selected annually by the authority from the most recent quality metrics published by the Centers for Medicare and Medicaid Services. The representative sample shall be published by the authority on its website.

(C) A procedure for a corrective action plan where the average performance score of the parties to the cooperative agreement in any calendar year is below the fiftieth percentile for all United States hospitals with respect to the quality metrics as set forth in (B) of this subsection. The corrective action plan is required to:

(i) Be submitted one hundred twenty days from the commencement of the next calendar year; and

(ii) Provide for a rebate to each commercial health plan or insurer with which they have contracted an amount not in excess of one

percent of the amount paid to them by such commercial health plan or insurer for hospital services during such two-year period if in any two consecutive-year period the average performance score is below the fiftieth percentile for all United States hospitals. The amount to be rebated shall be reduced by the amount of any reduction in reimbursement which may be imposed by a commercial health plan or insurer under a quality incentive or awards program in which the hospital is a participant.

(D) A procedure where if the excess above the increase in the Consumer Price Index for all Urban Consumers for hospital inpatient services or hospital outpatient services is two percent or greater the authority may order the rebate of the amount which exceeds the respective indices by two percent or more to all health plans or insurers which paid such excess unless the party provides written justification of such increase satisfactory to the authority taking into account case mix index, outliers and extraordinarily high cost outpatient procedure utilizations.

(E) The ability of the authority to investigate, as needed, to ensure compliance with the cooperative agreement.

(F) The ability of the authority to take appropriate action, including revocation of a certificate of approval, if it determines that:

(i) The parties to the agreement are not complying with the terms of the agreement or the terms and conditions of approval;

(ii) The authority's approval was obtained as a result of an intentional material misrepresentation;

(iii) The parties to the agreement have failed to pay any required fee; or

(iv) The benefits resulting from the approved agreement no longer outweigh the disadvantages attributable to the reduction in competition resulting from the agreement.

(G) If the authority determines the parties to an approved cooperative agreement have engaged in conduct that is contrary to state policy or the public interest, including the failure to take action required by state policy or the public interest, the authority may initiate a proceeding to determine whether to require the parties to refrain from taking such action or requiring the parties to take such action, regardless of whether or not the benefits of the cooperative agreement continue to outweigh its disadvantages. Any determination by the authority shall be final. The authority is specifically authorized to enforce its determination in the circuit court of Kanawha County or the circuit court where the principal place of business of a party to the cooperative agreement is located.

(H) Fees as set forth in subsection (h).

(2) Until the promulgation of the emergency rules, the authority shall monitor and regulate cooperative agreements to ensure that their conduct is in the public interest and shall have the powers set forth in subdivision (1) of this subsection, including the power of enforcement set forth in paragraph (G), subdivision (1) of this subsection.

(h) Fees. — The authority may set fees for the approval of a cooperative agreement. These fees shall be for all reasonable and actual costs incurred by the authority in its review and approval of any cooperative agreement pursuant to this section. These fees shall not exceed \$75,000. Additionally, the authority may assess an annual fee not to exceed \$75,000 for the supervision of any cooperative agreement approved pursuant to this section and to support the implementation and administration of the provisions of this section.

(i) Miscellaneous provisions. —

(1) (A) An agreement entered into by a hospital party to a cooperative agreement and any state official or state agency imposing certain restrictions on rate increases shall be enforceable in accordance with its terms and may be considered by the authority in determining whether to approve or deny the application. Nothing in this chapter

shall undermine the validity of any such agreement between a hospital party and the Attorney General entered before the effective date of this legislation.

(B) At least ninety days prior to the implementation of any increase in rates for inpatient and outpatient hospital services and at least sixty days prior to the execution of any reimbursement agreement with a third party payor, a hospital party to a cooperative agreement involving the combination of two or more hospitals through merger, consolidation or acquisition which has been approved by the authority shall submit any proposed increase in rates for inpatient and outpatient hospital services and any such reimbursement agreement to the Office of the West Virginia Attorney General together with such information concerning costs, patient volume, acuity, payor mix and other data as the Attorney General may request. Should the Attorney General determine that the proposed rates may inappropriately exceed competitive rates for comparable services in the hospital's market area which would result in unwarranted consumer harm or impair consumer access to health care, the Attorney General may request the authority to evaluate the proposed rate increase and to provide its recommendations to the Office of the Attorney General. The Attorney General may approve, reject or modify the proposed rate increase and shall communicate his or her decision to the hospital no later than 30 days prior to the proposed implementation date. The hospital may then only implement the increase approved by the Attorney General. Should the Attorney General determine that a reimbursement agreement with a third party payor includes pricing terms at anti-competitive levels, the Attorney General may reject the reimbursement agreement and communicate such rejection to the parties thereto together with the rationale therefor in a timely manner.

(2) The authority shall maintain on file all cooperative agreements the authority has approved, including any conditions imposed by the authority.

(3) Any party to a cooperative agreement that terminates its participation in such cooperative agreement shall file a notice of termination with the authority thirty days after termination.

(4) No hospital which is a party to a cooperative agreement for which approval is required pursuant to this section may knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement until approved by the authority. Additionally, no hospital which is a party to a cooperative agreement may knowingly bill or charge for health services resulting from, or associated with, such cooperative agreement for which approval has been revoked or terminated.

(5) By submitting an application for review of a cooperative agreement pursuant to this section, the hospitals or health care providers shall be deemed to have agreed to submit to the regulation and supervision of the authority as provided in this section.

§16-29B-29. Severability.

If any provision of this article or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect, impair or invalidate other provisions or applications of the article, and to this end the provisions of this article are declared to be severable.”

And by amending the title to read as follows:

Com. Sub. for S. B. 597 – “A Bill to amend and reenact §16-29B-26 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto two new sections, designated §16-29B-28 and §16-29B-29, all relating generally to the Health Care Authority; exempting certain actions of the Health Care Authority from state and federal antitrust laws; setting forth intent to immunize cooperative agreements approved and subject to supervision by the Health Care Authority; establishing that a cooperative agreement that is not approved and subject to supervision by the Health Care Authority shall not have immunity; defining terms; setting out legislative findings and purpose; allowing cooperative agreements between certain hospitals and other hospitals or health care providers

in the state; setting forth goals of a cooperative agreement; granting authority to the Health Care Authority to review proposed cooperative agreements; establishing a review process for cooperative agreements; requiring notification of application and public hearing to be published on Health Care Authority's website and the State Register; providing for public comment period; requiring notice of public hearing to be provided to all persons, groups or organizations who have submitted written comments to proposed cooperative agreements and to individuals, groups or organizations designated as affected parties in certificate of need proceeding; requiring copy of application to be provided to the Attorney General; setting forth standards for review of cooperative agreements; requiring the Health Care Authority to consult with the Attorney General regarding assessment of approval of proposed cooperative agreement; requiring approval of Health Care Authority to have written concurrence of the Attorney General; providing that the Health Care Authority evaluate the benefits and disadvantages of the proposed cooperative agreement; providing that the Health Care Authority make a determination whether the benefits likely to result from the proposed cooperative agreement outweigh the disadvantages likely to result from a reduction in competition from the proposed cooperative agreement; providing for approval with conditions; providing that the Health Care Authority's decision to approve or deny an application is a final order; granting enforcement powers over cooperative agreements to the Health Care Authority; providing for rulemaking; requiring reporting to the Health Care Authority; setting forth reporting requirements; providing for establishment and assessment of fees; providing that these new provisions shall not undermine the validity of an agreement between a hospital and the Attorney General entered into before the effective date of this legislation; requiring submission of certain proposed rate increases to be provided to the Attorney General for review; authorizing the Attorney General to approve, reject or modify certain proposed rate increases; providing that certain proposed rate increases may only be implemented with the approval of the Attorney General; providing the Health Care Authority maintain on file all approved cooperative

agreements, including conditions imposed; requiring notification of termination of cooperative agreement be filed with the Health Care Authority; prohibiting billing or charging for health services resulting from or related to a cooperative agreement until approved by the Health Care Authority; providing that submission of application constitutes agreement to certain regulation and supervision of the Health Care Authority; and providing for severability.”

Respectfully submitted,

Ryan Ferns,

Craig Blair,

Robert H. Plymale,

*Conferees on the part
of the Senate.*

Joe Ellington,

Patrick Lane,

Don Perdue,

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

On motion of Delegate Ellington, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 597**), and there were—yeas 83, nays 13, absent and not voting 3, excused from voting 1, with the nays, excused from voting and absent and not voting being as follows:

Nays: Azinger, Byrd, Fast, Fleischauer, Fluharty, Folk, Hanshaw, Ihle, Kurcaba, McGeehan, Pushkin, Skinner and Wagner.

Excused from Voting: Rohrbach.

Absent and Not Voting: Moore, Reynolds and Walters.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 597) passed.

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

On this question, the yeas and nays were taken (**Roll No. 598**), and there were—yeas 83, nays 14, excused from voting 1, absent and not voting 2, with the nays, excused from voting and absent and not voting being as follows:

Nays: Byrd, Fast, Fleischauer, Fluharty, Folk, Hanshaw, Howell, Ihle, Kurcaba, McGeehan, Moffatt, J. Nelson, Pushkin and Skinner.

Excused from Voting: Rohrbach.

Absent and Not Voting: Moore and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 597) 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. 4176, Permitting the Regional Jail and Correctional Facility Authority to participate in the addiction treatment pilot program.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 15A. ADDICTION TREATMENT PILOT PROGRAM.

§62-15A-1. Definitions.

As used in this article:

(1) 'Addiction service provider' means a person licensed by this state to provide addiction and substance abuse services to persons addicted to opioids.

(2) 'Adult drug court judge' means a circuit court judge operating a drug court as defined in subsection (a), section one, article fifteen.

(3) 'Adult Drug Court Program' means an adult treatment court established by the Supreme Court of Appeals of West Virginia pursuant to this article.

(4) 'Authority' means the Regional Jail and Correctional Facility Authority.

~~(4)~~ (5) 'Circuit court' means those courts set forth in article two, chapter fifty-one of this code.

~~(5)~~ (6) 'Court' means the Supreme Court of Appeals of West Virginia.

~~(6)~~ (7) 'Department' means the Department of Health and Human Resources.

~~(7)~~ (8) 'Division' means the Division of Corrections.

~~(8)~~ (9) 'LS/CMI assessment criteria' means the level of service/case management inventory which is an assessment tool that measures the risk and need factors of adult offenders.

~~(9)~~ (10) 'Medication-assisted treatment' means the use of medications, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

~~(10)~~ (11) 'Prescriber' means an individual currently licensed and authorized by this state to prescribe and administer prescription drugs in the course of their professional practice.

§62-15A-2. The Department of Health and Human Resources Pilot Program.

(a) The secretary of the department shall conduct a pilot program to provide addiction treatment, including medication-assisted treatment, to persons who are offenders within the criminal justice system, eligible to participate in a program, and selected under this section to be participants in the pilot program because of their dependence on opioids.

(b) In the case of the medication-assisted treatment provided under the pilot program, a drug may be used only if it has been approved by the United States Food and Drug Administration for use in the prevention of relapse to opioid dependence and in conjunction with psychosocial support, provided as part of the pilot program, appropriate to patient needs.

(c) The department may invite the Court, the Authority and the division to participate in the pilot program.

(d) The department may limit the number of participants.

(e) (1) If the Court's Adult Drug Court Program is selected to participate, it shall select persons who are participants in the Adult Drug Court program, who have been clinically assessed and diagnosed with opioid addiction. Participants must either be eligible for Medicaid, or eligible for a state, federal or private grant or other funding sources that provides for the full payment of the treatment necessary to participate in the pilot program. After being enrolled in the pilot program, participants shall comply with all requirements of the Adult Drug Court Program.

(2) Treatment may be provided under this subsection only by a treatment provider who is approved by the Court or Adult Drug Court Program consistent with the policies and procedures for Adult Drug Courts developed by the Court. In serving as a treatment provider, a treatment services provider shall do all of the following:

(A) Provide treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the addiction services provider;

(B) Conduct any necessary additional professional, comprehensive substance abuse and mental health diagnostic assessments of persons under consideration for selection as pilot program participants to determine whether they would benefit from substance abuse treatment and monitoring;

(C) Determine, based on the assessments described in paragraph (B), the treatment needs of the participants served by the treatment provider;

(D) Develop, for the participants served by the treatment provider, individualized goals and objectives;

(E) Provide access to the non-narcotic, long-acting antagonist therapy included in the pilot program's medication-assisted treatment; and

(F) Provide other types of therapies, including psychosocial therapies, for both substance abuse and any disorders that are considered by the treatment provider to be co-occurring disorders.

(f) (1) If the Division of Corrections is selected to participate, the division shall select persons, within the custody of the Division of Corrections, who are determined to be at high risk using the LS/CMI assessment criteria into the pilot program. Participants must either be eligible for Medicaid, or eligible for a state, federal or private grant or other funding sources that provide for the full payment of the treatment necessary to participate in the pilot program. After being enrolled in the pilot program, a participant shall comply with all requirements of the treatment program.

(2) A participant shall:

(A) Receive treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the addiction services provider;

(B) Submit to professional, comprehensive substance abuse and mental health diagnostic assessments of persons under consideration for selection as pilot program participants to determine whether they would benefit from substance abuse treatment and monitoring;

(C) Receive, based on the assessments described in paragraph (B), the treatment needs of the participants served by the treatment provider;

(D) Submit to the treatment provider, individualized goals and objectives;

(E) Receive the nonnarcotic, long-acting antagonist therapy included in the pilot program's medication-assisted treatment; and

(F) Participate in other types of therapies, including psychosocial therapies, for both substance abuse and any disorders that are considered by the treatment provider to be co-occurring disorders.

(g) (1) If the Regional Jail and Correctional Facility Authority is selected to participate, the authority shall select only persons who are serving a sentence for a felony or misdemeanor who are determined to be at high risk using the LS/CMI assessment criteria for the pilot program. Participants must either be eligible for Medicaid, or eligible for a state, federal or private grant or other funding source that provides for the full payment of the treatment necessary to participate in the pilot program. After being enrolled in the pilot program, a participant shall comply with all requirements of the treatment program.

(2) A participant shall:

(A) Receive treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the addiction services provider;

(B) Submit to professional, comprehensive substance abuse and mental health diagnostic assessments of persons under consideration for selection as pilot program participants to determine whether they would benefit from substance abuse treatment and monitoring;

(C) Receive, based on the assessments described in paragraph (B), the treatment needs of the participants served by the treatment provider;

(D) Submit to the treatment provider, individualized goals and objectives;

(E) Receive the nonnarcotic, long-acting antagonist therapy included in the pilot program's medication-assisted treatment; and

(F) Participate in other types of therapies, including psychosocial therapies, for both substance abuse and any disorders that are considered by the treatment provider to be co-occurring disorders.

(3) A participant who is incarcerated pursuant to a misdemeanor conviction or convictions and successfully completes this treatment pilot program may, at the discretion of the Authority, receive up to five days off of his or her sentence.

(4) If a participant begins participation in the treatment pilot program while in the custody of the Commissioner of Corrections, but is confined in a regional jail and transferred to a Division of Corrections facility before completing the pilot treatment program the Division of Corrections shall ensure that the participant's treatment under the program will continue and that upon successful completion the participant shall receive credit off his or her sentence as would have occurred had he or she remained in the authority facility until successful completion.

§62-15A-3. Report.

(a) The department shall prepare a report.

(b) The report shall include:

(1) Number of participants;

(2) Number of participants successfully completing the program;

(3) Offenses committed or offense convicted of;

(4) Recidivism rate;

(5) Potential cost saving or expenditures;

(6) A statistical analysis which determines the effectiveness of the program; and

(7) Any other information the reporting entity finds pertinent.

~~(b)~~ (c) The Court and the division should provide any information necessary to the department to complete the report.

~~(c)~~ (d) The department shall submit the report to:

(1) The Governor;

(2) The Chief Justice of the Supreme Court of Appeals of West Virginia;

(3) The Joint Committee on Government and Finance; and

(4) The Commissioner of the Division of Corrections;

(5) The Director of the Regional Jail and Correctional Facility Authority; and

(6) The Secretary of the Department of Military Affairs and Public Safety.

(~~d~~) (e) The report shall be submitted by July 1, 2017 and shall include twelve months of data from the beginning of the administration of the program.”

And,

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

Com. Sub. for H. B. 4176 - “A Bill to amend and reenact §62-15A-1, §62-15A-2 and §62-15A-3 of the Code of West Virginia, 1931, as amended, all relating to the addiction treatment pilot program; defining terms; permitting the Regional Jail and Correctional Facility Authority to participate in the pilot program; establishing criteria for participants authorizing inmates to receive good time credit for successful completion of the program; and including the Director of the Regional Jail and Correctional Facility Authority and the Secretary of the Department of Military Affairs and Public Safety in the list of recipients of the report required to be made by the Department of Health and Human Resources.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 599**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Pushkin.

Absent and Not Voting: Moore and Reynolds.

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. 4176) 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. 4730, Relating to computer science courses of instruction.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page two, section twelve, line thirty-five, by striking out the word “Increase” and inserting in lieu thereof the word “Increasing”.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 600**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Folk and McGeehan.

Absent and Not Voting: Moore and Reynolds.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4730) 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. 4009, Letting Our Counties Act Locally Act.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §7-27-1, §7-27-2, §7-27-3, §7-27-4, §7-27-5, §7-27-6, §7-27-7, §7-27-8, §7-27-9, §7-27-10, §7-27-11, §7-27-12, §7-27-13, §7-27-14, §7-27-15, §7-27-16, §7-27-17, §7-27-18, §7-27-19, §7-27-20, §7-27-21, §7-27-22, §7-27-23, §7-27-24, §7-27-25, §7-27-26, §7-27-27, §7-27-28, §7-27-29, §7-27-30, §7-27-31, §7-27-32, §7-27-33, §7-27-34, §7-27-35, §7-27-36, §7-27-37, §7-27-38, §7-27-39, §7-27-40, §7-27-41, §7-27-42, §7-27-43, §7-27-44 and §7-27-45; and that said code be amended by adding thereto a new section, designated §31-15-16c, all to read as follows:

**ARTICLE 27. LETTING OUR COUNTIES ACT LOCALLY
ACT.**

PART I. GENERAL.

§7-27-1. Short title.

This article shall be known as the ‘Letting Our Counties Act Locally Act.’

§7-27-2. Purpose and findings.

(a) The Legislature hereby makes the following findings:

(1) Roads maintained by the Department of Transportation include:

(A) Thirty-eight thousand six hundred eighty-four miles of public roads;

(B) Thirty-five thousand eight hundred ninety-three miles of state owned highways;

(C) Four hundred sixty-eight miles of state owned Interstate highway;

(D) Eighty-eight miles of West Virginia Turnpike;

(E) One thousand nine hundred seventy-two miles included in the National Highway System, twenty-three miles of which are connectors to other modes of transportation such as airports, trains and buses;

(F) Six thousand nine hundred fourteen bridges, thirty-three percent of which are more than one hundred feet in length;

(G) One all-American road;

(H) Five national byways;

(I) Fourteen state byways; and

(J) Eight backways.

(2) A 2012 road needs assessment prepared for Governor Tomblin's Blue Ribbon Commission by Wilbur Smith Associates reveals that:

(A) During the next seventeen years:

(i) Fifty-one thousand one hundred eight lane miles of road will need to be improved;

(ii) Ten thousand four hundred one lane miles will need modernization improvements including lane widening, road reconstruction, and shoulder improvements; and

(iii) Three thousand four hundred two lane miles will need to be constructed;

(B) Within the next twenty-five years:

(i) Eight hundred fourteen bridges will need to be replaced;

(ii) Five hundred seventy-seven bridges will need to be widened;

(iii) Eight bridges will need to be straightened; and

(iv) One bridge will need to be raised;

(C) The funding gap for road construction and maintenance over the next twenty-five years is estimated to be \$36.7 billion, excluding new road construction; and

(D) The funding gap for bridges construction and maintenance was \$2.4 billion, excluding new bridge construction.

(3) Modern, safe roads are critical to economic development.

(4) Modern, safe roads and bridges are essential to the growth of our communities and to the public health, welfare and safety.

(5) Counties need greater ability to influence when and where new roads are constructed and existing roads and bridges are modernized or upgraded, including the ability to recommend to the Division of Highways road and bridge construction projects and to assist in the financing of those projects.

(b) The purpose of this article is to provide county commissions with a source of funding to finance the accelerated construction of new roads and bridges in their respective counties; and the accelerated upgrading or modernizing of existing state roads and bridges in their counties, by allowing them to impose transportation sales and use taxes as provided in this article.

§7-27-3. Definitions.

For purposes of this article:

(1) ‘Business’ means any activity engaged in by any person, or caused to be engaged in by any person, with the object of direct or indirect economic gain, benefit or advantage, and includes any

purposeful revenue generating activity in a county of this state that imposes transportation sales and use taxes pursuant to this article.

(2) 'Calendar quarter' means the three-month time period beginning on January 1, April 1, July 1 and October 1 of each year.

(3) 'Commissioner of Highways' means the chief executive officer of the Division of Highways of the Department of Transportation provided in section one, article two-a, chapter seventeen of this code, or his or her designee. The term 'designee' in the phrase 'or his or her designee', when used in reference to the Commissioner of Highways, means any officer or employee of the Division of Highways duly authorized by the 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.

(4) 'Consumer' means any person purchasing tangible personal property, custom software or a taxable service from a retailer, as that term is defined in subdivision (14) of this section or from a seller, as that term is defined in section two, article fifteen-b, chapter eleven of this code.

(5) 'County transportation sales tax' means the sales tax imposed by a county commission pursuant to this article.

(6) 'County transportation sales and use taxes' means the transportation sales tax and the transportation use tax imposed by a county commission pursuant to this article.

(7) 'County transportation use tax' means the use tax imposed by a county commission pursuant to this article.

(8) 'Custom software' means software prepared for a particular customer to meet the specific needs or circumstances of the customer.

(9) 'Executive Director of the West Virginia Economic Development Authority' means the chief executive officer of the West

Virginia Economic Development Authority created in section five, article fifteen, chapter thirty-one of this code.

(10) 'Expansion projects' are road and bridge construction projects that add to the existing road system and include, but are not limited to, new roads, new bridges, new lanes and new interchanges.

(11) 'Highway authority' or 'highway association' means any entity created by the Legislature for the advancement and improvement of the state road and highway system, including, but not limited to, the New River Parkway Authority, Midland Trail Scenic Highway Association, Shawnee Parkway Authority, Corridor G Regional Development Authority, Coalfields Expressway Authority, Robert C. Byrd Corridor H Highway Authority, West Virginia 2 and I-68 Authority, Little Kanawha River Parkway Authority, King Coal Highway Authority, Coal Heritage Highway Authority, Blue and Gray Intermodal Highway Authority and the West Virginia Eastern Panhandle Transportation Authority or, if an authority is abolished, any entity succeeding to the principal functions of the highway authority or to whom the powers given to the highway authority are given by law.

(12) 'Modernization projects' are road and bridge construction projects that improve safety by improving the existing roadway including, but not limited to, shoulder improvements, reducing the grade of hills, straightening curves, and improving interchanges.

(13) 'Person' includes any individual, firm, partnership, joint venture, joint stock company, association, public or private corporation, limited liability company, limited liability partnership, cooperative, estate, trust, business trust, receiver, executor, administrator, any other fiduciary, any representative appointed by order of any court or otherwise acting on behalf of others, or any other group or combination acting as a unit and the plural as well as the singular number.

(14) 'Preservation projects' are road and bridge construction projects that take care of infrastructure already in place and include,

but are not limited to, pavement rehabilitation and reconstruction, and bridge repairs and replacements.

(15) 'Project costs' means capital costs, costs of financing, planning, designing, constructing, expanding, improving, or maintaining a road; the cost of land, equipment, machinery, installation of utilities and other similar expenditures; and all other charges or expenses necessary, appurtenant or incidental to the foregoing.

(16) 'Purchase' means any transfer, exchange or barter, conditional or otherwise, in any manner or by any means, for a consideration.

(17) 'Purchaser' means a person to whom a sale of personal property is made or to whom a service is furnished.

(18) 'Retailer' means and includes every person engaging in the business of selling, leasing or renting tangible personal property or custom software or furnishing a taxable service for use within the meaning of this article, or in the business of selling, at auction, tangible personal property or custom software owned by the person or others for use in the county imposing taxes pursuant to this article. However, when, in the opinion of the Tax Commissioner, it is necessary for the efficient administration of county use taxes imposed pursuant to this article to regard any salespersons, representatives, truckers, peddlers or canvassers as the agents of the dealers, distributors, supervisors, employees or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors, employers or persons, the Tax Commissioner may so regard them and may regard the dealers, distributors, supervisors, employers, or persons as retailers for purposes of county use taxes.

(19) 'Retailer engaging in business in the county' or any like term, unless otherwise limited by federal statute, means and includes, but is not limited to:

(A) Any retailer having or maintaining, occupying or using, within the county, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agent, however called, operating within the county under the authority of the retailer or its subsidiary, irrespective of whether the place of business or agent is located in the county permanently or temporarily, or whether the retailer or subsidiary is admitted to do business within this state pursuant to article fifteen, chapter thirty-one-d of this code or article fourteen, chapter thirty-one-e of this code; or

(B) Any retailer that is related to, or part of a unitary business with, a person, entity or business that, without regard to whether the retailer is admitted to do business in this state pursuant to article fifteen, chapter thirty-one-d of this code or article fourteen, chapter thirty-one-e of this code, is a subsidiary of the retailer, or is related to, or unitary with, the retailer as a related entity, a related member or part of a unitary business, all as defined in section three-a, article twenty four, chapter eleven of this code, that:

(i) Pursuant to an agreement with or in cooperation with the related retailer, maintains an office, distribution house, sales house, warehouse or other place of business in the county;

(ii) Performs services in the county in connection with tangible personal property or services sold by the retailer, or any related entity, related member or part of the unitary business;

(iii) By any agent, or representative (by whatever name called), or employee, performs services in the county in connection with tangible personal property or services sold by the retailer, or any related entity, related member or part of the unitary business; or

(iv) Directly or indirectly, through or by an agent, representative or employee located in, or present in, the county, solicits business in the county for or on behalf of the retailer, or any related entity, related member or part of the unitary business.

(C) For purposes of paragraph (B) of this subdivision, the term 'service' means and includes, but is not limited to, customer support services, help desk services, call center services, repair services, engineering services, installation service, assembly service, delivery service by means other than common carrier or the United States Postal Service, technical assistance services, the service of investigating, handling or otherwise assisting in resolving customer issues or complaints while in the county, the service of operating a mail order business or telephone, Internet or other remote order business from facilities located within the county, the service of operating a website or internet-based business from a location within the county imposing the use tax or any other service.

(20) 'Road' means a public highway, road, bridge, tunnel, or overpass to be used for the transportation of persons or goods including bicycle and pedestrian facilities.

(21) 'Road project' means any project to acquire, design, construct, expand, renovate, extend, enlarge, increase, equip, improve, maintain or operate a road in this state, including, but not limited to, providing bicycle and pedestrian facilities in conjunction with a road in this state, that is under the jurisdiction of the Division of Highways.

(22) 'Road construction project' means and includes any road construction project included in a road construction project plan that is adopted by a county commission pursuant to this article and approved by the Commissioner of Highways as provided in this article.

(23) 'Sale' means any transaction resulting in the purchase or lease of tangible personal property, custom software or a taxable service from a retailer.

(24) 'Tax Commissioner' means the State Tax Commissioner provided in article one, chapter eleven of this code 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 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.

(25) ‘Taxpayer’ means a taxpayer, as that term is defined in section two, article fifteen-b, chapter eleven of this code, who is subject to a county transportation sales tax or county transportation use tax imposed by a county commission pursuant to this article, whether acting for himself or herself or as a fiduciary, and who is liable for payment of any additions to tax, penalties or interest imposed by article ten, chapter eleven of this code for failure to timely pay or remit the county transportation sales taxes or county transportation use taxes imposed by a county commission pursuant to this article.

(26) ‘Vendor’ means any person furnishing services subject to a county’s sales and use taxes imposed pursuant to this article, or making sales of tangible personal property or custom software subject to a county’s sales and use taxes imposed pursuant to this article. The terms ‘vendor’, ‘retailer’ and ‘seller’ are used interchangeably in this article.

(27) ‘West Virginia Economic Development Authority’ or ‘Authority’ means the governmental entity created in section five, article fifteen, chapter thirty-one, of this code.

As used in this article, the terms ‘computer software,’ ‘lease,’ ‘purchase price,’ ‘retail sale,’ ‘sale at retail,’ ‘sales price,’ ‘seller,’ ‘service,’ ‘selected service,’ and ‘tangible personal property’ have the same meanings as those terms are given in section two, article fifteen-b, chapter eleven of this code.

PART II. COUNTY ROAD AND BRIDGE CONSTRUCTION PROJECTS.

§7-27-4. Creation of county road construction project plan.

A county commission may, upon its own initiative or upon application of: (1) a highway authority; (2) a local, county or regional economic development authority; or (3) any resident of the county,

propose creation of a road construction project plan for the county, or propose an amendment to an existing road construction project plan of the county.

§7-27-5. Public hearing and notice requirements.

(a) *General.* — The county commission shall hold one or more public hearings at which interested persons may express their views on the county’s proposed road construction project plan.

(b) *Notice of public hearing.* — Notice of the public hearing or hearings shall be published as a Class II legal advertisement in accordance with the requirements of article three, chapter fifty-nine of this code. The published notice shall include, at a minimum:

(1) The date, time, place and purpose of the public hearing or hearings;

(2) A description of each road construction project included in the proposed road construction project plan in sufficient detail to give the public notice of the contents of the proposed road construction project plan to cause residents of the county and other interested persons to examine the proposed road construction project plan and attend the public hearing or submit written comments thereon;

(3) The places in the county where the proposed road construction project plan may be viewed: *Provided*, That the county commission shall include the proposed road construction project plan on its webpage; and

(4) Information regarding how the county commission anticipates funding the road construction projects contained in the road construction project plan, including, but not limited to, whether one or more projects in the proposed road construction project plan, will be financed, in whole or in part, by the imposition of a county transportation sales and use tax and the proposed rate of the taxes the county finds necessary to finance, in whole or in part, the proposed

road construction project plan, and any proposed road construction special revenue bonds to be issued to finance the road construction project plan.

(c) *Notice by mail.* — On or before the first day of publication of the public notice required in subsection (b) of this section, the county commission shall send a copy of the notice by first-class mail to the Commissioner of Highways, the Executive Director of the West Virginia Economic Development Authority and the mayor of each municipality located within the county. When the county commission reasonably anticipates that a proposed road construction project may affect one or more bordering counties, it shall send a copy of the notice by first-class mail to the president of the county commission of the bordering county or counties.

(d) *Public Hearing.* — All persons who appear at any public hearing held pursuant to this section shall be afforded a reasonable opportunity to express their views on all or any part of the proposed road construction project plan. Each public hearing shall be recorded by a court reporter, or be digitally recorded.

(e) *Written comments.* — Written comments may be submitted to the county commission before, during, or within five business days after the last public hearing. Timely mailing of the written comments to the county commission, at the mailing address of the courthouse, postage prepaid, shall be deemed timely submission of the written comments.

§7-27-6. Finalization of road construction project plan.

(a) *Resolution of county commission.* — After the public hearing or hearings are concluded and the public comment period is closed, and after receipt of any required resolution of the governing body of a municipality, as required in subsection (b) of this section, the county commission may, by resolution, finalize its road construction project plan: *Provided*, That if there is more than one road construction project

in the road construction project plan, the road construction project plan shall include a prioritization of each road construction project.

(b) *Consent of municipality in which project located.* — No county commission may adopt a resolution approving a road construction project plan, any portion of which is located within the boundaries of a Class I, II, III or IV municipality, without the adoption of a resolution by the governing body of that municipality consenting to the road construction project.

§7-27-7. Submission of road construction project plan to Commissioner of Highways; contents of application.

(a) After the county commission has finalized its road construction project plan, the commission may submit the plan to the Commissioner of Highways.

(b) Each application submitted pursuant to this article shall include:

(1) A true copy of the county's proposed road construction project plan, or proposed amendment to a project plan previously approved by the Commissioner of Highways, that is adopted, after the public hearing, by resolution of the county commission;

(2) A true copy of the resolution adopted by the county commission approving submission of the adopted road construction project plan, or the proposed amendment to a project plan previously approved by the Commissioner of Highways, to the Commissioner of Highways for approval;

(3) A true copy of the notice of public hearing or hearings on the county's proposed road construction plan, or proposed amendment to a previously adopted project plan, and a true copy of the proposed plan, or the proposed amendment to an existing project plan that was the subject of the public hearing;

(4) An affidavit signed by the president of the county commission confirming publication of the notice of public hearing;

(5) A true copy of the transcript of the public hearing or hearings, or a true copy of the digital recording of the public hearing or hearings,

(6) True copies of any written comments received by the commission on the proposed road construction project plan, or the proposed amendment to an existing project plan;

(7) A statement generally describing each project included in the county's road construction project plan, or the proposed amendment to an existing project plan, and identifying:

(A) Type of project, as a road project, bridge project, or both road and bridge project;

(B) Location of the project;

(C) Length of the project (in miles or feet);

(D) Scope of the work;

(E) Classification of the project as a preservation project, modernization project, or expansion project;

(F) Estimated cost of the project;

(G) Method of financing the project; and

(H) Timeline for completion of the project.

(8) A map of the county showing the geographic location of each road construction project included in the county's road construction project plan;

(9) When the road construction project is located, in whole or in part, within the corporate limits of any municipality, a true copy of the

resolution adopted by the governing body of the municipality consenting to the road construction project;

(10) Identification of any businesses or residents that the county commission anticipates will be displaced because of the road construction project;

(11) A good faith estimate of the annual net county transportation sales and use tax collections to be deposited in the county's sub-account in the County Road Improvement Account created pursuant to section fourteen of this article that will be available to finance the project, in whole or in part; and

(12) Any additional information the Commissioner of Highways may reasonably require to analyze a proposed road construction project.

§7-27-8. Application to Commissioner of Highways for approval of road construction project plans.

(a) *Review of applications.* — The Commissioner of Highways shall review all proposed road construction project plans for conformity to statutory and regulatory requirements, the reasonableness of the project's budget, and the timetable for completion using the following criteria:

(1) The quality of the proposed road construction project and how it addresses transportation problems in the area in which the road construction project will be located;

(2) Whether there is credible evidence that, unless county transportation sales and use tax revenues are used to finance the road construction project, in whole or in part, the project would not otherwise be feasible in the time line proposed by the county commission;

(3) Whether the county transportation sales and use tax revenues will leverage or be the catalyst for the effective use of state or federal funding that is available;

(4) Whether there is substantial and credible evidence that the proposed road construction project is likely to be started and completed in a timely fashion;

(5) Whether the proposed project will, directly or indirectly, improve transportation in the area where the road construction project will occur, thereby benefitting county residents and facilitating commercial business development and expansion in the county;

(6) Whether the proposed road construction project will, directly or indirectly, assist in the creation of additional long-term employment opportunities in the area and the quality of jobs created to include, but not be limited to, wages and benefits;

(7) Whether the proposed road construction project will fulfill a pressing transportation need for the county, or part of the county, in which the road construction project would be located;

(8) Whether the county commission has a strategy for road construction in the county and whether the proposed road construction project is consistent with that strategy;

(9) Whether the road construction project is consistent with the goals of this article;

(10) Whether the road construction project is economically and fiscally sound using recognized business standards of finance and accounting; and

(11) Any other additional criteria established by the Commissioner of Highways by legislative rule.

(b) *Decision of Commissioner of Highways.* — Within sixty days after receipt of the county commission's proposed road construction

project plan or an amendment to a previously approved project plan, the Commissioner of Highways shall either: (1) Approve the plan as submitted, in whole or in part; (2) reject the plan as submitted, in whole or in part; or (3) return the plan to the county commission for further development or review in accordance with instructions from the Commissioner of Highways. The decision of the commissioner is final and is not subject to judicial review.

(c) Certification of road construction project. — If the Commissioner of Highways approves a county’s road construction project application, in whole or in part, the commissioner shall issue to the county commission a written certificate evidencing approval of each approved project.

(d) Assignment of project plan and individual projects. — Upon approval of a road construction project plan or an amendment to an existing project, the Commissioner of Highways shall:

(1) Assign a name to the road construction project for identification purposes, which name may include a geographic or other designation; and

(2) Assign each project within the road construction project plan a project number that begins with the federal information processing (FIPS) code number for the county, followed by a hyphen and a consecutive number beginning with the number “01”, with each additional road construction project in the plan being assigned the next consecutive number.

(e) Rules. — The Commissioner of Highways may propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to implement the county road construction project application approval process and to further identify and describe the criteria and procedures he or she has established in connection therewith.

§7-27-9. Requirement for referendum on final road construction project plan.

(a) After obtaining project certification from the Commissioner of Highways under section eight of this article the county commission shall submit the question of the adoption of a road construction project plan to the voters in a county-wide referendum to be held in conjunction with a primary or general election. The question to be voted on in the referendum shall identify the project plan by its name and location, its projected cost estimate and how the cost of the road construction project plan is to be financed. The question shall state if the road construction plan is to be financed in whole or in part by the imposition of a county transportation sales and use tax, including the rate of the tax to be imposed, and if it is to be financed in whole or in part by the issuance of special revenue bonds as authorized by this article.

(b) No county commission may proceed with a road construction plan which will be financed, in whole or in part, by the imposition of a transportation sales and use tax or by the issuance of special revenue bonds as authorized by this article unless a majority of voters casting votes in the referendum vote to approve the road construction project plan.

§7-27-10. Amendment of road construction project plan.

(a) General. — A road construction project plan adopted by order of the county commission may be amended by the county commission at any time to add one or more projects, delete one or more projects, or redesignate the order in which projects are to be completed as funds become available.

(b) Procedure to amend project plan. — The procedures that apply to creation of a road construction project plan shall also apply to each proposed amendment to the adopted road construction project plan.

§7-27-11. Termination of road construction project plan.

(a) General. — No road construction project plan may be in existence for a period longer than thirty years, except as otherwise provided in this section, and no revenue bond secured by collections of the taxes imposed by a county commission may have a final maturity date more than thirty years after date of issuance of the revenue bonds.

(b) Extension of plan. — Each amendment of a county's roads construction project plan approved by the Commissioner of Highways that results in execution of an intergovernmental agreement by the county commission and the Commissioner of Highways shall extend the term of the project plan for thirty years from the date on which the intergovernmental agreement is fully executed.

(c) Termination of county transportation sales and use taxes. — The county transportation sales and use tax imposed by a county commission pursuant to this article shall expire on the first day of the calendar quarter that begins one hundred twenty days after the following:

(1) If no special revenue bonds are issued as authorized by this article, the day the county commission notifies the Tax Commissioner in writing that its road construction projects financed, in whole or in part, with transportation sales and use tax revenue have been completed; or

(2) If special revenue bonds have been issued as authorized by this article, the West Virginia Economic Development Authority certifies to the county commission and to the Tax Commissioner that all principal and interest due, or to become due, on the bonds issued under this article has been paid or is otherwise provided for.

(d) Shorter period. — The county commission may set an earlier termination date for the county transportation sales and use tax imposed pursuant to this article: *Provided*, That no revenue bonds may have a final maturity date later than the termination date of the county transportation sales and use tax.

(e) Termination order. — Prior to expiration of the county transportation sales and use tax, the county commission shall adopt an order terminating the county transportation sales and use tax on the date specified therein: *Provided*, That the order may not extinguish any person's liability for payment of county transportation sales and use taxes that were assessed prior to termination of the taxes. With respect to any such taxes, the rights and duties of the taxpayer and of the State of West Virginia shall be fully and completely preserved.

(f) Prohibition on termination or rate reduction. — The county commission may not repeal the order imposing a county transportation sales and use tax pursuant to this article, or reduce the rate at which the county transportation sales and use taxes are imposed so long as any revenue bonds secured by the taxes remain outstanding, unless payment of the bonds has been secured in full.

PART III. IMPLEMENTATION OF ROAD CONSTRUCTION PROJECT PLAN.

§7-27-12. Order adopting road construction project plan or plan amendment.

Upon approval of a road construction project plan or an amendment to an existing project plan by the Commissioner of Highways, and approval of the voters in the referendum provided in section nine of this article, the county commission shall enter an order that:

(1) Describes each approved road construction project sufficiently to identify with ordinary and reasonable certainty the geographic location in the county of each road construction project included in the county's plan;

(2) Identifies the road construction project plan by the name assigned by the Commissioner of Highways, and identifies each project within the road construction project plan by the project number assigned by the Commissioner of Highways; and

(3) Establishes a county transportation sales tax and a county transportation use tax as provided in this article at rates not to exceed one percent: *Provided*, That the rate of the sales tax and the rate of the use tax shall at all times be identical.

§7-27-13. Joint road construction projects.

(a) The Legislature hereby finds and declares that the citizens of the state would benefit from coordinated road construction efforts by county commissions funded by county transportation sales and use taxes imposed pursuant to this article.

(b) Notwithstanding any other section of this code to the contrary, any two or more county commissions may contract to share expenses and dedicate county funds or county transportation sales and use tax revenues, on a pro rata basis, to facilitate construction of one or more road construction projects: *Provided*, That each of the road construction projects must be a part of a road construction project plan created and approved pursuant to this article by each county commission contracting to share expenses and funds.

(c) When a road construction project begins in one county and ends in one or more other counties of this state, the county commission of each county may, by resolution, adopt a written intergovernmental agreement with each county and the Commissioner of Highways regarding the proposed multicounty road construction project.

(d) No county commission may withdraw from an intergovernmental agreement so long as revenue bonds, the proceeds of which were used by the Commissioner of Highways to finance construction of the road, remain outstanding.

(e) No county commission that withdraws from an intergovernmental agreement shall be entitled to the return of any money or property advanced to the road construction project.

(f) Notwithstanding any provision of this code to the contrary, any county commission imposing county transportation sales and use taxes

pursuant to this article may enter into an intergovernmental agreement with one or more other counties that also impose transportation sales and use taxes pursuant to this article that have an interest in completion of a proposed road construction project, with respect to the pooling of county transportation sales and use tax revenues to finance construction of the road construction project either on a cash basis or to pay debt service on revenue bonds issued by the West Virginia Economic Development Authority to fund the road construction project.

(g) The obligations of the parties under any intergovernmental agreement executed pursuant to this article may not be considered debt within the meaning of sections six or eight, article X of the Constitution of West Virginia.

(h) Any intergovernmental agreement shall be approved by resolution adopted by a majority vote of the county commission of each county participating in the agreement and by the Commissioner of Highways. After the resolution is adopted, the agreement shall be signed by at least one member of the county commission and by the Commissioner of Highways.

(i) The Commissioner of Highways may enter into intergovernmental agreements with county commissions or other political subdivisions of the state, or with the federal government or any agency thereof, respecting the financing, planning, and construction of roads and bridges constructed pursuant to this article.

§7-27-14. Creation of County Road Improvement Account.

(a) *Account created.* — There is hereby created in the State Treasury a Special Revenue Revolving Fund account known as the ‘County Road Improvement Account’ which is an interest-bearing account that shall be invested in the manner described in section nine-c, article six, chapter twelve of this code, with the interest income a proper credit to the account.

(b) *County subaccount.* — A separate and segregated subaccount within the account shall be established for each county that imposes a county transportation sales and use tax pursuant to this article.

(c) *Additional funds.* — In addition to the county transportation sales and use taxes levied and collected as provided in this article, funds paid into the account for the credit of any subaccount may also be derived from the following sources:

(1) All interest or return on the investment accruing to the subaccount;

(2) Any gifts, grants, bequests, transfers, appropriations or donations which are received from any governmental entity or unit or any person, firm, foundation or corporation; and

(3) Any appropriations by the Legislature which are made for this purpose.

(d) *Expenditures from account.* — The Commissioner of Highways may withdraw funds from a county's subaccount only in accordance with one or more intergovernmental agreements or contracts executed by the county commission of that county.

§7-27-15. Cash basis projects; issuance of road construction special revenue bonds by West Virginia Economic Development Authority.

(a) *Cash basis projects.* — Each county commission that has a subaccount in the County Road Improvement Account established pursuant to this article may, in its discretion and pursuant to an intergovernmental written agreement with the county commission, authorize the Commissioner of Highways to use the moneys in its subaccount to finance the costs of road construction projects in the county on a cash basis.

(b) *Special revenue bonds.* — The county commission may, by intergovernmental written agreement, authorize the West Virginia

Economic Development Authority to issue, in the manner prescribed by this article, special revenue bonds secured by county transportation sales and use taxes imposed pursuant to this article to finance or refinance all or part of a road construction project in the county and pledge all or any part of the county transportation sales and use taxes for the payment of the principal of and interest on such bonds and the reserves therefor.

§7-27-16. Commissioner's authority over road construction projects accepted into the state road system; use of state road funds.

(a) Notwithstanding anything in this article to the contrary, the Commissioner of Highways has final approval of any road construction project. However, no state road funds may be used, singly or together with funds from any other source, for any purpose or in any manner contrary to or prohibited by the Constitution and laws of this state or the federal government or where such use, in the sole discretion of the Commissioner of Highways, would jeopardize receipt of federal funds.

(b) All road construction projects that shall be accepted as part of the state road system, and all real property interests and appurtenances, are under the exclusive jurisdiction and control of the Commissioner of Highways, who may exercise the same rights and authority as he or she has over other transportation facilities in the state road system.

§7-27-17. Qualifying a transportation project as a public improvement.

All road construction projects authorized under this article are public improvements subject to article one-c, chapter twenty-one of this code, and either article twenty-two, chapter five of this code or article two-d, chapter seventeen of this code.

§7-27-18. Reports by Commissioner of Highways.

Each year, the Commissioner of Highways shall prepare a report giving the status of each road construction project being constructed

pursuant to this article and file it by October 1 with the Governor, the Joint Committee on Government and Finance of the Legislature and with each county commission with which the Commissioner of Highways has an intergovernmental agreement executed pursuant to this article. The report shall include the following information:

(1) The identification, by county, of each road construction project for which an intergovernmental agreement has been executed pursuant to this article, and the status of the road construction project as of June 30 preceding the due date of the report;

(2) The estimated cost of each road construction project included in the report;

(3) The source or sources of funding for each road construction project included in the report;

(4) If revenue bonds have been issued by the West Virginia Economic Development Authority, the amount of the bonds issued that are outstanding as of June 30 preceding the due date of the report for each project included in the report;

(5) The balance as of June 30 preceding the due date of the report of each county's subaccount in the County Improvement Account;

(6) The amount of county transportation sales and use taxes deposited into each county's subaccount in the County Road Improvement Account during the fiscal year ending June 30 preceding the due date of the report; and

(7) The amount the Commissioner of Highways withdrew from each county's subaccount in the County Road Improvement Account during the fiscal year ending June 30 preceding the due date of the report to pay debt service on revenue bonds issued pursuant to this article or to construct projects financed on a pay-as-you-go basis.

PART IV. COUNTY ROAD CONSTRUCTION
SPECIAL REVENUE BONDS.

§7-27-19. Issuance of county road construction special revenue bonds.

Special revenue bonds may be issued by the West Virginia Economic Development Authority pursuant to an intergovernmental written agreement between the county commission and the Commissioner of Highways to finance or refinance, in whole or in part, road construction projects in an aggregate principal amount not exceeding the amount which the county commission(s) and the Authority mutually agree can be paid as to both principal and interest and reasonable margins for a reserve, if any, therefor from county transportation sales and use tax collections. In the discretion of the Authority, special revenue bonds issued pursuant to this article may be issued for road construction projects in two or more counties.

(1) The Authority shall establish a fund to deposit county transportation sales and use tax collections to pay debt service on the bonds.

(2) The State Treasurer shall thereafter transfer from the county's subaccount all county transportation sales and use tax revenues pledged to the payment of principal and interest of the road construction special revenue bonds into the fund established under subdivision (1) of this section.

(3) The road construction special revenue bonds shall be authorized to be issued by the Authority pursuant to this article, and shall be secured, shall bear such date and shall mature at such time, not exceeding thirty years from the date of issue, shall bear interest at such rate or rates, including variable rates, be in such denominations, be in such form, carry such registration privileges, be payable in such medium of payment and at such place or places and such time or times and be subject to such terms of redemption as the Authority may authorize. Road construction special revenue bonds may be sold by the

West Virginia Economic Development Authority, at public or private sale, at or not less than the price the Authority determines. The road construction special revenue bonds shall be executed by manual or facsimile signature of an authorized officer of the West Virginia Economic Development Authority. In case any authorized officer whose signature, or a facsimile of whose signature, appears on any bond ceases to be an authorized officer before delivery of those bonds, the signature or facsimile is nevertheless sufficient for all purposes the same as if he or she had remained in office until the delivery.

§7-27-20. Trustee for bondholders; contents of trust agreement; pledge or assignment of revenues and funds.

For bonds issued pursuant to this article, any bonds, including refunding bonds issued by the Authority, may be secured by a trust agreement between the Authority and a corporate trustee, which trustee may be any bank or trust company within or without the state. Any such trust agreement may contain binding covenants with the holders of the bonds as to any matter or provisions as are considered necessary or advisable to the Authority to enhance the marketability and security of the bonds and may also contain such other provisions with respect thereto as the Authority may authorize and approve. Any trust agreement may contain a pledge or assignment of revenues to be received in connection with the financing.

§7-27-21. Refunding bonds.

Any bonds issued by the West Virginia Economic Development Authority pursuant to the provisions of this article or any other provision of this code and at any time outstanding may at any time and from time to time be refunded by the Authority by the issuance of its refunding bonds in such amount as it may consider necessary to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon, to provide additional funds to approved project costs and to pay any premiums and commissions necessary to be paid in connection therewith. Refunding may be effected by whether the bonds to be refunded have then matured or thereafter mature, either by sale

of the refunding bonds and the application of the proceeds thereof for the redemption of the bonds to be refunded thereby or by exchange of the refunding bonds for the bonds to be refunded thereby. Refunding bonds shall be issued in conformance with the provisions of this article related to issuance of bonds.

§7-27-22. Obligations of the West Virginia Economic Development Authority undertaken pursuant to this article not debt of state, county, municipality or any political subdivision.

(a) Bonds, including refunding bonds, issued under this article and any other obligations undertaken by the West Virginia Economic Development Authority pursuant to this article, do not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state, and the holders and owners thereof have no right to have taxes levied by the Legislature or the taxing authority of any county, municipality or any other political subdivision of this state for the payment of the principal thereof or interest thereon. The bonds and other obligations are payable solely from the revenues and funds pledged for their payment as authorized by this article unless the bonds are refunded by refunding bonds issued under the authority of this article, which bonds or refunding bonds shall be payable solely from revenues and funds pledged for their payment as authorized by this article.

(b) All bonds, and all documents evidencing any other obligation, shall contain on the face thereof a statement to the effect that the bonds or other obligation as to both principal and interest are not debts of the state or any county, municipality or political subdivision thereof, but are payable solely from revenues and funds pledged for their payment as authorized by this article.

§7-27-23. Negotiability of bonds issued pursuant to this article.

Whether or not the bonds issued pursuant to this article are of the form or character as to be negotiable instruments under the Uniform

Commercial Code, the bonds are negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the bonds for registration.

§7-27-24. Exemption from taxation.

All bonds issued by the Authority pursuant to this article, and all interest and income thereon, are exempt from all taxation by this state and any county, municipality, political subdivision or agency thereof, except inheritance taxes.

§7-27-25. Personal liability; persons executing bonds issued pursuant to this article.

Neither the West Virginia Economic Development Authority, nor any officer or employee of the West Virginia Economic Development Authority, or any person executing the bonds issued pursuant to the provisions of this article, are liable personally on the bonds or subject to any personal liability or accountability by reason of the issuance thereof.

§7-27-26. Cumulative authority as to powers conferred; applicability of other statutes and charters; bonds issued pursuant to this article.

The provisions of this article relating to the issuance of bonds shall be construed as granting cumulative authority for the exercise of the various powers herein conferred, and neither the powers nor any bonds issued hereunder are affected or limited by any other statutory or charter provision now or hereafter in force, other than as may be provided in this article, it being the purpose and intention of this article to create full, separate and complete additional powers. The various powers conferred herein may be exercised independently and notwithstanding that no bonds are issued hereunder.

PART V. COUNTY TRANSPORTATION
SALES AND USE TAXES.

§7-27-27. Criteria and requirements necessary to impose county transportation sales and use taxes.

As a prerequisite to imposing county transportation sales and use taxes, the county commission shall have entered into one or more intergovernmental agreements with the Commissioner of Highways pursuant to which the county commission agrees to finance one or more road construction projects in the county, in whole or in part, using collections of the county transportation sales and use taxes deposited in the county's subaccount in the County Road Improvement Account.

§7-27-28. Counties authorized to impose county transportation sales and use taxes.

(a) In addition to all other powers and duties now conferred by law upon county commissions, said county commissions, may, after first satisfying the requirements of the preceding section, adopt an order duly entered of record imposing county transportation sales and use taxes as provided in this article.

(b) Rate of county transportation sales and use taxes. — The rate of the county transportation sales tax and the rate of the county transportation use tax shall be identical and may not exceed one percent of the purchase price subject to tax under article fifteen, chapter eleven of this code, or one percent of the value upon which the county transportation use tax is imposed.

(c) County transportation sales tax base. — In general, the tax base of the county transportation sales tax imposed pursuant to this article shall be identical to the consumer sales and service tax base of this state, except that: (1) The exemption in section nine-f, article fifteen, chapter eleven of this code may not apply; (2) the county sales tax may not apply when taxation is prohibited by federal law; and (3)

the county sales tax may not apply as provided in subsection (e) of this section.

(d) County transportation use tax base. — The base of a county transportation use tax imposed pursuant to this article shall be identical to the base of the use tax imposed pursuant to article fifteen-a, chapter eleven of this code, on the use of tangible personal property, custom software and taxable services, within the boundaries of the county, except that: (1) The exemption in section nine-f, article fifteen, chapter eleven of this code may not apply; (2) the county sales tax may not apply when taxation is prohibited by federal law; and (3) the county sales tax may not apply as provided in subsection (e) of this section.

(e) Exceptions. — County sales and use taxes may not apply to:

(1) Sales and uses of motor vehicles upon which the tax imposed by section three-c, article fifteen, chapter eleven of this code was paid or is payable;

(2) Sales and uses of motor fuel upon which or with respect to which the taxes imposed by articles fourteen-a and fourteen-c, chapter eleven of this code was paid or is payable;

(3) Any sale of tangible personal property or custom software or the furnishing of a service that is exempt from the tax imposed by article fifteen, chapter eleven of this code;

(4) Any use of tangible personal property, custom software or the results of a taxable service that is exempt from the tax imposed by article fifteen-a, chapter eleven of this code, except that this exception may not apply to any use within the county when the state consumer sales and service tax imposed by article fifteen, chapter eleven of this code, was paid to the seller at the time of purchase but the county transportation sales tax was not paid to the seller; and

(5) Any sale or use of tangible personal property, custom software, taxable service that the county is prohibited from taxing by federal law or the laws of this state.

(f) Whenever tangible personal property, custom software, or a taxable service is purchased in a county of this state that does not impose county transportation sales and use taxes pursuant to this article and the tangible personal property, custom software or results of a taxable service are used in a county that does impose county transportation sales and use taxes pursuant to this article:

(1) A vendor who delivers the tangible personal property, custom software or results of a taxable service to a purchaser, or the purchaser's donee, located in a county that imposes county transportation sales and use taxes pursuant to this article, shall collect, add the tax to the purchase price and collect the tax from the purchaser; and

(2) A person using tangible personal property or custom software in a county of this state that imposes sales and use taxes pursuant to this article, shall remit the county's use tax to the Tax Commissioner unless the amount of sales and use taxes imposed by the county in which the tangible personal property, custom software or taxable service was purchased were lawfully paid.

§7-27-29. Notification of Tax Commissioner, Auditor and Treasurer.

(a) Any county that imposes a county transportation sales and use tax pursuant to this article, or changes the rate of the taxes, shall notify the Tax Commissioner at least one hundred eighty days before the effective date of the imposition of the taxes or the change in the rate of taxation and provide the commissioner with a certified copy of the order of the county commission imposing the taxes or changing the rates of taxation.

(b) A copy of the notice shall at the same time be furnished to the State Auditor and the State Treasurer.

§7-27-30. State level administration of county transportation sales and use taxes required; fee for services.

(a) State administration required. — Any county commission that imposes a county transportation sales and use tax may not administer, collect or enforce those taxes. Authority to administer, collect and enforce county transportation sales and use taxes is vested solely in the Tax Commissioner as required by article fifteen-b, chapter eleven of this code.

(b) Fee for services. — The Tax Commissioner may assess a fee to be retained from collections authorized by this article. Said fee shall not exceed the lesser of the cost of the service provided or five percent of the net amount of the taxes imposed pursuant to this article that are collected by the Tax Commissioner during any fiscal year, notwithstanding any provision of this code or rule to the contrary. For purposes of calculating the cost of the service provided, the provisions of section eleven-c, article ten, chapter eleven of this code and the legislative rules promulgated pursuant thereto shall be utilized.

(c) Deposit of fees in special revenue account. — The fees retained by the Tax Commissioner pursuant to subsection (b) of this section shall be deposited in the Local Sales Tax and Excise Tax Administration Fund, created pursuant to section eleven-c, article ten, chapter eleven of this code.

§7-27-31. County transportation sales tax collected from purchaser.

A vendor selling tangible personal property or custom software or furnishing a service in a county that imposes a county transportation sales tax pursuant to this article shall for the privilege of doing business in the county collect the county transportation sales tax from the purchaser at the same time and in the same manner that the tax imposed by article fifteen, chapter eleven of this code, is collected from the customer. All sales of tangible personal property and custom software made in the county and all services furnished in the county are presumed to be subject to the county transportation sales tax unless an exemption or exception applies.

§7-27-32. Payment of county transportation use tax.

A county transportation use tax imposed pursuant to this article shall be paid to the Tax Commissioner by the user of tangible personal property or custom software or the results of a taxable service in the county that imposes the county transportation use tax, unless the county's use tax is collected by a retailer located outside the county that is a retailer engaging in business in the county as defined in this article, or the retailer is an out-of-state retailer who is required to collect West Virginia state and local use taxes.

§7-27-33. County transportation sales and use taxes in addition to other taxes.

County transportation sales and use taxes imposed pursuant to this article shall be collected and paid in addition to:

(1) The state consumer sales and service tax imposed by article fifteen, chapter eleven of this code;

(2) The state use tax imposed by article fifteen-a, chapter eleven of this code;

(3) Any hotel occupancy tax imposed pursuant to section one, article eighteen of this chapter;

(4) Any tax imposed pursuant to article twenty-two of this chapter;

(5) Any municipal sales or use tax imposed pursuant to section five-a, article one, chapter eight of this code;

(6) Any tax imposed pursuant to sections six and seven, article thirteen, chapter eight of this code;

(7) Any tax imposed by article thirty-eight, chapter eight of this code; and

(8) The tax imposed by section twenty-one, article three-a, chapter sixty of this code.

§7-27-34. Credit for sales tax paid to another county.

(a) A person is entitled to a credit against the use tax imposed by a county commission pursuant to this article on the use of tangible personal property, custom software or the results of a taxable service in the county equal to the amount, if any, of sales tax lawfully paid to another county for the acquisition of that tangible personal property, custom software or taxable service. However, the amount of credit allowed may not exceed the amount of use tax imposed on the use of the property or service in the county of use and no credit may be allowed for payment of county special district excise taxes imposed pursuant to article twenty-two of this chapter.

(b) For purposes of this section:

(1) ‘County’ means a county in this state or a comparable unit of local government in another state;

(2) ‘Sales tax’ includes a sales tax, or a compensating use tax, lawfully imposed on the sale or use of tangible personal property, custom software or a taxable service by the county, as appropriate, in which the sale or first use occurred; and

(3) ‘State’ includes the fifty states of the United States and the District of Columbia but does not include any of the several territories organized by Congress.

(c) No credit is allowed under this section for payment of any sales or use taxes imposed by this state or by any other state.

§7-27-35. Sourcing rules for county transportation sales and use taxes.

Sales, purchases and uses of tangible personal property, custom software and taxable services shall be sourced for purposes of

imposition and payment of county transportation sales and use taxes imposed pursuant to this article in accordance with the sourcing rules set forth in article fifteen-b, chapter eleven of this code applicable to the taxes imposed by articles fifteen and fifteen-a, chapter eleven of this code.

§7-27-36. Application of state consumers sales and service tax provisions.

(a) Application of state sales tax. — The provision of article fifteen, chapter eleven of this code, and any subsequent amendments to that article and the administrative rules of the Tax Commissioner relating to article fifteen of chapter eleven shall apply to a county transportation sales tax imposed pursuant to this article to the extent that article and the rules are applicable to the tax imposed by the county.

(b) Application of state use tax law. — The provisions of article fifteen-a, chapter eleven of this code, and any subsequent amendments to that article and the rules of the Tax Commissioner relating to article fifteen-a of chapter eleven shall apply to a county transportation use tax imposed pursuant to this article to the extent the rules and laws are applicable.

(c) Definitions incorporated. — Any term used in this article or in an order adopted by a county commission pursuant to this article imposing county transportation sales and use taxes that is defined in articles fifteen, fifteen-a and fifteen-b, chapter eleven of this code and used in those articles in a similar context, shall have the same meaning when used in this article or in an order entered by the county commission pursuant to this article imposing county transportation sales and use taxes, unless the context in which the term is used clearly indicates that a different result is intended by the Legislature.

§7-27-37. Application of West Virginia Tax Procedure and Administration Act.

Every provision of the West Virginia Tax Procedure and Administration Act set forth in article ten, chapter eleven of this code, and as amended from time to time by the Legislature, applies to the taxes imposed pursuant to this article, except as otherwise expressly provided in this article, with like effect as if that act were applicable only to the taxes imposed by this article and were set forth in extensor in this article or the order entered by the county commission imposing the taxes pursuant to this article.

§7-27-38. Application of West Virginia Tax Crimes and Penalties Act.

Every provision of the West Virginia Tax Crimes and Penalties Act set forth in article nine, chapter eleven of this code, and as amended from time to time by the Legislature, applies to the taxes imposed pursuant to this article with like effect as if that act were applicable only to the taxes imposed pursuant to this article and were set forth in extensor in this article or the order entered by the county commission imposing the taxes pursuant to this article.

§7-27-39. Local rate and boundary changes.

(a) *General.* — New county transportation sales and use taxes and any change in the rate of existing county transportation sales and use taxes shall first apply and be collected and paid only on the first day of a calendar quarter that begins at least sixty days after the Tax Commissioner notifies sellers of the imposition of the county taxes, or a change in the rate of those taxes, except as provided in subsection (b) of this section.

(b) *Printed catalogs.* — County transportation sales and use taxes and any change in the rate of taxation shall first apply to purchases from printed catalogs where the purchaser computed the tax based upon the local tax rate published in the catalog only on and after the first day of a calendar quarter that begins after the Tax Commissioner provides sellers at least one hundred twenty days' notice of imposition of the tax or a change in the rate of taxation.

(c) County boundary changes. — A county boundary change shall first apply for purposes of computation of a county transportation sales and use taxes on the first day of a calendar quarter that begins at least sixty days after the Tax Commissioner notifies sellers of the boundary change.

§7-27-40. Deposit of county transportation sales and use taxes; payment to Division of Highways.

(a) All county sales and use taxes collected by the Tax Commissioner under this article shall be collected and paid to the credit of each county commission's subaccount in the 'County Road Improvement Account' established pursuant to this article.

(b) The credit shall be made to the subaccount of the county commission of the county in which the taxable sales were made and services rendered or taxable uses occurred as shown by the records of the Tax Commissioner and certified by the Tax Commissioner to the State Treasurer, namely, the location of each place of business of every vendor collecting and paying sales and use taxes to the Tax Commissioner without regard to the place of possible use by the purchaser and by every person remitting county transportation use tax to the Tax Commissioner or paying the county's use tax to the Tax Commissioner.

(c) As soon as practicable after the county transportation sales and use taxes for a particular county have been paid into the county's subaccount of the 'County Road Improvement Account' in any month for the preceding reporting period, the Commissioner of Highways or the West Virginia Economic Development Authority may issue a requisition to the Auditor requesting issuance of a state warrant for the funds of the county in its subaccount, as provided for by the intergovernmental agreement or agreements executed by the Commissioner of Highways and the county commission.

(1) Upon receipt of the requisition, the Auditor shall issue his or her warrant on the State Treasurer for the funds requested and the State Treasurer shall pay the warrant out of the subaccount.

(2) If errors are made in any payment, or adjustments are otherwise necessary, whether attributable to refunds to taxpayers or to some other fact, the errors shall be corrected and adjustments made in the payments for the next six months as follows: One sixth of the total adjustment shall be included in the payments for each month for the next six months, to be paid in full during this six months period. In addition, the payment shall include a refund of amounts erroneously not paid to the subaccount of the county commission and not previously remitted to the county's subaccount during the three years preceding the discovery of the error.

(3) A correction and adjustment in payments described in this subsection due to the misallocation of funds by the person remitting the tax shall be made within three years of the date of the payment error.

§7-27-41. Effective date of county transportation sales and use tax.

(a) Notwithstanding the effective date of an order of the county commission imposing a county transportation sales and use tax, or changing the rate of tax, the tax or a rate change may not become operational and no vendor may be required to collect the tax and no purchaser or user may be required to pay the tax until the first day of a calendar quarter that begins at least sixty days after the Tax Commissioner complies with the requirements of section thirty-five, article fifteen-b, chapter eleven of this code.

(b) The Tax Commissioner shall issue his or her notice to vendors and other persons required to collect sales and use taxes within thirty days after receiving notice from the county:

(1) A certified copy of the order of the county commission imposing a county transportation sales and use tax, or changing the rate of tax, notwithstanding any other provision of this code or rule to the contrary:

(2) The rate and boundary database of the county identifying all of the five digit zip codes and nine-digit zip codes located in the county

in conformity with the requirements for West Virginia to maintain full membership in the Streamlined Sales Tax Governing Board pursuant to article fifteen-b, chapter eleven of this code; and

(3) Such other information as the Tax Commissioner may reasonably require.

§7-27-42. Early retirement of special revenue bonds; termination of county transportation sales and use taxes; excess funds.

(a) *General.* — When special revenue bonds have been issued as provided in this article and the amount of county transportation sales and use taxes collected, less costs of administration, collection and enforcement, exceeds the amount needed to pay project costs and annual debt service, including the funding of required debt service and maintenance reserves, if any, the additional amount remaining in the county's subaccount in the County Road Improvement Account shall be used to retire outstanding revenue bonds before their maturity date in accordance with the terms of such bonds.

(b) *Termination of county transportation sales and use taxes.* — Once the special revenue bonds issued as provided in this article are no longer outstanding or have been defeased, and no additional road construction projects have been requested and approved by the Commissioner of Highways, the county transportation sales and use taxes shall be discontinued by order adopted by the county commission as provided in this article. Termination of the county transportation sales and use taxes as provided in this section may not bar or otherwise prevent the Tax Commissioner from collecting county transportation sales and use taxes that accrued before the termination date and the rights of the state and the taxpayers as to those taxes shall be preserved.

(c) *Excess funds.* — After all intergovernmental agreements with the Commissioner of Highways have ended and all debt service on special revenue bonds issued to finance, in whole or in part, the road construction projects has been paid or provided for, and county

transportation sales and use taxes imposed by the county have terminated, the Commissioner of Highways shall forward the unencumbered balance of moneys remaining in the county's subaccount in the County Road Improvement Account to the county commission of that county for deposit in the county's general fund.

PART VI. MISCELLANEOUS.

§7-27-43. Powers supplemental.

(a) County commissions. — The powers conferred by this article are in addition and supplemental to the powers conferred upon county commissions by the Legislature elsewhere in this chapter.

(b) Commissioner of Highways. — The powers conferred by this article are in addition and supplemental to the powers conferred upon the Commissioner of Highways, the Division of Highways, and the Department of Transportation by the Legislature elsewhere in this code.

(c) West Virginia Economic Development Authority. — The powers conferred by this article are in addition and supplemental to the powers conferred upon the West Virginia Economic Development Authority by the Legislature elsewhere in this code.

§7-27-44. Public officials exempt from personal liability.

No member of a county commission or other county officer may be personally liable on any contract or obligation executed pursuant to the authority contained in this article, nor may these contracts or obligations or the issuance of revenue bonds by the Authority secured by county transportation sales and use taxes imposed by county commissions under this article be considered as misfeasance in office.

§7-27-45. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this article is for any reason held to be invalid, unlawful

or unconstitutional, that decision does not affect the validity of the remaining portions of this article or any part thereof.

CHAPTER 31. CORPORATIONS.

ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

§31-15-16c. Bonds for county capital improvements; limitations; authority to issue revenue bonds; use of funds to pay for projects.

(a) The West Virginia Economic Development Authority may, in accordance with the provisions of this article and article twenty seven, chapter seven of this code, issue special revenue bonds from time to time, to pay for a portion of the cost of constructing, equipping, improving or maintaining road projects under article twenty seven, chapter seven of this code or to refund the bonds, at the request of the county. The principal amount of the bonds issued under this section may not exceed, in the aggregate, an amount that, in the opinion of the Authority, is necessary to provide sufficient funds for achievement of the purposes of this section and article twenty seven, chapter seven of this code, and is within the limits of moneys pledged for the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding bonds authorized by this section and article twenty seven, chapter seven of the code. Any revenue bonds issued on or after the effective date of this section which are secured by county transportation sales and use tax shall mature at a time or times not exceeding thirty years from their respective dates except as otherwise provided in article twenty-seven, chapter seven of the code. The principal, interest and redemption premium, if any, on the bonds shall be payable solely from the county's subaccount in the County Road Improvement Account in the State Treasury established in article twenty-seven, chapter seven of this code.

(b) All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any,

on any revenue bonds or refunding revenue bonds authorized by this section. The Authority may further provide in the trust agreement for priorities on the revenues paid into the county's subaccount in the County Road Improvement Account as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section or article twenty seven, chapter seven of this code. The bonds issued pursuant to this section shall be separate from all other bonds which may be or have been issued from time to time under the provisions of this article or article twenty seven, chapter seven of this code. The debt service fund established for each bond issue shall be pledged solely for the repayment of bonds issued pursuant to this section and article twenty seven, chapter seven of this code. On or prior to May 1 of each year, commencing May 1, 2017, the Authority shall certify to each county commission the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds or refunding revenue bonds issued pursuant to this section, and for which moneys deposited in the debt service fund have been pledged, or will be pledged, for repayment pursuant to this section.

(c) After the Authority has issued bonds authorized by this section, and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this section, any balance remaining in the debt service fund may be used for the redemption of any of the outstanding bonds issued under this section which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued. Any funds not used as provided in this subsection shall be returned to the county commission of the county for which the bonds were issued."

And,

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

Com. Sub. for H. B. 4009 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §7-27-1, §7-27-2, §7-27-3, §7-27-4, §7-27-5, §7-27-6, §7-27-7, §7-27-8, §7-27-9, §7-27-10, §7-27-11, §7-27-12, §7-27-13, §7-27-14, §7-27-15, §7-27-16, §7-27-17, §7-27-18, §7-27-19, §7-27-20, §7-27-21, §7-27-22, §7-27-23, §7-27-24, §7-27-25, §7-27-26, §7-27-27, §7-27-28, §7-27-29, §7-27-30, §7-27-31, §7-27-32, §7-27-33, §7-27-34, §7-27-35, §7-27-36, §7-27-37, §7-27-38, §7-27-39, §7-27-40, §7-27-41, §7-27-42, §7-27-43, §7-27-44 and §7-27-45; and to amend said code by adding thereto a new section, designated §31-15-16c, all relating to road construction projects; creating a short title; setting forth legislative findings and purpose; defining terms; authorizing county commissions to propose creation of road construction project plans; requiring public hearing; setting requirements for notice of public hearing; permitting submission of written comments; authorizing finalization of road construction project plan after public hearing by resolution of county commission; requiring prioritization of projects within road construction project plan; requiring consent of municipalities when road construction project plan located within its boundaries; authorizing submission of road construction project plan to Commissioner of Highways; identifying contents of application; requiring Commissioner of Highways review all proposed road construction project plans; setting forth criteria for review of plans; requiring decision of Commissioner of Highways within sixty days of receipt; providing certification of approved project by Commissioner of Highways; requiring assignment of name to project plan and individual projects within plan by Commissioner of Highways; granting legislative rulemaking authority; requiring referendum for approval of certain road construction project plans; setting requirements for referendum election; prohibiting proceeding with road construction project plan to be financed by county transportation sales and use tax or by issuance of special revenue bonds unless approved by the voters; providing for amendments to road construction plans; providing for termination of road construction project plan; providing for termination of county transportation sales

and use taxes; prohibiting termination or rate reduction as long as revenue bonds remain outstanding, unless payment of special revenue bonds has been secured in full; directing county commission to enter order describing road construction project plan after approval of plan by Commissioner of Highways and voters of county; setting forth contents of order, including establishment of county transportation sales and use taxes; limiting county transportation sales and use taxes to one percent; requiring transportation sales and use taxes to be identical; allowing joint road construction project plans; clarifying that obligations of parties under intergovernmental agreements may not be considered debt within the meaning of section six or eight, article X of the Constitution of West Virginia; authorizing county commissions and Commissioner of Highways enter into intergovernmental agreements; creating County Road Improvement Account and subaccounts; authorizing deposit of funds from certain sources into account; authorizing certain expenditures from county subaccount; allowing road construction projects be financed on cash basis or by special revenue bonds issued by West Virginia Economic Development Authority; giving Commissioner of Highways final approval of all road construction projects; providing that all road construction projects accepted into state road system are under exclusive jurisdiction and control of Commissioner of Highways; specifying that road construction projects are public improvements; requiring annual reporting by Commissioner of Highways on county road construction projects; providing procedures and requirements for issuance of special revenue bonds by West Virginia Economic Development Authority; permitting special revenue bonds to be secured by trust agreement between Authority and corporate trustee; providing procedures and requirements for refunding bonds for county road construction projects; providing that bonds are not debts of state, county or any political subdivisions; providing that bonds are negotiable instruments; providing that bonds are exempt from taxation; specifying that neither West Virginia Economic Development Authority nor its officers or employees nor any persons executing bonds have personal liability on issued bonds; providing that powers relating to road construction

project plans, construction of projects and issuance of special revenue bonds are additional powers; requiring county to enter into one or more intergovernmental agreements with Commissioner of Highways prior to imposing county transportation sales and use taxes; allowing county commissions with approved road construction projects to impose county transportation sales and use taxes; limiting rate of taxes; establishing tax base for county transportation sales and use taxes; providing exceptions to tax base; setting forth provisions for when purchases are made in county without county transportation sales and use taxes and purchase are used in county that does impose county transportation sales and use taxes; requiring county to notify Tax Commissioner at least one hundred eighty days before effective date of imposition of county transportation sales and use taxes; requiring copy of notice be sent to State Auditor and State Treasurer; requiring Tax Commissioner to administer, collect and enforce county transportation sales and use tax; authorizing Tax Commissioner to assess a fee for collection of county transportation sales and use taxes; providing for calculation of cost of service; providing for deposit of fees retained by Tax Commissioner into Local Sales Tax and Excise Tax Administration Fund; requiring certain vendors to collect county transportation sales tax; providing for payment of county transportation use tax to Tax Commissioner; clarifying that county transportation sales and use taxes are to be collected and paid in addition to certain other taxes; granting purchaser credit against county transportation use tax for sales tax paid in another county; making county transportation sales and use taxes subject to sourcing rules; making applicable provisions of law related to state consumer sales and service tax provisions and state consumer use tax provisions; making county transportation sales and use taxes subject to West Virginia Tax Procedure and Administration Act; making West Virginia Tax Crimes and Penalties Act applicable to county transportation sales and use taxes; providing for date of first application for county transportation sales and use taxes; providing for deposit of county transportation sales and use taxes into subaccount of county in County Road Improvement Account; providing for crediting of county transportation sales and use

taxes; authorizing issuance of requisition to Auditor to request issuance of state warrant for funds in county subaccount; requiring actions by State Auditor and State Treasurer upon receipt of requisition; providing for correction and adjustment to payments; setting effective date of county transportation sales and use tax; requiring county commissions to develop and maintain county rate and boundary databases; requiring county commission to notify Tax Commissioner if tax has been imposed or tax rate has changed; authorizing early retirement of special revenue bonds under certain conditions; authorizing termination of county transportation sales and use taxes once special revenue bonds are no longer outstanding or have been defeased; providing for excess funds be forwarded to county commission for deposit in county's general fund; providing that all powers are supplemental; exempting public officers from personal liability; providing for severability; authorizing West Virginia Economic Development Authority to issue bonds for county capital improvements; setting requirements on issuance of bonds; setting certain terms for revenue bonds; providing for handling of moneys deposited in account; providing for establishment of debt service fund for each bond issue; requiring West Virginia Economic Development Authority certify annually to county commission certain information regarding bond issue; providing for disposition of balance remaining in debt service fund after bond issued and requirements have been satisfied; and directing generally how the West Virginia Economic Development Authority implements and manages bonds issued for county road construction projects.”

Delegate Cowles moved that the House of Delegates concur in the Senate amendments.

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. 601**), and there were—yeas 65, nays 33, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Azinger, Bates, Blair, Butler, Cadle, Duke, Espinosa, Faircloth, Fast, Folk, Foster, Frich, Gearheart, Hamrick, Hill, Householder, Howell, Ihle, Kelly, Lane, McGeehan, Moffatt, Moye, J. Nelson, Overington, Pushkin, Rowan, Rowe, P. Smith, R. Smith, Sponaugle, Upson and Wagner.

Absent and Not Voting: Moore and Reynolds.

So, a majority of the members present and voting having voted in the affirmative, the motion to concur in the Senate amendments was adopted.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 602**), and there were—yeas 57, nays 40, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Azinger, Bates, Blair, Butler, Cadle, Cooper, Duke, Espinosa, Faircloth, Fast, Folk, Foster, Frich, Gearheart, Hamrick, Hill, Householder, Howell, Ihle, Lane, Lynch, McGeehan, Moffatt, Moye, J. Nelson, O'Neal, Overington, Pushkin, Rodighiero, Rowe, P. Smith, R. Smith, Sobonya, Sponaugle, Stansbury, Storch, Upson, Wagner, Waxman and B. White.

Absent and Not Voting: Campbell, Moore and Reynolds.

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. 4009) 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. 2826, Requiring the Commissioner of the Division of Highways to approve points of access to and from state highways to real property used or to be used for commercial, industrial or mercantile purposes; “Sarah Nott’s Law”.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 4. STATE ROAD SYSTEM.

§17-4-49. Same Points of commercial, etc.; access to comply; plans, objections and procedures for new points; review of and changes in existing points; commissioner’s preliminary determination; requiring notice.

(a) No new points of access to and from state highways from and to real property used or to be used for commercial, industrial or mercantile purposes may be opened, constructed or maintained without first complying with this section and sections forty-seven and forty-eight of this article. Access points opened, constructed or maintained without compliance are unauthorized.

(b) Plans for any new point of access shall be submitted to the Commissioner of Highways directly and the following rules shall apply:

(1) Notice of the proposed new point of access shall be filed with the commissioner, along with a plan of the proposed new point of access.

(2) The commissioner shall review the plan to ensure compliance with the policies stated in section forty-seven of this article and with any regulations issued by the commissioner under section forty-eight of this article.

(3) If the commissioner objects to a plan, he or she shall reduce his or her objections to the proposed new point of access to writing and promptly furnish notice of the objection to the owner or owners of the real property affected and advise the owner or owners of the right to demand a hearing on the proposed plan and the objections. If a plan is not objected to within six weeks from the time it is filed with the commissioner, it is considered approved by the commissioner.

(4) In any case where the commissioner objects to the proposed new point of access, the owner or owners of the real property affected shall have reasonable opportunity for a hearing on such objections.

(c) (1) Existing points of access to and from state highways from and to real property used for commercial, industrial or mercantile purposes may be reviewed by the commissioner to determine whether such points of access comply with the policies stated in section forty-seven of this article and with any regulations issued by the commissioner under section forty-eight of this article. The commissioner may direct reasonable changes in existing points of access to and from state highways from and to property used for commercial, industrial or mercantile purposes if he or she determines from accident reports or traffic surveys that the public safety is seriously affected by such points of access and that such reasonable changes would substantially reduce the hazard to public safety. When such changes require construction, reconstruction or repair, such work shall be done at state expense as any other construction, reconstruction or repair.

(2) If the commissioner makes a preliminary determination that any changes should be made, the following rules apply:

(A) The commissioner shall reduce his or her preliminary determination to writing and promptly furnish notice of such preliminary determination to the owner or owners of the real property affected and of their right to demand a hearing on the preliminary determination. The commissioner's notice shall include a description

of suggested changes suitable for reducing the hazard to the public safety.

(B) In any case where the commissioner makes a preliminary determination that any changes should be made, the owner or owners of the real property affected shall have reasonable opportunity for a hearing on the preliminary determination.

(d) For points of access existing on or before July 1, 2016, to and from state highways from and to real property used for commercial, industrial or mercantile purposes if the access is more than fifty feet wide, the access is along a state highway with a speed limit of more than forty-five miles per hour and the commissioner deems it appropriate due to heavy traffic or other circumstances, the commissioner shall either place ‘no parking’ signs at each side of the driveway entrance fronting the state highway or clearly mark that right-of-way with yellow paint with the words ‘no parking’ or both to provide notice that parking is prohibited.

(e) For points of access approved by the commissioner after July 1, 2016, to and from state highways from and to real property used for commercial, industrial or mercantile purposes if the access is more than fifty feet wide, the access is along a state highway with a speed limit of more than forty-five miles per hour and the commissioner deems it appropriate due to heavy traffic or other circumstances, the owner or owners of the real property shall be required to place ‘no parking’ signs at each side of the driveway entrance fronting the state highway or clearly mark that right-of-way with yellow paint with the words ‘no parking’ or both to provide notice that parking is prohibited. This subsection and subsection (d) of this section shall be known as ‘Sarah Nott’s Law’.”

And,

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

Com. Sub. for H. B. 2826 – “A Bill to amend and reenact §17-4-49 of the Code of West Virginia, 1931, as amended, relating to

access from and to commercial, industrial or mercantile establishments; requiring the Commissioner of the Division of Highways and owners of real property under certain circumstances to place ‘no parking’ signs or otherwise notify public that parking is prohibited; and designating law as ‘Sarah Nott’s Law’.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 603**), 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: Moore and Reynolds.

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. 2826) 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. 4033, Adding criminal penalties for the unauthorized practice of pharmacists care.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §30-5-12b and §30-5-34 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

“§30-5-12b. Definitions; selection of generic drug products; exceptions; records; labels; manufacturing standards; rules; notice of substitution; complaints; notice and hearing; immunity.

(a) As used in this section:

(1) ‘Brand name’ means the proprietary or trade name selected by the manufacturer and placed upon a drug or drug product, its container, label or wrapping at the time of packaging.

(2) ‘Generic name’ means the official title of a drug or drug combination for which a new drug application, or an abbreviated new drug application, has been approved by the United States Food and Drug Administration and is in effect.

(3) ‘Substitute’ means to dispense without the prescriber’s express authorization a therapeutically equivalent generic drug product in the place of the drug ordered or prescribed.

(4) ‘Equivalent’ means drugs or drug products which are the same amounts of identical active ingredients and same dosage form and which will provide the same therapeutic efficacy and toxicity when administered to an individual and is approved by the United States Food and Drug Administration.

(b) A pharmacist who receives a prescription for a brand name drug or drug product shall substitute a less expensive equivalent generic name drug or drug product unless in the exercise of his or her professional judgment the pharmacist believes that the less expensive drug is not suitable for the particular patient: *Provided*, That no substitution may be made by the pharmacist where the prescribing practitioner indicates that, in his or her professional judgment, a specific brand name drug is medically necessary for a particular patient.

(c) A written prescription order shall permit the pharmacist to substitute an equivalent generic name drug or drug product except

where the prescribing practitioner has indicated in his or her own handwriting the words 'Brand Medically Necessary'. The following sentence shall be printed on the prescription form. 'This prescription may be filled with a generically equivalent drug product unless the words 'Brand Medically Necessary' are written, in the practitioner's own handwriting, on this prescription form: *Provided*, That 'Brand Medically Necessary' may be indicated on the prescription order other than in the prescribing practitioner's own handwriting unless otherwise required by federal mandate.

(d) A verbal prescription order shall permit the pharmacist to substitute an equivalent generic name drug or drug product except where the prescribing practitioner shall indicate to the pharmacist that the prescription is 'Brand Necessary' or 'Brand Medically Necessary'. The pharmacist shall note the instructions on the file copy of the prescription or chart order form.

(e) No person may by trade rule, work rule, contract or in any other way prohibit, restrict, limit or attempt to prohibit, restrict or limit the making of a generic name substitution under the provisions of this section. No employer or his or her agent may use coercion or other means to interfere with the professional judgment of the pharmacist in deciding which generic name drugs or drug products shall be stocked or substituted: *Provided*, That this section shall not be construed to permit the pharmacist to generally refuse to substitute less expensive therapeutically equivalent generic drugs for brand name drugs and that any pharmacist so refusing shall be subject to the penalties prescribed in section ~~twenty-two~~ thirty-four of this article.

(f) A pharmacist may substitute a drug pursuant to the provisions of this section only where there will be a savings to the buyer. Where substitution is proper, pursuant to this section, or where the practitioner prescribes the drug by generic name, the pharmacist shall, consistent with his or her professional judgment, dispense the lowest retail cost, effective brand which is in stock.

(g) All savings in the retail price of the prescription shall be passed on to the purchaser; these savings shall be equal to the difference between the retail price of the brand name product and the customary and usual price of the generic product substituted therefor: *Provided*, That in no event shall such savings be less than the difference in acquisition cost of the brand name product prescribed and the acquisition cost of the substituted product.

(h) Each pharmacy shall maintain a record of any substitution of an equivalent generic name drug product for a prescribed brand name drug product on the file copy of a written, electronic or verbal prescription or chart order. Such record shall include the manufacturer and generic name of the drug product selected.

(i) All drugs shall be labeled in accordance with the instructions of the practitioner.

(j) Unless the practitioner directs otherwise, the prescription label on all drugs dispensed by the pharmacist shall indicate the generic name using abbreviations, if necessary, and either the name of the manufacturer or packager, whichever is applicable in the pharmacist's discretion. The same notation will be made on the original prescription retained by the pharmacist.

(k) A pharmacist may not dispense a product under the provisions of this section unless the manufacturer has shown that the drug has been manufactured with the following minimum good manufacturing standards and practices by:

(1) Labeling products with the name of the original manufacturer and control number;

(2) Maintaining quality control standards equal to or greater than those of the United States Food and Drug Administration;

(3) Marking products with identification code or monogram; and

(4) Labeling products with an expiration date.

(l) The West Virginia Board of Pharmacy shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code which establish a formulary of generic type and brand name drug products which are determined by the board to demonstrate significant biological or therapeutic inequivalence and which, if substituted, would pose a threat to the health and safety of patients receiving prescription medication. The formulary shall be promulgated by the board within ninety days of the date of passage of this section and may be amended in accordance with the provisions of chapter twenty-nine-a of this code.

(m) No pharmacist shall substitute a generic-named therapeutically equivalent drug product for a prescribed brand name drug product if the brand name drug product or the generic drug type is listed on the formulary established by the West Virginia Board of Pharmacy pursuant to this article or is found to be in violation of the requirements of the United States Food and Drug Administration.

(n) Any pharmacist who substitutes any drug shall, either personally or through his or her agent, assistant or employee, notify the person presenting the prescription of such substitution. The person presenting the prescription shall have the right to refuse the substitution. Upon request the pharmacist shall relate the retail price difference between the brand name and the drug substituted for it.

(o) Every pharmacy shall post in a prominent place that is in clear and unobstructed public view, at or near the place where prescriptions are dispensed, a sign which shall read: 'West Virginia law requires pharmacists to substitute a less expensive generic-named therapeutically equivalent drug for a brand name drug, if available, unless you or your physician direct otherwise.' The sign shall be printed with lettering of at least one and one-half inches in height with appropriate margins and spacing as prescribed by the West Virginia Board of Pharmacy.

(p) The West Virginia Board of Pharmacy shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code

setting standards for substituted drug products, obtaining compliance with the provisions of this section and enforcing the provisions of this section.

(q) Any person shall have the right to file a complaint with the West Virginia Board of Pharmacy regarding any violation of the provisions of this article. Such complaints shall be investigated by the Board of Pharmacy.

(r) Fifteen days after the board has notified, by registered mail, a person, firm, corporation or copartnership that such person, firm, corporation or copartnership is suspected of being in violation of a provision of this section, the board shall hold a hearing on the matter. If, as a result of the hearing, the board determines that a person, firm, corporation or copartnership is violating any of the provisions of this section, it may, in addition to any penalties prescribed by section twenty-two of this article, suspend or revoke the permit of any person, firm, corporation or copartnership to operate a pharmacy.

(s) No pharmacist or pharmacy complying with the provisions of this section shall be liable in any way for the dispensing of a generic-named therapeutically equivalent drug, substituted under the provisions of this section, unless the generic-named therapeutically equivalent drug was incorrectly substituted.

(t) In no event where the pharmacist substitutes a drug under the provisions of this section shall the prescribing physician be liable in any action for loss, damage, injury or death of any person occasioned by or arising from the use of the substitute drug unless the original drug was incorrectly prescribed.

(u) Failure of a practitioner to specify that a specific brand name is necessary for a particular patient shall not constitute evidence of negligence unless the practitioner had reasonable cause to believe that the health of the patient required the use of a certain product and no other.

§30-5-34. Criminal offenses.

~~When, as a result of an investigation under this article or otherwise, the board has reason to believe that a person authorized under this article has committed a criminal offense the board may bring its information to the attention of an appropriate law-enforcement official.~~

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a person authorized under this article has committed a criminal offense under this article, the board may bring its information to the attention of an appropriate law-enforcement official.

(b) Any person who intentionally practices, or presents himself or herself out as qualified to practice pharmacist care or to assist in the practice of pharmacist care, or uses any title, word or abbreviation to indicate to or induce others to believe he or she is licensed to practice as a pharmacist or pharmacist technician without obtaining an active, valid West Virginia license to practice that profession; or

With a license that is:

(1) Expired, suspended or lapsed; or

(2) Inactive, revoked, suspended as a result of disciplinary action, or surrendered; is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than ten thousand dollars.”

And,

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

H. B. 4033 – “A Bill to amend and reenact §30-5-12b and §30-5-34 of the Code of West Virginia, 1931, as amended, all relating to prohibiting the practice of pharmacist care without a license; prohibiting assistance to practice of pharmacist care without a registration; establishing a criminal penalty for the illegal practice or pharmacy care or assisting in the practice of pharmacy care; permitting

the board to contact law enforcement with information concerning a criminal offense; permitting the fining of a person practicing with an encumbered license; permitting the fining of a person practicing with an encumbered registration; and establishing a fine.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 603**), 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: Moore and Reynolds.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4033) 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. 4040, Regulating step therapy protocols in health benefit plans.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §33-15-4m; that said code be amended by adding thereto a new section, designated §33-16-3y; that said code be amended by adding thereto a new section, designated

§33-24-7n; that said code be amended by adding thereto a new section, designated §33-25-8k; and that said code be amended by adding thereto a new section, designated §33-25A-8m, all to read as follows:

CHAPTER 33. INSURANCE.

ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4m. Step Therapy.

(a) Definitions — As used in this article:

(1) ‘Health benefit plan’ means a policy, contract, certificate or agreement entered into, offered or issued by a health plan issuer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(2) ‘Health plan issuer’ or ‘issuer’ means an entity required to be licensed under this chapter that contracts, or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services under a health benefit plan, including accident and sickness insurers, nonprofit hospital service corporations, medical service corporations and dental service organizations, prepaid limited health service organizations, health maintenance organizations, preferred provider organizations, provider sponsored network and government payers, including but not limited to Medicaid, Medicare and the public employees insurance agency, and any pharmacy benefit manager that administers a fully-funded or self-funded plan.

(3) ‘Step therapy protocol’ means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition, and medically appropriate for a particular patient, are covered by a health plan issuer or health benefit plan.

(4) ‘Step therapy override determination’ means a determination as to whether a step therapy protocol should apply in a particular situation, or whether the step therapy protocol should be overridden in favor of immediate coverage of the health care provider’s selected

prescription drug. This determination is based on a review of the patient's or prescriber's request for an override, along with supporting rationale and documentation.

(5) 'Utilization review organization' means an entity that conducts utilization review, other than a health plan issuer performing utilization review for its own health benefit plan.

(b) Application of article — A health benefit plan that includes prescription drug benefits, and which utilizes step therapy protocols, and which is issued for delivery, delivered, renewed, or otherwise contracted in this state on or after January 1, 2017, shall comply with the provisions of this article.

(c) Step therapy protocol exceptions. —

(1) When coverage of a prescription drug for the treatment of any medical condition is restricted for use by health plan issuer or utilization review organization through the use of a step therapy protocol, the patient and prescribing practitioner shall have access to a clear and convenient process to request a step therapy exception determination. The process shall be made easily accessible on the health plan issuer's or utilization review organization's website. The health plan issuer or utilization review organization must provide a prescription drug for treatment of the medical condition at least until the step therapy exception determination is made.

(2) A step therapy override determination request shall be expeditiously granted if:

(A) The required prescription drug is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient.

(B) The required prescription drug is expected to be ineffective based on the known relevant physical or mental characteristics of the patient and the known characteristics of the prescription drug regimen.

(C) The patient has tried the required prescription drug while under their current or a previous health insurance or health benefit plan, or another prescription drug in the same pharmacologic class or with the same mechanism of action and such prescription drug was discontinued due to a lack of efficacy or effectiveness, diminished effect, or an adverse event.

(D) The required prescription drug is not in the best interest of the patient, based upon medical appropriateness.

(E) The patient is stable on a prescription drug selected by their health care provider for the medical condition under consideration.

(3) Upon the granting of a step therapy override determination, the health plan issuer or utilization review organization shall authorize coverage for the prescription drug prescribed by the patient's treating healthcare provider, provided such prescription drug is a covered prescription drug under such policy or contract.

(4) This section shall not be construed to prevent:

(A) A health plan issuer or utilization review organization from requiring a patient to try an AB-Rated generic equivalent prior to providing coverage for the equivalent branded prescription drug.

(B) A health care provider from prescribing a prescription drug that is determined to be medically appropriate.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3y. Step Therapy.

(a) Definitions — As used in this article:

(1) 'Health benefit plan' means a policy, contract, certificate or agreement entered into, offered or issued by a health plan issuer to

provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(2) ‘Health plan issuer’ or ‘issuer’ means an entity required to be licensed under this chapter that contracts, or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services under a health benefit plan, including accident and sickness insurers, nonprofit hospital service corporations, medical service corporations and dental service organizations, prepaid limited health service organizations, health maintenance organizations, preferred provider organizations, provider sponsored network and government payers, including but not limited to, Medicaid, Medicare and the public employees insurance agency, and any pharmacy benefit manager that administers a fully-funded or self-funded plan.

(3) ‘Step therapy protocol’ means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition, and medically appropriate for a particular patient, are covered by a health plan issuer or health benefit plan.

(4) ‘Step therapy override determination’ means a determination as to whether a step therapy protocol should apply in a particular situation, or whether the step therapy protocol should be overridden in favor of immediate coverage of the health care provider’s selected prescription drug. This determination is based on a review of the patient’s or prescriber’s request for an override, along with supporting rationale and documentation.

(5) ‘Utilization review organization’ means an entity that conducts utilization review, other than a health plan issuer performing utilization review for its own health benefit plan.

(b) *Application of article* — A health benefit plan that includes prescription drug benefits, and which utilizes step therapy protocols, and which is issued for delivery, delivered, renewed, or otherwise contracted in this state on or after January 1, 2017, shall comply with the provisions of this article.

(c) Step therapy protocol exceptions. —

(1) When coverage of a prescription drug for the treatment of any medical condition is restricted for use by health plan issuer or utilization review organization through the use of a step therapy protocol, the patient and prescribing practitioner shall have access to a clear and convenient process to request a step therapy exception determination. The process shall be made easily accessible on the health plan issuer's or utilization review organization's website. The health plan issuer or utilization review organization must provide a prescription drug for treatment of the medical condition at least until the step therapy exception determination is made.

(2) A step therapy override determination request shall be expeditiously granted if:

(A) The required prescription drug is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient.

(B) The required prescription drug is expected to be ineffective based on the known relevant physical or mental characteristics of the patient and the known characteristics of the prescription drug regimen.

(C) The patient has tried the required prescription drug while under their current or a previous health insurance or health benefit plan, or another prescription drug in the same pharmacologic class or with the same mechanism of action and such prescription drug was discontinued due to a lack of efficacy or effectiveness, diminished effect, or an adverse event.

(D) The required prescription drug is not in the best interest of the patient, based upon medical appropriateness.

(E) The patient is stable on a prescription drug selected by their health care provider for the medical condition under consideration.

(3) Upon the granting of a step therapy override determination, the health plan issuer or utilization review organization shall authorize

coverage for the prescription drug prescribed by the patient's treating healthcare provider, provided such prescription drug is a covered prescription drug under such policy or contract.

(4) This section shall not be construed to prevent:

(A) A health plan issuer or utilization review organization from requiring a patient to try an AB-Rated generic equivalent prior to providing coverage for the equivalent branded prescription drug.

(B) A health care provider from prescribing a prescription drug that is determined to be medically appropriate.

**ARTICLE 24. HOSPITAL SERVICE CORPORATIONS,
MEDICAL SERVICE CORPORATIONS,
DENTAL SERVICE CORPORATIONS
AND HEALTH SERVICE
CORPORATIONS.**

§33-24-7n. Step Therapy.

(a) Definitions — As used in this article:

(1) 'Health benefit plan' means a policy, contract, certificate or agreement entered into, offered or issued by a health plan issuer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(2) 'Health plan issuer' or 'issuer' means an entity required to be licensed under this chapter that contracts, or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services under a health benefit plan, including accident and sickness insurers, nonprofit hospital service corporations, medical service corporations and dental service organizations, prepaid limited health service organizations, health maintenance organizations, preferred provider organizations, provider sponsored network and government payers, including but not limited to, Medicaid, Medicare

and the public employees insurance agency, and any pharmacy benefit manager that administers a fully-funded or self-funded plan.

(3) ‘Step therapy protocol’ means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition, and medically appropriate for a particular patient, are covered by a health plan issuer or health benefit plan.

(4) ‘Step therapy override determination’ means a determination as to whether a step therapy protocol should apply in a particular situation, or whether the step therapy protocol should be overridden in favor of immediate coverage of the health care provider’s selected prescription drug. This determination is based on a review of the patient’s or prescriber’s request for an override, along with supporting rationale and documentation.

(5) ‘Utilization review organization’ means an entity that conducts utilization review, other than a health plan issuer performing utilization review for its own health benefit plan.

(b) *Application of article* — A health benefit plan that includes prescription drug benefits, and which utilizes step therapy protocols, and which is issued for delivery, delivered, renewed, or otherwise contracted in this state on or after January 1, 2017, shall comply with the provisions of this article.

(c) *Step therapy protocol exceptions.* —

(1) When coverage of a prescription drug for the treatment of any medical condition is restricted for use by health plan issuer or utilization review organization through the use of a step therapy protocol, the patient and prescribing practitioner shall have access to a clear and convenient process to request a step therapy exception determination. The process shall be made easily accessible on the health plan issuer’s or utilization review organization’s website. The health plan issuer or utilization review organization must provide a

prescription drug for treatment of the medical condition at least until the step therapy exception determination is made.

(2) A step therapy override determination request shall be expeditiously granted if:

(A) The required prescription drug is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient.

(B) The required prescription drug is expected to be ineffective based on the known relevant physical or mental characteristics of the patient and the known characteristics of the prescription drug regimen.

(C) The patient has tried the required prescription drug while under their current or a previous health insurance or health benefit plan, or another prescription drug in the same pharmacologic class or with the same mechanism of action and such prescription drug was discontinued due to a lack of efficacy or effectiveness, diminished effect, or an adverse event.

(D) The required prescription drug is not in the best interest of the patient, based upon medical appropriateness.

(E) The patient is stable on a prescription drug selected by their health care provider for the medical condition under consideration.

(3) Upon the granting of a step therapy override determination, the health plan issuer or utilization review organization shall authorize coverage for the prescription drug prescribed by the patient's treating healthcare provider, provided such prescription drug is a covered prescription drug under such policy or contract.

(4) This section shall not be construed to prevent:

(A) A health plan issuer or utilization review organization from requiring a patient to try an AB-Rated generic equivalent prior to providing coverage for the equivalent branded prescription drug.

(B) A health care provider from prescribing a prescription drug that is determined to be medically appropriate.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8k. Step Therapy.

(a) *Definitions* — As used in this article:

(1) ‘Health benefit plan’ means a policy, contract, certificate or agreement entered into, offered or issued by a health plan issuer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(2) ‘Health plan issuer’ or ‘issuer’ means an entity required to be licensed under this chapter that contracts, or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services under a health benefit plan, including accident and sickness insurers, nonprofit hospital service corporations, medical service corporations and dental service organizations, prepaid limited health service organizations, health maintenance organizations, preferred provider organizations, provider sponsored network and government payers, including but not limited to, Medicaid, Medicare and the public employees insurance agency, and any pharmacy benefit manager that administers a fully-funded or self-funded plan.

(3) ‘Step therapy protocol’ means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition, and medically appropriate for a particular patient, are covered by a health plan issuer or health benefit plan.

(4) ‘Step therapy override determination’ means a determination as to whether a step therapy protocol should apply in a particular situation, or whether the step therapy protocol should be overridden in favor of immediate coverage of the health care provider’s selected prescription drug. This determination is based on a review of the

patient's or prescriber's request for an override, along with supporting rationale and documentation.

(5) 'Utilization review organization' means an entity that conducts utilization review, other than a health plan issuer performing utilization review for its own health benefit plan.

(b) Application of article — A health benefit plan that includes prescription drug benefits, and which utilizes step therapy protocols, and which is issued for delivery, delivered, renewed, or otherwise contracted in this state on or after January 1, 2017, shall comply with the provisions of this article.

(c) Step therapy protocol exceptions. —

(1) When coverage of a prescription drug for the treatment of any medical condition is restricted for use by health plan issuer or utilization review organization through the use of a step therapy protocol, the patient and prescribing practitioner shall have access to a clear and convenient process to request a step therapy exception determination. The process shall be made easily accessible on the health plan issuer's or utilization review organization's website. The health plan issuer or utilization review organization must provide a prescription drug for treatment of the medical condition at least until the step therapy exception determination is made.

(2) A step therapy override determination request shall be expeditiously granted if:

(A) The required prescription drug is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient.

(B) The required prescription drug is expected to be ineffective based on the known relevant physical or mental characteristics of the patient and the known characteristics of the prescription drug regimen.

(C) The patient has tried the required prescription drug while under their current or a previous health insurance or health benefit plan, or

another prescription drug in the same pharmacologic class or with the same mechanism of action and such prescription drug was discontinued due to a lack of efficacy or effectiveness, diminished effect, or an adverse event.

(D) The required prescription drug is not in the best interest of the patient, based upon medical appropriateness.

(E) The patient is stable on a prescription drug selected by their health care provider for the medical condition under consideration.

(3) Upon the granting of a step therapy override determination, the health plan issuer or utilization review organization shall authorize coverage for the prescription drug prescribed by the patient's treating healthcare provider, provided such prescription drug is a covered prescription drug under such policy or contract.

(4) This section shall not be construed to prevent:

(A) A health plan issuer or utilization review organization from requiring a patient to try an AB-Rated generic equivalent prior to providing coverage for the equivalent branded prescription drug.

(B) A health care provider from prescribing a prescription drug that is determined to be medically appropriate.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8m. Step Therapy.

(a) Definitions — As used in this article:

(1) 'Health benefit plan' means a policy, contract, certificate or agreement entered into, offered or issued by a health plan issuer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

(2) ‘Health plan issuer’ or ‘issuer’ means an entity required to be licensed under this chapter that contracts, or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services under a health benefit plan, including accident and sickness insurers, nonprofit hospital service corporations, medical service corporations and dental service organizations, prepaid limited health service organizations, health maintenance organizations, preferred provider organizations, provider sponsored network and government payers, including but not limited to, Medicaid, Medicare and the public employees insurance agency, and any pharmacy benefit manager that administers a fully-funded or self-funded plan.

(3) ‘Step therapy protocol’ means a protocol or program that establishes the specific sequence in which prescription drugs for a specified medical condition, and medically appropriate for a particular patient, are covered by a health plan issuer or health benefit plan.

(4) ‘Step therapy override determination’ means a determination as to whether a step therapy protocol should apply in a particular situation, or whether the step therapy protocol should be overridden in favor of immediate coverage of the health care provider’s selected prescription drug. This determination is based on a review of the patient’s or prescriber’s request for an override, along with supporting rationale and documentation.

(5) ‘Utilization review organization’ means an entity that conducts utilization review, other than a health plan issuer performing utilization review for its own health benefit plan.

(b) *Application of article* — A health benefit plan that includes prescription drug benefits, and which utilizes step therapy protocols, and which is issued for delivery, delivered, renewed, or otherwise contracted in this state on or after January 1, 2017, shall comply with the provisions of this article.

(c) *Step therapy protocol exceptions.* —

(1) When coverage of a prescription drug for the treatment of any medical condition is restricted for use by health plan issuer or utilization review organization through the use of a step therapy protocol, the patient and prescribing practitioner shall have access to a clear and convenient process to request a step therapy exception determination. The process shall be made easily accessible on the health plan issuer's or utilization review organization's website. The health plan issuer or utilization review organization must provide a prescription drug for treatment of the medical condition at least until the step therapy exception determination is made.

(2) A step therapy override determination request shall be expeditiously granted if:

(A) The required prescription drug is contraindicated or will likely cause an adverse reaction by or physical or mental harm to the patient.

(B) The required prescription drug is expected to be ineffective based on the known relevant physical or mental characteristics of the patient and the known characteristics of the prescription drug regimen.

(C) The patient has tried the required prescription drug while under their current or a previous health insurance or health benefit plan, or another prescription drug in the same pharmacologic class or with the same mechanism of action and such prescription drug was discontinued due to a lack of efficacy or effectiveness, diminished effect, or an adverse event.

(D) The required prescription drug is not in the best interest of the patient, based upon medical appropriateness.

(E) The patient is stable on a prescription drug selected by their health care provider for the medical condition under consideration.

(3) Upon the granting of a step therapy override determination, the health plan issuer or utilization review organization shall authorize

coverage for the prescription drug prescribed by the patient's treating healthcare provider, provided such prescription drug is a covered prescription drug under such policy or contract.

(4) This section shall not be construed to prevent:

(A) A health plan issuer or utilization review organization from requiring a patient to try an AB-Rated generic equivalent prior to providing coverage for the equivalent branded prescription drug.

(B) A health care provider from prescribing a prescription drug that is determined to be medically appropriate."

And,

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

Com. Sub. for H. B. 4040 — "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-4m; to amend said code by adding thereto a new section, designated §33-16-3y; to amend said code by adding thereto a new section, designated §33-24-7n; to amend said code by adding thereto a new section, designated §33-25-8k; and to amend said code by adding thereto a new section, designated §33-25A-8m, all relating to regulating step therapy protocols in health benefit plans which provide prescription drug benefits; providing for an exception from the protocols; setting out criteria for the exception; providing for an effective date; an setting out exclusions."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 605**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Moore, Reynolds and Upson.

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. 4040) 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. 2795, Providing that when a party's health condition is at issue in a civil action, medical records and releases for medical information may be requested and required without court order.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 4. RULES AND PLEADING.

§56-4-72. Production of medical records in civil actions.

(a) For purposes of this section, ‘medical records’ and ‘medical billing records’ mean documents created, derived or maintained by a health care provider that relate to a patient’s past, present or future physical, mental or behavioral health condition; the provision of health care to a patient; or payment for the provision of health care to a patient.

(b) A party in a civil action requesting or issuing a subpoena for the medical records or medical billing records of another party shall provide to the party whose medical records or medical billing records

are sought, or the party's attorney if he or she is represented by an attorney, a copy of any request or subpoena directed to a health care provider, which copy shall be provided contemporaneously with the request directed to the health care provider.

(c) The party requesting or subpoenaing the medical records or medical billing records shall provide to the party whose medical records or medical billing records are being sought, or to the party's attorney, a copy of all documents obtained by the requesting party pursuant to the request or subpoena within seven days of receipt of medical records or medical billing records at no cost.

(d) Nothing in this section is intended to alter or modify any other lawful methods of discovery available to a party under the West Virginia Rules of Civil Procedure or law including but not limited to the provisions of section six-a, article seven-b, chapter fifty-five of this code.

(e) All medical records and medical billing records obtained pursuant to a request or subpoena or by any other lawful methods of discovery shall be treated as confidential by the party receiving them, its attorneys, experts, consultants, agents and any insurance carrier who may be obligated to pay all or some of any judgment obtained in the litigation.

(f) Medical records and medical billing records obtained by an insurance company in connection with insurance claims or civil litigation shall be confidentially maintained by the insurance company in accordance with state and federal law, including but not limited to the provisions of Title 114, Series 57 of the Code of State Rules.

(g) The Insurance Commissioner shall review the provisions of Title 114, Series 57 of the Code of State Rules and, to the extent necessary, shall propose new rules or modify existing rules to address:

(1) The circumstances under which an insurance company may disclose medical records and medical billing records to other persons or entities;

(2) The circumstances under which personal identifying information of a person must be redacted before that person's medical records or medical billing records may be disclosed to other persons or entities;

(3) The steps an insurance company is required to undertake before medical records or medical billing records are disclosed to other persons or entities to assure that any person or entity to which an insurance company is disclosing a person's medical records or medical billing records will be using such records only for purposes permitted by law; and,

(4) The implementation of the requirement that the insurance company has processes or procedures in place to prevent the unauthorized access by its own employees to a person's confidential medical records or medical billing records.

(h) Nothing in this section is intended to restrict, supersede or enlarge any party's rights or obligations under rule twenty-six of the West Virginia Rules of Civil Procedure, nor limit a party's right to object to the production of medical records or medical billing records on the grounds that such records are not discoverable in the circumstances of a particular civil action: *Provided*, That if the court orders the production of disputed records over a party's objection, the requirements and limitations set forth herein apply."

On motion of Delegate Cowles, the House of Delegates concurred in the Senate amendment with further amendment, on page one, following the enacting clause, by striking out everything after the enacting clause and inserting in lieu thereof the following:

"That §33-6F-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6F. DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION.

§33-6F-1. Privacy; rules.

(a) No person shall disclose any nonpublic personal information contrary to the provisions of Title V of the Gramm-Leach-Bliley Act, Pub. L. 106-102 (1999).

(b) On or before July 1, 2001, the commissioner shall propose rules for legislative approval in accordance with article twenty, chapter twenty-nine-a of this code necessary to carry out the provisions of Title V of the Gramm-Leach-Bliley Act, Pub. L. 106-102 (1999) and this article.

(c) Medical records and medical billing records obtained by insurers in connection with insurance claims or civil litigation shall be confidentially maintained by insurers in accordance with state and federal law, including the provisions of Title 114, Series 57 of the Code of State Rules, and no additional restrictions or conditions may be imposed that contradict or are inconsistent with any applicable policy of insurance or the performance of insurance functions permitted or authorized by state and federal law. The Insurance Commissioner shall review the provisions of Title 114, Series 57 of the Code of State Rules and, to the extent determined necessary, shall propose new rules or modify existing rules by December 31, 2016 to address:

(1) The circumstances under which an insurance company may disclose medical records and medical billing records to other persons or entities;

(2) The circumstances under which personal identifying information of a person must be redacted before that person's medical records or medical billing records may be disclosed to other persons or entities;

(3) The steps an insurance company is required to undertake before medical records or medical billing records are disclosed to other persons or entities to assure that any person or entity to which an

insurance company is disclosing a person's medical records or medical billing records will be using such records only for purposes permitted by law; and

(4) The implementation of the requirement that the insurance company has processes or procedures in place to prevent the unauthorized access by its own employees to a person's confidential medical records or medical billing records.”

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. 606**), and there were—yeas 76, nays 21, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Caputo, Flanigan, Fleischauer, Fluharty, Guthrie, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Moye, Perdue, Perry, Pushkin, Rowe, Shaffer, Skinner, Sponaugle and P. White.

Absent and Not Voting: Moore, Reynolds and Upson.

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. 2795) passed.

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

Com. Sub. for H. B. 2795 – “A Bill to amend the Code of West Virginia, 1931, as amended, by amending and reenacting §33-6F-1, relating to disclosure of nonpublic personal information by insurers; requiring compliance with Gramm-Leach Bliley Act with respect to disclosure of nonpublic personal information; requiring rulemaking by Insurance Commissioner with respect to Gramm-Leach Bliley Act; providing for confidential maintenance of medical records obtained in connection with insurance claims or civil litigation; prohibiting

restrictions or conditions with respect to confidentiality that conflict with insurance policies or performance of insurance functions permitted or authorized by state or federal law; providing Insurance Commissioner must review certain rules; and providing Insurance Commissioner must determine whether to propose or modify rules addressing certain issues.”

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. 4605, Prohibiting contracting with a state agency unless business entity submits disclosure of interested parties.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §6B-4-1, to read as follows:

ARTICLE 4. CONTRACTS FOR STATE PURCHASES.

§6B-4-1. Disclosure of interested parties to contract.

(a) Definitions — For purposes of this section:

(1) ‘Applicable contract’ means a contract, including a series of contracts or orders, of a state agency that:

(A) Requires an action or vote by the governing body of the entity or agency before the contract may be signed; or

(B) Has a value of at least \$100,000.

(2) ‘Business entity’ means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership or corporation.

(3) ‘Interested party’ means a person who has a controlling interest in a business entity with whom a state agency contracts.

(4) ‘State agency’ means a board, commission, office, department, or other agency in the executive, judicial, or legislative branch of state government.

(b) Any state agency entering into an applicable contract shall include in the contract a requirement that the business entity awarded the applicable contract, by signing or accepting the applicable contract, certifies, under oath, that no interested party has a conflict that had any effect on the award of the contract or that would impair the business entity’s performance of the applicable contract.”

And,

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

Com. Sub. for H. B. 4605 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §6B-4-1, relating to the disclosure of interested parties to a government contract; defining terms; and requiring applicable contracts of state agencies to contain a certification that no interested party has a conflict that had any effect on the award of the contract or that would impair the business entity’s performance of the applicable contract.”

On motion of Delegate Cowles, the House of Delegates refused to concur in the Senate amendments and requested the Senate to recede therefrom.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4364, Internet Privacy Protection Act.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §21-5G-1, to read as follows:

ARTICLE 5G. EMPLOYEE PERSONAL SOCIAL MEDIA.

§21-5G-1. Employer access to employee or potential employee personal accounts prohibited.

(a) An employer shall not do any of the following:

(1) Request, require or coerce an employee or a potential employee to disclose a username and password, password or any other authentication information that allows access to the employee or potential employee’s personal account;

(2) Request, require or coerce an employee or a potential employee to access the employee or the potential employee’s personal account in the presence of the employer; or

(3) Compel an employee or potential employee to add the employer or an employment agency to their list of contacts that enable the contacts to access a personal account.

(b) Nothing in this section prevents an employer from:

(1) Accessing information about an employee or potential employee that is publicly available;

(2) Complying with applicable laws, rules or regulations;

(3) Requiring an employee to disclose a username or password or similar authentication information for the purpose of accessing:

(A) An employer-issued electronic device; or

(B) An account or service provided by the employer, obtained by virtue of the employee's employment relationship with the employer, or used for the employer's business purposes;

(4) Conducting an investigation or requiring an employee to cooperate in an investigation. The employer may require an employee to share the content that has been reported to make a factual determination, if the employer has specific information about an unauthorized transfer of the employer's proprietary information, confidential information or financial data, to an employee's personal account;

(5) Prohibiting an employee or potential employee from using a personal account during employment hours, while on employer time or for business purposes; or

(6) Requesting an employee to share specific content regarding a personal account for the purposes of ensuring compliance with applicable laws, regulatory requirements or prohibitions against work-related employee misconduct.

(c) If an employer inadvertently receives the username, password or any other authentication information that would enable the employer to gain access to the employee or potential employee's personal account through the use of an otherwise lawful technology that monitors the employer's network or employer-provided electronic devices for network security or data confidentiality purposes, then the employer is not liable for having that information, unless the employer:

(1) Uses that information, or enables a third party to use that information, to access the employee or potential employee's personal account;

(2) After the employer becomes aware that that information was received, does not delete the information as soon as is reasonably practicable, unless that information is being retained by the employer in connection with an ongoing investigation of an actual or suspected breach of the computer, network or data security. Where an employer knows or, through reasonable efforts, should be aware that its network monitoring technology is likely inadvertently to receive such information, the employer shall make reasonable efforts to secure that information.

(d) Nothing in this section diminishes the authority and obligation of an employer to investigate complaints, allegations or the occurrence of sexual, racial, or other harassment as provided in this code.

(e) As used in this section, 'personal account' means an account, service or profile on a social networking website that is used by an employee or potential employee exclusively for personal communications unrelated to any business purposes of the employer."

And,

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

H. B. 4364 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated ‘21-5G-1, relating to employee personal social media; prohibiting an employer from requesting or requiring that an employee or potential employee disclose any user name, password or other authentication information for accessing a personal account; prohibiting an employer from requesting or requiring that an employee or potential employee access his or her personal account in the employer’s presence; setting forth permissible actions for an employer; specifying required action when an employer inadvertently receives an employee’s or potential

employee's username, password or other authentication information; setting forth circumstances under which an employer is liable for having that information; setting forth authority and obligation of employer to investigate complaints, allegations or the occurrence of sexual, racial or other harassment; and defining the term personal account.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 607**), 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: Moore and Upson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4364) 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. 4168, Creating a special motor vehicle collector license plate.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendment was reported by the Clerk:

On page two, section two, line ten, after the word “article”, by striking out the words “motor vehicle”.

On page two, section three, line five, by striking out the words “vehicle has been owned by the collector for thirty days or less, or the”.

On page two, section three, lines ten through twelve, by striking out all of subsection (c).

On page two, section two, after line eighteen, by adding thereto a new subsection, designated subsection (e), to read as follows:

“(e) Misuse of a motor vehicle collector plate, by intentionally or fraudulently displaying such plate in a manner inconsistent with the provisions of this article, shall be a misdemeanor punishable by a fine of not more than \$50 for a first offense and not more than \$100 for each additional offense. A motor vehicle collector plate may not be used by a car dealer or broker as defined in sections one, article six, chapter seventeen-a of this code.”

And,

On page two, after section three, by adding thereto a new section, designated section four, to read as follows:

“§17A-6F-4. Rulemaking.

The commissioner shall promulgate emergency legislative rules and legislative rules in accordance with the provisions of chapter twenty-nine-a of this code as may be necessary or convenient for the carrying out of the provisions of this article. Notwithstanding any other provisions of this code to the contrary, upon the enactment of this article in the 2016 Regular Session, the provision of this article shall govern motor vehicle collector plates: *Provided*, That the commissioner may amend existing legislative rules to carry out of the provisions of this article.”

On page one, by striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That the Code of West Virginia, 1931, as amended, be amended and reenacted by adding thereto a new article, designated §17A-6F-1, §17A-6F-2, §17A-6F-3 and §17A-6F-4, all to read as follows” and a semicolon.

And,

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

Com. Sub. for H. B. 4168 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-6F-1, §17A-6F-2, §17A-6F-3 and §17A-6F-4, all relating to creating a special motor vehicle collector license plate; defining terms; establishing requirements and fees for a motor vehicle collector license plate application and for use of such plate; creating a misdemeanor offense for violation of the article; specifying fines; and requiring emergency and legislative rulemaking.”

On motion of Delegate Cowles, the House of Delegates concurred in the Senate amendment with further amendment, on page two, section three, line five, following the subdivision designation (2) and the word “The”, by inserting the words “vehicle has been owned by the collector for thirty days or less, or the”.

On page two, section three, following line nine, by inserting a new subsection (c) to read as follows:

“(c) A collector may transfer a motor vehicle collector license plate among multiple collector motor vehicles under his or her ownership: *Provided*, That the collector operates each vehicle in compliance with the requirements of this article.”

And,

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

Com. Sub. for H. B. 4168 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-6F-1, §17A-6F-2, §17A-6F-3 and §17A-6F-4, all relating to creating a special motor vehicle collector license plate; defining terms; establishing requirements and fees for a motor vehicle collector license plate application and for use of such plate; creating a misdemeanor

offense; establishing criminal penalties; and requiring emergency and legislative rulemaking.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 608**), and there were—yeas 88, nays 10, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Eldridge, Faircloth, Folk, Hill, Ihle, Lynch, Marcum, McGeehan, J. Nelson and Summers.

Absent and Not Voting: Moore and Upson.

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. 4168) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 609**), and there were—yeas 91, nays 7, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Eldridge, Folk, Ihle, Lynch, Marcum, McGeehan and Summers.

Absent and Not Voting: Moore and Upson.

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. 4168) takes effect July 1, 2016.

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. 4186, Relating to additional duties of the Public Service Commission.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §24A-2-2b, to read as follows:

**CHAPTER 24A. MOTOR CARRIERS OF
PASSENGERS AND PROPERTY FOR HIRE.**

ARTICLE 2. COMMON CARRIERS BY MOTOR VEHICLES.

§24A-2-2b. Rule-making authority; establishing rates for recovering, towing, hauling, carrying, or storing wrecked or disabled vehicles; complaint process; and required Legislative Audit.

(a) On or before July 1, 2016, the Commission shall promulgate rules to effectuate the provisions of this article.

(b) The rules promulgated pursuant to the provisions of this section shall describe:

(1) Factors determining the fair, effective and reasonable rates levied by a carrier for recovering, towing, hauling, carrying or storing a wrecked or disabled vehicle. The commission shall consider, but shall not be limited to:

(A) Tow vehicle(s) and special equipment required to complete recovery/tow;

(B) Total time to complete the recovery or tow;

(C) Number of regular and extra employees required to complete the recovery or tow;

(D) Location of vehicle recovered or towed;

(E) Materials or cargo involved in recovery or tow;

(F) Comparison with reasonable prices in the region;

(G) Weather conditions; and

(H) Any other relevant information having a direct effect on the pricing of the recovery, towing and storage of a recovered or towed vehicle;

(2) The process for filing a complaint, the review and investigation process to ensure it is fair, effective and timely: *Provided*, That in any formal complaint against a carrier relating to a third-party tow, the burden of proof to show that the carrier's charges are just, fair and reasonable shall be upon the carrier;

(3) The process for aggrieved parties to recover the cost, from the carrier, for the charge or charges levied by a carrier for recovering, towing, hauling, carrying or storing a wrecked or disabled vehicle where the commission determines that such charge or charges are not otherwise just, fair or reasonable; and

(4) The process to review existing maximum statewide wrecker rates and special rates for the use of special equipment in towing and recovery work to ensure that rates are just, fair and reasonable: *Provided*, That the commission shall generally disapprove hourly and flat rates for ancillary equipment.

(c) All carriers regulated under this article shall list their approved rates, fares and charges on every invoice provided to an owner, operator or insurer of a wrecker or disabled motor vehicle.

(d) The rules promulgated pursuant to this article shall sunset on July 1, 2021, unless reauthorized.

(e) On or before December 31, 2020, the Legislative Auditor shall review the rules promulgated by the Public Service Commission under this section. The audit shall evaluate the rate-making policy for reasonableness, the complaint process for timeliness, the penalties for effectiveness and any other metrics the Legislative Auditor deems appropriate. The Legislative Auditor may recommend that the rule be reauthorized, reauthorized with amendment or repealed.”

And,

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

Com. Sub. for H. B. 4186 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24A-2-2b, relating to Public Service Commission; requiring the Public Service Commission promulgate rules related to rates charged by a carrier for the recovery, towing, hauling, carrying or storing of a wrecked or disabled vehicle; establishing a complaint review process; developing a process for aggrieved parties to recover charges; providing the burden of proof be on the carrier; establishing factors for Public Service Commission to consider in determining whether rates are fair, effective and reasonable; requiring carriers to list rates on invoices; providing for promulgated rules to sunset; and requiring a review of rules by the Legislative Auditor.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 610**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Moore and Upson.

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. 4186) passed.

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

On this question, the yeas and nays were taken (**Roll No. 611**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Moore and Upson.

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. 4186) 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. 4655, Prohibiting insurers, vision care plan or vision care discount plans from requiring vision care providers to provide discounts on noncovered services or materials.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §33-25E-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §33-25E-5, all to read as follows:

ARTICLE 25E. PATIENTS' EYE CARE ACT.**§33-25E-2. Definitions.**

For the purposes of this article:

(1) 'Commissioner' means the Insurance Commissioner of West Virginia.

(2) 'Covered services' and 'covered materials' means services or materials for which reimbursement from the insurer or vision care plan or vision care discount plan is available under an enrollee's vision plan or contract, or for which a reimbursement would be available but for the application of contractual limitations such as deductibles, copayments, coinsurance, waiting periods, annual or lifetime maximums, frequency limitations, alternative benefit payments or other limitations.

~~(a)~~ (3) 'Covered person' means an individual enrolled in a health benefit plan or an eligible dependent of that person.

(4) 'Enrollee' means any individual enrolled in a health care plan, vision care plan or vision care discount plan provided by a group, employer or other entity that purchases or supplies coverage for a vision care plan or vision care discount plan.

~~(b)~~ 'Eye care provider' means an optometrist or ophthalmologist licensed by the State of West Virginia.

(5) 'Eye care provider' means a licensed doctor of optometry practicing under the authority of article eight, chapter thirty of this code or a licensed medical physician specializing in ophthalmology licensed in West Virginia to practice medicine and surgery under the authority of article three, chapter thirty of this code or osteopathy under article fourteen, chapter thirty of this code.

(e) (6) 'Eye care benefits' means coverage for the diagnosis, treatment and management of eye disease and injury.

(d) (7) 'Health benefit policy' means any individual or group plan, policy or contract providing medical, hospital or surgical coverage issued, delivered, issued for delivery or renewed in this state by an insurer, after January 1, 2001. It does not include credit accident and sickness, long-term care, Medicare supplement, champus supplement, disability or limited benefits policies.

(e) (8) 'Insurer' means any health care corporation, health maintenance organization, accident and sickness insurer, nonprofit hospital service corporation, nonprofit medical service corporation or similar entity.

(9) 'Materials' means ophthalmic devices, including, but not limited to, lenses, devices containing lenses, artificial intraocular lenses, ophthalmic frames and other lens-mounting apparatus, prisms, lens treatments and coatings, contact lenses and prosthetic devices to correct, relieve or treat defects or abnormal conditions of the human eye or its adnexa.

(10) 'Services' means the professional work performed by an eye care provider.

(11) 'Subcontractor' means any company, group or third party entity, including, but not limited to, agents, servants, partially- or wholly-owned subsidiaries and controlled organizations that is contracted by the insurer, vision care plan or vision care discount plan to supply services or materials for an eye care provider or enrollee to fulfill the benefit plan of an insurer, vision care plan or vision care discount plan.

(f) (12) 'Vision care benefits' means benefits for the refraction of the eyes and other optical benefits.

(13) 'Vision care discount plan' means a business arrangement or contract offered by an insurer in which a person, in exchange for fees,

dues, charges or other consideration, offers access for its plan members to providers of eye care or ancillary services and the right to receive discounts on eye care or ancillary services provided under the discount vision care plan from those providers.

(14) ‘Vision care plan’ means an entity that creates, promotes, sells, provides, advertises or administers an integrated or stand-alone vision benefit plan, or a vision care insurance policy or contract which provides vision benefits to an enrollee pertaining to the provision of covered services or covered materials.

§33-25E-5. Noncovered discounts.

(a) An agreement between an insurer, vision care plan or vision care discount plan and an eye care provider may not seek to or require that an eye care provider provide services or materials at a fee limited or set by the insurer, vision care plan or vision care discount plan, unless the services or materials are reimbursed as covered services or covered materials under the contract.

(1) An eye care provider may not charge more for services and materials that are non-covered services or non-covered materials to an enrollee of a vision care plan, vision care discount plan or insurer than his or her usual and customary rate for the services and materials.

(2) Reimbursements paid by an insurer, vision care plan or vision care discount plan for covered services and covered materials, regardless of supplier or optical lab used to obtain materials, shall be reasonable, shall be clearly listed on a fee schedule that is made available to the eye care provider prior to accepting a contract from the insurer, vision care plan or vision discount plan and shall not provide nominal reimbursement or advertise services and materials to be covered with additional copay or coinsurance if the health plan, vision care plan or vision care discount plan does not reimburse for the services or materials in order to claim that services and materials are covered services and materials.

(3) Insurers, vision care plans and vision care discount plans shall not falsely represent, publish or disseminate the benefits that are provided to groups, employers or individual enrollees as a means of selling coverage to or communicating benefit coverage to enrollees.

(4) All provisions in this section apply to any successors in interest of an insurer, vision care plan or vision care discount plan and apply to any subcontractors that are used by an insurer, vision care plan or vision care discount plan to supply materials or services to an eye care provider or enrollee and are subject to all applicable penalties as provided in this section.

(b) An agreement between an insurer, vision care plan or vision care discount plan and an eye care provider may not require that an eye care provider must participate with or be credentialed by any specific vision care plan or vision care discount plan as a condition of participation in the health care network of the insurer to provide covered medical services to its enrollees.

(1) Any insurer issuing or renewing a health benefit plan, vision care plan or vision care discount plan issued or renewed which provides coverage for services rendered by an eye care provider shall provide the same reimbursement for services to optometrists as allowed for those services rendered by physicians or osteopaths.

(2) An insurer may not require an optometrist to meet terms and conditions that are not required of a physician or osteopath as a condition for participation in its provider network for the provision of services that are within the scope of practice of an optometrist.

(3) If an eye care provider enters into any subcontract agreement with another provider to provide covered services or covered materials to an enrollee which provides that the subcontracted provider will bill the vision care plan or enrollee directly for the subcontracted services or materials, the subcontract agreement shall meet all requirements of this section.

(4) The provisions of subdivisions (1), (2) and (3) of this subsection also apply to any agreements an insurer enters into for services covered under the health benefit plan, vision care plan or vision care discount plan.

(c) An insurer, vision care plan or vision care discount plan may not change or alter an agreement entered into with an eye care provider without performing the following steps:

(1) Mailing a certified letter detailing proposed changes to the eye care provider;

(2) Obtaining agreement or disagreement to the proposed changes from the eye care provider; and

(3) Providing a new agreement after three or more material changes are made to an existing agreement from an insurer, vision care plan or vision care discount plan.

(d) An agreement between an insurer, vision care plan or vision care discount plan and an eye care provider may not restrict or limit, either directly or indirectly, the eye care provider's choice of sources and suppliers of services or materials or use of optical labs provided by the eye care provider to an enrollee.

(e) An insurer, vision care plan or vision care discount plan may not change the terms, discounts or reimbursement rates contained in the agreement, regardless of supplier or fabricating lab used to supply materials, without a signed acknowledgement of written agreement from the eye care provider.

(f) A person or entity adversely affected by a violation of this section may bring action in a court of competent jurisdiction for injunctive relief against the insurer, vision care plan or vision care discount plan and, upon prevailing, may recover monetary damages of no more than \$1,000 for each instance found to be in violation of this section, plus attorneys' fees and costs.

(g) In a fiscal year, an insurer, vision care plan or vision care discount plan may not charge back or otherwise recoup administrative fees or other amounts from an eye care provider in a total amount of more than three percent of the payments received by the eye care provider from the insurer, vision care plan or vision care discount plan for providing services to enrollees without the written agreement of the eye care provider.

(h) The Commissioner may seek an injunction against an insurer, vision care plan or vision care discount plan in a court of competent jurisdiction for violation of this section.

(i) The requirements of this section apply to insurers, vision care plans, vision care discount plans, contracts, addendums and certificates executed, delivered, issued for delivery, continued or renewed in the State of West Virginia.

(1) An insurer, vision care plan or vision care discount plan contract may not be in effect for more than two years from the date that it was first signed.

(2) An insurer, vision care plan or vision care discount plan may not construe recredentialing as recontracting with an eye care provider.

(j) An insurer, vision care plan or vision care discount plan may not discriminate against any eye care provider who is located within the geographic coverage area of the insurer, vision care plan or vision care discount plan and who is willing to meet the terms and conditions for participation established by the insurer, vision care plan or vision care discount plan, including West Virginia Medicaid programs and Medicaid partnerships.

(k) This section becomes effective on July 1, 2016, and applies to vision care plans and vision care discount plans which take effect or are renewed on or after July 1, 2016.”

And,

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

H. B. 4655 — “A Bill to amend and reenact §33-25E-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-25E-5, all relating to vision care insurance, benefit and discount plans; defining terms; prohibiting requirement that eye care providers give discounts on noncovered services or materials; prohibiting eye care providers from charging more to enrollees for noncovered services than the customary rate; requiring reasonable reimbursements, requiring fee schedule and stating that plans may not provide for nominal reimbursements in order to claim that a service or material is covered; prohibiting plans from falsely representing benefits; specifying application to subcontractors; prohibiting the requirement that eye care providers be credentialed through a designated vision plan as a condition of participation in a health care network; providing pay parity for optometrists and ophthalmologists; providing that optometrists and ophthalmologists be held to the same credentialing standards; setting forth requirements for alterations to and content of eye care provider agreements; requiring that eye care providers be permitted to use any lab or supplier; creating a private right of action for persons or entities adversely affected, including injunctive relief, specifying damages and providing for attorney fees and costs; placing limits on chargebacks of administrative fees and other recoupments; authorizing suits for injunctions by Insurance Commissioner; prohibiting discrimination against a provider based on geographic location of the eye care provider; and providing effective date.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 612**), and there were—yeas 91, nays 6, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Azinger, Fleischauer, Folk, Ihle, McGeehan and Shaffer.

Absent and Not Voting: Moore, Morgan and Upson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4655) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, to take effect from passage, of

S. B. 702, Allowing title of real estate to pass to individuals entitled to sale proceeds if executor fails to do so within 5 years of closing estate.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House concurred in the Senate amendments to the House amendments, as follows:

On page one, section one, by striking out all of the proviso and inserting in lieu thereof the following proviso: “*Provided*, That title to real estate which is devised to be sold shall pass to the individuals entitled to receive the proceeds thereof in such proportions as they are entitled to receive said proceeds absent any contrary testamentary intent upon the closing of the testator’s estate or, if the estate is not closed, five years after the death of the testator.”

And,

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

S. B. 702 — “A Bill to amend and reenact §44-8-1 of the Code of West Virginia, 1931, as amended, relating to providing that, in instances where real estate, or an interest therein, is devised to be sold and the proceeds thereof distributed, title to said real estate passes to those individuals entitled to receive the proceeds of sale if the personal

representative of the estate does not do so upon the closing of the estate or if the estate is not closed five years after the death of the testator.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 613**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Moore and Upson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 702) 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 a title amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4659, Authorizing local health departments to bill health insurance plans for services.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for H. B. 4659 — “A Bill to amend and reenact §16-2-11 of the Code of West Virginia, 1931, as amended, relating to local health departments; and authorizing local health departments to bill for medical services without obtaining approval from the commissioner and allowing billing to be at a payor’s maximum allowable rate.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 614**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

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. 4659) 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. 4261, Prohibiting the sale or transfer of student data to vendors and other profit making entities.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page five, section five-h, lines ninety-five through one hundred one, by striking out all of paragraph (H) and inserting in lieu thereof a new paragraph, designated paragraph (H), to read as follows:

“(H) In the event that the ACT or the SAT tests are adopted for use as the state summative assessment, nothing in this article prevents the ACT or the College Board from using a student’s assessment results and necessary directory or other permissible information under this Act. If information classified as confidential is required, the ACT, SAT or College Board shall obtain affirmative written consent from the student if the student is eighteen years of age or older, or from the student’s parent or guardian if the student is under eighteen years of age. The consent shall contain a detailed list of confidential information required and the purpose of its requirement.”

And,

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

Com. Sub. for H. B. 4261 — “A Bill to amend and reenact §18-2-5h of the Code of West Virginia, 1931, as amended, relating to

student data; prohibiting the West Virginia Department of Education from transferring confidential student information or certain redacted data to any federal, state or local agency or other person or entity; establishing exception when the department enters into a contract that governs student or redacted data with a contractor for the purposes of state level reporting; establishing exception that, in the event the ACT or the SAT tests are adopted as the state summative assessment, allows the ACT or the College Board to use a certain information; requiring written consent if information classified as confidential is required; and requiring consent contain a detailed list of confidential information required and the purpose of its requirement.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 615**), 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: Moore.

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. 4261) 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 a title amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4507, Providing an employer may grant preference in hiring to a veteran or disabled veteran.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for H. B. 4507 – “A Bill to amend and reenact §5-11-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §5-11-9a, all relating to granting preference in hiring to veteran or disabled veteran; defining ‘veteran’; providing that veteran or disabled veteran meet knowledge, skill and eligibility requirements of job; and clarifying that preference does not violate state equal employment opportunity law.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 616**), 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: Moore.

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. 4507) 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. 4295, Relating to the School Innovation Zones Act.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page three, section one, line six, by striking out the word “and”.

On page three, section one, line seven, after the word “pathways”, by changing the comma to a semicolon and inserting the following:

“and

(5) The arts.”

On page four, section two, line six, by striking out the word “and”.

On page four, section two, line seven, after the word “pathways”, by changing the comma to a semicolon and inserting the following:

“and

(5) The arts.”

On page four, section two, line ten, by striking out the words “entrepreneurship or career pathways” and inserting in lieu thereof the words “entrepreneurship, career pathways or the arts”.

On page five, section three, line two, by striking out the words “entrepreneurship or career pathways” and inserting in lieu thereof the words “entrepreneurship, career pathways or the arts”.

On page five, section three, line six, by striking out the word “In” and inserting in lieu thereof the word “in”.

On page five, section three, line seven, by striking out the words “entrepreneurship or career pathways” and inserting in lieu thereof the words “entrepreneurship, career pathways or the arts”.

On page five, section three, line fifteen, by striking out the words “as a as a” and inserting in lieu thereof the words “as a”.

On page five, section three, lines sixteen and seventeen, by striking out the words “(i) Science, technology, engineering and math (STEM); (ii) community school partnership; (iii) entrepreneurship; or (iv) career pathways” and inserting in lieu thereof the words “which may include (i) Science, technology, engineering and math (STEM); (ii) community school partnership; (iii) entrepreneurship; (iv) career pathways; or (v) the arts”.

On page six, section three, line twenty-three, after the word “articulation”, by inserting the word “of”.

On page seven, section four, line two, by striking out the words “entrepreneurship or career pathways” and inserting in lieu thereof the words “entrepreneurship, career pathways or the arts”.

On page eight, section four, line nineteen, after the word “other”, by striking out the word “assessment” and inserting in lieu thereof the word “assessments”.

On page eight, section four, lines twenty-two through twenty-four, by striking out all of paragraphs (F) and (G) and inserting in lieu thereof a new paragraph, designated paragraph (F), to read as follows:

“(F) Progress among subgroups of students, including, but not limited to, low-income students and students receiving special education” and a semicolon.

And,

By relettering the remaining paragraphs.

On page eight, section four, line forty-one, by striking out the words “rule, policy or statute exemptions” and inserting in lieu thereof the words “exemptions to rule, policy or statute”.

On page nine, section five, line sixteen, by striking out the word “goal” and inserting in lieu thereof the word “goals”.

On page eleven, section six, line twenty-three, by striking out the words “innovation in education plan” and inserting in lieu thereof the words “Innovation in Education Plan”.

And,

On page twelve, section six, line thirty-three, by striking out the word “or”.

And,

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

Com. Sub. for H. B. 4295 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5B-14; and to amend said code by adding thereto a new article, designated §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5, §18-5E-6 and §18-5E-7, all relating to education innovation; terminating funding for Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones; setting forth purpose of Innovation in Education Act; defining Innovation in Education school; allowing incorporation of more than one of certain attributes into an Innovation in Education school’s program design; setting forth certain requirements for Innovation in Education school; authorizing soliciting, accepting and expending gifts, donations and grants with certain limits; authorizing State Board of Education designation of Innovation in Education school; requiring state board rule for implementation and authorizing emergency rule if necessary; requiring rule to include certain provisions pertaining to the application process, minimum contents of the application, and the process by which the state board will review performance and student success, reaffirm or reconsider designation, and identify exemplary schools; allowing state board to provide for West Virginia Department of Education to independently assess applicants; setting forth requirements applicable to the state board when making a designation determination; setting forth items that Innovation in Education Plan must include; requiring operational agreement between school principal and county board of education; specifying minimum contents of operational agreement; requiring performance report on and evaluations of Innovation in Education school; allowing county superintendent to make certain recommendations to the county board and state board in the evaluation; allowing the state board to take certain actions based on the county superintendent’s evaluation and a data analysis conducted by the Department one of which is the termination of the Innovation in Education designation in certain instances; and creating Innovation in Education Fund.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 617**), 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: Moore.

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. 4295) 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. 4724, Relating to adding a requirement for the likelihood of imminent lawless action to the prerequisites for the crime of intimidation and retaliation.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 5. CRIMES AGAINST PUBLIC JUSTICE.

§61-5-27. Intimidation of and retaliation against public officers and employees, jurors and witnesses; fraudulent official proceedings and legal processes against public officials and employees; 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) *Subsection (b) offense.* — A person who is convicted of an offense under subsection (b) is guilty of a misdemeanor and shall be confined in jail for not more than one year or fined not more than \$1,000, or both.

(e) *Subsection (c) or subsequent offense.* — A person convicted of an offense under subsection (c) or a second offense under subsection (b) is guilty of a felony and, shall be confined in ~~the penitentiary~~ a correctional facility not less than one nor more than ten years or fined not more than \$2,000, or both.

(f) *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.

(g) *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.

(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 twenty-one 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 for 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.

(h) 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.

(i)(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.

(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.”

And,

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

H. B. 4724 – “A Bill to amend and reenact §61-5-27 of the Code of West Virginia, 1931, as amended, relating to adding a requirement for the likelihood of imminent lawless action of a violent nature that could cause bodily harm to the prerequisites for the crime of intimidation and retaliation.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 618**), 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: Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4724) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, to take effect from passage, of

Com. Sub. for S. B. 404, Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendment to the House of Delegates amendment:

On page seven, section two, subsection (h), subdivision (13), after the word “state”, by inserting the words “or the victim”.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 619**), 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: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 404) passed.

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 the adoption of the report of the Committee of Conference on, and the passage, as amended by said report, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 283, Creating crime when fire is caused by operation of a clandestine drug laboratory.

Conference Committee Report

Delegate Weld, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for S. B. 283, Creating crime when fire is caused by operation of a clandestine drug laboratory,

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 House to Engrossed Committee Substitute for Senate Bill 283 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the House of Delegates, striking out everything after the enacting clause, and agree to the same as follows:

That §60A-4-411 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. OFFENSES AND PENALTIES.

§60A-4-411. Operating or attempting to operate clandestine drug laboratories; offenses; penalties.

(a) Any person who operates or attempts to operate a clandestine drug laboratory is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than two years nor more than ten years or fined not less than \$5,000 nor more than \$25,000, or both.

(b) Any person who operates or attempts to operate a clandestine drug laboratory and who as a result of, or in the course of doing so, causes to be burned any dwelling, outbuilding, building or structure of any class or character is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000, or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

~~(b)~~ (c) For purposes of this section, a “clandestine drug laboratory” means any property, real or personal, on or in which a person assembles any chemicals or equipment or combination thereof for the purpose of manufacturing methamphetamine, methylenedioxymethamphetamine or lysergic acid diethylamide in violation of the provisions of section four hundred one of this article.

(d) The offenses in subsections (a) and (b) of this section are separate and distinct offenses, and subsection (a) shall not be construed to be a lesser included offense of subsection (b).

(e) For purposes of W.Va. Code §60A-2-1, both subsection (a) and (b) of this section shall be deemed qualifying felony offenses of manufacturing and delivery of a controlled substance.

(e) (f) Any person convicted of a violation of subsection (a) or (b) of this section shall be responsible for all reasonable costs, if any, associated with remediation of the site of the clandestine drug laboratory.

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Com. Sub. for S. B. 283 – “A Bill to amend and reenact §60A-4-411 of the Code of West Virginia, 1931, as amended, relating to creating a crime of causing the burning of a dwelling, outbuilding, building or other structure while operating or attempting to operate a clandestine drug laboratory; establishing criminal penalties; clarifying the offense as a separate and distinct offense from operation or attempted operation of a clandestine drug laboratory; making clear that the operation or attempted operation of a clandestine drug lab is not a lesser included offense; providing that the offenses are qualifying felony offenses of manufacturing and delivery of a controlled substance for purposes of first degree murder; and providing for payment of all reasonable costs, if any, associated with remediation of the site of the clandestine drug laboratory upon conviction.”

Respectfully submitted,

Ryan J. Ferns,
Greg Boso,
Mike Woelfel,

Ryan Weld,
Kelli Sobonya,
Steve Shaffer,

*Conferees on the part
of the Senate.*

*Conferees on the part
the House of Delegates.*

On motion of Delegate Weld, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 620**), and there were—yeas 92, nays 1, absent and not voting 7, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Faircloth, Flanigan, Moore, Sponaugle, Trecost, Westfall and B. White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 283) passed.

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 the adoption of the report of the Committee of Conference on, and the passage, as amended by said report, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 13, Increasing penalties for overtaking and passing stopped school buses.

Conference Committee Report

Delegate Hanshaw, from the Committee of Conference on matters of disagreement between the two houses, as to

S. B. 13, Increasing penalties for overtaking and passing stopped school buses,

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Committee

Substitute for Senate Bill 13 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

That §17C-12-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 12. SPECIAL STOPS REQUIRED.

§17C-12-7. Overtaking and passing school bus; penalties; signs and warning lights upon buses; requirements for sale of buses; mounting of cameras; educational information campaign; limitation on idling.

(a) The driver of a vehicle, upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children, shall stop the vehicle before reaching the school bus when there is in operation on the school bus flashing warning signal lights, as referred to in section eight of this article, and the driver may not proceed until the school bus resumes motion, or is signaled by the school bus driver to proceed or the visual signals are no longer actuated. This section applies wherever the school bus is receiving or discharging children including, but not limited to, any street, highway, parking lot, private road or driveway: *Provided*, That the driver of a vehicle upon a controlled access highway need not stop upon meeting or passing a school bus which is on a different roadway or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

(b) Any driver acting in violation of subsection (a) of this section is guilty of a misdemeanor and, upon conviction for a first offense, shall be fined not less than ~~\$150~~ \$250 or more than \$500, or confined in jail not more than six months, or both fined and confined. Upon

conviction of a second violation of subsection (a), the driver shall be fined not less than \$500 nor more than \$1,000, or confined in jail not more than six months, or both fined and confined. Upon conviction of a third or subsequent violation of subsection (a), the driver shall be fined ~~\$500~~ \$1,000, and confined not less than ~~twenty-four~~ forty-eight hours in jail but not more than six months.

(c) Where the actual identity of the operator of a motor vehicle operated in violation of subsection (a) of this section is unknown but the license plate number of the motor vehicle is known, it may be inferred that the operator was an owner or lessee of the motor vehicle for purposes of the probable cause determination. Where there is more than one registered owner or lessee, the inference created by this subsection shall apply to the first listed owner or lessee as found on the motor vehicle registration: *Provided*, That a person charged with a violation of subsection (a) of section under the provisions of this subsection where the sole evidence against the owner or lessee is the presence of the vehicle at the scene at the time of the offense shall only be subject to the applicable fine set forth in subsection (b) of this section upon conviction: *Provided, however*, That, the offenses set forth in subsection (f) and (g) of this section are separate and distinct from that set forth in subsection (a) of this section.

(d) Service of process of a complaint issued pursuant to subsection (c) of this section shall be effected consistent with West Virginia Rule of Criminal Procedure 4.

~~(e)~~(e) In addition to the penalties prescribed in subsections (b) of this section, the Commissioner of Motor Vehicles shall, upon conviction, suspend the driver's license of the person so convicted:

(1) Of a first offense under subsection (b) of this section, for a period of thirty days;

(2) Of a second offense under subsection (b) of this section, for a period of ninety days; or

(3) Of a third or subsequent offense under subsection (b) of this section, for a period of one hundred ~~and~~ eighty days.

~~(d)~~(f) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this section and the violation causes serious bodily injury to any person other than the driver, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility not less than one year nor more than three years and fined not less than \$500 nor more than \$2,000.

~~(e)~~(g) Any driver of a vehicle who willfully violates the provisions of subsection (a) of this section, and the violation causes death, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility not less than one year nor more than ten years and fined not less than \$1,000 nor more than \$3,000.

~~(f)~~(h) Every bus used for the transportation of school children shall bear upon the front and rear of the bus a plainly visible sign containing the words "school bus" in letters not less than eight inches in height. When a contract school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school, all markings on the contract school bus indicating "school bus" shall be covered or concealed. Any school bus sold or transferred to another owner by a county board of education, agency or individual shall have all flashing warning lights disconnected and all lettering removed or permanently obscured, except when sold or transferred for the transportation of school children.

~~(g)~~(i) Every county board of education is hereby authorized to mount a camera on any school bus for the purpose of enforcing this section or for any other lawful purpose.

~~(h)~~(j) To the extent that state, federal or other funds are available, the State Police shall conduct an information campaign to educate drivers concerning the provisions of this section and the importance of school bus safety.

(†)(k) The State Board of Education shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code governing the idling of school buses.

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Com. Sub. for S. B. 13 – “A Bill to amend and reenact §17C-12-7 of the Code of West Virginia, 1931, as amended, relating to offense of overtaking and passing school bus stopped for the purpose of receiving and discharging children; creating rebuttable inference for charging purposes that registered owner or lessee was operating vehicle in the event that the driver of the passing vehicle cannot be ascertained at time of alleged offense; limiting penalty for violation to a fine where identity of operator is unknown; increasing certain penalties; clarifying that service of process is pursuant to West Virginia Rule of Criminal Procedure 4 where the vehicle is involved in violation, but identity of operator is not determined at the scene; and clarifying that offenses set forth in this section are separate and distinct from each other.”

Respectfully submitted,

Mitch Carmichael,
Bob Ashley,
Jeff Kessler,

Roger Hanshaw,
Lynwood Ireland,
Andrew Byrd,

*Conferees on the part
of the Senate.*

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

On motion of Delegate Hanshaw, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 621**), and there were—yeas 96, nays 1, absent

and not voting 3, with the nays and absent and not voting being as follows:

Nays: Azinger.

Absent and Not Voting: Moore, Sponaugle and B. White.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 13) passed.

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

Conference Committee Report

Delegate Azinger, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 4174, Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house.

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendment of the Senate to Engrossed Committee Substitute for House Bill 4174 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting section, and agree to the same as follows:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-58. Shooting across road or near building or crowd; penalty.

(a) In addition to any other prohibitions which may exist by law, it shall be unlawful for any person to shoot or discharge any firearms;

(1) Across or in any public road in this state, at any time;

(2) Within five hundred feet of any school or church; or

(3) Within five hundred feet of any dwelling house: *Provided*, That a person who is a resident of a dwelling house, and his or her authorized guest, may shoot or discharge a firearm in a lawful manner within five hundred feet of the dwelling house where the person lives, if the firearm is being discharged with the express or implied knowledge and consent of all residents of that dwelling house, and no other dwelling houses are located within five hundred feet of where the firearm is discharged; or

(4) ~~On~~ In or near any state, county or municipal park in areas of which the discharge of firearms is prohibited or other place where persons gather for purposes of pleasure.

(b) Any person violating 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 for not more than one hundred days, or both fined and confined.

~~(b)~~ (c) Notwithstanding the provisions of subsection (a) of this section, any person operating a gun repair shop, licensed to do business in the State of West Virginia and duly licensed under applicable federal statutes, may be exempted from the prohibition established by this section and section twelve, article seven, chapter sixty-one of this code for the purpose of test firing a firearm. The director of the Division of Natural Resources shall prescribe such rules as may be necessary to carry out the purposes of the exemption under this section and section twelve, article seven, chapter sixty-one and shall ensure that any person residing in any dwelling home within five hundred feet of such gun

repair shop be given an opportunity to protest the granting of such exemption.

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

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 6. CRIMES AGAINST THE PEACE.

§61-6-23. Shooting range; limitations on nuisance actions.

(a) As used in this section:

(1) “Person” means an individual, proprietorship, partnership, corporation, club or other legal entity;

(2) “Shooting range” or “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 range was established as of the date of the person acquiring the property. If there is a substantial change in use of the range or there is a period of shooting inactivity at a range exceeding one year after the person acquires the property, 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 range, or the resumption of shooting activity.

(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 range only if the action is brought within ~~four~~ two years after establishment of the range

or two years after a substantial change in use of the range or from the time shooting activity is resumed.

~~(d) If there has been no shooting activity at a range for a period of two years, resumption of shooting is considered establishment of a new range for the purposes of this section. Actions authorized by the provisions of this section are not applicable to indoor shooting ranges the owner or operator of which holds all necessary and required licenses and the shooting range is in compliance with all applicable state, county and municipal laws, rules or ordinances regulating the design and operation of such facilities.~~

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Com. Sub. for H. B. 4174 – “A Bill to amend and reenact §20-2-58 of the Code of West Virginia, 1931, as amended; and to amend and reenact §61-6-23 of said code, all relating to shooting ranges generally; exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house; amending the definition of ‘shooting range’ to include an indoor range otherwise lawfully compliant; exempting activity at indoor shooting ranges from criminal penalties for violations for shooting or discharging a firearm within five hundred feet of any church or dwelling house; modifying and clarifying the limitations on nuisance actions against shooting ranges; and exempting indoor shooting ranges which have necessary licenses and are compliant with applicable laws, rules or ordinance from nuisance law.”

Respectfully submitted,

Mike Azinger,
Geoff Foster,

Bob Ashley,
Sue Cline,

Clif Moore, (Did not sign) <i>Conferees on the part of the House of Delegates.</i>	Bob Beach, Conferees on the part <i>of the Senate.</i>
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On motion of Delegate Azinger, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was put upon its passage.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 622**), 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: Moore and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4174) passed.

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

At 9:27 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 9:45 p.m.

Conference Committee Report

Delegate Lane, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 4013, Requiring a person desiring to vote to present documentation identifying the voter.

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Committee Substitute for House Bill 4013 having met, after full and free

conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate striking out everything following the enacting clause and inserting new language, and agree to the same as follows:

“That §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §3-1-51; that §3-2-11 and §3-2-12 of said code be amended and reenacted; and that §17B-2-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 3. ELECTIONS.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-34. Voting procedures generally; identification; assistance to voters; voting records; penalties.

(a) ~~Any~~ A person desiring to vote in an election shall, upon entering the election room, clearly state his or her name and residence to one of the poll clerks who shall thereupon announce the same in a clear and distinct tone of voice. For elections occurring on or after January 1, 2018, the person desiring to vote shall present to one of the poll clerks a valid identifying document meeting the requirements of subdivisions (1) or (2) of this subsection, and the poll clerk shall inspect and confirm that the name on the valid identifying document conforms to the name in the individual’s voter registration record and that, if the valid identifying document contains a photograph, the image displayed is truly an image of the person presenting the document. If that person is found to be duly registered as a voter at that precinct, he or she shall sign his or her name in the designated location provided at the precinct. If that person is physically or otherwise unable to sign his or her name, his or her mark shall be affixed by one of the poll clerks in the presence of the other and the name of the poll clerk affixing the

voter's mark shall be indicated immediately under the affixation. No ballot may be given to the person until he or she signs his or her name on the designated location or his or her signature is affixed thereon.

(1) A document shall be deemed to be a valid identifying document if it:

(A) Has been issued either by the State of West Virginia, or one of its subsidiaries, or by the United States Government; and

(B) Contains the name of the person desiring to vote.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, the following documents, if they contain the voter's name, shall be considered valid identifying documents, and a person desiring to vote may produce any of the following:

(A) A valid West Virginia driver's license or valid West Virginia identification card issued by the West Virginia Division of Motor Vehicles;

(B) A valid driver's license issued by a state other than the State of West Virginia;

(C) A valid United States passport or passport card;

(D) A valid employee identification card with a photograph of the eligible voter issued by any branch, department, agency, or entity of the United States Government or of the State of West Virginia, or by any county, municipality, board, authority, or other political subdivision of West Virginia;

(E) A valid student identification card with a photograph of the eligible voter issued by an institution of higher education in West Virginia, or a valid high school identification card issued by a West Virginia high school;

(F) A valid military identification card issued by the United States with a photograph of the person desiring to vote;

(G) A valid concealed carry (pistol/revolver) permit issued by the sheriff of the county with a photograph of the person desiring to vote;

(H) A valid Medicare card or Social Security card;

(I) A valid birth certificate;

(J) A valid voter registration card issued by a county clerk in the State of West Virginia;

(K) A valid hunting or fishing license issued by the State of West Virginia;

(L) A valid identification card issued to the voter by the West Virginia Supplemental Nutrition Assistance (SNAP) program;

(M) A valid identification card issued to the voter by the West Virginia Temporary Assistance for Needy Families (TANF) program;

(N) A valid identification card issued to the voter by West Virginia Medicaid;

(O) A valid bank card or valid debit card;

(P) A valid utility bill issued within six months of the date of the election;

(Q) A valid bank statement issued within six months of the date of the election; or

(R) A valid health insurance card issued to the voter.

(3) In lieu of providing a valid identifying document, as required by this section, a registered voter may be accompanied at the polling place by an adult known to the registered voter for at least six months. That adult may sign an affidavit on a form provided to clerks and poll workers by the Secretary of State, which states under oath or affirmation that the adult has known the registered voter for at least six months, and that in fact the registered voter is the same person who is

present for the purpose of voting. For the affidavit to be considered valid, the adult shall present a valid identifying document with his or her name, address, and photograph.

(4) A poll worker may allow a voter, whom the poll worker has known for at least six months, to vote without presenting a valid identifying document.

(5) If the person desiring to vote is unable to furnish a valid identifying document, or if the poll clerk determines that the proof of identification presented by the voter does not qualify as a valid identifying document, the person desiring to vote shall be permitted to cast a provisional ballot after executing an affidavit affirming his or her identity pursuant to paragraph (B) of this subdivision.

(A) The provisional ballot is entitled to be counted once the election authority verifies the identity of the individual by comparing that individual’s signature to the current signature on file with the election authority and determines that the individual was otherwise eligible to cast a ballot at the polling place where the ballot was cast.

(B) The affidavit to be used for voting shall be substantially in the following form:

“State of West Virginia

County of

I do solemnly swear (or affirm) that my name is; that I reside at.....; and that I am the person listed in the precinct register under this name and at this address.

I understand that knowingly providing false information is a violation of law and subjects me to possible criminal prosecution.

.....

Signature of voter

Subscribed and affirmed before me this day of
....., 20....

.....

Name of Election Official

.....

Signature of Election Official”.

(6) A voter who votes in person at a precinct polling place that is located in a building which is part of a state licensed care facility where the voter is a resident is not required to provide proof of identification as a condition before voting in an election.

(7) The person entering voter information into the centralized voter registration database shall cause the records to indicate when a voter has not presented a valid identifying document and has executed a voter identity affidavit.

(8) If a voter participating in the Address Confidentiality Program established by section one hundred three, article twenty-eight-a, chapter forty-eight of this code, executes a voter identity affidavit, the program participant’s residential or mailing address is subject to the confidentiality provisions of section one hundred eight, article twenty-eight-a, chapter forty-eight of this code and shall be used only for those statutory and administrative purposes authorized by this section.

(9) Prior to the primary and general elections to be held in calendar year 2018, the Secretary of State shall educate voters about the requirement to present a valid identifying document and develop a program to help ensure that all eligible voters are able to obtain a valid identifying document.

(b) The clerk of the county commission is authorized, upon verification that the precinct at which a handicapped person is registered to vote is not handicap accessible, to transfer that person's registration to the nearest polling place in the county which is handicap accessible. A request by a handicapped person for a transfer of registration must be received by the county clerk no later than thirty days prior to the date of the election. Any A handicapped person who has not made a request for a transfer of registration at least thirty days prior to the date of the election may vote a provisional ballot at a handicap accessible polling place in the county of his or her registration. If during the canvass the county commission determines that the person had been registered in a precinct that is not handicap accessible, the voted ballot, if otherwise valid, shall be counted. The handicapped person may vote in the precinct to which the registration was transferred only as long as the disability exists or the precinct from which the handicapped person was transferred remains inaccessible to the handicapped. To ensure confidentiality of the transferred ballot, the county clerk processing the ballot shall provide the voter with an unmarked envelope and an outer envelope designated "provisional ballot/handicapped voter". After validation of the ballot at the canvass, the outer envelope shall be destroyed and the handicapped voter's ballot shall be placed with other approved provisional ballots prior to removal of the ballot from the unmarked envelope.

(c) When the voter's signature is properly marked and the voter has presented a valid identifying document, the two poll clerks shall sign their names in the places indicated on the back of the official ballot and deliver the ballot to the voter to be voted by him or her without leaving the election room. If he or she returns the ballot spoiled to the clerks, they shall immediately mark the ballot "spoiled" and it shall be preserved and placed in a spoiled ballot envelope together with other spoiled ballots to be delivered to the board of canvassers and deliver to the voter another official ballot, signed by the clerks on the reverse side. The voter shall thereupon retire alone to the booth or compartment prepared within the election room for voting purposes

and there prepare his or her ballot. In voting for candidates in general and special elections, the voter shall comply with the rules and procedures prescribed in section five, article six of this chapter.

(d) It is the duty of a poll clerk, in the presence of the other poll clerk, to indicate by a check mark, or by other means, inserted in the appropriate place on the registration record of each voter the fact that the voter voted in the election. In primary elections the clerk shall also ~~insert thereon~~ on the registration record of each voter a distinguishing initial or initials of the political party for whose candidates the voter voted. If a person is challenged at the polls, the challenge shall be indicated by the poll clerks on the registration record, together with the name of the challenger. The subsequent removal of the challenge shall be recorded on the registration record by the clerk of the county commission.

(e) (1) No voter may receive any assistance in voting unless, by reason of blindness, disability, advanced age or inability to read and write, that voter is unable to vote without assistance. Any voter so qualified to receive assistance in voting ~~under the provisions of this section~~ may:

(A) Declare his or her choice of candidates to an Election Commissioner of each political party who, in the presence of the voter and in the presence of each other, shall prepare the ballot for voting in the manner ~~hereinbefore~~ provided in this section and, on request, shall read to the voter the names of the candidates selected on the ballot;

(B) Require the Election Commissioners to indicate to him or her the relative position of the names of the candidates on the ballot, ~~whereupon~~ the voter shall then retire to one of the booths or compartments to prepare his or her ballot in the manner ~~hereinbefore~~ provided in this section;

(C) Be assisted by any person of the voter's choice, other than the voter's present or former employer or agent of that employer, the officer or agent of a labor union of which the voter is a past or present

member or a candidate on the ballot or an official write-in candidate;
or

(D) If he or she is handicapped, vote from an automobile outside the polling place or precinct by the absentee balloting method provided in subsection (e), section five, article three of this chapter in the presence of an Election Commissioner of each political party if all of the following conditions are met:

- (i) The polling place is not handicap accessible; and
- (ii) No voters are voting or waiting to vote inside the polling place.

(2) The voted ballot shall then be returned to the precinct officials and secured in a sealed envelope to be returned to the clerk of the county commission with all other election materials. The ballot shall then be tabulated using the appropriate method provided in section eight of this chapter as it relates to the specific voting system in use.

(3) ~~Any~~ A voter who requests assistance in voting but who is believed not to be qualified for assistance under the provisions of this section shall nevertheless be permitted to vote a provisional ballot with the assistance of any person herein authorized to render assistance.

(4) ~~Any~~ One or more of the Election Commissioners or poll clerks in the precinct may challenge the ballot on the ground that the voter ~~thereof~~ received assistance in voting it when in his, her or their opinion the person who received assistance in voting is not so illiterate, blind, disabled or of such advanced age as to have been unable to vote without assistance. The Election Commissioner or poll clerk or commissioners or poll clerks making the challenge shall enter the challenge and ~~reason therefor~~ the reason for such challenge on the form and in the manner prescribed or authorized by article three of this chapter.

(5) An Election Commissioner or other person who assists a voter in voting:

(A) May not in any manner request or seek to persuade or induce the voter to vote ~~any~~ a particular ticket or for ~~any~~ a particular candidate or for or against any public question and must not keep or make any memorandum or entry of anything occurring within the voting booth or compartment and must not, directly or indirectly, reveal to any person the name of ~~any~~ a candidate voted for by the voter, ~~or~~ which ticket he or she had voted or how he or she had voted on any public question or anything occurring within the voting booth, ~~or~~ compartment, or voting machine booth except when required pursuant ~~to~~ by law to give testimony as to the matter in a judicial proceeding; and

(B) Shall sign a written oath or affirmation before assisting the voter on a form prescribed by the Secretary of State stating that he or she will not override the actual preference of the voter being assisted, attempt to influence the voter's choice or mislead the voter into voting for someone other than the candidate of voter's choice. The person assisting the voter shall also swear or affirm that he or she believes that the voter is voting free of intimidation or manipulation. ~~Provided, That~~ No person providing assistance to a voter is required to sign an oath or affirmation where the reason for requesting assistance is the voter's inability to vote without assistance because of blindness as defined in section three, article fifteen, chapter five of this code and the inability to vote without assistance because of blindness is certified in writing by a physician of the voter's choice and is on file in the office of the clerk of the county commission.

(6) In accordance with instructions issued by the Secretary of State, the clerk of the county commission shall provide a form entitled "list of assisted voters", ~~the form of which list shall likewise be~~ on a form as prescribed by the Secretary of State. The commissioners shall enter the name of each voter receiving assistance in voting the ballot, together with the poll slip number of that voter and the signature of the person or the commissioner from each party who assisted the voter. If no voter has been assisted in voting, the commissioners shall ~~likewise~~ make and subscribe to an oath of that fact on the list.

(f) After preparing the ballot, the voter shall fold the ballot ~~so that~~ the face is not exposed and so that the names of the poll clerks ~~thereon~~ on it are seen. The voter shall announce his or her name and present his or her ballot to one of the commissioners who shall hand the same to another commissioner, of a different political party, who shall deposit it in the ballot box if the ballot is the official one and properly signed. The commissioner of election may inspect every ballot before it is deposited in the ballot box to ascertain whether it is single; but without unfolding or unrolling it so as to disclose its content. When the voter has voted, he or she shall retire immediately from the election room and beyond the sixty-foot limit ~~thereof and may~~ and not return except by permission of the commissioners.

(g) Following the election, the oaths or affirmations required by this section from those assisting voters, together with the “list of assisted voters”, shall be returned by the Election Commissioners to the clerk of the county commission along with the election supplies, records and returns. The clerk of the county commission shall make the oaths, affirmations and list available for public inspection and ~~shall~~ preserve them for a period of twenty-two months or until disposition is authorized or directed by the Secretary of State or court of record. ~~Provided, That~~ The clerk may use these records to update the voter registration records in accordance with subsection (d), section eighteen, article two of this chapter.

(h) Any person making an oath or affirmation required under the provisions of this section who knowingly swears falsely or any person who counsels, advises, aids or abets another in the commission of false swearing under this section, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 or confined in jail for a period of not more than one year, or both fined and confined.

(i) Any Election Commissioner or poll clerk who authorizes or provides unchallenged assistance to a voter when the voter is known to the Election Commissioner or poll clerk not to require assistance in voting, is guilty of a felony and, upon conviction thereof, shall be fined

not more than \$5,000 or imprisoned in a state correctional facility for a period of not less than one year nor more than five years, or both fined and imprisoned.

§3-1-41. Challenged and provisional voter procedures; counting of provisional voters' ballots; ballots of election officials.

(a) It is the duty of the members of the receiving board, jointly or severally, to challenge the right of any person requesting a ballot to vote in any election:

(1) If the person's registration record is not available at the time of the election;

(2) If the signature written by the person in the poll book does not correspond with the signature purported to be his or hers on the registration record;

(3) If the registration record of the person indicates any other legal disqualification; or

(4) If the person fails to present a valid identifying document pursuant to section thirty-four of this article; or

~~(4)~~(5) If any other valid challenge exists against the voter pursuant to section ten, article three of this chapter.

(b) Any person challenged shall nevertheless be permitted to vote in the election. He or she shall be furnished an official ballot not endorsed by the poll clerks. In lieu of the endorsements, the poll clerks shall complete and sign an appropriate form indicating the challenge, the reason thereof and the name or names of the challengers. The form shall be securely attached to the voter's ballot and deposited together with the ballot in a separate box or envelope marked "provisional ballots".

(c) At the time that an individual casts a provisional ballot, the poll clerk shall give the individual written information stating that an

individual who casts a provisional ballot will be able to ascertain under the free access system established in this section whether the vote was counted and, if the vote was not counted, the reason that the vote was not counted.

(d) Before an individual casts a provisional ballot, the poll clerk shall provide the individual written instructions, supplied by the board of ballot commissioners, stating that if the voter is casting a ballot in the incorrect precinct, the ballot cast may not be counted for that election: *Provided*, That if the voter is found to be in the incorrect precinct, then the poll worker shall attempt to ascertain the appropriate precinct for the voter to cast a ballot and immediately give the voter the information if ascertainable.

(e) Provisional ballots may not be counted by the election officials. The county commission shall, on its own motion, at the time of canvassing of the election returns, sit in session to determine the validity of any challenges according to the provisions of this chapter. If the county commission determines that the challenges are unfounded, each provisional ballot of each challenged voter, if otherwise valid, shall be counted and tallied together with the regular ballots cast in the election. The county commission, as the board of canvassers, shall protect the privacy of each provisional ballot cast. The county commission shall disregard technical errors, omissions or oversights if it can reasonably be ascertained that the challenged voter was entitled to vote.

(f) Any person duly appointed as an Election Commissioner or clerk under the provisions of section twenty-eight of this article who serves in that capacity in a precinct other than the precinct in which the person is legally entitled to vote may cast a provisional ballot in the precinct in which the person is serving as a commissioner or clerk. The ballot is not invalid for the sole reason of having been cast in a precinct other than the precinct in which the person is legally entitled to vote. The county commission shall record the provisional ballot on the voter's permanent registration record: *Provided*, That the county

commission may count only the votes for the offices that the voter was legally authorized to vote for in his or her own precinct.

(g) The Secretary of State shall establish a free access system, which may include a toll-free telephone number or an Internet website, that may be accessed by any individual who casts a provisional ballot to discover whether his or her vote was counted and, if not, the reason that the vote was not counted.

§3-1-51. Identity verification of voters executing voter identity affidavit.

(a) The clerk of the county commission shall cause a letter to be mailed by first class mail to each voter who executed a voter identity affidavit pursuant to section thirty-four of this article. The letter shall be mailed within sixty days after the election. The clerk shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information. The letter shall notify the addressee that a person who did not present a valid identifying document voted using his or her name and address and instruct the addressee to contact the clerk immediately if he or she did not vote. The letter shall also inform the addressee of the procedure for obtaining an identification card from the Division of Motor Vehicles for voting purposes.

(b) The clerk of the county commission shall cause letters mailed pursuant to subsection (a) of this section that are returned as undeliverable by the United States Post Office to be referred to the Secretary of State. The clerk shall also prepare and forward to the Secretary of State a list of all persons who were mailed letters under subsection (a) of this section and who notified the clerk that they did not vote. Upon receipt of notice from a person who receives a letter mailed pursuant to subsection (a) of this section that the person did not vote, or upon receipt of a referral from the clerk, the Secretary of State shall cause an investigation to be made to determine whether fraudulent voting occurred. Beginning July 1, 2019 and each year

thereafter, the Secretary of State shall submit a report to the Joint Committee on the Judiciary and the Joint Committee on Government and Finance detailing the results of all investigations of voter identity affidavits, including, but not limited to, the number of investigations, the number of ballots cast, and the number and results of any determinations made regarding fraudulent voting.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-11. Registration in conjunction with driver licensing.

(a) The Division of Motor Vehicles or other division or department that may be established by law to perform motor vehicle driver licensing services shall obtain, provide each qualified registrant, as an integral and simultaneous part of every process of application for the issuance, renewal or change of address of a motor vehicle driver's license or official identification card pursuant to the provisions of article two, chapter seventeen b of this code, ~~a voter registration application as prescribed in section five of this article when the division's regional offices are open for regular business, . An individual may apply for voter registration using an approved electronic voter registration system if available at a Division of Motor Vehicles regional office.~~ the following information from each qualified registrant:

(1) Full name, including first, middle, last and any premarital names;

(2) Date of birth;

(3) Residence address and mailing address, if different;

(4) The applicant's electronic signature;

(5) Telephone number, if available;

(6) Email address, if available;

(7) Political party membership, if any;

(8) Driver's license number and last four digits of social security number;

(9) A notation that the applicant has attested that he or she meets all voter eligibility requirements, including United States citizenship;

(10) Whether the applicant affirmatively declined to become registered to vote during the transaction with the Division of Motor Vehicles;

(11) Date of application; and

(12) Any other information specified in rules adopted to implement this section.

(b) Unless the applicant affirmatively declines to become registered to vote or update their voter registration during the transaction with the Division of Motor Vehicles, the Division of Motor Vehicles shall release all of the information obtained pursuant to subsection (a) of this section to the Secretary of State, who shall forward the information to the county clerk for the relevant county to process the newly registered voter or updated information for the already-registered voter pursuant to law. Notwithstanding any other provision of this code to the contrary, if the applicant affirmatively declines to become registered to vote, the Division of Motor Vehicles is required to release the first name, middle name, last name, premarital name, if applicable, complete residence address, complete date of birth of an applicant and the applicant's electronic signature, entered in the division's records for driver license or nonoperator identification purposes to the Secretary of State in order to facilitate any future attempt of the applicant to register to vote online, along with the notation that the applicant affirmatively declined to become registered at that time. The Division of Motor Vehicles shall notify that applicant that by submitting his or her signature, the applicant grants written consent for the submission of the information obtained and required to be submitted to the Secretary of State pursuant to this section. upon notice and written consent of the applicant. The notice

~~and consent is a required component of an electronic voter registration application made available to the general public by the Secretary of State. The release of an applicant's signature by the Division of Motor Vehicles to the Office of the Secretary of State applies to any voter registration application approved through an electronic voter registration system approved by the Secretary of State regardless of the location of the online user and provided the user grants written consent:~~

~~(c) A person who fails to sign the voter registration application or who fails to return the voter registration application to a driver licensing facility or to an appropriate voter registration office is considered to have declined to register. Information regarding a person's failure to sign the voter registration application is confidential and may not be used for any purpose other than to determine voter registration.~~

(d) A qualified voter who submits the application for registration required information or update to his or her voter registration, pursuant to the provisions of subsection (a) of this section, in person at a driver licensing facility at the time of applying for, obtaining, renewing or transferring his or her driver's license or official identification card and who presents identification and proof of age at that time is not required to make his or her first vote in person or to again present identification in order to make that registration valid.

(e) A qualified voter who submits by mail or by delivery by a third party an application for registration on the form used in conjunction with driver licensing is required to make his or her first vote in person and present identification as required for other mail registration in accordance with the provisions of subsection (g), section ten of this article. If the applicant has been previously registered in the jurisdiction and the application is for a change of address, change of name, change of political party affiliation or other correction, the presentation of identification and first vote in person is not required.

(f) An application for voter registration submitted pursuant to the provisions of this section updates a previous voter registration by the applicant and authorizes the cancellation of registration in any other county or state in which the applicant was previously registered.

(g) A change of address from one residence to another within the same county which is submitted for driver licensing or nonoperator's identification purposes in accordance with applicable law serves as a notice of change of address for voter registration purposes if requested by the applicant after notice and written consent of the applicant.

(h) Completed applications for voter registration or change of address for voting purposes received by an office providing driver licensing services shall be forwarded to the Secretary of State within five days of receipt unless other means are available for a more expedited transmission. The Secretary of State shall remove and file any forms which have not been signed by the applicant and shall forward completed, signed applications to the clerk of the appropriate county commission within five days of receipt.

(i) Voter registration application forms containing voter information which are returned to a driver licensing office unsigned shall be collected by the Division of Motor Vehicles, submitted to the Secretary of State and maintained by the Secretary of State's office according to the retention policy adopted by the Secretary of State.

(j) The Secretary of State shall establish procedures to protect the confidentiality of the information obtained from the Division of Motor Vehicles, including any information otherwise required to be confidential by other provisions of this code.

(k) A person registered to vote pursuant to this section may cancel his or her voter registration at any time by any method available to any other registered voter.

(l) This section shall not be construed as requiring the Division of Motor Vehicles to determine eligibility for voter registration and voting.

(m) The changes made to this section during the 2016 Regular Legislative Session shall become effective on July 1, 2017, and any costs associated therewith shall be paid by the Division of Motor Vehicles. If the Division of Motor Vehicles is unable to meet the requirements of this section by February 1, 2017, it shall make a presentation to the Joint Committee on Government and Finance explaining any resources necessary to meet the requirements or any changes to the code that it recommends immediately prior to the 2017 Regular Legislative Session.

(n) The Secretary of State shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code in order to implement the requirements of this section.

§3-2-12. Combined voter registration and driver licensing fund; transfer of funds.

(a) Fifty cents of each license fee collected pursuant to the provisions of section one, article three, chapter seventeen of this code shall be paid into the State Treasury to the credit of a special revenue fund to be known as the “Combined Voter Registration and Driver Licensing Fund.” The moneys so credited to such fund may be used by the Secretary of State for the following purposes:

(1) Printing and distribution of combined driver licensing or other agency applications and voter registration forms, or for the printing of voter registration forms to be used in conjunction with driver licensing or other agency applications, or for implementing the automatic voter registration program authorized in section eleven of this article;

(2) Printing and distribution of mail voter registration forms for purposes of this article;

(3) Supplies, postage and mailing costs for correspondence relating to voter registration for agency registration sites and for the return of

completed voter registration forms to the appropriate state or county election official;

(4) Reimbursement of postage and mailing costs incurred by clerks of the county commissions for sending a verification mailing, confirmation of registration or other mailings directly resulting from an application to register, change or update a voter's registration through a driver licensing or other agency;

(5) Reimbursement to state funded agencies, with the exception of the Division of Motor Vehicles, designated to provide voter registration services under this chapter for personnel costs associated with the time apportioned to voter registration services and assistance;

(6) The purchase, printing and distribution of public information and other necessary materials or equipment to be used in conjunction with voter registration services provided by state funded agencies designated pursuant to the provisions of this article;

(7) The development and continued maintenance of a statewide program of uniform voter registration computerization for use by each county registration office and the Secretary of State, purchase of uniform voter registration software, payment of software installation costs and reimbursement to the county commissions of not more than fifty percent of the cost per voter for data entry or data conversion from a previous voter registration software program;

(8) Efforts to maintain correct voter information and conduct general list maintenance to remove ineligible voters and ensure new residents receive voter registration information, including collaborating with other states and non-profit corporations dedicated to improving the election system; ~~Payment of up to fifty percent of the costs of conducting a joint program with participating counties to identify ineligible voters by using the United States postal service information as provided in section twenty-five of this article: *Provided*, That such assistance shall be available only to counties which maintain voter registration lists on the statewide uniform voter data system; and~~

(9) Payment of any dues or fees associated with a program to match and transfer data to and from other states;

(10) Resources related to voter registration and list maintenance;
and

~~(9)~~ (11) Payment or reimbursement of other costs associated with implementation of the requirements of the National Voter Registration Act of 1993 (42 U. S. C. 1973gg): *Provided*, That revenue received by the fund in any fiscal year shall first be allocated to the purposes set forth in subdivisions (1) through ~~(8)~~ (10), inclusive, of this subsection.

(b) The Secretary of State shall promulgate rules pursuant to the provisions of chapter twenty-nine-a of this code to provide for the administration of the fund established in subsection (a) of this section.

(c) Any balance in the fund created by subsection (a) of this section which exceeds \$100,000 as of June 30, 2017, and on June 30 of each year thereafter, shall be transferred to the General Revenue Fund.

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION AND RENEWAL.

§17B-2-1. Drivers must be licensed; types of licenses; licensees need not obtain local government license; motorcycle driver license; identification cards.

(a) (1) No person, except those hereinafter expressly exempted, may drive ~~any~~ a motor vehicle upon a street or highway in this state or upon ~~any~~ a subdivision street used by the public generally unless the person has a valid driver's license issued pursuant to this code for the type or class of vehicle being driven.

(2) Any person licensed to operate a motor vehicle pursuant to this code may exercise the privilege thereby granted in the manner provided in this code and, except as otherwise provided by law, is not

required to obtain any other license to exercise the privilege by ~~any~~ a county, municipality or local board or body having authority to adopt local police regulations.

(b) The division, upon issuing a driver's license, shall indicate on the license the type or general class or classes of vehicles the licensee may operate in accordance with this code, federal law or rule. Licenses shall be issued in different colors for those drivers under age eighteen, those drivers age eighteen to twenty-one and adult drivers. The commissioner is authorized to select and assign colors to the licenses of the various age groups.

(c) The following drivers licenses classifications are hereby established:

(1) A Class A, B or C license shall be issued to those persons eighteen years of age or older with two years of driving experience who have qualified for the commercial driver's license established by chapter seventeen-e of this code and the federal Motor Carrier Safety and Improvement Act of 1999 and subsequent rules and have paid the required fee.

(2) A Class D license shall be issued to those persons eighteen years and older with one year of driving experience who operate motor vehicles other than those types of vehicles which require the operator to be licensed under the provisions of chapter seventeen-e of this code and federal law and rule and whose primary function or employment is the transportation of persons or property for compensation or wages and have paid the required fee. For the purpose of regulating the operation of motor vehicles, wherever the term "chauffeur's license" is used in this code, it ~~shall be construed to mean~~ means the Class A, B, C or D license described in this section or chapter seventeen-e of this code or federal law or rule: *Provided*, That anyone not required to be licensed under the provisions of chapter seventeen-e of this code and federal law or rule and who operates a motor vehicle registered or required to be registered as a Class A motor vehicle, as that term is

defined in section one, article ten, chapter seventeen-a of this code, with a gross vehicle weight rating of less than eight thousand one pounds, is not required to obtain a Class D license.

(3) A Class E license shall be issued to ~~those~~ persons who have qualified for a driver's license under the provisions of this chapter and who are not required to obtain a Class A, B, C or D license and who have paid the required fee. The Class E license may be endorsed under the provisions of section seven-b of this article for motorcycle operation. The Class E or ~~(G)~~ G license for ~~any~~ a person under the age of eighteen may also be endorsed with the appropriate graduated driver license level in accordance with the provisions of section three-a of this article.

(4) A Class F license shall be issued to those persons who successfully complete the motorcycle examination procedure provided by this chapter and have paid the required fee but who do not possess a Class A, B, C, D or E driver's license.

(5) A Class G driver's license or instruction permit shall be issued to a person using bioptic telescopic lenses who has successfully completed an approved driver training program and complied with all other requirements of article two-b of this chapter.

(d) All licenses issued under this section may contain information designating the licensee as a diabetic, organ donor, as deaf or hard-of-hearing, or as having any other handicap or disability or that the licensee is an honorably discharged veteran of any branch of the Armed Forces of the United States, according to criteria established by the division, if the licensee requests this information on the license. An honorably discharged veteran may be issued a replacement license without charge if the request is made before the expiration date of the current license and the only purpose for receiving the replacement license is to get the veterans designation placed on the license.

(e) No person, except those hereinafter expressly exempted, may drive ~~any~~ a motorcycle ~~upon~~ on a street or highway in this state or

~~upon any~~ on a subdivision street used by the public generally unless the person has a valid motorcycle license, a valid license which has been endorsed under section seven-b of this article for motorcycle operation or a valid motorcycle instruction permit.

(f) (1) An identification card may be issued to ~~any~~ a person who:

(A) Is a resident of this state in accordance with the provisions of section one-a, article three, chapter seventeen-a of this code;

(B) Has reached the age of two years ~~The division may also issue an identification card to a person under the age of two years, for good cause shown; or, for good cause shown, under the age of two.~~

(C) Has paid the required fee of \$2.50 per year: *Provided*, ~~That the fee is not~~ no fees or charges, including renewal fees, are required if the applicant:

(i) Is sixty-five years or older; or

(ii) Is legally blind; and or

(iii) Will be at least eighteen years of age at the next general, municipal or special election and intends to use this identification card as a form of identification for voting; and

(D) Presents a birth certificate or other proof of age and identity acceptable to the division with a completed application on a form furnished by the division.

(2) The identification card shall contain the same information as a driver's license except that the identification card shall be clearly marked as an identification card. The division may issue an identification card with less information to persons under the age of sixteen. An identification card may be renewed annually on application and payment of the fee required by this section.

(A) Every identification card issued to a person who has attained his or her twenty-first birthday expires on the licensee's birthday in

those years in which the licensee's age is evenly divisible by five. Except as provided in paragraph (B) of this subdivision, no identification card may be issued for less than three years or for more than seven years and expires on the licensee's birthday in those years in which the licensee's age is evenly divisible by five.

(B) Every identification card issued to a person who has not attained his or her twenty-first birthday expires thirty days after the licensee's twenty-first birthday.

(C) Every identification card issued to persons under the age of sixteen shall be issued for a period of two years and shall expire on the last day of the month in which the applicant's birthday occurs.

(3) The division may issue an identification card to an applicant whose privilege to operate a motor vehicle has been refused, canceled, suspended or revoked under the provisions of this code.

(g) For any person over the age of fifty years who wishes to obtain a driver's license or identification card under the provisions of this section:

(1) A raised seal or stamp on the birth certificate or certified copy of the birth certificate is not required if the issuing jurisdiction does not require one; and

(2) If documents are lacking to prove all changes of name in the history of any such applicant, applicants renewing a driver's license or identification card under the provisions of this section may complete a Name Variance Approval Document as instituted by the division, so long as they can provide:

(A) Proof of identity;

(B) Proof of residency; and

(C) A valid Social Security number.

(3) The division may waive any documents necessary to prove a match between names, so long as the division determines the person is not attempting to:

(A) Change his or her identity;

(B) Assume another person's identity; or

(C) Commit a fraud.

(h) A person over the age of seventy years, or who is on Social Security disability, who wishes to obtain or renew a driver's license or identification card under the provisions of this section, may not be required to furnish a copy of a birth certificate if they can provide:

(1) Proof of identity;

(2) Proof of residency;

(3) A valid Social Security number; and

(4) One of the following identifying items:

(A) A form of military identification, including a DD214 or equivalent;

(B) A U. S. passport, whether valid or expired;

(C) School records, including a yearbook;

(D) A religious document, that in the judgment of the Division is sufficient and authentic to reflect that the person was born in the United States; or

(E) An expired driver's license, employment identification card, or other reliable identification card with a recognizable photograph of the person.

~~(g)~~ (i) Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$500 and, upon a second or subsequent conviction, shall be fined not

more than \$500 or confined in jail not more than six months, or both fined and confined.

And,

That both houses recede from their positions as to the title of the bill and agree to the same as follows:

Com. Sub. for H. B. 4013 – “A Bill to amend and reenact §3-1-34 and §3-1-41 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §3-1-51; to amend and reenact §3-2-11 and §3-2-12 of said code; and to amend and reenact §17B-2-1 of said code, all relating to voting procedures; requiring a person desiring to vote on or after January 1, 2018 to present valid document identifying the voter to one of the poll clerks; requiring poll clerk to inspect valid identifying document and confirm information with individual’s voter registration record; requiring poll clerk to confirm, if document contains a photograph, that displayed image is truly an image of the person presenting the document; setting forth requirements for valid identifying document; identifying documents considered to be valid identifying document; permitting registered voter to be accompanied to polling place by adult known to registered voter for at least six months; permitting voter to vote if accompanying adult signs affidavit and presents valid identifying document; authorizing poll worker to allow voter known to the poll worker for at least six months to vote without presenting valid identifying document; permitting person desiring to vote to cast provisional ballot after executing affidavit; setting conditions for counting of provisional ballot; setting content of affidavit to be used for casting provisional ballot; permitting voter who votes in person at precinct polling place located in building which is part of state licensed care facility where voter is resident without presenting valid identifying document; requiring person entering voter information into centralized voter registration database to notate when a voter has not presented valid identifying documentation and executed a voter identity affidavit; making confidential voter’s residential or mailing

address if voter is participant in Address Confidentiality Program except for certain statutory and administrative purposes; directing Secretary of State to educate voters about requirement to present valid identifying document; requiring Secretary of State to develop a program to help ensure that all eligible voters obtain identification; directing members of receiving board to challenge the right of person requesting ballot to vote in election if person fails to present valid identifying documentation; modifying provisional ballot procedures; requiring clerk of county commission to send letter to voters who execute voter identity affidavit; setting deadline for letters to be mailed; specifying contents of letter; directing clerk of county commission to cause letters returned as undeliverable to be referred to Secretary of State; directing clerk of county commission to forward to Secretary of State a list of persons who were mailed letters and notified clerk that they did not vote; requiring Secretary of State to investigate to determine whether fraudulent voting occurred; requiring Secretary of State to submit report to Joint Committee on the Judiciary and Jsint Committee on Government and Finance detailing results of all investigations of voter identity affidavits; requiring Division of Motor Vehicles to collect certain information from individuals applying for issuance, renewal or change of address of driver's license or official identification card; requiring Division of Motor Vehicles to release all information obtained to Secretary of State unless applicant affirmatively declines to become registered to vote or update voter registration; requiring Secretary of State to forward information to county clerk for relevant county to process newly registered voter or updated information for already-registered voter; requiring Division of Motor Vehicles to release certain information to Secretary of State if applicant affirmatively declines to become registered to vote; requiring Division of Motor Vehicles to notify applicant that signature submission grants written consent for submission of that information; clarifying that qualified voter who is automatically registered to vote need not present identification in order to make registration valid; directing Secretary of State to establish procedures to protect confidentiality of information obtained from Division of Motor

Vehicles; permitting person registered to vote to cancel voter registration at any time; clarifying that Division of Motor Vehicles not required to determine eligibility for voter registration and voting; making changes regarding automatic voter registration effective July 1, 2017; requiring Division of Motor Vehicles report to Joint Committee on Government and Finance if unable to meet requirements by February 1, 2017; directing Secretary of State to promulgate legislative rules; permitting certain uses of moneys in Combined Voter Registration and Driver Licensing Fund; requiring balance in Fund in excess of \$100,000 be transferred to General Revenue annually; prohibiting Division of Motor Vehicles from charging fees for issuance of identification card if applicant intends to use identification card as form of identification for voting; providing certain provisions for issuance of driver's license or identification card to persons over the age of fifty years; and providing certain provisions for issuance of driver's license or identification card to persons over the age of seventy years."

Respectfully submitted,

Patrick Lane,
John McCuskey,
Larry Rowe,

Ed Gaunch,
Ryan Ferns,
Corey Palumbo,

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

*Conferees on the part
of the Senate.*

On motion of Delegate Lane, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 623**), and there were—yeas 77, nays 21, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hornbuckle, Longstreth, Lynch, Manchin, Morgan,

Moye, Perry, Pushkin, Reynolds, Rodighiero, Skinner, Sponaugle and Wagner.

Absent and Not Voting: Faircloth and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4013) 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. 4317, Limiting factors in parenting plans, still being in possession of the Clerk, was taken up for further consideration.

On motions of Delegate Cowles, the House of Delegates then reconsidered the vote on the adoption of the title amendment.

Delegate Cowles then asked and obtained unanimous consent to withdraw the title amendment.

On motion of Delegate Cowles, the House reconsidered the vote on the passage of the bill.

On motion of Delegate Cowles, the House then reconsidered prior action of concurring with further amendment.

The House then concurred in the Senate amendment.

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. 624**), 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: Arvon, Faircloth and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4317) passed.

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

(Note: At this point, motions were made related to action which had not yet been taken on Com. Sub. for H. B. 4213. These motions were not in order and therefore have not been included in the Journal.)

On motion of Delegate Cowles, the House returned to further consideration of **Com. Sub. for S. B. 621**, Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage.

On motion of Delegate Cowles, the House of Delegates then reconsidered the vote on the adoption of the title amendment.

Delegate Cowles then asked and obtained unanimous consent to withdraw the title amendment.

On motion of Delegate Cowles, the House then reconsidered the vote on the passage of the bill.

On motion of Delegate Cowles, the House reconsidered the vote to concur in the Senate amendment with further amendment.

On motion of Delegate Cowles, the House concurred in the Senate amendment.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 625**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Lynch and Pushkin.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 621) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of

Com. Sub. for S. B. 619, 2016 Regulatory Reform Act.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House concurred in the following Senate amendments:

On page four, section eleven, subsection (b), by striking out all of subdivision (2); and by renumbering the remaining subdivisions.

On pages five and six, by striking out all of section nineteen and inserting in lieu thereof a new section, designated section nineteen, to read as follows:

“§29A-3-19. Sunset provision in rules.

(a) Any new legislative rule promulgated pursuant to this article after April 1, 2016, shall include a sunset provision terminating the rule after five years: *Provided*, That the rule may be renewed for additional terms of five years or less by the Legislature pursuant to the rulemaking procedures and authority in this article: *Provided, however*, That if a different sunset or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute’s provision shall control: *Provided further*, That this subsection shall not apply to rules promulgated by the Department of Environmental Protection or emergency rules promulgated pursuant to section fifteen of this article.

(b) Any legislative rule existing as of April 1, 2016, that is thereafter modified pursuant to this article shall include a sunset provision as part of the modification setting forth a termination date for

the rule: *Provided*, That the rule may be renewed for additional terms of years by the Legislature pursuant to the rulemaking procedures and authority in this article: *Provided, however*, That if a different sunset or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute's provision shall control: *Provided further*, That this subsection shall not apply to rules promulgated by the Department of Environmental Protection or emergency rules promulgated pursuant to section fifteen of this article.

(c) The existence of a sunset provision terminating a rule shall not preclude the repeal of such rule by the Legislature prior to the expiration of the sunset provision.

(d) As part of its rule review under this article, the Legislative Rule-Making Review Committee is authorized to establish a procedure for timely review of rules prior to the expiration for those agencies that have affirmatively sought renewal prior to expiration. The procedure may include a requirement that the agency show cause as to why the expiring rule is required and necessary to be continued for another term of years.

(e) The Secretary of State shall provide notice to the promulgating agency at least eighteen months prior to every rule's expiration date."

On page seven, section twenty, subsection (b), after the words "each agency" by inserting the word "shall".

On page seven, section twenty, subsection (b), subdivision (2), after the word "change", by inserting the word "be".

And,

On pages seven and eight, by striking out all of section twenty and inserting in lieu thereof a new section, designated section twenty, to read as follows:

"§29A-3A-20. Sunset provision in rules.

(a) Any new legislative rule promulgated pursuant to this article after April 1, 2016, shall include a sunset provision terminating the rule after five years: *Provided*, That the rule may be renewed for additional terms of five years or less by the Legislature pursuant to the rulemaking procedures and authority in this article: *Provided, however*, That if a different sunset or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute's provision shall control: *Provided further*, That this subsection shall not apply to emergency rules promulgated pursuant to section sixteen of this article.

(b) Any legislative rule existing as of April 1, 2016, that is thereafter modified pursuant to this article shall include a sunset provision as part of the modification setting forth a termination date for the rule: *Provided*, That the rule may be renewed for additional terms of years by the Legislature pursuant to the rulemaking procedures and authority in this article: *Provided, however*, That if a different sunset or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute's provision shall control: *Provided further*, That this subsection shall not apply to emergency rules promulgated pursuant to section sixteen of this article.

(c) The existence of a sunset provision terminating a rule shall not preclude the repeal of such rule by the Legislature prior to the expiration of the sunset provision.

(d) As part of its rule review under this article, the Legislative Oversight Commission on Education Accountability is authorized to establish a procedure for timely review of a rule prior to its expiration if the board has affirmatively sought renewal prior to expiration. The procedure may include a requirement that the board show cause as to why the expiring rule is required and necessary to be continued for another term of years.

(e) The Secretary of State shall provide notice to the board at least eighteen months prior to every rule's sunset date."

And,

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

Com. Sub. for S. B. 619 – “A Bill to amend and reenact §29A-3-5 and §29A-3-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §29A-3-19 and §29A-3-20; and to amend said code by adding thereto a new section, designated §29A-3A-20, all relating generally to legislative rulemaking; requiring agencies to respond to public comments received during the rule-making process; requiring agencies to explain reason for comments being included or excluded from the rule; providing that failure of an agency to adequately explain why or why not public comments were incorporated into the rule may be grounds for rejection of the proposed rule; making changes to the procedures for the submission of a proposed legislative rule; allowing copies of proposed rule to be submitted in electronic or paper form at the request of the Legislative Rule-Making Review Committee; requiring additional information to be included when an agency submits proposed rules to the Legislative Rule-Making Review Committee; adding determinations the Legislative Rule-Making Review Committee shall make as part of its review of a proposed legislative rule; allowing the Legislative Rule-Making Review Committee to recommend rejection of the proposed legislative rule as one of the recommendations the Legislative Rule-Making Review Committee may make to the Legislature following its committee review; providing for a five-year sunset provision for all new legislative rules promulgated after April 1, 2016; requiring sunset provisions in all future modifications of existing legislative rules after April 1, 2016; allowing for renewal for an additional term of years; clarifying that statutory sunset provisions take precedence over sunset provisions in a rule; expressly exempting rules promulgated by the Department of Environmental Protection from the sunset requirement; expressly exempting emergency rules from the sunset requirement; providing that the existence of a sunset provision shall not preclude the repeal of the legislative rule prior to the expiration of the sunset

provision; authorizing the Legislative Rule-Making Review Committee to establish a procedure for timely review of rules prior to the expiration of the sunset provision; requiring the Secretary of State to provide notice to agencies at least eighteen months prior to an agency's rule sunset date; requiring executive agencies with rulemaking authority to submit a report to the Joint Committee on Government and Finance and to the Legislative Rule-Making Review Committee on or before November 1, 2017, indicating a description of state rules, guidelines, policies and recommendations that are more stringent than federal counterparts as well as public comments received relating to the same; requiring agencies with rulemaking authority to perform certain actions, evaluations, determinations and public comment period in preparation of the report; requiring each executive agency with rulemaking authority to review each of its rules, make certain determinations, within four years and submit a report to the Legislative Rule-Making Review Committee on or before July 1, 2020; setting forth the information to be included in the report to the Legislative Rule-Making Review Committee; requiring a five-year sunset provision for all new legislative rules promulgated after April 1, 2016, by the Higher Education Policy Commission or other higher education entity defined as a board under section one, article three-a, chapter twenty-nine-a of the code; requiring sunset provisions in all future modifications of existing legislative rules promulgated after April 1, 2016, by the Higher Education Policy Commission or other higher education entity defined as a board under section one, article three-a, chapter twenty-nine-a of the code; allowing for renewal for an additional term of years; clarifying that statutory sunset provisions take precedence over sunset provisions in a rule; expressly exempting emergency rules from the sunset requirement; providing that the existence of a sunset provision shall not preclude the repeal of the legislative rule prior to the expiration of the sunset provision; authorizing the Legislative Oversight Commission on Education Accountability to establish a procedure for timely review of rules prior to the expiration of the sunset provision; and requiring the Secretary of State to provide notice to the Higher Education Policy Commission or

other higher education entity defined as a board under section one, article three-a, chapter twenty-nine-a of the code at least eighteen months prior to an agency's rule sunset date."

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 626**), and there were—yeas 88, nays 11, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Fleischauer, Fluharty, Guthrie, Lynch, Marcum, Miley, Perdue, Pushkin, Rowe and Shaffer.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 619) 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. 4575, Creating criminal offenses relating to money laundering.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

"That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4 and §61-14-5, all to read as follows:

ARTICLE 14. MONEY LAUNDERING.**§61-14-1. Definitions.**

As used in this article, unless the context clearly indicates otherwise:

(a) ‘Conducts’ includes, but is not limited to, initiating, concluding, participating in, or assisting in a transaction.

(b) ‘Criminal activity’ means a violation of the felony provisions of section eleven, article forty-one, chapter thirty-three of this code; the felony provisions of chapter sixty-a of this code; the felony provisions of article two of this chapter; the provisions of sections one, two, three, four, five, eleven, twelve, subsection (a), section thirteen, fourteen, eighteen, nineteen, twenty-four, twenty-four-a, twenty-four-b and twenty-four-d, article three of this chapter; the felony provisions of sections article three-c of this chapter; the felony provisions of article three-e of this chapter; the felony provisions of article four of this chapter; the provisions of section eight, article eight of this chapter; the felony provisions of article eight-a of this chapter and the felony provisions of article eight-c of this chapter.

(c) ‘Cryptocurrency’ means digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, and which operates independently of a central bank.

(d) ‘Financial institution’ means a financial institution as defined in 31 U. S. C. §5312 which institution is located in this state.

(e) ‘Financial transaction’ means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects commerce, or a transaction involving the transfer of title to any real property, vehicle, vessel, or aircraft, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, commerce in any way or degree.

(f) ‘Gift card’ means a card, voucher or certificate which contains or represents a specific amount of money issued by a retailer or financial institution to be used as an alternative to cash purposes.

(g) ‘Knowing’ means actual knowledge.

(h) ‘Monetary instruments’ means coin or currency of the United States or of any other country, travelers’ checks, personal checks, bank checks, gift cards, prepaid credit cards, money orders, cryptocurrency, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.

(i) ‘Petitioner’ means any local, county, state, or federal prosecutor or law-enforcement official or agency.

(j) ‘Proceeds’ means property or monetary instrument acquired or derived, directly or indirectly, from, produced through, realized through, or caused by an act or omission and includes property, real or personal, of any kind.

(k) ‘Property’ means anything of value, and includes any interest therein, including any benefit, privilege, claim or right with respect to anything of value, whether real or personal, tangible or intangible, and monetary instruments.

(l) ‘Transaction’ means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition. With respect to a financial institution, ‘transaction’ includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safety deposit box, or any other payment, transfer, or delivery by, through or to a financial institution, by whatever means effected.

§61-14-2. 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 subsection (a) of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$25,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

§61-14-3. Transportation, transmission, or transfer of proceeds.

(a) It is unlawful for any person to transport, transmit, or transfer, or attempt to transport, transmit or transfer monetary instruments or property involving the proceeds of criminal activity, knowing that the monetary instruments or property are the proceeds of some form of criminal activity:

(1) With the intent to promote the carrying on of the criminal activity; or

(2) Knowing that transportation, transmission, or transfer is designed in whole or part:

(i) To conceal or disguise the nature, location, source, ownership, or control of the proceeds of criminal activity; or

(ii) To avoid any transaction reporting requirement imposed by law.

(b) Any person violating subsection (a) of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than \$5,000 nor more than \$25,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

§61-14-4. Forfeiture.

(a) Any property or monetary instruments involved in a violation of this article, and any property or monetary instruments traceable to the violation, may be seized and, upon a conviction for a violation of section two or three of this article, forfeited to the State of West Virginia consistent with the procedures and standards of proof set forth in the West Virginia Contraband Forfeiture Act, article seven, chapter sixty-a of this code.

(b) Notwithstanding subsection (a) of this section, the court, as part of sentencing for a violation under this article, may direct the forfeiture to the state of any property or monetary instruments involved in the violation and any property or monetary instruments traceable to the violation.

§61-14-5. General provisions.

(a) *Separate offenses.* — Notwithstanding any other provision to the contrary, each transaction, transfer, transportation or transmission in violation of this article constitutes a separate offense.

(b) *Venue.* — An offense under this article may be deemed to have been committed where any element of the offense under this article occurred.”

And,

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

Com. Sub. for H. B. 4575 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated

§61-14-1, §61-14-2, §61-14-3, §61-14-4 and §61-14-5, all relating to laundering of proceeds from specified criminal activities; defining terms; creating felony crime of conducting financial transactions involving proceeds of criminal activity; creating felony crime of transporting, transmitting or transferring monetary instruments or property involving proceeds of criminal activity; providing for penalties; providing for seizure and forfeiture of property or monetary instruments; clarifying that for forfeiture to occur, a conviction pursuant to the article is necessary; clarifying conduct that constitutes separate offenses; and setting forth venue for prosecution of offenses.”

On motion of Delegate Cowles, the House of Delegates concurred in the Senate amendments with amendment, as follows:

On page two, section one, line twenty-six, by striking out subsection (g) and inserting in lieu thereof a new subsection (g) to read as follows:

“(g) ‘Knowing’ means actual knowledge. For purposes of this article, a person may be considered to have actual knowledge even though the belief is based upon or results from a law enforcement officer or a person acting at the direction of a law-enforcement officer, and regardless of whether the law-enforcement officer or person acting at the law-enforcement officer’s direction discloses the person’s status as a law-enforcement officer or that the person is acting at the direction of a law-enforcement officer.”

On page four, section four, line two, by striking out the words “upon a conviction”.

And,

On page four, section four, line five, following the word “code”, by inserting a colon and a proviso to read as follows:

“*Provided*, That in any forfeiture proceeding pursuant to this section, the burden of proof shall be by clear and convincing evidence.”

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. 627**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Moore.

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. 4575) 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. 4604, Relating to violations of the Ethics Act.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page three, section four, lines forty-seven through forty-nine, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

“(e) Unless consented to by both the respondent and complainant, or unless the commission makes a good cause determination in writing the investigation and a determination as to probable cause shall not exceed eighteen months.”

And,

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

Com. Sub. for H. B. 4604 – “A Bill to amend and reenact §6B-2-4 of the Code of West Virginia, 1931, as amended, relating to violations of the Ethics Act; establishing a deadline of eighteen months for the Ethics Commission to investigate and make a probable cause determination on a complaint; allowing extension past one year if consented by both respondent and complainant or unless Ethics Commission finds good cause in writing; changing the burden of proof needed to show a violation of the Ethics Act to a clear and convincing evidence standard; and extending the statute of limitations for filing complaints alleging violations of the Ethics Act from two years to five years.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 628**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

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. 4604) 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. 4618, Relating to limitations on use of a public official’s name or likeness.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendment was reported by the Clerk:

On page seven, section five, lines ten through sixteen, by striking out all of subsection (c) and inserting in lieu thereof the a new subsection, designated subsection (c), to read as follows:

“(c) The prohibitions contained in this article do not apply to any person who is employed as a member of the faculty, staff, administration, or president of a public institution of higher education and who is engaged in teaching, research, consulting, coaching, recruiting or publication activities: *Provided*, That the activity is approved as a part of an employment contract with the governing board of the institution of higher education or has been approved by the employee’s department supervisor or the president of the institution by which the faculty or staff member is employed.”

On motion of Delegate Cowles, the House of Delegates concurred in the Senate amendment with further amendment, as follows:

“That §6B-2-5c of the Code of West Virginia, 1931, as amended, be repealed; and that said code be amended by adding thereto a new article, designated §6B-2B-1, §6B-2B-2, §6B-2B-3, §6B-2B-4, §6B-2B-5 and §6B-2B-6, all to read as follows:

~~ARTICLE 2. WEST VIRGINIA ETHICS COMMISSION;
POWERS AND DUTIES; DISCLOSURE OF
FINANCIAL INTEREST BY PUBLIC
OFFICIALS AND EMPLOYEES;
APPEARANCES BEFORE PUBLIC
AGENCIES; CODE OF CONDUCT FOR
ADMINISTRATIVE LAW JUDGES.~~

~~§6B-2-5c. Limitations on a public official from using his or her
name or likeness.~~

~~(a) Public officials, their agents, or anyone on public payroll may
not:~~

~~(1) Use the public official's name or likeness on any publicly-owned vehicles;~~

~~(2) Place the public official's name or likeness on trinkets paid for by public funds;~~

~~(3) Use public funds, including funds of the office held by the public official, public employees, or public resources to distribute, disseminate, publish or display the public official's name or likeness for the purpose of advertising including, but not limited to, billboards, public service announcements, communication sent by mass mailing, or any other publication or media communication intended for general dissemination to the public.~~

~~(4) Use public funds or public employees, other than employees for security services, for entertainment activities within forty-five days of a primary, general, or special election in which the public official or agent is a candidate.~~

~~(b) For purposes of this section:~~

~~(1) "Agent" means any volunteer or employee, contractual or permanent, serving at the discretion of a public official; and~~

~~(2) "Trinkets" means items of tangible personal property that are not vital or necessary to the duties of the public official's or public employee's office, including, but not limited to, the following: magnets, mugs, cups, key chains, pill holders, band-aid dispensers, fans, nail files, matches and bags.~~

~~(c) This section does not prohibit public officials from using their names or likenesses on any official record or report, letterhead, document or certificate, or instructional material issued in the course of their duties as public officials, or on promotional materials used for tourism promotion.~~

~~(d) This section shall not be interpreted as prohibiting public officials from using public funds to communicate with constituents in the normal course of their duties as public officials so long as such communications do not include any reference to voting in favor of the public official in an election.~~

~~(e) The commission may propose rules and emergency rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to effectuate this section by July 1, 2015.~~

**ARTICLE 2B. LIMITATIONS ON A PUBLIC OFFICIAL
FROM USING HIS OR HER NAME OR
LIKENESS.**

§6B-2B-1. Definitions.

As used in this article:

(a) ‘Advertising’ means publishing, distributing, disseminating, communicating or displaying information to the general public through audio, visual or other media tools. It includes, but is not limited to, billboard, radio, television, mail, electronic mail, publications, banners, table skirts, magazines, social media, websites and other forms of publication, dissemination, display or communication.

(b) ‘Agent’ means any volunteer or employee, contractual or permanent, serving at the discretion of a public official or public employee.

(c) ‘Educational materials’ means publications, guides, calendars, handouts, pamphlets, reports or booklets intended to provide information about the public official or governmental office. It includes information or details about the office, services the office provides to the public, updates on laws and services and other informational items that are intended to educate the public.

(d) 'Instructional material' means written instructions explaining or detailing steps for completion of a governmental agency document or form.

(e) 'Likeness' means a photograph, drawing or other depiction of an individual.

(f) 'Mass media communication' means communication through audio, visual, or other media tools, including U.S. mail, electronic mail, and social media, intended for general dissemination to the public. Examples include mass mailing by U.S. mail, list-serve emails and streaming clips on websites. It does not include: (i) Regular responses to constituent requests or questions during the normal course of business; or (ii) communications that are authorized or required by law to be publicly disseminated, such as legal notices.

(g) 'Public employee' means any full-time or part-time employee of any state, or political subdivision of the state, and their respective boards, agencies, departments and commissions, or in any other regional or local governmental agency.

(h) 'Public official' means any person who is elected or appointed to any state, county or municipal office or position, including boards, agencies, departments and commissions, or in any other regional or local governmental agency.

(i) 'Public payroll' means payment of public monies as a wage or salary from the state, or political subdivision of the state, or any other regional or local governmental agency, whether accepted or not.

(j) 'Social media' means forms of electronic communication through which users create online communities to share information, ideas, personal messages and other content. It includes web and mobile-based technologies which are used to turn communication to interactive dialogue among organizations, communities and individuals. Examples include, but are not limited to, Facebook, MySpace, Twitter and YouTube.

(k) ‘Trinkets’ means items of tangible personal property that are not vital or necessary to the duties of the public official’s or public employee’s office, including, but not limited to, the following: magnets, mugs, cups, key chains, pill holders, band-aid dispensers, fans, nail files, matches and bags.

§6B-2B-2. Limitations on a public official from using his or her name or likeness.

(a) *Trinkets* — Public officials, their agents, or anyone on public payroll may not place the public official’s name or likeness on trinkets paid for with public funds: *Provided*, That when appropriate and reasonable, public officials may expend a minimal amount of public funds for the purchase of pens, pencils or other markers to be used during ceremonial signings.

(b) *Advertising* — (1) Public officials, their agents, or anyone on public payroll may not use public funds, including funds of the office held by the public official, public employees, or public resources to distribute, disseminate, publish or display the public official’s name or likeness for the purpose of advertising to the general public.

(2) Notwithstanding the prohibitions in subdivision (1) of this subsection, the following conduct is not prohibited:

(A) A public official’s name and likeness may be used in a public announcement or mass media communication when necessary, reasonable and appropriate to relay specific public safety, health or emergency information.

(B) A public official’s name and likeness may appear on an agency’s social media and website provided it complies with section three of this article.

(C) Dissemination of office press releases or agency information via email, social media or other public media tools for official purposes is not considered advertising or prohibited under this subsection, if it

(i): Is intended for a legitimate news or informational purpose; (ii) is not intended as a means of promotion of the public official; and (iii) is not being used as educational material.

(3) Banners and table skirts are considered advertising and may not include the public official's name or likeness.

(4) Nothing in this article shall be interpreted as prohibiting public officials from using public funds to communicate with constituents in the normal course of their duties as public officials if the communications do not include any reference to voting in favor of the public official in an election.

(c) *Vehicles* — Public officials, their agents, or any person on public payroll may not use or place the public official's name or likeness on any publicly owned vehicles.

(d) *Educational Materials* — A public official's name or likeness may not be placed on any educational material that is paid for with public funds: *Provided*, That this prohibition does not apply to the submission of a report required to be issued by law.

§6B-2B-3. Limitations on promotion through social media.

(a) A public official's name and likeness may appear on a public agency's website and social media subject to the following restrictions:

(1) The public official's name may appear throughout the website if it is reasonable, incidental, appropriate and has a primary purpose to promote the agency's mission and services rather than to promote the public official.

(2) The public official's likeness may only appear on the agency's website home page and on any pages or sections devoted to biographical information regarding the public official.

(3) The public official's name and likeness may appear on the agency's social media if it is reasonable, incidental, appropriate and

has a primary purpose to promote the agency's mission and services rather than to promote the public official.

(b) This section does not apply to personal or non-public agency social media accounts.

(c) A public agency's website or social media may not provide links or reference to a public official's or public employee's personal or campaign social media or website.

§6B-2B-4. Exceptions to use of name or likeness.

(a) A public official may use his or her name or likeness on any official record or report, letterhead, document or certificate or instructional material issued in the course of his or her duties as a public official: *Provided*, That other official documents used in the normal course of the agency, including, but not limited to, facsimile cover sheets, press release headers, office signage and envelopes may include the public official's name: *Provided, however*, That if the official documents are reproduced for distribution or dissemination to the public as educational material, the items are subject to the prohibitions in subsection (d), section two of this article.

(b) When appropriate and reasonable, the West Virginia Division of Tourism may use a public official's name and likeness on material used for tourism promotion.

(c) The prohibitions contained in this article do not apply to any person who is employed as a member of the faculty, staff, administration, or president of a public institution of higher education and who is engaged in teaching, research, consulting, coaching, recruiting or publication activities: *Provided*, That the activity is approved as a part of an employment contract with the governing board of the institution of higher education or has been approved by the employee's department supervisor or the president of the institution by which the faculty or staff member is employed.

(d) The prohibitions contained in section two of this article do not apply to a public official's campaign-related expenditures or materials.

(e) The prohibitions contained in section two of this article do not apply to items paid for with the public official's personal money.

(f) The prohibitions contained in section two of this article do not apply to items or materials required by law to contain the public official's name or likeness.

§6B-2B-5. Existing items as of the effective date.

(a) If a public official, public employee or public agency possesses items or materials in contravention of this rule or section five-c, article two of this chapter that were purchased prior to the effective date, the public official, public employee or public agency may not continue to distribute, disseminate, communicate or display publicly these items or materials.

(b) Notwithstanding the prohibition in subsection (a) of this section,

(1) Materials may be used publicly if the public official's name or likeness are permanently removed or covered: *Provided*, That a public official's name or likeness may be covered with a sticker, be marked out or obliterated in any other manner;

(2) The public agency may use the items or materials for internal use if they are not publicly distributed, disseminated, communicated or displayed; and

(3) When appropriate and in compliance with law, a public agency may donate the items to surplus, charity or an organization serving the poor and needy.

§6B-2B-6. Allowance for exemption.

If any of the prohibitions contained in this article create an undue hardship or will cause significant financial impact upon the public

agency to bring existing material, vehicles or items into compliance with this article, the public agency may seek a written exemption from the West Virginia Ethics Commission. In any request, the Ethics Commission shall make public the name of public agency seeking the exemption, along with the affected public official, if any.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 629**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4618) passed.

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

H. B. 4618 – “A Bill to repeal §6B-2-5c of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §6B-2B-1, §6B-2B-2, §6B-2B-3, §6B-2B-4, §6B-2B-5 and §6B-2B-6, all relating to limitations on use of a public official’s name or likeness; repealing current provisions; defining terms; prohibiting public officials, their agents and public employees from placing the public official’s name or likeness on trinkets; prohibiting public officials, their agents and public employees from using public funds, public employees, or public resources to distribute, disseminate, publish, or display the public official’s name or likeness for the purpose of advertising to the public; prohibiting public officials, their agents or public employees from placing the public official’s name or likeness on publicly-owned vehicles; prohibiting a public official’s name or likeness from being placed on any educational material that is paid for with public funds; placing restrictions on a public official’s name or likeness on a public agency’s website and

social media; providing exceptions; providing for alternative uses for prohibited material after the effective date; and providing an opportunity to obtain an exemption from the Ethics Commission.”

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

H. B. 4155, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health B West Virginia Birth-to-Three Fund, and the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, after line seven by striking out everything after the title and inserting in lieu thereof the following:

“Whereas, The Governor submitted to the Legislature the Executive Budget Document, dated January 13, 2016, which included a Statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2015, and further included the estimate of revenues for the fiscal year 2016, less net appropriation balances forwarded and regular appropriations for the fiscal year 2016; and

Whereas, The Secretary of the Department of Revenue has submitted a monthly General Revenue Fund Collections Report for the first eight months of fiscal year 2016 as prepared by the State Budget Office; and

Whereas, This report demonstrates that the State of West Virginia has experienced a revenue shortfall of approximately \$176 million for

the first eight months of fiscal year 2016, as compared to the monthly revenue estimates for the first eight months of the fiscal year 2016; and

Whereas, Current economic and fiscal trends are anticipated to result in projected year-end revenue deficits, including potential significant shortfalls in Severance Tax revenue collections , and shortfalls in Personal Income Tax and Consumers Sales and Use Tax revenue collections; and

Whereas, Projected year-end revenue surpluses in various other General Revenue sources will only offset a small portion of these deficits; and

Whereas, The total projected year-end revenue deficit for the General Revenue Fund is estimated at \$354 million; and

Whereas, On October 22, 2015, the Governor issued Executive Order 7-15 which directed a spending reduction for General Revenue appropriations for fiscal year 2016 totaling \$93,379,526; and

Whereas, The Legislature agreed to take voluntary action to effect a four percent spending reduction of its General Revenue appropriation for fiscal year 2016 totaling \$938,067; and

Whereas, The Governor has established that there now remains an unappropriated balance in the Department of Health and Human Resources, Division of Health B West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2016, organization 0506, and in the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund, fund 5185, fiscal year 2016, organization 0511, that is available for expenditure during the fiscal year ending June 30, 2016 which is hereby appropriated by the terms of this supplementary appropriation bill; and

Whereas, The Legislature finds it necessary to expire funds to the balance of the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund, fund 5185,

organization 0511, to be available during the fiscal year ending June 30, 2016; and

Whereas, The Legislature finds that the account balances in the Attorney General – Consumer Protection Recovery Fund, fund 1509, fiscal year 2016, organization 1500; the Secretary of State, Motor Voter Registration Fund, fund 1606, fiscal year 2016, organization 1600; the Department of Administration, Risk and Insurance Management Board - Premium Tax Savings Fund, fund 2367, fiscal year 2016, organization 0218; the Department of Health and Human Resources, Division of Health – Infectious Medical Waste Program Fund, fund 5117, fiscal year 2016, organization 0506; the Department of Health and Human Resources, Division of Human Services – Medicaid Fraud Control Fund, fund 5141, fiscal year 2016, organization 0511; the Department of Health and Human Resources, Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations, fund 5156, fiscal year 2016, organization 0506; the Department of Health and Human Resources, Division of Health – Tobacco Control Special Fund, fund 5218, fiscal year 2016, organization 0506; the Department of Health and Human Resources, Division of Health - Department of Health and Human Resources Safety and Treatment Fund, fund 5228, fiscal year 2016, organization 0506; the Department of Health and Human Resources, West Virginia Health Care Authority - Health Care Cost Review Authority Fund, fund 5375, fiscal year 2016, organization 0507; the Department of Health and Human Resources, Division of Human Services – Marriage Education Fund, fund 5490, fiscal year 2016, organization 0511; Miscellaneous Boards and Commissions - Public Service Commission – Public Service Commission Fund, fund 8623, fiscal year 2016, organization 0926; and the West Virginia Economic Development Authority - Economic Development Project Bridge Loan Fund, fund 9066, fiscal year 2016, organization 0944 exceed that which is necessary for the purposes for which the accounts were established; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2016, to fund 5214, fiscal year 2016, organization 0506, be supplemented and amended by increasing an existing item of appropriation as follows:

1 **TITLE II B APPROPRIATIONS.**

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

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

5 *206 – Division of Health –*
6 *West Virginia Birth-to-Three Fund*

7 (WV Code Chapter 16)

8 Fund 5214 FY 2016 Org 0506

9	Appro-	Other
10	priation	Funds
11	4 Current Expenses..... 13000	\$ 3,200,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2016, to fund 5185, fiscal year 2016, organization 0511,
14 be supplemented and amended by increasing an existing item of
15 appropriation as follows:

1 **TITLE II – APPROPRIATIONS.**

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

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

5 *213 – Division of Human Services –*
6 *Medical Services Trust Fund*

7

(WV Code Chapter 9)

8

Fund 5185 FY 2016 Org 0511

9

Appropriation

Other Funds

10

11 1 Medical Services..... 18900 \$ 4,000,000

12 And, That the balance of the funds available for expenditure
 13 in the fiscal year ending June 30, 2016, in the Attorney General
 14 – Consumer Protection Recovery Fund, fund 1509, fiscal year
 15 2016, organization 1500, be decreased by expiring the amount of
 16 \$5,000,000; the Secretary of State, Motor Voter Registration
 17 Fund, fund 1606, fiscal year 2016, organization 1600, be
 18 decreased by expiring the amount of \$500,000; the Department
 19 of Administration, Risk and Insurance Management Board -
 20 Premium Tax Savings Fund, fund 2367, fiscal year 2016,
 21 organization 0218, be decreased by expiring the amount of
 22 \$2,527,991.87; the Department of Health and Human Resources,
 23 Division of Health – Infectious Medical Waste Program Fund,
 24 fund 5117, fiscal year 2016, organization 0506, be decreased by
 25 expiring the amount of \$500,000; the Department of Health and
 26 Human Resources, Division of Human Services, Medicaid Fraud
 27 Control Fund, fund 5141, fiscal year 2016, organization 0511, be
 28 decreased by expiring the amount of \$500,000; the Department
 29 of Health and Human Resources, Division of Health – Hospital
 30 Services Revenue Account Special Fund Capital Improvement,
 31 Renovation and Operations, fund 5156, fiscal year 2016,
 32 organization 0506, be decreased by expiring the amount of
 33 \$4,000,000; the Department of Health and Human Resources,
 34 Division of Health – Tobacco Control Special Fund, fund 5218,
 35 fiscal year 2016, organization 0506, be decreased by expiring the
 36 amount of \$50,000; the Department of Health and Human
 37 Resources, Division of Health - Department of Health and
 38 Human Resources Safety and Treatment Fund, fund 5228, fiscal

39 year 2016, organization 0506, be decreased by expiring the
40 amount of \$500,000; the Department of Health and Human
41 Resources, West Virginia Health Care Authority - Health Care
42 Cost Review Authority Fund, fund 5375, fiscal year 2016,
43 organization 0507, be decreased by expiring the amount of
44 \$5,000,000; the Department of Health and Human Resources,
45 Division of Human Services – Marriage Education Fund, fund
46 5490, fiscal year 2016, organization 0511, be decreased by
47 expiring the amount of \$50,000; Miscellaneous Boards and
48 Commissions - Public Service Commission – Public Service
49 Commission Fund, fund 8623, fiscal year 2016, organization
50 0926, be decreased by expiring the amount of \$3,000,000 and the
51 West Virginia Economic Development Authority - Economic
52 Development Project Bridge Loan Fund, fund 9066, fiscal year
53 2016, organization 0944, be decreased by expiring the amount of
54 \$1,361,384.62 all to the balance of the Department of Health and
55 Human Resources, Division of Human Services - Medical
56 Services Trust Fund, fund 5185, organization 0511, to be
57 available during the fiscal year ending June 30, 2016.”

And,

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

H. B. 4155 – “A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2016, to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund, fund 5214, fiscal year 2016, organization 0506, and the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund, fund 5185, fiscal year 2016, organization 0511; and expiring funds to the Department of Health and Human Resources, Division of Human Services — Medical Services Trust Fund, fund 5185, organization 0511, for the fiscal year ending June 30, 2016.”

On the passage of the bill, the yeas and nays were taken (**Roll No. 630**), and there were—yeas 91, nays 7, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Eldridge, Lynch, Manchin, Reynolds, Rodighiero, Skinner and Trecost.

Absent and Not Voting: Moffatt and Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4155) passed.

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

On this question, the yeas and nays were taken (**Roll No. 631**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Hicks, Lynch, Manchin, Skinner and Sponaule.

Absent and Not Voting: Moffatt, Moore and E. Nelson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4155) 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. 4053, Department of Environmental Protection, Air Quality, rule relating to the control of annual nitrogen oxide emissions.

On motion of Delegate Lane, further consideration of the bill was postponed until 11:30 p.m.

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. 4060, Relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That article 6, chapter 64 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 6. AUTHORIZATION FOR DEPARTMENT OF
MILITARY AFFAIRS AND PUBLIC
SAFETY TO PROMULGATE LEGISLATIVE
RULES AND REPEAL OF UNAUTHORIZED
AND OBSOLETE LEGISLATIVE RULES
RELATING TO THE DEPARTMENT OF
MILITARY AFFAIRS AND PUBLIC
SAFETY.**

§64-6-1. Division of Corrections.

(a) The legislative rule effective on May 22, 1995, authorized under the authority of section thirteen, article one, chapter twenty-five of this code, relating to the Division of Corrections (furlough program for adult inmates, 90 CSR 3), is repealed.

(b) The legislative rule effective on May 22, 1995, authorized under the authority of section twenty-one, article one, chapter

twenty-five of this code, relating to the Division of Corrections (employment of displaced correctional employees, 90 CSR 4), is repealed.

(c) The legislative rule effective on April 1, 2007, authorized under the authority of section two, article thirteen, chapter sixty-two of this code, relating to the Division of Corrections (parole supervision, 90 CSR 2), is repealed.

(d) The legislative rule effective on April 5, 2010, authorized under the authority of section seventeen, article one, chapter twenty-five of this code, relating to the Division of Corrections (recording of inmate phone calls, 90 CSR 5), is repealed.

(e) The legislative rule effective on April 5, 2010, authorized under the authority of section eighteen, article one, chapter twenty-five of this code, relating to the Division of Corrections (monitoring inmate mail, 90 CSR 7), is repealed.

(f) The interpretive rule effective on March 8, 1999, authorized under the authority of section twenty-one, article one, chapter twenty-five of this code, relating to the Division of Corrections (charges assessed against inmates for services provided by state medical co-payment, 90 CSR 6), is repealed.

(g) The procedural rule effective on January 1, 2014, authorized under the authority of section two, article one-a, chapter twenty-five of this code, relating to the Division of Corrections (inmate grievance procedures, 90 CSR 9), is repealed.

§64-6-2. Jails and Prison Standards Commission.

(a) The legislative rule effective on November 2, 1993, authorized under the authority of section nine, article twenty, chapter thirty-one of this code, relating to the Jails and Prison Standards Commission (minimum standards for construction, operation and management of holding facilities, 95 CSR 3), is repealed.

§64-6-3. State Fire Commission.

(a) The legislative rule filed in the State Register on June 29, 2015, authorized under the authority of section five, article three, chapter twenty-nine, of this code, relating to the State Fire Commission (Fire Code, 87 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on June 29, 2015, authorized under the authority of section five-b, article three, chapter twenty-nine of this code, modified by the State Fire Commission to meet the objections of the Legislative Rule Committee and refiled in the State Register on December 10, 2015, relating to the State Fire Commission (State Building Code, 87 CSR 4), is authorized with the following amendment:

On page 3, subparagraph 4.1.e.1., in the first sentence before the words “If the owner of a premises” and adding the words “Unless authorized by W.Va. Code §8-12-16, or absent the express consent of the owner,”.

(c) The legislative rule filed in the State Register on June 29, 2015, authorized under the authority of section five-b, article three, chapter twenty-nine of this code, modified by the State Fire Commission to meet the objections of the Legislative Rule Committee and refiled in the State Register on December 10, 2015, relating to the State Fire Commission (Standards for the Certification and Continuing Education of Municipal, County and other Public Sector Building Code Officials, Inspectors and Plans Examiners, 87 CSR 7), is authorized.”

And,

On page one, by amending the title, to read as follows:

Com. Sub. for H. B. 4060 – “A Bill to amend and reenact article 6, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to administrative rules of the Department of Military Affairs and Public Safety; repealing certain legislative, procedural or

interpretive rules promulgated by certain agencies, commissions and boards which are no longer authorized or are obsolete; repealing certain legislative rules by certain agencies and commissions under the Department of Military Affairs and Public Safety; repealing the Division of Corrections legislative rule relating to a furlough program for adult inmates; repealing the Division of Corrections legislative rule relating to employment of displaced correctional employees; repealing the Division of Corrections legislative rule relating to parole supervision; repealing the Division of Corrections legislative rule relating to recording of inmate phone calls; repealing the Division of Corrections legislative rule relating to monitoring inmate mail; repealing the Division of Corrections interpretive rule relating to charges assessed against inmates for services provided by state medical co-payment; repealing the Division of Corrections procedural rule relating to inmate grievance procedures; repealing the Jails and Prison Standards Commission legislative rule relating to minimum standards for construction, operation and management of holding facilities; authorizing certain agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing the Fire Commission to promulgate a legislative rule relating to the fire code; authorizing the Fire Commission to promulgate a legislative rule relating to the state building code; and authorizing the Fire Commission to promulgate a legislative rule relating to the standards for the certification of continuing education of municipal, county and other public sector building code officials, inspectors and plans examiners.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 632**), 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: Kelly and Moore.

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. 4060) passed.

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

On this question, the yeas and nays were taken (**Roll No. 633**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Kelly and Moore.

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. 4060) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for S. B. 272, Allowing investigators from Attorney General's office to carry concealed weapons.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for S. B. 272 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-3-6; and to amend said code by adding thereto a new section, designated §60-3-24a, all relating to Attorney General's investigators; allowing them to carry concealed weapons under certain circumstances; limiting liability for certain acts of investigators; relating to employees of the Enforcement Division of the West

Virginia Alcohol Beverage Control Administration; and allowing them to carry concealed weapons under certain circumstances.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 634**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Kelly, Moore and Sponaugle.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 272) 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. 4378, Relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected person.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

**“ARTICLE 3. GUARDIANSHIP AND CONSERVATORSHIP
ADMINISTRATION.**

**§44A-3-17. Petition by certain persons for access to persons in
guardianship; hearing and court order.**

(a) As used in this section, unless the context otherwise requires, ‘relative’ means a spouse, parent, grandparent, stepparent, child,

grandchild, sibling or half sibling. The term includes said relationships that are created as a result of adoption. Additionally, as used in this section and section eighteen of this article, 'relative' includes any person who has a family-type relationship with a protected person and any person with whom the protected person resided immediately prior to the time guardianship was sought.

(b) A relative may file a petition in circuit court seeking access to and information about a protected person which may include the opportunity to have visitation and contact with the protected person. The petition may be filed in the circuit court of the county in which the protected person resides or if the protected person has been admitted to a health care facility in a county other than that in which he or she resides in the circuit court of the county in which the health care facility is located.

(c) The court shall schedule a hearing on the petition within sixty days of the petition being filed: *Provided*, That if the petition alleges that the protected person's health is in significant decline or he or she is at imminent risk of death, an emergency hearing shall be scheduled as soon as practicable. The court may continue a hearing for good cause shown.

(d) Service of process upon the guardian shall be by personal service, consistent with the West Virginia Rules of Civil Procedure. Service of the petition shall be effected at least ten days prior to the scheduled hearing date: *Provided*, That where an emergency hearing is sought pursuant to subsection (c) of this section, service of process upon the guardian shall be as far in advance of the scheduled hearing date as possible.

(e) Upon notice and hearing the court may:

(1) Deny the petition;

(2) Order the guardian to allow the petitioner access to the protected person upon finding, by a preponderance of the evidence,

that the guardian is preventing access by the petitioner to the protected person, that the protected person is desirous of contact with the petitioner.

(f) In determining whether to order that the petitioner shall have access to the protected person, the court shall consider the best interests of the protected person.

(g) The court may, in its discretion, award the prevailing party in an action brought under this section court costs and reasonable attorney's fees. Court costs and attorney's fees awarded under this subsection may not be paid from the protected person's estate.

(h) If the court grants the petition it may, in its discretion, retain jurisdiction over the matter and modify its order consistent with the best interests of the protected person.

(i) The provisions of this section apply to all guardianship of protected persons regardless of the date guardianship was established.

§44A-3-18. Guardian's duty to inform certain relatives about protected person's health and residence.

(a) The provisions of this section apply to relatives who have been granted access to a protected person under section seventeen of this article.

(b) Except as provided by subsection (d) of this section, the guardian of a protected person shall as soon as practicable inform such relatives if:

(1) The protected person dies;

(2) The protected person is admitted to a medical facility for a period of three days or more;

(3) The protected person's residence has changed; or

(4) The protected person is staying at a location other than his or her usual place of residence for a period that exceeds two calendar weeks.

(c) In the case of the death of the protected person, the guardian shall inform the relative of any funeral arrangements and the location of the protected person's final resting place.

(d) A relative entitled to receive information regarding a protected person under this section may waive the notice required thereof by this section by providing a written waiver to the guardian. A guardian shall file any such written waiver with the court."

And,

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

H. B. 4378 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §44A-3-17 and §44A-3-18, all relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected person; authorizing relatives of a protected person to petition the circuit court for access and information about a protected person; defining ‘relative’; providing a relative may petition the court for an order granting access to a protected person; setting forth time standards in which to conduct a hearing after a petition is filed; providing for an emergency hearing under particular circumstances; providing for service of a petition upon a guardian and setting time standards for service thereof; providing for the entry of an order by the court following notice and hearing conducted thereon; providing standards for a court to observe and implement in issuing a ruling on a petition; providing the court may award attorney’s fees and costs be paid to a prevailing party; setting forth particular duties for a guardian to provide relatives notice about a protected person’s condition and circumstances; authorizing court to retain jurisdiction; regarding dissemination of information about a protected person to relatives; and

providing a guardian method whereby may be relieved of responsibility for providing information regarding a protected person to a relative.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 635**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Kelly and Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4378) passed.

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 the adoption of the report of the Committee of Conference on, and the passage, as amended by said report, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 454, Licensing and regulating medication-assisted treatment programs for substance use disorders.

Conference Committee Report

Delegate Stansbury, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for S. B. 454, Licensing and regulating medication-assisted treatment programs for substance use disorders,

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 House to Engrossed Committee Substitute for Senate Bill No. 454 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting section, and agree to the same as follows:

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.

§16-1-4. Proposal of rules by the secretary.

(a) The secretary may propose rules in accordance with the provisions of article three, chapter twenty-nine-a of this code that are necessary and proper to effectuate the purposes of this chapter. The secretary may appoint or designate advisory councils of professionals in the areas of hospitals, nursing homes, barbers and beauticians, postmortem examinations, mental health and intellectual disability centers and any other areas necessary to advise the secretary on rules.

(b) The rules may include, but are not limited to, the regulation of:

(1) Land usage endangering the public health: *Provided*, That no rules may be promulgated or enforced restricting the subdivision or development of any parcel of land within which the individual tracts, lots or parcels exceed two acres each in total surface area and which individual tracts, lots or parcels have an average frontage of not less than one hundred fifty feet even though the total surface area of the tract, lot or parcel equals or exceeds two acres in total surface area, and which tracts are sold, leased or utilized only as single-family dwelling units. Notwithstanding the provisions of this subsection, nothing in this section may be construed to abate the authority of the department to:

(A) Restrict the subdivision or development of a tract for any more intense or higher density occupancy than a single-family dwelling unit;

(B) Propose or enforce rules applicable to single-family dwelling units for single-family dwelling unit sanitary sewerage disposal systems; or

(C) Restrict any subdivision or development which might endanger the public health, the sanitary condition of streams or sources of water supply;

(2) The sanitary condition of all institutions and schools, whether public or private, public conveyances, dairies, slaughterhouses, workshops, factories, labor camps, all other places open to the general public and inviting public patronage or public assembly, or tendering to the public any item for human consumption and places where trades or industries are conducted;

(3) Occupational and industrial health hazards, the sanitary conditions of streams, sources of water supply, sewerage facilities and plumbing systems and the qualifications of personnel connected with any of those facilities, without regard to whether the supplies or systems are publicly or privately owned; and the design of all water systems, plumbing systems, sewerage systems, sewage treatment plants, excreta disposal methods and swimming pools in this state, whether publicly or privately owned;

(4) Safe drinking water, including:

(A) The maximum contaminant levels to which all public water systems must conform in order to prevent adverse effects on the health of individuals and, if appropriate, treatment techniques that reduce the contaminant or contaminants to a level which will not adversely affect the health of the consumer. The rule shall contain provisions to protect and prevent contamination of wellheads and well fields used by public water supplies so that contaminants do not reach a level that would adversely affect the health of the consumer;

(B) The minimum requirements for: Sampling and testing; system operation; public notification by a public water system on being granted a variance or exemption or upon failure to comply with specific requirements of this section and rules promulgated under this section; record keeping; laboratory certification; as well as procedures and conditions for granting variances and exemptions to public water systems from state public water systems rules; and

(C) The requirements covering the production and distribution of bottled drinking water and may establish requirements governing the taste, odor, appearance and other consumer acceptability parameters of drinking water;

(5) Food and drug standards, including cleanliness, proscription of additives, proscription of sale and other requirements in accordance with article seven of this chapter as are necessary to protect the health of the citizens of this state;

(6) The training and examination requirements for emergency medical service attendants and emergency medical care technician-paramedics; the designation of the health care facilities, health care services and the industries and occupations in the state that must have emergency medical service attendants and emergency medical care technician-paramedics employed and the availability, communications and equipment requirements with respect to emergency medical service attendants and to emergency medical care technician-paramedics. Any regulation of emergency medical service attendants and emergency medical care technician- paramedics may not exceed the provisions of article four-c of this chapter;

(7) The health and sanitary conditions of establishments commonly referred to as bed and breakfast inns. For purposes of this article, “bed and breakfast inn” means an establishment providing sleeping accommodations and, at a minimum, a breakfast for a fee. The secretary may not require an owner of a bed and breakfast providing sleeping accommodations of six or fewer rooms to install a

restaurant-style or commercial food service facility. The secretary may not require an owner of a bed and breakfast providing sleeping accommodations of more than six rooms to install a restaurant-type or commercial food service facility if the entire bed and breakfast inn or those rooms numbering above six are used on an aggregate of two weeks or less per year;

(8) Fees for services provided by the Bureau for Public Health including, but not limited to, laboratory service fees, environmental health service fees, health facility fees and permit fees;

(9) The collection of data on health status, the health system and the costs of health care;

~~(10) Opioid treatment programs duly licensed and operating under the requirements of chapter twenty-seven of this code.~~

~~(A) The Health Care Authority shall develop new certificate of need standards, pursuant to the provisions of article two-d of this chapter, that are specific for opioid treatment program facilities.~~

~~(B) No applications for a certificate of need for opioid treatment programs may be approved by the Health Care Authority as of the effective date of the 2007 amendments to this subsection.~~

~~(C) There is a moratorium on the licensure of new opioid treatment programs that do not have a certificate of need as of the effective date of the 2007 amendments to this subsection, which shall continue until the Legislature determines that there is a necessity for additional opioid treatment facilities in West Virginia.~~

~~(D) The secretary shall file revised emergency rules with the Secretary of State to regulate opioid treatment programs in compliance with the provisions of this section. Any opioid treatment program facility that has received a certificate of need pursuant to article two-d, of this chapter by the Health Care Authority shall be permitted to proceed to license and operate the facility.~~

~~(E) All existing opioid treatment programs shall be subject to monitoring by the secretary. All staff working or volunteering at opioid treatment programs shall complete the minimum education, reporting and safety training criteria established by the secretary. All existing opioid treatment programs shall be in compliance within one hundred eighty days of the effective date of the revised emergency rules as required herein. The revised emergency rules shall provide at a minimum:~~

~~(i) That the initial assessment prior to admission for entry into the opioid treatment program shall include an initial drug test to determine whether an individual is either opioid addicted or presently receiving methadone for an opioid addiction from another opioid treatment program.~~

~~(ii) The patient may be admitted to the opioid treatment program if there is a positive test for either opioids or methadone or there are objective symptoms of withdrawal, or both, and all other criteria set forth in the rule for admission into an opioid treatment program are met. Admission to the program may be allowed to the following groups with a high risk of relapse without the necessity of a positive test or the presence of objective symptoms: Pregnant women with a history of opioid abuse, prisoners or parolees recently released from correctional facilities, former clinic patients who have successfully completed treatment but who believe themselves to be at risk of imminent relapse and HIV patients with a history of intravenous drug use.~~

~~(iii) That within seven days of the admission of a patient, the opioid treatment program shall complete an initial assessment and an initial plan of care.~~

~~(iv) That within thirty days after admission of a patient, the opioid treatment program shall develop an individualized treatment plan of care and attach the plan to the patient's chart no later than five days after the plan is developed. The opioid treatment program shall follow guidelines established by a nationally recognized authority approved~~

~~by the secretary and include a recovery model in the individualized treatment plan of care. The treatment plan is to reflect that detoxification is an option for treatment and supported by the program; that under the detoxification protocol the strength of maintenance doses of methadone should decrease over time, the treatment should be limited to a defined period of time, and participants are required to work toward a drug-free lifestyle.~~

~~(v) That each opioid treatment program shall report and provide statistics to the Department of Health and Human Resources at least semiannually which includes the total number of patients; the number of patients who have been continually receiving methadone treatment in excess of two years, including the total number of months of treatment for each such patient; the state residency of each patient; the number of patients discharged from the program, including the total months in the treatment program prior to discharge and whether the discharge was for:~~

~~(A) Termination or disqualification;~~

~~(B) Completion of a program of detoxification;~~

~~(C) Voluntary withdrawal prior to completion of all requirements of detoxification as determined by the opioid treatment program;~~

~~(D) Successful completion of the individualized treatment care plan; or~~

~~(E) An unexplained reason.~~

~~(vi) That random drug testing of all patients shall be conducted during the course of treatment at least monthly. For purposes of these rules, "random drug testing" means that each patient of an opioid treatment program facility has a statistically equal chance of being selected for testing at random and at unscheduled times. Any refusal to participate in a random drug test shall be considered a positive test. Nothing contained in this section or the legislative rules promulgated~~

~~in conformity herewith will preclude any opioid treatment program from administering such additional drug tests as determined necessary by the opioid treatment program:~~

~~(vii) That all random drug tests conducted by an opioid treatment program shall, at a minimum, test for the following:~~

~~(A) Opiates, including oxycodone at common levels of dosing; (B) Methadone and any other medication used by the program as an intervention;~~

~~(C) Benzodiazepine including diazepam, lorazepam, clonazepam and alprazolam;~~

~~(D) Cocaine;~~

~~(E) Methamphetamine or amphetamine;~~

~~(F) Tetrahydrocannabinol, delta-9-tetrahydrocannabinol or dronabinol or other similar substances; or~~

~~(G) Other drugs determined by community standards, regional variation or clinical indication.~~

~~(viii) That a positive drug test is a test that results in the presence of any drug or substance listed in this schedule and any other drug or substance prohibited by the opioid treatment program. A positive drug test result after the first six months in an opioid treatment program shall result in the following:~~

~~(A) Upon the first positive drug test result, the opioid treatment program shall:~~

~~(1) Provide mandatory and documented weekly counseling of no less than thirty minutes to the patient, which shall include weekly meetings with a counselor who is licensed, certified or enrolled in the process of obtaining licensure or certification in compliance with the rules and on staff at the opioid treatment program;~~

~~(2) Immediately revoke the take-home methadone privilege for a minimum of thirty days; and~~

~~(B) Upon a second positive drug test result within six months of a previous positive drug test result, the opioid treatment program shall:~~

~~(1) Provide mandatory and documented weekly counseling of no less than thirty minutes, which shall include weekly meetings with a counselor who is licensed, certified or enrolled in the process of obtaining licensure or certification in compliance with the rules and on staff at the opioid treatment program;~~

~~(2) Immediately revoke the take-home methadone privilege for a minimum of sixty days; and~~

~~(3) Provide mandatory documented treatment team meetings with the patient.~~

~~(C) Upon a third positive drug test result within a period of six months the opioid treatment program shall:~~

~~(1) Provide mandatory and documented weekly counseling of no less than thirty minutes, which shall include weekly meetings with a counselor who is licensed, certified or enrolled in the process of obtaining licensure or certification in compliance with the rules and on staff at the opioid treatment program;~~

~~(2) Immediately revoke the take-home methadone privilege for a minimum of one hundred twenty days; and~~

~~(3) Provide mandatory and documented treatment team meetings with the patient which will include, at a minimum: The need for continuing treatment; a discussion of other treatment alternatives; and the execution of a contract with the patient advising the patient of discharge for continued positive drug tests.~~

~~(D) Upon a fourth positive drug test within a six-month period, the patient shall be immediately discharged from the opioid treatment~~

program or, at the option of the patient, shall immediately be provided the opportunity to participate in a twenty-one day detoxification plan; followed by immediate discharge from the opioid treatment program: ~~Provided, That testing positive solely for tetrahydrocannabinol; delta-9-tetrahydrocannabinol or dronabinol or similar substances shall not serve as a basis for discharge from the program.~~

~~(ix) That the opioid treatment program must report and provide statistics to the Department of Health and Human Resources demonstrating compliance with the random drug test rules, including:~~

~~(A) Confirmation that the random drug tests were truly random in regard to both the patients tested and to the times random drug tests were administered by lottery or some other objective standard so as not to prejudice or protect any particular patient;~~

~~(B) Confirmation that the random drug tests were performed at least monthly for all program participants;~~

~~(C) The total number and the number of positive results; and~~

~~(D) The number of expulsions from the program.~~

~~(x) That all opioid treatment facilities be open for business seven days per week; however, the opioid treatment center may be closed for eight holidays and two training days per year. During all operating hours, every opioid treatment program shall have a health care professional as defined by rule promulgated by the secretary actively licensed in this state present and on duty at the treatment center and a physician actively licensed in this state available for consultation.~~

~~(xi) That the Office of Health Facility Licensure and Certification develop policies and procedures in conjunction with the Board of Pharmacy that will allow physicians treating patients through an opioid treatment program access to the Controlled Substances Monitoring Program database maintained by the Board of Pharmacy at the patient's intake, before administration of methadone or other treatment~~

~~in an opioid treatment program, after the initial thirty days of treatment, prior to any take-home medication being granted, after any positive drug test, and at each ninety-day treatment review to ensure the patient is not seeking prescription medication from multiple sources. The results obtained from the Controlled Substances Monitoring Program database shall be maintained with the patient records:~~

~~(xii) That each opioid treatment program shall establish a peer review committee, with at least one physician member, to review whether the program is following guidelines established by a nationally recognized authority approved by the secretary. The secretary shall prescribe the procedure for evaluation by the peer review. Each opioid treatment program shall submit a report of the peer review results to the secretary on a quarterly basis:~~

~~(xiii) (c) The secretary shall propose a rule for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code for the distribution of state aid to local health departments and basic public health services funds.~~

The rule shall include the following provisions:

Base allocation amount for each county;

Establishment and administration of an emergency fund of no more than two percent of the total annual funds of which unused amounts are to be distributed back to local boards of health at the end of each fiscal year;

A calculation of funds utilized for state support of local health departments;

Distribution of remaining funds on a per capita weighted population approach which factors coefficients for poverty, health status, population density and health department interventions for each county and a coefficient which encourages counties to merge in the provision of public health services;

A hold-harmless provision to provide that each local health department receives no less in state support for a period of four years beginning in the 2009 budget year.

The Legislature finds that an emergency exists and, therefore, the secretary shall file an emergency rule to implement the provisions of this section pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code. The emergency rule is subject to the prior approval of the Legislative Oversight Commission on Health and Human Resources Accountability prior to filing with the Secretary of State.

~~(xiv)~~ (d) The secretary may propose rules for legislative approval that may include the regulation of other ~~Other~~ health-related matters which the department is authorized to supervise and for which the rule-making authority has not been otherwise assigned.

ARTICLE 5Y. MEDICATION-ASSISTED TREATMENT PROGRAM LICENSING ACT.

§16-5Y-1. Purpose.

The purpose of this act is to establish licensing and registration requirements for facilities and physicians that treat patients with substance use disorders to ensure that patients may be lawfully treated by the use of medication and drug screens, in combination with counseling and behavioral therapies, to provide a holistic approach to the treatment of substance use disorders and comply with oversight requirements developed by the Department of Health and Human Resources. The Legislature recognizes the problem of substance use disorders in West Virginia and the need for quality, safe treatment of substance use disorders to adequately protect the people of West Virginia.

§16-5Y-2. Definitions.

(a) “Addiction” means a primary, chronic disease of brain reward, motivation, memory and related circuitry. Dysfunction in these circuits

leads to characteristic biological, psychological, social and spiritual manifestations, which is reflected in an individual pathologically pursuing reward or relief by substance use, or both, and other behaviors. Addiction is characterized by inability to consistently abstain; impairment in behavioral control; craving; diminished recognition of significant problems with one's behaviors; interpersonal problems with one's behaviors and interpersonal relationships; a dysfunctional emotional response; and as addiction is currently defined by the American Society of Addiction Medicine.

(b) "Administrator" means an individual designated by the governing body to be responsible for the day-to-day operation of the opioid treatment programs.

(c) "Advanced alcohol and drug abuse counselor" means an alcohol and drug abuse counselor who is certified by the West Virginia Certification Board for Addiction and Prevention Professionals who demonstrates a high degree of competence in the addiction counseling field.

(d) "Alcohol and drug abuse counselor" means a counselor certified by the West Virginia Certification Board for Addiction and Prevention Professionals for specialized work with patients who have substance use problems.

(e) "Biopsychosocial" means of, relating to, or concerned with, biological, psychological and social aspects in contrast to the strictly biomedical aspects of disease.

(f) "Center for Substance Abuse Treatment" means the center under the Substance Abuse and Mental Health Services Administration that promotes community-based substance abuse treatment and recovery services for individuals and families in the community and provides national leadership to improve access, reduce barriers and promote high quality, effective treatment and recovery services.

(g) “Controlled Substances Monitoring Program database” means the database maintained by the West Virginia Board of Pharmacy pursuant to section three, article nine, chapter sixty-a of this code that monitors and tracks certain prescriptions written or dispensed by dispensers and prescribers in West Virginia.

(h) “Director” means the Director of the Office of Health Facility Licensure and Certification.

(i) “Dispense” means the preparation and delivery of a medication-assisted treatment medication in an appropriately labeled and suitable container to a patient by a medication-assisted treatment program or pharmacist.

(j) “Governing body” means the person or persons identified as being legally responsible for the operation of the opioid treatment program. A governing body may be a board, a single entity or owner, or a partnership. The governing body must comply with the requirements prescribed in rules promulgated pursuant to this article.

(k) “Medical director” means a physician licensed within the State of West Virginia who assumes responsibility for administering all medical services performed by the medication-assisted treatment program, either by performing them directly or by delegating specific responsibility to authorized program physicians and health care professionals functioning under the medical director’s direct supervision and functioning within their scope of practice.

(l) “Medication-assisted treatment” means the use of medications and drug screens, in combination with counseling and behavioral therapies, to provide a holistic approach to the treatment of substance use disorders.

(m) “Medication-assisted treatment program” means all publicly and privately owned opioid treatment programs and office based medication-assisted treatment programs, which prescribe

medication-assisted treatment medications and treat substance use disorders, as those terms are defined in this article.

(n) “Medication-assisted treatment medication” means any medication that is approved by the United States Food and Drug Administration under section 505 of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. § 355, for use in the treatment of substance use disorders that is an opioid agonist and is listed on the schedule of controlled substances in article two, chapter sixty-a of this code.

(o) “Office based medication-assisted treatment” means all publicly or privately owned medication-assisted treatment programs in clinics, facilities, offices or programs that treat individuals with substance use disorders through the prescription, administration or dispensing of a medication-assisted treatment medication in the form of a partial opioid agonist or other medication-assisted medication approved for use in office based medication-assisted treatment setting.

(p) “Opioid agonist” means substances that bind to and activate the opiate receptors resulting in analgesia and pain regulation, respiratory depression and a wide variety of behavioral changes. As used in this article, the term “opioid agonist” does not include partial agonist medications used as an alternative to opioid agonists in the treatment of opioid addiction.

(q) “Opioid treatment program” means all publicly or privately owned medication-assisted treatment programs in clinics, facilities, offices or programs that treat individuals with substance use disorders through on-site administration or dispensing of a medication-assisted treatment medication in the form of an opioid agonist or partial opioid agonist.

(r) “Owner” means any person, partnership, association or corporation listed as the owner of a medication-assisted treatment program on the licensing or registration forms required by this article.

(s) “Partial opioid agonist” means a Federal Drug Administration approved medication that is used as an alternative to opioid agonists

for the treatment of substance use disorders and that binds to and activates opiate receptors, but not to the same degree as full agonists.

(t) “Physician” means an individual licensed in this state to practice allopathic medicine or surgery by the West Virginia Board of Medicine or osteopathic medicine or surgery by the West Virginia Board of Osteopathic Medicine and that meets the requirements of this article.

(u) “Prescriber” means a person authorized in this state, working within their scope of practice, to give direction, either orally or in writing, for the preparation and administration of a remedy to be used in the treatment of substance use disorders.

(v) “Program sponsor” means the person named in the application for the certification and licensure of a opioid treatment program who is responsible for the administrative operation of the opioid treatment program, and who assumes responsibility for all of its employees, including any practitioners, agents or other persons providing medical, rehabilitative or counseling services at the program.

(w) “Secretary” means the Secretary of the West Virginia Department of Health and Human Resources or his or her designee.

(x) “State opioid treatment authority” means the agency or individual designated by the Governor to exercise the responsibility and authority of the state for governing the treatment of substance use disorders, including, but not limited to, the treatment of opiate addiction with opioid drugs.

(y) “State oversight agency” means the agency or office of state government identified by the secretary to provide regulatory oversight of medication-assisted treatment programs on behalf of the State of West Virginia.

(z) “Substance” means the following:

(1) Alcohol;

(2) Controlled substances defined by section two hundred four, article two, chapter sixty-a; section two hundred six, article two, chapter sixty-a; section two hundred eight, article two, chapter sixty-a and section two hundred ten, article two, chapter sixty-a of this code; or

(3) Any chemical, gas, drug or medication consumed which causes clinically and functionally significant impairment, such as health problems, disability and failure to meet major responsibilities at work, school or home.

(aa) “Substance Abuse and Mental Health Services Administration” means the agency under the United States Department of Health and Human Services responsible for the accreditation and certification of medication-assisted treatment programs and that provides leadership, resources, programs, policies, information, data, contracts and grants for the purpose of reducing the impact of substance abuse and mental or behavioral illness.

(bb) “Substance use disorder” means patterns of symptoms resulting from use of a substance that the individual continues to take, despite experiencing problems as a result; or as defined in the most recent edition of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders.

(cc) “Telehealth” means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care.

(dd) “Variance” means written permission granted by the secretary to a medication-assisted treatment program that a requirement of this article or rules promulgated pursuant to this article may be accomplished in a manner different from the manner set forth in this article or associated rules.

(ee) “Waiver” means a formal, time-limited agreement between the designated oversight agency and the medication-assisted treatment program that suspends a rule, policy or standard for a specific situation so long as the health and safety of patients is better served in the situation by suspension of the rule, policy or standard than by enforcement.

§16-5Y-3. Opioid treatment programs to obtain license; application; fees and inspections.

(a) No person, partnership, association or corporation may operate an opioid treatment program without first obtaining a license from the secretary in accordance with the provisions of this article and the rules lawfully promulgated pursuant to this article.

(b) Any person, partnership, association or corporation desiring a license to operate an opioid treatment program in this state shall file with the Office of Health Facility Licensure and Certification an application in such form and with such information as the secretary shall prescribe and furnish accompanied by an application fee.

(c) The Director of the Office of Health Facility Licensure and Certification or his or her designee shall inspect each facility and review all documentation submitted with the application. The director shall then provide a recommendation to the secretary whether to approve or deny the application for a license. The secretary shall issue a license if the facility is in compliance with the provisions of this article and with the rules lawfully promulgated pursuant to this article.

(d) A license shall be issued in one of three categories:

(1) An initial twelve month license shall be issued to an opioid treatment program establishing a new program or service for which there is insufficient consumer participation to demonstrate substantial compliance with this article and with all rules promulgated pursuant to this article;

(2) A provisional license shall be issued when an opioid treatment program seeks a renewal license, or is an existing program as of the effective date of this article and is seeking an initial license, and the opioid treatment program is not in substantial compliance with this article and with all rules promulgated pursuant to this article, but does not pose a significant risk to the rights, health and safety of a consumer. It shall expire not more than six months from the date of issuance, and may not be consecutively reissued; or

(3) A renewal license shall be issued when an opioid treatment program is in substantial compliance with this article and with all rules promulgated pursuant to this article. A renewal license shall expire not more than one year from the date of issuance.

(e) At least sixty days prior to the license expiration date, an application for renewal shall be submitted by the opioid treatment program to the secretary on forms furnished by the secretary. A license shall be renewed if the secretary determines that the applicant is in compliance with this article and with all rules promulgated pursuant to this article. A license issued to one program location pursuant to this article is not transferrable or assignable. Any change of ownership of a licensed medication-assisted treatment program requires submission of a new application. The medication-assisted treatment program shall notify the secretary of any change in ownership within ten days of the change and must submit a new application within the time frame prescribed by the secretary.

(f) Any person, partnership, association or corporation that seeks to obtain or renew a license for an opioid treatment program in this state must submit to the secretary the following documentation:

(1) Full operating name of the program as advertised;

(2) Legal name of the program as registered with the West Virginia Secretary of State;

(3) Physical address of the program;

(4) Preferred mailing address for the program;

(5) Email address to be used as the primary contact for the program;

(6) Federal Employer Identification Number assigned to the program;

(7) All business licenses issued to the program by this state, the state Tax Department, the Secretary of State and all other applicable business entities;

(8) Brief description of all services provided by the program;

(9) Hours of operation;

(10) Legal Registered Owner Name – name of the person registered as the legal owner of the program. If more than one legal owner (i.e., partnership, corporation, etc.) list each legal owner separately, indicating the percentage of ownership;

(11) Medical director's full name, medical license number, Drug Enforcement Administration registration number, and a list of all current certifications;

(12) For each employee of the program, provide the following:

(A) Employee's role and occupation within the program;

(B) Full legal name;

(C) Medical license, if applicable;

(D) Drug Enforcement Administration registration number, if applicable;

(E) Drug Enforcement Administration identification number to prescribe buprenorphine for addiction, if applicable; and

(F) Number of hours per week worked at program;

(13) Name and location address of all programs owned or operated by the applicant;

(14) Notarized signature of applicant;

(15) Check or money order for licensing fee and inspection fee;

(16) Verification of education and training for all physicians, counselors and social workers practicing at or used by referral by the program such as fellowships, additional education, accreditations, board certifications and other certifications;

(17) Board of Pharmacy Controlled Substance Prescriber Report for each prescriber practicing at the program for the three months preceding the date of application; and

(18) If applicable, a copy of a valid Certificate of Need or a letter of exemption from the West Virginia Health Care Authority.

(g) Upon satisfaction that an applicant has met all of the requirements of this article, the secretary shall issue a license to operate an opioid treatment program. An entity that obtains this license may possess, have custody or control of, and dispense drugs indicated and approved by the United States Food and Drug Administration for the treatment of substance use disorders.

(h) The opioid treatment program shall display the current license in a prominent location where services are provided and in clear view of all patients.

(i) The secretary or his or her designee shall inspect on a periodic basis all opioid treatment programs that are subject to this article and all rules adopted pursuant to this article to ensure continued compliance.

(j) Any license in effect at the time of the passage of this section in the 2016 regular session of the Legislature shall remain in effect

until such time as new legislative rules promulgated pursuant to this article become effective. Upon the effective date of the new rules any licensee shall file for a new license within six months pursuant to the licensing procedures and requirements of this section and the new rules promulgated hereunder. The existing license shall remain effective until receipt of the new license.

§16-5Y-4. Office based medication-assisted treatment programs to obtain registration; application; fees and inspections.

(a) No person, partnership, association or corporation may operate an office based medication-assisted treatment program without first obtaining a registration from the secretary in accordance with the provisions of this article and the rules lawfully promulgated pursuant to this article.

(b) Any person, partnership, association or corporation desiring a registration to operate an office based medication-assisted treatment program in this state shall file with the Office of Health Facility Licensure and Certification an application in such form and with such information as the secretary shall prescribe and furnish accompanied by an application fee.

(c) The Director of the Office of Health Facility Licensure and Certification or his or her designee shall inspect and review all documentation submitted with the application. The director shall then provide a recommendation to the secretary whether to approve or deny the application for registration. The secretary shall issue a registration if the facility is in compliance with the provisions of this article and with the rules lawfully promulgated pursuant to this article.

(d) A registration shall be issued in one of three categories:

(1) An initial twelve month registration shall be issued to an office based medication-assisted treatment program establishing a new program or service for which there is insufficient consumer

participation to demonstrate substantial compliance with this article and with all rules promulgated pursuant to this article;

(2) A provisional registration shall be issued when an office based medication-assisted treatment program seeks a renewal registration, or is an existing program as of the effective date of this article and is seeking an initial registration, and the office based medication-assisted treatment program is not in substantial compliance with this article and with all rules promulgated pursuant to this article, but does not pose a significant risk to the rights, health and safety of a consumer. It shall expire not more than six months from the date of issuance, and may not be consecutively reissued; or

(3) A renewal registration shall be issued when an office based medication-assisted treatment program is in substantial compliance with this article and with all rules promulgated pursuant to this article. A renewal registration shall expire not more than one year from the date of issuance.

(e) At least sixty days prior to the registration expiration date, an application for renewal shall be submitted by the office based medication-assisted treatment program to the secretary on forms furnished by the secretary. A registration shall be renewed if the secretary determines that the applicant is in compliance with this article and with all rules promulgated pursuant to this article. A registration issued to one program location pursuant to this article is not transferrable or assignable. Any change of ownership of a registered medication-assisted treatment program requires submission of a new application. The medication-assisted treatment program shall notify the secretary of any change in ownership within ten days of the change and must submit a new application within the time frame prescribed by the secretary.

(f) Any person, partnership, association or corporation seeking to obtain or renew a registration for an office based medication-assisted treatment program in this state must submit to the secretary the following documentation:

(1) Full operating name of the program as advertised;

(2) Legal name of the program as registered with the West Virginia Secretary of State;

(3) Physical address of the program;

(4) Preferred mailing address for the program;

(5) Email address to be used as the primary contact for the program;

(6) Federal Employer Identification Number assigned to the program;

(7) All business licenses issued to the program by this state, the state Tax Department, the Secretary of State and all other applicable business entities;

(8) Brief description of all services provided by the program;

(9) Hours of operation;

(10) Legal Registered Owner Name – name of the person registered as the legal owner of the program. If more than one legal owner (i.e., partnership, corporation, etc.) list each legal owner separately, indicating the percentage of ownership;

(11) Medical director's full name, medical license number, Drug Enforcement Administration registration number, and a listing of all current certifications;

(12) For each physician, counselor or social worker of the program, provide the following:

(A) Employee's role and occupation within the program;

(B) Full legal name;

(C) Medical license, if applicable;

(D) Drug Enforcement Administration registration number, if applicable;

(E) Drug Enforcement Administration identification number to prescribe buprenorphine for addiction, if applicable; and

(F) Number of hours worked at program per week;

(13) Name and location address of all programs owned or operated by the applicant;

(14) Notarized signature of applicant;

(15) Check or money order for registration fee;

(16) Verification of education and training for all physicians, counselors and social workers practicing at or used by referral by the program such as fellowships, additional education, accreditations, board certifications and other certifications;

(17) Board of Pharmacy Controlled Substance Prescriber Report for each prescriber practicing at the program for the three months preceding the date of application; and

(18) If applicable, a copy of a valid Certificate of Need or a letter of exemption from the West Virginia Health Care Authority.

(g) Upon satisfaction that an applicant has met all of the requirements of this article, the secretary shall issue a registration to operate an office based medication-assisted treatment program. An entity that obtains this registration may possess, have custody or control of, and dispense drugs indicated and approved by the United States Food and Drug Administration for the treatment of substance use disorders.

(h) The office based medication-assisted treatment program shall display the current registration in a prominent location where services are provided and in clear view of all patients.

(i) The secretary or his or her designee shall perform complaint and verification inspections on all office based medication-assisted treatment programs that are subject to this article and all rules adopted pursuant to this article to ensure continued compliance.

(j) Any person, partnership, association or corporation operating a medication-assisted treatment program shall be permitted to continue operation until the effective date of the new rules promulgated pursuant to this article. At that time a person, partnership, association or corporation shall file for registration within six months pursuant to the licensing procedures and requirements of this section and the new rules promulgated hereunder. The existing procedures of the person, partnership, association or corporation shall remain effective until receipt of the registration.

§16-5Y-5. Operational requirements.

(a) The medication-assisted treatment program shall be licensed and registered in this state with the secretary, the Secretary of State, the state Tax Department and all other applicable business or licensing entities.

(b) The program sponsor need not be a licensed physician but shall employ a licensed physician for the position of medical director, when required by the rules promulgated pursuant to this article.

(c) Each medication-assisted treatment program shall designate a medical director. If the medication-assisted treatment program is accredited by a Substance Abuse and Mental Health Services Administration (SAMHSA) approved accrediting body that meets nationally accepted standards for providing medication-assisted treatment, including the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission on Accreditation of Healthcare Organizations, then the program may designate a medical director to oversee all facilities associated with the accredited medication-assisted treatment program. The medical director shall be responsible for the operation of the

medication-assisted treatment program, as further specified in the rules promulgated pursuant to this article. He or she may delegate the day to day operation of medication-assisted treatment program as provided in rules promulgated pursuant to this article. Within ten days after termination of a medical director, the medication-assisted treatment program shall notify the director of the identity of another medical director for that program. Failure to have a medical director practicing at the program may be the basis for a suspension or revocation of the program license.

The medical director shall:

(1) Have a full, active and unencumbered license to practice allopathic medicine or surgery from the West Virginia Board of Medicine or to practice osteopathic medicine or surgery from the West Virginia Board of Osteopathic Medicine in this state and be in good standing and not under any probationary restrictions;

(2) Meet both of the following training requirements:

(A) If the physician prescribes a partial opioid agonist, he or she shall complete the requirements for the Drug Addiction Treatment Act of 2000; and

(B) Complete other programs and continuing education requirements as further described in the rules promulgated pursuant to this article;

(3) Practice at the licensed or registered medication-assisted treatment program a sufficient number of hours, based upon the type of medication-assisted treatment license or registration issued pursuant to this article, to ensure regulatory compliance and carry out those duties specifically assigned to the medical director as further described in the rules promulgated pursuant to this article;

(4) Be responsible for monitoring and ensuring compliance with all requirements related to the licensing and operation of the medication-assisted treatment program;

(5) Supervise, control and direct the activities of each individual working or operating at the medication-assisted treatment program, including any employee, volunteer or individual under contract, who provides medication-assisted treatment at the program or is associated with the provision of that treatment. The supervision, control and direction shall be provided in accordance with rules promulgated by the secretary; and

(6) Complete other requirements prescribed by the secretary by rule.

(d) Each medication-assisted treatment program shall designate counseling staff, either employee or those used on a referral-basis by the program, which meet the requirements of this article and the rules promulgated pursuant to this article. The individual members of the counseling staff shall have one or more of the following qualifications:

(1) A licensed psychiatrist;

(2) Certification as an alcohol and drug counselor;

(3) Certification as an advanced alcohol and drug counselor;

(4) A counselor, psychologist, marriage and family therapist or social worker with a master's level education with a specialty or specific training in treatment for substance use disorders, as further described in the rules promulgated pursuant to this article;

(5) Under the direct supervision of an advanced alcohol and drug counselor, a counselor with a bachelor's degree in social work or another relevant human services field: *Provided*, That the individual practicing with a bachelor's degree under supervision applies for certification as an alcohol and drug counselor within three years of the date of employment as a counselor; or

(6) A counselor with a graduate degree actively working toward licensure or certification in the individual's chosen field under

supervision of a licensed or certified professional in that field and/or advanced alcohol and drug counselor.

(e) The medication-assisted treatment program shall be eligible for, and not prohibited from, enrollment with West Virginia Medicaid and other private insurance. Prior to directly billing a patient for any medication-assisted treatment, a medication-assisted treatment program must receive either a rejection of prior authorization, rejection of a submitted claim, or a written denial from a patient's insurer or West Virginia Medicaid denying coverage for such treatment: *Provided, That the Secretary may grant a variance from this requirement pursuant to section six of this article. The program shall also document whether a patient has no insurance. At the option of the medication-assisted treatment program, treatment may commence prior to billing.*

(f) The medication-assisted treatment program shall apply for and receive approval as required from the United States Drug Enforcement Administration, Center for Substance Abuse Treatment or an organization designated by Substance Abuse and Mental Health and Mental Health Administration.

(g) All persons employed by the medication-assisted treatment program shall comply with the requirements for the operation of a medication-assisted treatment program established within this article or by any rule adopted pursuant to this article.

(h) All employees of an opioid treatment program shall furnish fingerprints for a state and federal criminal records check by the Criminal Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be accompanied by a signed authorization for the release of information and retention of the fingerprints by the Criminal Identification Bureau and the Federal Bureau of Investigation. The opioid treatment program shall be subject to the provisions of article forty-nine, chapter sixteen of this code and subsequent rules promulgated thereunder.

(i) The medication-assisted treatment program shall not be owned by, nor shall it employ or associate with, any physician or prescriber:

(1) Whose Drug Enforcement Administration number is not currently full, active and unencumbered;

(2) Whose application for a license to prescribe, dispense or administer a controlled substance has been denied by and is not full, active and unencumbered in any jurisdiction; or

(3) Whose license is anything other than a full, active and unencumbered license to practice allopathic medicine or surgery by the West Virginia Board of Medicine or osteopathic medicine or surgery by the West Virginia Board of Osteopathic Medicine in this state, and, who is in good standing and not under any probationary restrictions.

(j) A person may not dispense any medication-assisted treatment medication, including a controlled substance as defined by section one hundred one, article one, chapter sixty-a of this code, on the premises of a licensed medication-assisted treatment program, unless he or she is a physician or pharmacist licensed in this state and employed by the medication-assisted treatment program unless the medication-assisted treatment program is a federally-certified narcotic treatment program. Prior to dispensing or prescribing medication-assisted treatment medications, the treating physician must access the Controlled Substances Monitoring Program database to ensure the patient is not seeking medication-assisted treatment medications that are controlled substances from multiple sources, and to assess potential adverse drug interactions, or both. Prior to dispensing or prescribing medication-assisted treatment medications, the treating physician shall also ensure that the medication-assisted treatment medication utilized is related to an appropriate diagnosis of a substance use disorder and approved for such usage. The physician shall also review the Controlled Substances Monitoring Program database no less than quarterly and at each patient's physical examination. The results obtained from the Controlled Substances Monitoring Program Database shall be maintained with the patient's medical records.

(k) A medication-assisted treatment program responsible for medication administration shall comply with:

(1) The West Virginia Board of Pharmacy regulations;

(2) The West Virginia Board of Examiners for Registered Professional Nurses regulations;

(3) All applicable federal laws and regulations relating to controlled substances; and

(4) Any requirements as specified in the rules promulgated pursuant to this article.

(l) Each medication-assisted treatment program location shall be licensed separately, regardless of whether the program is operated under the same business name or management as another program.

(m) The medication-assisted treatment program shall develop and implement patient protocols, treatment plans or treatment strategies and profiles, which shall include, but not be limited by, the following guidelines:

(1) When a physician diagnoses an individual as having a substance use disorder, the physician may treat the substance use disorder by managing it with medication in doses not exceeding those approved by the United States Food and Drug Administration as indicated for the treatment of substance use disorders and not greater than those amounts described in the rules promulgated pursuant to this article. The treating physician and treating counselor's diagnoses and treatment decisions shall be made according to accepted and prevailing standards for medical care;

(2) The medication-assisted treatment program shall maintain a record of all of the following:

(A) Medical history and physical examination of the individual;

(B) The diagnosis of substance use disorder of the individual;

(C) The plan of treatment proposed, the patient's response to the treatment and any modification to the plan of treatment;

(D) The dates on which any medications were prescribed, dispensed or administered, the name and address of the individual for whom the medications were prescribed, dispensed or administered and the amounts and dosage forms for any medications prescribed, dispensed or administered;

(E) A copy of the report made by the physician or counselor to whom referral for evaluation was made, if applicable; and

(F) A copy of the coordination of care agreement, which is to be signed by the patient, treating physician and treating counselor. If a change of treating physician or treating counselor takes place, a new agreement must be signed. The coordination of care agreement must be updated or reviewed at least annually. If the coordination of care agreement is reviewed, but not updated, this review must be documented in the patient's record. The coordination of care agreement will be provided in a form prescribed and made available by the secretary;

(3) Medication-assisted treatment programs shall report information, data, statistics and other information as directed in this code, and the rules promulgated pursuant to this article to required agencies and other authorities;

(4) A physician, physician assistant, or advanced practice registered nurse shall perform a physical examination of a patient on the same day that the prescriber initially prescribes, dispenses or administers a medication-assisted treatment medication to a patient and at intervals as required in the rules promulgated pursuant to this article;

(5) An alcohol and drug abuse counselor, an advanced alcohol and drug abuse counselor or other qualified counselor, psychiatrist,

psychologist or social worker shall perform a biopsychosocial assessment, including, but not limited to, a mental status examination of a patient on the same day or no more than seven days prior to the day that the physician initially prescribes, dispenses or administers a medication-assisted treatment medication to a patient and at intervals as required in the rules promulgated pursuant to this article; and

(6) A prescriber authorized to prescribe a medication-assisted treatment medication who practices at a medication-assisted treatment program is responsible for maintaining the control and security of his or her prescription blanks and any other method used for prescribing a medication-assisted treatment medication. The prescriber shall comply with all state and federal requirements for tamper-resistant prescription paper. In addition to any other requirements imposed by statute or rule, the prescriber shall notify the secretary and appropriate law enforcement agencies in writing within twenty-four hours following any theft or loss of a prescription blank or breach of any other method of prescribing a medication-assisted treatment medication; and

(7) The medication-assisted treatment program shall have a drug testing program to ensure a patient is in compliance with the treatment strategy.

(n) Medication-assisted treatment programs shall only prescribe, dispense or administer liquid methadone to patients pursuant to the restrictions and requirements of the rules promulgated pursuant to this article.

(o) The medication-assisted treatment program shall immediately notify the secretary, or his or her designee, in writing of any changes to its operations that affect the medication-assisted treatment program's continued compliance with the certification and licensure requirements.

(p) If a physician treats a patient with more than sixteen milligrams per day of buprenorphine then clear medical notes shall be placed in

the patient's medical file indicating the clinical reason or reasons for the higher level of dosage.

(q) If a physician is not the patient's obstetrical or gynecological provider, the physician shall consult with the patient's obstetrical or gynecological provider to the extent possible to determine whether the prescription is appropriate for the patient.

(r) A practitioner providing medication-assisted treatment may perform certain aspects telehealth if permitted under his or her scope of practice.

(s) The physician shall follow the recommended manufacturer's tapering schedule for the medication assisted treatment medication. If the schedule is not followed, the physician shall document in the patient's medical record and the clinical reason why the schedule was not followed. The secretary may investigate a medication-assisted treatment program if a high percentage of its patients are not following the recommended tapering schedule.

§16-5Y-6. Restrictions; variances and waivers.

(a) A medication-assisted treatment program shall not be located, operated, managed or owned at the same location where a chronic pain management clinic licensed and defined in article five-h, chapter sixteen of this code is located.

(b) Medication-assisted treatment programs shall not have procedures for offering a bounty, monetary, equipment, or merchandise reward, or free services for individuals in exchange for recruitment of new patients into the facility.

(c) Medication-assisted treatment programs shall not be located within one-half mile of a public or private licensed day care center or public or private K-12 school.

Existing medication-assisted treatment programs, including both opioid treatment programs and office based medication-assisted

treatment programs that are located within one-half mile of a public or private licensed day care center or public or private K-12 school, shall be granted a variance, provided that the facility demonstrates adequate patient population controls and that it may otherwise meet the requirements of this article and the rules promulgated pursuant to this article.

(d) The secretary may grant a waiver or a variance from any licensure or registration standard, or portion thereof, for the period during which the license or registration is in effect.

(1) Requests for waivers or variances of licensure or registration standards shall be in writing to the secretary and shall include:

(A) The specific section of this article or rules promulgated pursuant to this article for which a waiver or variance is sought;

(B) The rationale for requesting the waiver or variance;

(C) Documentation by the medication-assisted treatment program's medical director to the secretary that describes how the program will maintain the quality of services and patient safety if the wavier or variance is granted; and

(D) The consequences of not receiving approval of the requested wavier or variance.

(2) The secretary shall issue a written statement to the medication-assisted treatment program granting or denying a request for a waiver or variance of program licensure or registration standards.

(3) The medication-assisted treatment program shall maintain a file copy of all requests for waivers or variances and the approval or denial of the requests for the period during which the license or registration is in effect.

(4) The Office of Health Facility Licensure and Certification shall inspect each medication-assisted treatment program prior to a waiver

or variance being granted, including a review of patient records, to ensure and verify that any waiver or variance request meets the spirit and purpose of this article and the rules promulgated pursuant to this article. The Office of Health Facility Licensure and Certification may verify, by unannounced inspection, that the medication-assisted treatment program is in compliance with any waiver or variance granted by the secretary for the duration of such waiver or variance.

§16-5Y-7. Inspection; inspection warrant.

(a) The Office of Health Facility Licensure and Certification shall inspect each opioid treatment program annually, including a review of the patient records, to ensure that the program complies with this article and the applicable rules. A pharmacist, employed or contracted by the secretary, licensed in this state, and a law-enforcement officer may be present at each inspection.

(b) The Office of Health Facility Licensure and Certification shall perform unannounced complaint and verification inspections at office based medication-assisted treatment programs, including a review of the patient records, to ensure that the program complies with this article and the applicable rules. A pharmacist, employed or contracted by the secretary, licensed in this state and a law-enforcement officer may be present at each inspection.

(c) During an onsite inspection, the inspectors shall make a reasonable attempt to discuss each violation with the medical director or other owners of the medication-assisted treatment program before issuing a formal written notification.

(d) Any action taken to correct a violation shall be documented in writing by the medical director or other owners of the medication-assisted treatment program and may be verified by follow-up visits by the Office of Health Facility Licensure and Certification.

(e) Notwithstanding the existence or pursuit of any other remedy, the secretary may, in the manner provided by law, maintain an action

in the name of the state for an inspection warrant against any person, partnership, association or corporation to allow any inspection or seizure of records in order to complete any inspection allowed by this article or the rules promulgated pursuant to this article, or to meet any other purpose of this article or the rules promulgated pursuant to this article.

(f) When possible, inspections for annual certification and licensure by the medication-assisted treatment programs will be done consecutively or concurrently. However, this provision does not limit the ability to conduct unannounced inspections pursuant to a complaint.

§16-5Y-8. License and registration limitation; denial; suspension; revocation.

(a) The secretary may, by order, impose a ban on the admission of patients or reduce the patient capacity of the medication-assisted treatment program, or any combination thereof, when he or she finds upon inspection of the medication-assisted treatment program that the licensee or registrant is not providing adequate care under the medication-assisted treatment program's existing patient quota, and that a reduction in quota or imposition of a ban on admissions, or any combination thereof, would place the licensee or registrant in a position to render adequate care. Any notice to a licensee or registrant of reduction in quota or ban on new admissions shall include the terms of the order, the reasons therefor and the date set for compliance.

(b) The secretary shall deny, suspend or revoke a license or registration issued pursuant to this article if the provisions of this article or of the rules promulgated pursuant to this article are violated. The secretary may revoke a program's license or registration and prohibit all physicians and licensed disciplines associated with that medication-assisted treatment program from practicing at the program location based upon an annual, periodic, complaint, verification or other inspection and evaluation.

(c) Before any such license or registration is denied, suspended or revoked, however, written notice shall be given to the licensee or registrant, stating the grounds for such denial, suspension or revocation.

(d) An applicant, licensee or registrant has ten working days after receipt of the secretary's order denying, suspending or revoking a license or registration to request a formal hearing contesting such denial, suspension or revocation of a license or registration under this article. If a formal hearing is requested, the applicant, licensee or registrant and the secretary shall proceed in accordance with the provisions of article five, chapter twenty-nine-a of this code.

(e) If a license or registration is denied or revoked as herein provided, a new application for license or registration shall be considered by the secretary if, when and after the conditions upon which the denial or revocation was based have been corrected and evidence of this fact has been furnished. A new license or registration shall then be granted after proper inspection, if applicable, has been made and all provisions of this article and rules promulgated pursuant to this article have been satisfied.

(f) Any applicant, licensee or registrant who is dissatisfied with the decision of the secretary as a result of the hearing provided in this section may, within thirty days after receiving notice of the decision, petition the circuit court of Kanawha County, in term or in vacation, for judicial review of the decision.

(g) The court may affirm, modify or reverse the decision of the secretary and either the applicant, licensee or registrant, or the secretary may appeal from the court's decision to the Supreme Court of Appeals.

(h) If the license or registration of a medication-assisted treatment program is denied, suspended or revoked, the medical director of the program, any owner of the program or owner or lessor of the medication-assisted treatment program property shall cease to operate

the clinic, facility, office or program as a medication-assisted treatment program as of the effective date of the denial, suspension or revocation. The owner or lessor of the medication-assisted treatment program property is responsible for removing all signs and symbols identifying the premises as a medication-assisted treatment program within thirty days. Any administrative appeal of such denial, suspension or revocation shall not stay the denial, suspension or revocation.

(i) Upon the effective date of the denial, suspension or revocation, the medical director of the medication-assisted treatment program shall advise the secretary and the Board of Pharmacy of the disposition of all medications located on the premises. The disposition is subject to the supervision and approval of the secretary. Medications that are purchased or held by a medication-assisted treatment program that is not licensed may be deemed adulterated.

(j) If the license or registration of a medication-assisted treatment program is suspended or revoked, any person named in the licensing or registration documents of the program, including persons owning or operating the medication-assisted treatment program, may not, as an individual or as part of a group, apply to operate another medication-assisted treatment program for up to five years after the date of suspension or revocation. The secretary may grant a variance pursuant to section six of this article to the prohibition of this subsection.

(k) The period of suspension for the license or registration of a medication-assisted treatment program shall be prescribed by the secretary, but may not exceed one year.

§16-5Y-9. Violations; penalties; injunction.

(a) Any person, partnership, association or corporation which establishes, conducts, manages or operates a medication-assisted treatment program without first obtaining a license or registration as herein provided, or who violates any provisions of this article or any rule lawfully promulgated pursuant to this article, shall be assessed a

civil penalty by the secretary in accordance with this subsection. Each day of continuing violation after conviction shall be considered a separate violation:

(1) If a medication-assisted treatment program or any owner or medical director is found to be in violation of any provision of this article, unless otherwise noted herein, the secretary may limit, suspend or revoke the program's license or registration;

(2) If the program's medical director knowingly and intentionally misrepresents actions taken to correct a violation, the secretary may impose a civil money penalty not to exceed \$10,000 and, in the case of any owner-operator medication-assisted treatment program, limit or revoke a medication-assisted treatment program's license or registration;

(3) If any owner or medical director of a medication-assisted treatment program concurrently operates an unlicensed or unregistered medication-assisted treatment program, the secretary may impose a civil money penalty upon the owner or medical director, or both, not to exceed \$5,000 per day;

(4) If the owner of a medication-assisted treatment program that requires a license or registration under this article fails to apply for a new license or registration for the program upon a change of ownership and operates the program under new ownership, the secretary may impose a civil money penalty upon the owner, not to exceed \$5,000; or

(5) If a physician operates, owns or manages an unlicensed or unregistered medication-assisted treatment program that is required to be licensed or registered pursuant to this article; knowingly prescribes or dispenses or causes to be prescribed or dispensed, a medication-assisted treatment medication through misrepresentation or fraud; procures, or attempts to procure, a license or registration for a medication-assisted treatment program for any other person by making or causing to be made any false representation, the secretary may assess a civil money penalty of not more than \$20,000. The

penalty may be in addition to or in lieu of any other action that may be taken by the secretary or any other board, court or entity.

(b) Notwithstanding the existence or pursuit of any other remedy, the secretary may, in the manner provided by law, maintain an action in the name of the state for an injunction against any person, partnership, association or corporation to restrain or prevent the establishment, conduct, management or operation of any medication-assisted treatment program or violation of any provision of this article or any rule lawfully promulgated thereunder without first obtaining a license or registration in the manner herein provided.

(c) In determining whether a penalty is to be imposed and in fixing the amount of the penalty, the secretary shall consider the following factors:

(1) The gravity of the violation, including the probability that death or serious physical or emotional harm to a patient has resulted, or could have resulted, from the medication-assisted treatment program's actions or the actions of the medical director or any practicing physician, the severity of the action or potential harm, and the extent to which the provisions of the applicable laws or rules were violated;

(2) What actions, if any, the owner or medical director took to correct the violations;

(3) Whether there were any previous violations at the medication-assisted treatment program; and

(4) The financial benefits that the medication-assisted treatment program derived from committing or continuing to commit the violation.

(d) Upon finding that a physician has violated the provisions of this article or rules adopted pursuant to this article, the secretary shall provide notice of the violation to the applicable licensing board.

§16-5Y-10. Advertisement disclosure.

Any advertisement made by or on behalf of a medication-assisted treatment program through public media, such as a telephone directory, medical directory, newspaper or other periodical, outdoor advertising, radio or television, or through written or recorded communication, concerning the treatment of substance use disorders, as defined in section two of this article, shall include the name of, at a minimum, the medical director responsible for the content of the advertisement.

§16-5Y-11. State Opioid Treatment Authority.

(a) Prior to establishing, operating, maintaining or advertising a medication-assisted treatment program within this state, a medication-assisted treatment program shall be approved by the state opioid treatment authority for operation of a medication-assisted treatment program in this state.

(b) The state opioid treatment authority shall act as the state's coordinator for the development and monitoring of medication-assisted treatment programs and it shall serve as a liaison with the appropriate federal agencies.

(c) The designated state oversight agency is responsible for licensing, monitoring and investigating complaints and grievances regarding medication-assisted treatment programs.

(d) The powers and duties of the state opioid treatment authority include, but are not limited to, the following:

(1) Facilitate the development and implementation of rules, regulations, standards and best practice guidelines to ensure the quality of services delivered by medication-assisted treatment programs;

(2) Act as a liaison between relevant state and federal agencies;

(3) Review medication-assisted treatment guidelines, rules, regulations and recovery models for individualized treatment plans of

care developed by the federal government and other nationally recognized authorities approved by the secretary;

(4) Ensure delivery of technical assistance and informational materials to medication-assisted treatment programs as needed;

(5) Perform both scheduled and unscheduled site visits to medication-assisted treatment programs in cooperation with the identified state oversight agency when necessary and appropriate;

(6) Consult with the federal government regarding approval or disapproval of requests for exceptions to federal regulations, where appropriate;

(7) Review and approve exceptions to federal and state dosage policies and procedures;

(8) Receive and refer patient appeals and grievances to the designated state oversight agency when appropriate; and

(9) Work cooperatively with other relevant state agencies to determine the services needed and the location of a proposed medication-assisted treatment program.

§16-5Y-12. Moratorium; certificate of need.

There is a moratorium on the licensure of new opioid treatment programs which do not have a certificate of need as of the effective date of the enactment of this section during the 2016 regular session of the Legislature which shall continue until the Legislature determines that there is a necessity for additional opioid treatment programs in West Virginia.

§16-5Y-13. Rules; minimum standards for medication-assisted treatment programs.

(a) The secretary shall promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code for the licensure of

medication-assisted treatment programs to ensure adequate care, treatment, health, safety, welfare and comfort of patients at these facilities. These rules shall include, at a minimum:

(1) The process to be followed by applicants seeking a license;

(2) The qualifications and supervision of licensed and nonlicensed personnel at medication-assisted treatment programs and training requirements for all facility health care practitioners who are not regulated by another board;

(3) The provision and coordination of patient care, including the development of a written plan of care and patient contract;

(4) The management, operation, staffing and equipping of the medication-assisted treatment program;

(5) The clinical, medical, patient and business records kept by the medication-assisted treatment program;

(6) The procedures for inspections and for review of utilization and quality of patient care;

(7) The standards and procedures for the general operation of a medication-assisted treatment program, including facility operations, physical operations, infection control requirements, health and safety requirements and quality assurance;

(8) Identification of drugs that may be used to treat substance use disorders that identify a facility as a medication-assisted treatment program;

(9) Any other criteria that identify a facility as a medication-assisted treatment program;

(10) The standards and procedures to be followed by an owner in providing supervision, direction and control of individuals employed by or associated with a medication-assisted treatment program;

(11) Data collection and reporting requirements;

(12) Criteria and requirements related to specific medication-assisted treatment medications; and

(13) Such other standards or requirements as the secretary determines are appropriate.

(b) The Legislature finds that an emergency exists and, therefore, the secretary shall file an emergency rule to implement the provisions of this section pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code.

CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.

ARTICLE 9. CONTROLLED SUBSTANCES MONITORING.

§60A-9-4. Required information.

(a) Whenever a medical services provider dispenses a controlled substance listed in Schedule II, III or IV as established under the provisions of article two of this chapter or an opioid antagonist, or whenever a prescription for the controlled substance or opioid antagonist is filled by: (i) A pharmacist or pharmacy in this state; (ii) a hospital, or other health care facility, for out patient use; or (iii) a pharmacy or pharmacist licensed by the Board of Pharmacy, but situated outside this state for delivery to a person residing in this state, the medical services provider, health care facility, pharmacist or pharmacy shall, in a manner prescribed by rules promulgated by the board under this article, report the following information, as applicable:

(1) The name, address, pharmacy prescription number and Drug Enforcement Administration controlled substance registration number of the dispensing pharmacy or the dispensing physician or dentist;

(2) The full legal name, address and birth date of the person for whom the prescription is written;

(3) The name, address and Drug Enforcement Administration controlled substances registration number of the practitioner writing the prescription;

(4) The name and national drug code number of the Schedule II, III and IV controlled substance or opioid antagonist dispensed;

(5) The quantity and dosage of the Schedule II, III and IV controlled substance or opioid antagonist dispensed;

(6) The date the prescription was written and the date filled;

(7) The number of refills, if any, authorized by the prescription;

(8) If the prescription being dispensed is being picked up by someone other than the patient on behalf of the patient, the first name, last name and middle initial, address and birth date of the person picking up the prescription as set forth on the person's government issued photo identification card shall be retained in either print or electronic form until such time as otherwise directed by rule promulgated by the board; and

(9) The source of payment for the controlled substance dispensed.

(b) The board may prescribe by rule promulgated under this article the form to be used in prescribing a Schedule II, III, and IV substance or opioid antagonist if, in the determination of the board, the administration of the requirements of this section would be facilitated.

(c) Products regulated by the provisions of article ten of this chapter shall be subject to reporting pursuant to the provisions of this article to the extent set forth in said article.

(d) Reporting required by this section is not required for a drug administered directly to a patient by a practitioner. Reporting is, however, required by this section for a drug dispensed to a patient by a practitioner: *Provided*, That the quantity dispensed by a prescribing practitioner to his or her own patient may not exceed an amount

adequate to treat the patient for a maximum of seventy two hours with no greater than two seventy two hour cycles dispensed in any fifteen day period of time.

(e) The Board of Pharmacy shall notify a physician prescribing buprenorphine or buprenorphine/naloxone within sixty days of the availability of the an abuse deterrent form of buprenorphine or buprenorphine/naloxone is approved by the Food and Drug Administration as provided in FDA Guidance to Industry. Upon receipt of the notice, a physician may switch their patients using buprenorphine or buprenorphine/naloxone to the abuse deterrent form of the drug.

§60A-9-5. Confidentiality; limited access to records; period of retention; no civil liability for required reporting.

(a)(1) The information required by this article to be kept by the board is confidential and not subject to the provisions of chapter twenty nine b of this code or obtainable as discovery in civil matters absent a court order and is open to inspection only by inspectors and agents of the board, members of the West Virginia State Police expressly authorized by the Superintendent of the West Virginia State Police to have access to the information, authorized agents of local law enforcement agencies as members of a federally affiliated drug task force, authorized agents of the federal Drug Enforcement Administration, duly authorized agents of the Bureau for Medical Services, duly authorized agents of the Office of the Chief Medical Examiner for use in post mortem examinations, duly authorized agents of licensing boards of practitioners in this state and other states authorized to prescribe Schedules II, III; and IV controlled substances, prescribing practitioners and pharmacists and persons with an enforceable court order or regulatory agency administrative subpoena: *Provided*, That all law-enforcement personnel who have access to the Controlled Substances Monitoring Program database shall be granted access in accordance with applicable state laws and the board's legislative rules, shall be certified as a West Virginia law-enforcement

officer and shall have successfully completed training approved by the board. All information released by the board must be related to a specific patient or a specific individual or entity under investigation by any of the above parties except that practitioners who prescribe or dispense controlled substances may request specific data related to their Drug Enforcement Administration controlled substance registration number or for the purpose of providing treatment to a patient: *Provided, however,* That the West Virginia Controlled Substances Monitoring Program Database Review Committee established in subsection (b) of this section is authorized to query the database to comply with said subsection.

(2) Subject to the provisions of subdivision (1) of this subsection, the board shall also review the West Virginia Controlled Substance Monitoring Program database and issue reports that identify abnormal or unusual practices of patients who exceed parameters as determined by the advisory committee established in this section. The board shall communicate with ~~prescribers~~ practitioners and dispensers to more effectively manage the medications of their patients in the manner recommended by the advisory committee. All other reports produced by the board shall be kept confidential. The board shall maintain the information required by this article for a period of not less than five years. Notwithstanding any other provisions of this code to the contrary, data obtained under the provisions of this article may be used for compilation of educational, scholarly or statistical purposes, and may be shared with the West Virginia Department of Health and Human Resources for those purposes, as long as the identities of persons or entities and any personally identifiable information, including protected health information, contained therein shall be redacted, scrubbed or otherwise irreversibly destroyed in a manner that will preserve the confidential nature of the information. No individual or entity required to report under section four of this article may be subject to a claim for civil damages or other civil relief for the reporting of information to the board as required under and in accordance with the provisions of this article.

(3) The board shall establish an advisory committee to develop, implement and recommend parameters to be used in identifying abnormal or unusual usage patterns of patients in this state. This advisory committee shall:

(A) Consist of the following members: A physician licensed by the West Virginia Board of Medicine, a dentist licensed by the West Virginia Board of Dental Examiners, a physician licensed by the West Virginia Board of ~~Osteopathy~~ Osteopathic Medicine, a licensed physician certified by the American Board of Pain Medicine, a licensed physician board certified in medical oncology recommended by the West Virginia State Medical Association, a licensed physician board certified in palliative care recommended by the West Virginia Center on End of Life Care, a pharmacist licensed by the West Virginia Board of Pharmacy, a licensed physician member of the West Virginia Academy of Family Physicians, an expert in drug diversion and such other members as determined by the board.

(B) Recommend parameters to identify abnormal or unusual usage patterns of controlled substances for patients in order to prepare reports as requested in accordance with subsection (a), subdivision (2) of this section.

(C) Make recommendations for training, research and other areas that are determined by the committee to have the potential to reduce inappropriate use of prescription drugs in this state, including, but not limited to, studying issues related to diversion of controlled substances used for the management of opioid addiction.

(D) Monitor the ability of medical services providers, health care facilities, pharmacists and pharmacies to meet the twenty-four hour reporting requirement for the Controlled Substances Monitoring Program set forth in section three of this article, and report on the feasibility of requiring real-time reporting.

(E) Establish outreach programs with local law enforcement to provide education to local law enforcement on the requirements and

use of the Controlled Substances Monitoring Program database established in this article.

(b) The board shall create a West Virginia Controlled Substances Monitoring Program Database Review Committee of individuals consisting of two prosecuting attorneys from West Virginia counties, two physicians with specialties which require extensive use of controlled substances and a pharmacist who is trained in the use and abuse of controlled substances. The review committee may determine that an additional physician who is an expert in the field under investigation be added to the team when the facts of a case indicate that the additional expertise is required. The review committee, working independently, may query the database based on parameters established by the advisory committee. The review committee may make determinations on a case-by-case basis on specific unusual prescribing or dispensing patterns indicated by outliers in the system or abnormal or unusual usage patterns of controlled substances by patients which the review committee has reasonable cause to believe necessitates further action by law enforcement or the licensing board having jurisdiction over the ~~prescribers~~ practitioners or dispensers under consideration. The review committee shall also review notices provided by the chief medical examiner pursuant to subsection (h), section ten, article twelve, chapter sixty-one of this code and determine on a case-by-case basis whether a practitioner who prescribed or dispensed a controlled substance resulting in or contributing to the drug overdose may have breached professional or occupational standards or committed a criminal act when prescribing the controlled substance at issue to the decedent. Only in those cases in which there is reasonable cause to believe a breach of professional or occupational standards or a criminal act may have occurred, the review committee shall notify the appropriate professional licensing agency having jurisdiction over the applicable ~~prescriber~~ practitioner or dispenser and appropriate law-enforcement agencies and provide pertinent information from the database for their consideration. The number of cases identified shall be determined by the review committee based on a number that can be adequately reviewed by the review committee. The information

obtained and developed may not be shared except as provided in this article and is not subject to the provisions of chapter twenty nine b of this code or obtainable as discovering in civil matters absent a court order.

(c) The board is responsible for establishing and providing administrative support for the advisory committee and the West Virginia Controlled Substances Monitoring Program Database Review Committee. The advisory committee and the review committee shall elect a chair by majority vote. Members of the advisory committee and the review committee may not be compensated in their capacity as members but shall be reimbursed for reasonable expenses incurred in the performance of their duties.

(d) The board shall promulgate rules with advice and consent of the advisory committee, in accordance with the provisions of article three, chapter twenty-nine-a of this code. The legislative rules must include, but shall not be limited to, the following matters:

(1) Identifying parameters used in identifying abnormal or unusual prescribing or dispensing patterns;

(2) Processing parameters and developing reports of abnormal or unusual prescribing or dispensing patterns for patients, practitioners and dispensers;

(3) Establishing the information to be contained in reports and the process by which the reports will be generated and disseminated; and

(4) Setting up processes and procedures to ensure that the privacy, confidentiality, and security of information collected, recorded, transmitted and maintained by the review committee is not disclosed except as provided in this section.

~~(e) All practitioners, as that term is defined in section one hundred one, article two of this chapter who prescribe or dispense schedule II, III, or IV controlled substances shall have online or other form of~~

~~electronic access to the West Virginia Controlled Substances Monitoring Program database;~~

~~(f)~~ (e) Persons or entities with access to the West Virginia Controlled Substances Monitoring Program database pursuant to this section may, pursuant to rules promulgated by the board, delegate appropriate personnel to have access to said database.

~~(g)~~ (f) Good faith reliance by a practitioner on information contained in the West Virginia Controlled Substances Monitoring Program database in prescribing or dispensing or refusing or declining to prescribe or dispense a schedule II, III, or IV controlled substance shall constitute an absolute defense in any civil or criminal action brought due to prescribing or dispensing or refusing or declining to prescribe or dispense.

~~(h)~~ (g) A prescribing or dispensing practitioner may notify law enforcement of a patient who, in the prescribing or dispensing practitioner's judgment, may be in violation of section four hundred ten, article four of this chapter, based on information obtained and reviewed from the controlled substances monitoring database. A prescribing or dispensing practitioner who makes a notification pursuant to this subsection is immune from any civil, administrative or criminal liability that otherwise might be incurred or imposed because of the notification if the notification is made in good faith.

~~(i)~~ (h) Nothing in the article may be construed to require a practitioner to access the West Virginia Controlled Substances Monitoring Program database except as provided in section five-a of this article.

~~(j)~~ (i) The board shall provide an annual report on the West Virginia Controlled Substance Monitoring Program to the Legislative Oversight Commission on Health and Human Resources Accountability with recommendations for needed legislation no later than January 1 of each year.

§60A-9-5a. Practitioner requirements to access database and conduct annual search of the database; required rulemaking.

(a) All practitioners, as that term is defined in section one hundred one, article two of this chapter who prescribe or dispense Schedule II, III or IV controlled substances shall register with the West Virginia Controlled Substances Monitoring Program and obtain and maintain online or other electronic access to the program database: *Provided*, That compliance with the provisions of this subsection must be accomplished within thirty days of the practitioner obtaining a new license: *Provided, however*, That no licensing board may renew a practitioner's license without proof that the practitioner meet the requirements of this subsection.

(b) Upon initially prescribing or dispensing any pain relieving controlled substance for a patient and at least annually thereafter should the ~~prescriber~~ practitioner or dispenser continue to treat the patient with controlled substances, all persons with prescriptive or dispensing authority and in possession of a valid Drug Enforcement Administration registration identification number and, who are licensed by the Board of Medicine as set forth in article three, chapter thirty of this code, the Board of Registered Professional Nurses as set forth in article seven, chapter thirty of this code, the Board of Dental Examiners as set forth in article four, chapter thirty of this code and the Board of ~~Osteopathy~~ Osteopathic Medicine as set forth in article fourteen, chapter thirty of this code shall access the West Virginia Controlled Substances Monitoring Program database for information regarding specific patients for whom they are providing pain-relieving controlled substances as part of a course of treatment for chronic, nonmalignant pain but who are not suffering from a terminal illness. The information obtained from accessing the West Virginia Controlled Substances Monitoring Program database for the patient shall be documented in the patient's medical record. A pain-relieving controlled substance shall be defined as set forth in section one, article three-a, chapter thirty of this code.

~~(b)~~ (c) The various boards mentioned in subsection (b) of this section above shall promulgate both emergency and legislative rules pursuant to the provisions of article three, chapter twenty-nine-a of this code to effectuate the provisions of this section.

§60A-9-7. Criminal penalties; and administrative violations.

(a) Any person who is required to submit information to the state Board of Pharmacy pursuant to the provisions of this article who fails to do so as directed by the board is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$500.

(b) Any person who is required to submit information to the state Board of Pharmacy pursuant to the provisions of this article who knowingly and willfully refuses to submit the information required by this article is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail not more than six months or fined not more than \$1,000, or both confined ~~or~~ and fined.

(c) Any person who is required by the provisions of this article to submit information to the state Board of Pharmacy who knowingly submits thereto information known to that person to be false or fraudulent is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail not more than one year or fined not more than \$5,000, or both confined ~~or~~ and fined.

~~(d) Any prescriber or dispenser who is required to access the information contained in the West Virginia Controlled Substances Monitoring Program database as set forth in subsection (a) of section five a of this article and fails to do so as directed by the rules of their licensing board shall be subject to such discipline as the licensing board deems appropriate. Any person granted access to the information required by the provisions of this article to be maintained by the state Board of Pharmacy, who shall willfully disclose the information required to be maintained by this article in a manner inconsistent with a legitimate law enforcement purpose, a legitimate professional~~

regulatory purpose, the terms of a court order or as otherwise expressly authorized by the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for not more than six months or fined not more than \$1,000, or both confined and fined.

~~(e) Any person granted access to the information required by the provisions of this article to be maintained by the state Board of Pharmacy, who shall willfully disclose the information required to be maintained by this article in a manner inconsistent with a legitimate law enforcement purpose, a legitimate professional regulatory purpose, the terms of a court order or as otherwise expressly authorized by the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for not more than six months or fined not more than \$1,000, or both confined or fined.~~ Unauthorized access or use or unauthorized disclosure for reasons unrelated to the purposes of this article of the information in the database is a felony punishable by imprisonment in a state correctional facility for not less than one year nor more than five years or fined not less than \$3,000 nor more than \$10,000, or both imprisoned or fined.

~~(f) Unauthorized access or use or unauthorized disclosure for reasons unrelated to the purposes of this article of the information in the database is a felony punishable by imprisonment in a state correctional facility for not less than one year nor more than five years or fined not less than \$3,000 nor more than \$10,000, or both imprisoned or fined.~~ Any practitioner who fails to register with the West Virginia Controlled Substances Monitoring Program and obtain and maintain online or other electronic access to the program database as required in subsection (a), section five-a, article nine of this chapter, shall be subject to an administrative penalty of \$1,000 by the licensing board of his or her licensure. All such fines collected pursuant to this subsection shall be remitted by the applicable licensing board to the Fight Substance Abuse Fund created under section eight of this article.

The provisions of this subsection shall become effective on July 1, 2016.

(g) Any practitioner or dispenser who is required to access the information contained in the West Virginia Controlled Substances Monitoring Program database as set forth in subsection (a), section five- a of this article and fails to do so as directed by the rules of his or her licensing board shall be subject to such discipline as the licensing board deems appropriate and on or after July 1, 2016, be subject to a \$100 administrative penalty per violation by the applicable licensing board. All such fines collected pursuant to this subsection shall be transferred by the applicable licensing board to the Fight Substance Abuse Fund created under section eight of this article.

(h) Lack of available internet connectivity is a defense to any action brought pursuant to subsections (d) or (f) of this section.

§60A-9-8. Creation of Fight Substance Abuse Fund.

There is hereby created a special revenue account in the state treasury, designated the Fight Substance Abuse Fund, which shall be an interest bearing account ~~and may be invested in accordance with the provisions of article six, chapter twelve of this code, with interest income a proper credit to the fund.~~ The fund shall consist of all moneys received from whatever source to further the purpose of this article ~~appropriations by the Legislature, gifts, donations or any other source.~~ The fund shall be administered by the West Virginia Bureau for Public Health Expenditures from the fund shall be for the following purposes: to provide funding for substance abuse prevention, treatment, treatment coordination, recovery and education. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Fund balances shall be invested with the state's consolidated investment fund and any and all interest earnings on these investments shall be used solely for the purposes that moneys deposited in the fund may be used pursuant to this article. There is created within the Office of the Secretary of the Department of Health

and Human Resources the Grant Writer Pilot Project. The Secretary shall hire a person as a grant writer, who shall be placed within the Office of the Secretary. This person shall identify, application and monitoring policies and procedures to increase grant applications and improve management and oversight of grants. The grant writer shall focus his or her abilities on obtaining grants concerning the prevention and treatment of substance abuse. The grant writer is not eligible for civil service. The department shall report to the Legislative Oversight Commission on Health and Human Resources Accountability on the implementation of the new grant policy; the number of grants obtained; and an analysis examining the costs associated with obtaining a grant verses the federal money received.

And,

That both houses recede from their positions as to the title of the bill and agree to the same as follows:

Com. Sub. for S. B. 454 – “A Bill to amend and reenact §16-1-4 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §16-5Y-1, §16-5Y-2, §16-5Y-3, §16-5Y-4, §16-5Y-5, §16-5Y-6, §16-5Y-7, §16-5Y-8, §16-5Y-9, §16-5Y-10, §16-5Y-11, §16-5Y-12 and §16-5Y-13; and to amend and reenact §60A-9-4, §60A-9-5, §60A-9-5a, §60A-9-7 and §60A-9-8 of said code, all relating to regulation of medication-assisted treatment programs for substance use disorders; repealing regulation of opioid treatment programs; setting out purpose; providing definitions; creating licenses for opioid treatment programs; creating categories of licenses; setting out licensing requirements; providing for registration of office-based medication-assisted programs; providing for application, fees and inspections of office-based medication-assisted programs; setting operational requirements for medication-assisted treatment programs; providing for a program sponsor and medical director; setting forth staffing requirements; providing for regulation by Office of Health Facility Licensure and Certification; designating necessity for a medical director; prescribing

minimum qualifications for a medical director; allowing enrollment as a Medicaid provider; providing billing requirements; setting forth minimum certification requirements; mandating state and federal criminal background checks; designating who may prescribe and dispense medication-assisted treatment medications; setting certain minimum practice standards for any medication-assisted treatment program providing medication-assisted treatment medications; permitting the use of telehealth; requiring the Board of Pharmacy to make certain notifications; requiring the medication-assisted treatment program to have a drug testing program; requiring certain information be reported in the patients; medical record; setting certain minimum patient treatment standards for any medication-assisted treatment program; providing medication-assisted treatment medications; requiring review of the West Virginia Controlled Substances Monitoring Program database for each patient at least quarterly; setting compliance requirements for a medication-assisted treatment program; providing for patient protocols, treatment plans and profiles; allowing liquid methadone to be provided as allowed by legislative rule; setting notification requirements of operation changes; restricting location of medication-assisted treatment programs; allowing for waivers from certain standards; allowing for variances from certain standards; permitting inspection warrants; providing for an administrative review; providing an appeal process; allowing civil monetary penalties; designating license limitations for deviation for accepted practice or patient treatment standards; permitting the secretary to promulgate rules; permitting the secretary to promulgate emergency rules; providing advertisement requirements; continuing the moratorium on new opioid treatment programs; establishing state authority for medication-assisted treatment programs; establishing state oversight authority for medication-assisted treatment programs; mandating data collection; granting Office of Health Facility Licensure and Certification access to the West Virginia Controlled Substances Monitoring Program database for use in regulation of health facilities; requiring reporting when an opioid antagonist is dispensed by certain

persons; clarifying statutory language related to seventy-two hour prescriptions; prohibiting licensing boards from issuing or reissuing licenses to practitioners who have not registered for the West Virginia Controlled Substances Monitoring Program database; establishing a civil penalties; providing exceptions to penalties; clarifying language related to the Fight Substance Abuse Fund; placing administrative authority over the Fight Substance Abuse Fund with the Bureau for Public Health; revising statutory language to use defined terms; reorganizing existing language; and creating a pilot program.”

Respectfully submitted,

Chris Stansbury,
Matthew Rohrbach,
Denise Campbell,

Tom Takubo,
Kent Leonhardt,
Ron Stollings,

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

*Conferees on the part
of the Senate.*

On motion of Delegate Stansbury, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 636**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Ihle and McGeehan.

Absent and Not Voting: Kelly and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 454) passed.

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 the adoption of the report of the Committee of Conference on, and the passage, as amended by said report, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 378, Relating to truancy intervention.

Conference Committee Report

Delegate Cowles, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for S. B. 378, Relating to truancy intervention,

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 House to Engrossed Committee Substitute for Senate Bill 378 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the House, striking out everything after the enacting section, and agree to the same as follows:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.

(a) The county attendance director and ~~the assistants~~ assistant directors shall diligently promote regular school attendance. The director and ~~assistants~~ assistant directors shall:

(1) Ascertain the reasons for unexcused absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age as defined under section one-a of this article; and

(2) Take ~~such~~ steps as that are, in their discretion, best calculated to encourage the attendance of students and to impart upon the parents and guardians the importance of attendance and the seriousness of failing to do so; ~~and~~.

(3) (b) For the purposes of this article, the following definitions ~~shall~~ apply:

(A) (1) “Excused absence” ~~shall be defined to include~~ includes:

(i)(A) Personal illness or injury of the student, or in the family if the illness or injury limits a student from school attendance. A student shall provide written documentation from a medical provider stating the illness or injury precludes school attendance when a student’s illness or injury caused that student to be absent for five or more consecutive days of school, or ten days in any ninety-day period: *Provided*, That excused absences caused by personal illness or injury of the student verified only by a note from a parent, guardian or custodian are limited to five in any one semester or ten in a school year. After a student has been absent for personal illness or injury five times in a semester or ten times in a school year, any further absences shall be unexcused unless verified by a physician;

(B) Personal illness or injury of a member of the student’s family who regularly resides with the student: *Provided*, That any absence lasting longer than two days pursuant to this paragraph shall not be considered excused unless written documentation is provided by a medical provider confirming that the student’s absence from school is necessary for the ongoing care of the family member;

(ii)(C) A ~~Medical~~ medical or dental appointment with written excuse or documentation of the appointment from ~~physician or dentist~~ a medical or dental provider;

~~(iii)~~(D) ~~A Chronic~~chronic medical condition or disability that impacts limits attendance, unless the chronic medical condition or disability can be reasonably accommodated by the school, and the school has apprised the student and his parent, guardian or custodian of the accommodation. A student claiming that his or her chronic medical condition or disability limits his or her attendance at school shall provide a written excuse or documentation from a medical provider documenting that the chronic medical condition or disability. Upon reaching the requisite number of absences to constitute a chronic medical condition, the student's parent, guardian or custodian shall contact the school to ascertain if reasonable accommodation can be made to allow the student to attend school. For the purposes of this paragraph, a chronic medical condition or disability is a medical condition or disability that causes the student to be absent for five or more consecutive days or ten days or more in any ninety-day period;

~~(iv)~~(E) Participation in home or hospital instruction due to an illness or injury or other extraordinary circumstance ~~that~~ warrants home or hospital confinement;

~~(v)~~(F) ~~A Calamity~~calamity, such as a fire or flood;

~~(vi)~~(G) ~~A Death~~death in the student's immediate family. As used in this paragraph "immediate family" means mother, father, aunt, uncle, siblings, grandparents, guardian, custodian or a family member residing in the child's home. An excused absence under this paragraph is limited to five days;

~~(vii)~~(H) School-approved or county-approved curricular or extra-curricular activities;

~~(viii)~~(I) ~~A Judicial~~judicial obligation or court appearance involving the student, if supported by written documentation from an attorney, probation officer, judge, magistrate or Department of Health and Human Resources worker;

~~(ix)~~(J) ~~A Military~~military requirement for students enlisted or enlisting in the military;

~~(x)~~(K) Personal or academic circumstances approved by the principal;

(L) Absence due to a religious holiday; and

~~(xi)~~(M) ~~Such~~Any other situations as may be further determined by the county board: *Provided*, That handling of absences of students with disabilities shall be in accordance consistent with the Individuals with Disabilities Education Improvement Act of 2004 and ~~the~~ federal and state regulations and rules adopted in compliance ~~therewith~~ with the act: *Provided, however*, That a school principal, with the approval of the county superintendent of schools, may authorize that an unexcused absence be determined an excused absence based on all of the specific facts and circumstances, including without limitation, some or all unexcused absences prior to return of a student who has dropped out of school after the student attained the age for which school attendance was no longer mandatory.

(2) An ~~“Unexcused unexcused absence”~~ shall be is any absence not specifically included in the definition of “excused absence”.

~~(b) In the case of three total unexcused absences of a student during a school year, the attendance director or assistant shall serve written notice to the parent, guardian or custodian of the student that the attendance of the student at school is required and that if the student has five unexcused absences, a conference with the principal or other designated representative will be required.~~

(c) In order for the absence to be excused, the student or his or her parent, guardian or custodian shall supply the written excuses or documentation to the person at the student’s school designated to receive the excuses or documentation within five days after returning to school from the absence.

(d) For purposes of this section, a student’s illness, injury or chronic medical condition is reasonably accommodated if the school provides necessary and appropriate adjustments to school practices

which allow the student's attendance while ensuring the student's health and safety and that of his or her fellow students.

(c)(e) In the case that five days have passed from the end of an absence totaling, or bringing the student to three unexcused absences during a school year, the attendance director or assistant shall serve written notice to the parent, guardian, or custodian of the student that the attendance of the student at the school is required, and that if the student has five unexcused absences, a conference with the principal or other designated representative will be required: *Provided*, That if the unexcused absences total five, or more days the school may disregard this subsection and serve notice of the meeting as provided in subsection (f).

(c)(f) In the case of five total unexcused absences, the attendance director or assistant shall serve written notice to the parent, guardian or custodian of the student that within five days of receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in person to the school the student attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the unexcused absences of the student, including the adjustment of unexcused absences based upon ~~such~~ the meeting.

~~(d)~~(g) In the case of ten total unexcused absences of a student during a school year, the attendance director or assistant directors shall make a complaint against the parent, guardian or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within ten calendar days of receipt of the summons or warrant and subsequent attempts at

service shall continue until the summons or warrant is executed. ~~or until the end of the school term during which the complaint is made, whichever is later.~~

~~(e)~~(h) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in section eight, article one, chapter fifty of this code, shall assign the case to a magistrate within ten days of execution of the summons or warrant. The hearing shall be held within twenty days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least ten days' advance notice of the date, time and place of the hearing.

~~(f)~~(i) When any doubt exists as to the age of a student absent from school, the attendance director and ~~assistants have authority to~~ assistant directors may require a properly attested birth certificate or an affidavit from the parent, guardian or custodian of the student, stating the age of the student. In the performance of his or her duties, the county attendance director and ~~assistants have authority to~~ assistant directors may take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

~~(g)~~(j) The county attendance director and ~~assistants~~ assistant directors shall devote such time as is required by section three of this article to the duties of attendance director in accordance with this section during the instructional term and at such other times as the duties of an attendance director are required. All attendance directors and ~~assistants~~ assistant directors hired for more than two hundred days may be assigned other duties determined by the superintendent during the period in excess of two hundred days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

~~(h)~~(k) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at ~~such the times and in such the required detail as may be required~~. The state board shall promulgate a legislative rule pursuant to article three-b, chapter twenty-nine-a of this code that sets forth student absences that are excluded for accountability purposes. The absences that are excluded by the rule include, but are not limited to, excused student absences, students not in attendance due to disciplinary measures and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in ~~such the manner as directed by the county superintendent may direct~~;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in ~~such any other ways way as directed by the county superintendent may direct~~ for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided ~~above in this section~~, or if requested by the chief administrator, principal or assistant principal; and

(9) Serve as the liaison for homeless children and youth.

~~§18-8-8. Child suspended for failure to comply with requirements and regulations treated as unlawfully absent.~~

§18-8-8. Effect of school suspension on enforcement of the provisions of this article.

~~If a child be suspended from school because of improper conduct or refusal of such child to comply with the requirements of the school; the school shall immediately notify the county superintendent of such suspension, and specify the time or conditions of such suspension. Further admission of the child to school may be refused until such requirements and regulations be complied with. Any such child shall be treated by the school as being unlawfully absent from the school during the time he or she refuses to comply with such requirements and regulations, and any person having legal or actual control of such child shall be liable to prosecution under the provisions of this article for the absence of such child from school: *Provided*, That the county board of education does not exclude or expel the suspended child from school.~~

(a) When a child is absent from school due to a suspension, absences are unexcused for purposes of this article if the suspension is based on an intentional act of the student.

(b) Days a student is absent from school due to a suspension from school for an intentional act of the student are not attributable to the student's parent, guardian or custodian for purposes of enforcement of this article, unless the parent, guardian or custodian encouraged, condoned or aided or abetted the conduct causing the suspension.

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Com. Sub. for S. B. 378 – “A Bill to amend and reenact §18-8-4 and §18-8-8 of the Code of West Virginia, 1931, as amended, all

relating generally to truancy intervention; expanding definition of excused absence; exempting absences for chronic medical condition or disability which may be reasonably accommodated by the school; requiring parent to request reasonable accommodation; defining ‘chronic medical condition or disability’; requiring written excuses or documentation from a medical provider in certain cases; limiting number of days which may be excused absences; defining ‘immediate family’; requiring verification of absence for judicial obligation or court appearance; allowing principal to authorize excused absences for other reason or for longer periods of time with the approval of the county superintendent; removing notice requirement after three days absence; requiring written excuses or documentation to be submitted within certain time frame; defining the term “reasonable accommodation”; requiring written notice in the case that five days have passed from absence totaling or bringing a student to three unexcused absences and providing that such notice can be disregarded in favor of other written notice if unexcused absences total five or more days; modifying the effect of student suspensions to reflect that absences due to suspension are unexcused; modifying the effect of student suspensions on enforcement of the provisions of compulsory attendance enforcement.”

Respectfully submitted,

Charles S. Trump, IV
Bob Ashley,
Bob Williams,

Daryl Cowles,
Mark Zatezalo,
Andrew Byrd

*Conferees on the part
of the Senate.*

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

The question before the House being on the adoption of the Conference Committee report, the same was put and did not prevail.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

S. B. 107, Uniform Interstate Depositions and Discovery Act.

On motion of Delegate Cowles, the House of Delegates then receded from its amendment.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 637**), 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: Moffatt and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 107) 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 refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

Com. Sub. for S. B. 269, Budget Bill.

On motion of Delegate Cowles, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of five 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 E. Nelson, Anderson, Householder, Miller and Perry.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with amendment, and the passage, as amended, of

Com. Sub. for S. B. 159, Authorizing promulgation of legislative rules by miscellaneous boards and commissions.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments to the House amendment:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 9. AUTHORIZATION FOR MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES AND REPEALING UNAUTHORIZED AND OBSOLETE RULES OF MISCELLANEOUS AGENCIES AND BOARDS.

§64-9-1. Board of Examiners in Counseling.

(a) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section five, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 20, 2015, relating to the Board of Examiners in Counseling (licensing, 27 CSR 1), is authorized with the following amendment:

On page three, subdivision 5.2.a after the words “applicant for endorsement”, by striking out the words “in section 5.2 of this rule”.

(b) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section five, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2015, relating to the Board of Examiners in Counseling (licensed professional counselor license renewal and continuing professional education requirements, 27 CSR 3), is authorized.

(c) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section five, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 20, 2015, relating to the Board of Examiners in Counseling (marriage and family therapists licensing, 27 CSR 8), is authorized with the following amendments:

On page three, subdivision 5.1 immediately following the words “shall be” by striking out the words “greater than or equal “ and inserting in lieu thereof the words “substantially equivalent”;

On page three, subsection 5.2, after the words “license to practice”, by striking out the words “mental health counselor” and inserting in lieu thereof the words “marriage and family therapy”;

On page three, subdivision 5.2.a after the words “applicant for endorsement” by striking out the words “in section 5.2 of this rule”;

On page four, subdivision 5.2.a.4, after the words “licensed as” by inserting the words “marriage and family therapists”;

On page four, subsection 5.3 after the words “actively practiced” by striking out the words “mental health counseling as licensed professional counselor” and inserting in lieu thereof the words “marriage and family therapy as a licensed marriage and family therapist”;

On page four, paragraph 5.3.a.1, after the words “passed the” by striking out the words “national counselor examination (NCE) or the national clinical mental health counseling examination (NCMHCE) or other certification examination in counseling approved by the board” and inserting in lieu thereof the words “Examination in Marital and Family Therapy or other certification examination in marriage and family therapy approved by the board”; and

On page four, paragraph 5.3.a.2 after the words “license to practice” by striking out the words “mental health counselor” and inserting in lieu thereof the following: “marriage and family therapy”.

(d) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section five, article thirty-one, chapter thirty of this code, modified by the Board of Examiners in Counseling to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 29, 2015, relating to the Board of Examiners in Counseling (marriage and family license renewal and continuing professional education requirements, 27 CSR 10), is authorized.

§64-9-2. Board of Accountancy.

The legislative rule filed in the State Register on Friday, July 24, 2015, authorized under the authority of section five, article nine, chapter thirty of this code, modified by the Board of Accountancy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on Thursday, November 5, 2015, relating to the Board of Accountancy (board rules and rules of professional conduct, 1 CSR 1), is authorized.

§64-9-3. Department of Agriculture.

(a) The legislative rule filed in the State Register on July 30, 2015, authorized under the authority of section four, article twenty-nine, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making

Review Committee and refiled in the State Register on November 3, 2015, relating to the Department of Agriculture (inspection of nontraditional domesticated animals, 61 CSR 23D), is authorized.

(b) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section two, article nine, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2015, relating to the Department of Agriculture (poultry litter and manure movement into primary poultry breeder rearing areas, 61 CSR 28), is authorized.

(c) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section four, article one-c, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2015, relating to the Department of Agriculture (livestock care standards, 61 CSR 31), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section twelve, article two-h, chapter nineteen of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2015, relating to the Department of Agriculture (captive cervid farming, 61 CSR 34), is authorized with the following amendment:

On page nine, subdivision 13.1.a., by striking the words “two hundred (200) acres” and inserting in lieu thereof the words “one hundred fifty (150) acres”.

(e) The Legislature directs the Department of Agriculture to promulgate the legislative rule filed in the State Register on April 4, 2015, authorized under the authority of section seven, article twelve-e, chapter nineteen, of this code, relating to the Department of

Agriculture (industrial hemp, 61 CSR 29), with the amendments set forth below:

On page one, section one, by striking out all of subsection 1.1 and inserting in lieu thereof a new subsection 1.1 to read as follows:

1.1. Scope.- This rule establishes requirements for the licensing, cultivating, testing, supervision, production and processing of industrial hemp in West Virginia through the issuance of Research Program Licenses as designated generally in Section 7606 of the Agricultural Farm Act of 214 (the Farm Bill).;

On page one, section two, by striking out all of subsection 2.6 and inserting in lieu thereof a new subsection 2.6 to read as follows:

2.6. "License" or "licensed" means the applicant has been issued a research Program License by the Commissioner, following a successful application and review process and may possess, grow, harvest, produce, distribute or deliver industrial hemp within West Virginia. The Department is duly licensed to engage in research and development programs initiated by the Commissioner.;

On page one, section two, by striking out all of subsection 2.7 and inserting in lieu thereof a new subsection 2.7 to read as follows:

2.7. "Licensee" or "applicant" means the Department or state institute of higher learning who has been issued a research Program License by the Department.

On page two, section two, subsection 2.9 after the word "Research" by striking out the words "and Marketing Cultivation";

On page two, section two, subsection 2.9 after the word "Commissioner" by striking out the words "or affiliated";

On page two, section two, subsection 3.1, by striking out all of subdivision 3.1.b. and inserting in lieu thereof a new subdivision 3.1.b. to read as follows:

3.1.b. A research proposal that authorizes the purposes of the research, the scientific methods to be employed and the use of the product outcomes.;

And,

On page three, section four, subdivision 4.1.b., after the word “planted” by changing the semicolon to a period and striking out all of subdivision 4.1.c.

(f) The legislative rule effective on November 14, 1967, authorized under the authority of article two, chapter nineteen of this code, relating to the Department of Agriculture (tobacco, 61 CSR 11A), is repealed.

(g) The legislative rule effective on May 31, 1985, authorized under the authority of section four, article one, chapter nineteen of this code, relating to the Department of Agriculture (conduct of beef industry self-improvement assessment program referendums, 61 CSR 11C), is repealed.

(h) The legislative rule effective on May 31, 1985, authorized under the authority of section four-j, article one, chapter nineteen of this code, relating to the Department of Agriculture (conduct of beef self-improvement assessment program referendums, 61 CSR 11G), is repealed.

(i) The legislative rule effective on August 21, 1959, authorized under the authority of article two, chapter nineteen of this code, relating to the Department of Agriculture (West Virginia seal of quality, 61 CSR 15), is repealed.

(j) The legislative rule effective on May 1, 1995, authorized under the authority of section one, article twenty-nine, chapter nineteen of this code, relating to the Department of Agriculture (aquaculture farm rules, 61 CSR 23), is repealed.

(k) The procedural rule effective on September 23, 1989, authorized under the authority of section one, article twenty-six, chapter nineteen of this code, relating to the Department of Agriculture (conduct of tree fruit industries self-improvement assessment program referendums, 61 CSR 20), is repealed.

§64-9-4. State Conservation Committee.

The legislative rule filed in the State Register on June 3, 2015, authorized under the authority of section four-a, article twenty-one-a, chapter nineteen of this code, modified by the State Conservation Committee to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 16, 2015, relating to the State Conservation Committee (West Virginia Conservation Agency Financial Assistance Program, 63 CSR 2), is authorized.

§64-9-5. Board of Dentistry.

(a) The legislative rule filed in the State Register on July 23, 2015, authorized under the authority of section six, article four, chapter thirty of this code, modified by the Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2015, relating to the Board of Dentistry (continuing education requirements, 5 CSR 11), is authorized.

(b) The legislative rule filed in the State Register on July 23, 2015, authorized under the authority of section six, article four, chapter thirty of this code, modified by the Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 23, 2015, relating to the Board of Dentistry (expanded duties of dental hygienists and dental assistants, 5 CSR 13), is authorized.

§64-9-6. State Election Commission.

(a) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section five, article one-a, chapter

three of this code, modified by the State Election Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 22, 2015, relating to the State Election Commission (regulation of campaign finance, 146 CSR 3), is authorized with the amendments set forth below:

On page 11, by striking all of subdivision 6.3.e;

On page 11, subsection 6.7, after the word “ballot”, by striking the remainder of subsection 6.7;

On page 12, subdivision 7.2.b, by striking the words “by making a contribution to one or more political party committees or candidates”;

On page 18, by striking all of subdivision 10.7.a;

And,

On page 18, by striking all of subdivision 10.7.b.

(b) The legislative rule filed in the State Register on July 31, 2015, authorized under the authority of section fourteen, article twelve, chapter three of this code, modified by the State Election Commission to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on December 22, 2015, relating to the State Election Commission (West Virginia Supreme Court of Appeals Public Campaign Financing Program, 146 CSR 5), is authorized.

§64-9-7. State Board of Registration for Professional Engineers.

The legislative rule filed in the State Register on May 11, 2015, authorized under the authority of section nine, article thirteen, chapter thirty of this code, modified by the State Board of Registration for Professional Engineers to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2015, relating to the State Board of Registration for

Professional Engineers (examination, licensure and practice of professional engineers, 7 CSR 1), is authorized.

§64-9-8. Governor's Committee on Crime, Delinquency and Correction.

The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section three, article twenty-nine, chapter thirty of this code, modified by the Governor's Committee on Crime, Delinquency and Correction to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 5, 2015, relating to the Governor's Committee on Crime, Delinquency and Correction (law-enforcement training and certification standards, 149 CSR 2), is authorized.

§64-9-9. Medical Imaging and Radiation Therapy Technology Board of Examiners.

The legislative rule filed in the State Register on June 8, 2015, authorized under the authority of section six, article twenty-three, chapter thirty of this code, relating to the Medical Imaging and Radiation Therapy Technology Board of Examiners (rules of the Board, 18 CSR 1), is authorized.

§64-9-10. Board of Medicine.

(a) The legislative rule filed in the State Register on July 27, 2015, authorized under the authority of section eleven-b, article three, chapter thirty of this code, modified by the Board of Medicine to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 23, 2015, relating to the Board of Medicine (establishment and regulation of limited license to practice medicine and surgery at certain state veterans' nursing home facilities, 11 CSR 11), is authorized.

(b) The Legislature directs the West Virginia Board of Medicine to promulgate the legislative rule filed in the State Register on April 6,

2007, authorized under the authority of section seven, article three, chapter thirty of this code relating to the Board of Medicine (licensing and disciplinary procedures. Physicians; Podiatrists, 11 CSR 1A), is authorized with the following amendments:

‘On Subsection 12.1, subdivision ee, paragraph A, after the word, “narcolepsy” and inserting the words, “binge eating disorder”’;

§64-9-11. Nursing Home Administrators Licensing Board.

The legislative rule filed in the State Register on July 17, 2017, authorized under the authority of section six, article twenty-five, chapter thirty of this code, modified by the Nursing Home Administrators Licensing Board to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 2, 2015, relating to the Nursing Home Administrators Licensing Board (nursing home administrators, 21 CSR 1), is authorized.

§64-9-12. Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 16, 2015, authorized under the authority of section seven, article five, chapter thirty of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 17, 2015, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on July 16, 2015, authorized under the authority of section three hundred one, article three, chapter sixty-a of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 17, 2015, relating to the Board of Pharmacy (Uniform Controlled Substances Act, 15 CSR 2), is authorized.

(c) The legislative rule filed in the State Register on July 16, 2015, authorized under the authority of section seven, article five, chapter thirty of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 17, 2015, relating to the Board of Pharmacy (record keeping and automated data processing systems, 15 CSR 4), is authorized.

(d) The legislative rule filed in the State Register on July 16, 2015, authorized under the authority of section seven, article five, chapter thirty of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 17, 2015, relating to the Board of Pharmacy (licensure of wholesale drug distributors, third-party logistics providers and manufacturers, 15 CSR 5), is authorized.

§64-9-13. Property Valuation and Procedures Commission.

The legislative rule filed in the State Register on July 29, 2015, authorized under the authority of section five, article ten, chapter eleven, and section four-d, article one-c, chapter eleven of this code, modified by the Property Valuation and Procedures Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 27, 2015, relating to the Property Valuation and Procedures Commission (tax map sales, 189 CSR 5), is authorized.

§64-9-14. Board of Social Work.

The legislative rule filed in the State Register on July 21, 2015, authorized under the authority of section six, article thirty, chapter thirty of this code, modified by the Board of Social Work to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2015, relating to the Board of Social Work (qualifications for the profession of social work, 25 CSR 1), is authorized.

§64-9-15. Secretary of State.

(a) The legislative rule filed in the State Register on June 30, 2015, authorized under the authority of section six, article one-a, chapter three of this code, relating to the Secretary of State (registration forms and receipts, 153 CSR 3), is authorized.

(b) The legislative rule filed in the State Register on July 1, 2015, authorized under the authority of section twenty-one, article two, chapter three of this code, relating to the Secretary of State (elimination of precinct registration books, 153 CSR 9), is authorized.

(c) The legislative rule filed in the State Register on June 30, 2015, authorized under the authority of section six, article one-a, chapter three of this code, relating to the Secretary of State (absentee voting by military voters who are members of reserve units called to active duty, 153 CSR 23), is authorized.

(d) The legislative rule filed in the State Register on June 30, 2015, authorized under the authority of section three-a, article one, chapter twenty-nine-b of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 22, 2015, relating to the Secretary of State (Freedom of Information Act database, 153 CSR 52), is authorized.

(e) The legislative rule effective on April 3, 1998, authorized under the authority of section sixty-seven, article one, chapter thirty-one of this code, relating to the Secretary of State (matters relating to corporations and other business entity filing, 153 CSR 5), is repealed.

(f) The legislative rule effective on June 7, 1996, authorized under the authority of section six, article one-a, chapter three of this code, relating to the Secretary of State (matters relating to official election forms and vendor authorization, 153 CSR 26), is repealed.

§64-9-16. Board of Examiners for Speech-Language Pathology and Audiology.

(a) The legislative rule filed in the State Register on June 8, 2015, authorized under the authority of section seven, article thirty-two, chapter thirty of this code, modified by the Board of Examiners for Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2015, relating to the Board of Examiners for Speech-Language Pathology and Audiology (licensure of speech pathology and audiology, 29 CSR 1), is authorized.

(b) The legislative rule filed in the State Register on June 8, 2015, authorized under the authority of section seven, article thirty-two, chapter thirty of this code, modified by the Board of Examiners for Speech-Language Pathology and Audiology to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on December 4, 2015, relating to the Board of Examiners for Speech-Language Pathology and Audiology (speech-language pathology and audiology assistants, 29 CSR 2), is authorized with the following amendments:

On page 4, Subdivision 4.1.(y), following the word “than”, by striking the word “two” and inserting in lieu thereof the word “three”;

On page 4, section 5, paragraph (8), after the word “pathologists,” by striking out the words “or audiologists,” and in paragraph (11), after the word “pathology,” by striking out the words “or Audiology.”;

And

On page 5, section (6), subsection (c), after the word “pathologist” by striking out the words “or audiologist,” and in subsection (j), after the word “pathologist,” by striking out the words “or audiology,” and in subsection (m), after the word “pathologist,” by striking out the words “or audiologist.”

§64-9-17. Enterprise Resource Planning Board.

The legislative rule contained in title two hundred thirteen, series one, of the code of state rules, filed and effective April 14, 2015, under the authority of section two, article six-d, chapter twelve of this code, relating to the enterprise resource planning system user fee, 213 CSR 1, is reauthorized, with the amendment set forth below:

On page two, subsection 3.2, line 4, following the words “of the ERP system” and the period, by adding the following: “The amount of the user fee assessed and imposed upon a spending unit of the state shall not exceed \$200 per FTE per year. The total amount of user fees that may be assessed in any fiscal year shall not exceed \$8,312,200. The authority of the Board to assess a user fee expires on and after January 1, 2018.”

§64-9-18. Cable TV Advisory Board.

(a) The legislative rule effective on April 15, 1991, authorized under the authority of section six, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (franchising procedures, 187 CSR 1), is repealed.

(b) The legislative rule effective on June 1, 1997, authorized under the authority of section twenty-six, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (implementing regulations, 187 CSR 2), is repealed.

(c) The legislative rule effective on June 30, 1997, authorized under the authority of section twenty-six, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (calculation and collection of late fee, 187 CSR 6), is repealed.

(d) The procedural rule effective on October 7, 1991, authorized under the authority of section twenty-six, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (administrative

procedures for consumer complaint resolution under the West Virginia Cable TV Systems Act, 187 CSR 3), is repealed.

(e) The procedural rule effective on August 28, 1993, authorized under the authority of section sixteen, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (rate regulation procedures, 187 CSR 4), is repealed.

(f) The procedural rule effective on March 5, 1994, authorized under the authority of section twenty-six, article eighteen, chapter five of this code, relating to the Cable TV Advisory Board (form and service of notice under section eight, article eighteen-a, chapter five of this code, 187 CSR 5), is repealed.

§64-9-19. Contractor Licensing Board.

The legislative rule effective on November 1, 2002, authorized under the authority of section fourteen, article eleven, chapter twenty-one of this code, relating to the Contractor Licensing Board (consumer complaints, 28 CSR 3), is repealed.

§64-9-20. Respiratory Care Board.

The legislative rule effective on June 24, 1997, authorized under the authority of section six, article thirty-four, chapter thirty of this code, relating to the Respiratory Care Board (procedure for licensure applications, 30 CSR 1), is repealed.

§64-9-21. Attorney General.

The procedural rule effective on December 21, 1988, authorized under the authority of section three, article one, chapter twenty-nine-b of this code, relating to the Attorney General (freedom of information, 142 CSR 2), is repealed.

§64-9-22. Municipal Bond Commission.

The procedural rule effective on March 12, 1984, authorized under the authority of section six, article three, chapter thirteen of this code,

relating to the Municipal Bond Commission (rules of procedure covering board and executive committee meetings of the Municipal Bond Commission, 109 CSR 1), is repealed.

§64-9-23. Housing Development Fund.

The legislative rule effective on August 15, 1982, authorized under the authority of section one, article eighteen-b, chapter thirty-one of this code, relating to the Housing Development Fund (refiling of administrative rules pertaining to administration of single-family mortgage loans, 88 CSR 1) is repealed.

§64-9-24. Public Service Commission.

(a) The legislative exempt rule effective on December 12, 1987, authorized under the authority of section one, article one, chapter twenty-four of this code, relating to the Public Service Commission (rules and regulations for carrier access to the lines and facilities of other carriers, 150 CSR 18), is repealed.

(b) The legislative exempt rule effective on December 12, 1987, authorized under the authority of section one, article one, chapter twenty-four of this code, relating to the Public Service Commission (rules and regulations for shipper access to the lines and facilities of rail carriers, 150 CSR 19), is repealed.

§64-9-25. Infrastructure and Jobs Development Council.

The procedural rule effective on November 12, 1999, authorized under the authority of section three, article nine-a, chapter six of this code, relating to the Infrastructure and Jobs Development Council (establishing procedures to provide public notice of date, time, place, agenda and purpose of meetings of the West Virginia Infrastructure and Jobs Development Council and manner in which meetings are to be conducted, 167 CSR 2), is repealed.

§64-9-26. Water Development Authority.

The procedural rule effective on November 4, 1999, authorized under the authority of section three, article nine-a, chapter six of this code, relating to the Water Development Authority (new procedures in relation to providing public notice of date, time, place and purpose of meetings of the West Virginia Water Development Authority and manner in which meetings are to be conducted, 44 CSR 3), is repealed.

§64-9-27. Board of Osteopathic Medicine.

The Legislature directs the West Virginia Board of Osteopathic Medicine to promulgate the legislative rule filed in the State Register on May 8, 2013, authorized under the authority of section four, article one, chapter thirty and section six-b, article one, chapter 30 of this code relating to the Board of Osteopathic Medicine (licensing procedures for osteopathic physicians, 24 CSR 1), is authorized with the following amendments:

On Subsection 18.1, subdivision dd, paragraph 1, after the word, “narcolepsy” and inserting the words, “binge eating disorder.””

And,

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

Com. Sub. for S. B. 159 – “A Bill to amend and reenact article 9, chapter 64 of the Code of West Virginia, 1931, as amended, relating generally to the promulgation of administrative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain agencies and commissions to repeal certain legislative, procedural or interpretative rules that are no longer authorized or are obsolete; directing various

agencies to amend and promulgate certain legislative rules; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensing; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to licensed professional counselor license renewal and continuing professional education requirements; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family therapists licensing; authorizing the Board of Examiners in Counseling to promulgate a legislative rule relating to marriage and family license renewal and continuing professional education requirements; authorizing the Board of Accountancy to promulgate a legislative rule relating to board rules and rules of professional conduct; authorizing the Department of Agriculture to promulgate a legislative rule relating to the inspection of nontraditional domesticated animals; authorizing the Department of Agriculture to promulgate a legislative rule relating to poultry litter and manure movement into primary poultry breeder rearing areas; authorizing the Department of Agriculture to promulgate a legislative rule relating to livestock care standards; authorizing the Department of Agriculture to promulgate a legislative rule relating to captive cervid farming; directing the Department of Agriculture to amend and promulgate a legislative rule relating to industrial hemp; repealing the Department of Agriculture legislative rule relating to tobacco; repealing the Department of Agriculture legislative rule relating to the conduct of beef industry self-improvement assessment program referendums; repealing the Department of Agriculture legislative rule relating to the conduct of beef self-improvement assessment program referendums; repealing the Department of Agriculture legislative rule relating to West Virginia seal of quality; repealing the Department of Agriculture legislative rule relating to aquaculture farm rules; repealing the Department of Agriculture procedural rule relating to the conduct of tree fruit industries self-improvement assessment program referendums; authorizing the State Conservation Committee to promulgate a legislative rule relating to the West Virginia Conservation Agency Financial Assistance Program; authorizing the Board of Dentistry to promulgate a legislative

rule relating to continuing education requirements; authorizing the Board of Dentistry to promulgate a legislative rule relating to expanded duties of dental hygienists and dental assistants; authorizing the State Election Commission to promulgate a legislative rule relating to the regulation of campaign finance; authorizing the State Election Commission to promulgate a legislative rule relating to the West Virginia Supreme Court of Appeals public campaign financing program; authorizing the State Board of Registration for Professional Engineers to promulgate a legislative rule relating to the examination, licensure and practice of professional engineers; authorizing the Governor's Committee on Crime, Delinquency and Correction to promulgate a legislative rule relating to law enforcement training and certification standards; authorizing the Medical Imaging and Radiation Therapy Technology Board of Examiners to promulgate a legislative rule relating to the board; authorizing the Board of Medicine to promulgate a legislative rule relating to the establishment and regulation of limited license to practice medicine and surgery at certain state veterans nursing home facilities; directing the Board of Medicine to promulgate a legislative rule relating to licensing and disciplinary procedures of Physicians and Podiatrists; authorizing the Nursing Home Administrators Licensing Board to promulgate a legislative rule relating to nursing home administrators; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure and practice of pharmacy; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the Uniform Controlled Substances Act; authorizing the Board of Pharmacy to promulgate a legislative rule relating to record keeping and automated data processing systems; authorizing the Board of Pharmacy to promulgate a legislative rule relating to the licensure of wholesale drug distributors, third-party logistics providers and manufacturers; authorizing the Property Valuation and Procedures Commission to promulgate a legislative rule relating to tax map sales; authorizing the Board of Social Work to promulgate a legislative rule relating to qualifications for the profession of social work; authorizing the Secretary of State to promulgate a legislative rule relating to

registration forms and receipts; authorizing the Secretary of State to promulgate a legislative rule relating to the elimination of precinct registration books; authorizing the Secretary of State to promulgate a legislative rule relating to absentee voting by military voters who are members of reserve units called to active duty; authorizing the Secretary of State to promulgate a legislative rule relating to the Freedom of Information Act database; repealing the Secretary of State legislative rule relating to matters relating to corporations and other business entity filing; repealing the Secretary of State legislative rule relating to matters relating to official election forms and vendor authorization; authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to the licensure of speech pathology and audiology; and authorizing the Board of Examiners for Speech-Language Pathology and Audiology to promulgate a legislative rule relating to speech-language pathology and audiology assistants; authorizing the Enterprise Resource Planning Board to promulgate a legislative rule relating to the enterprise resource planning system user fee; repealing the Cable TV Advisory Board legislative rule relating to franchising procedures; repealing the Cable TV Advisory Board legislative rule relating to implementing regulations; repealing the Cable TV Advisory Board legislative rule relating to calculation and collection of late fee; repealing the Cable TV Advisory Board procedural rule relating to administrative procedures for consumer complaint resolution under the West Virginia Cable TV Systems Act; repealing the Cable TV Advisory Board procedural rule relating to rate regulation procedures; repealing the Cable TV Advisory Board procedural rule relating to form and service of notice under section eight, article eighteen-a, chapter five of this code; repealing the Contractor Licensing Board legislative rule relating to consumer complaints; repealing the Respiratory Care Board legislative rule relating to the procedure for licensure applications; repealing the Attorney General procedural rule relating to freedom of information; repealing the Municipal Bond Commission procedural rule relating to rules of procedure covering board and executive committee meetings of the Municipal Bond

Commission; repealing the Housing Development Fund legislative rule relating to refiling of administrative rules pertaining to administration of single-family mortgage loans; repealing the Public Service Commission legislative exempt rule relating to rules and regulations for carrier access to the lines and facilities of other carriers; repealing the Public Service Commission legislative exempt rule relating to rules and regulations for shipper access to the lines and facilities of rail carriers; repealing the Infrastructure and Jobs Development Council procedural rule relating to establishing procedures to provide public notice of date, time, place, agenda and purpose of meetings of the West Virginia Infrastructure and Jobs Development Council and manner in which meetings are to be conducted; repealing the Water Development Authority procedural rule new procedures in relation to providing public notice of date, time, place and purpose of meetings of the West Virginia Water Development Authority and manner in which meetings are to be conducted; and directing the Board of Osteopathic Medicine to promulgate a legislative rule relating to licensing procedures for osteopathic physicians.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 638**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Walters.

Absent and Not Voting: Moffatt and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 159) passed.

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

On this question, the yeas and nays were taken (**Roll No. 639**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Marcum.

Absent and Not Voting: Moffatt and Moore.

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. 159) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the House of Delegates amendment, with a title amendment, and the passage, as amended, of

Com. Sub. for S. B. 465, Allowing professional employer insure certain risks through pure insurance captive.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate title amendment:

Com. Sub. for S. B. 465 - "A Bill to amend and reenact §33-31-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §33-46A-9 of said code, all relating to allowing professional employer organizations to insure certain risks through an insurance captive; establishing that professional employer organizations holding the appropriate license may insure its risks for insurance for accident and sickness as defined in current code; providing that such coverage for all employees and covered employees may be through a captive insurance company; eliminating prohibition against professional employer organizations offering or establishing self-funding health plans for covered employees; providing that professional employer organizations can offer plans not fully insured by authorized insurers so long as the plan complies with current code requirements; clarifying that all employees covered by a professional employer organization's

health benefit plan shall be considered employees of the professional employer organization; clarifying that health benefit plans offered under this provision shall be treated as a single employer welfare benefit plan; deleting obsolete code provision related to a study that was never conducted; and authorizing insurance commissioner to promulgate and adopt rules with respect to professional employer organizations sponsoring health benefit plans.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 640**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Eldridge and Skinner.

Absent and Not Voting: Moffatt and Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 465) 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. 2605, Removing the limitation on actions against the perpetrator of sexual assault or sexual abuse upon a minor.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates concurred in the following Senate amendments:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

“ARTICLE 2. LIMITATION OF ACTIONS AND SUITS.**§55-2-15. Special and general saving savings as to persons under disability.**

(a) A personal action for damages resulting from sexual assault or sexual abuse of a person who was an infant at the time of the act or acts alleged, shall be brought against the perpetrator of the sexual assault or abuse within four years after reaching the age of majority or within four years after discovery of the sexual assault or sexual abuse, whichever is longer.

(b) If any person to whom the right accrues to bring any ~~such~~ personal action other than an action described in subsection (a) of this section, suit or scire facias, or any such bill to repeal a grant, shall be, at the time the same accrues, an infant or insane, the same may be brought within the like number of years after his or her becoming of full age or sane that is allowed to a person having no such impediment to bring the same after the right accrues, or after such acknowledgment as is mentioned in section eight of this article, except that it shall in no case be brought after twenty years from the time when the right accrues.”

And,

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

H. B. 2605 – “A Bill to amend and reenact §55-2-15 of the Code of West Virginia, 1931, as amended, relating generally to limitations on civil actions accruing to persons under legal disability; and establishing the limitation on actions against the perpetrator of sexual assault or sexual abuse upon a minor to be four years upon reaching the age of majority or four years upon discovery of the sexual assault or sexual abuse, whichever is longer.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 641**), 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: Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2605) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4046, Relating to the promulgation of rules by the Department of Administration.

Delegate Cowles asked unanimous consent that the bill be taken up for immediate consideration, which consent was not given, objection being heard.

Delegate Cowles then moved that the bill be taken up for immediate consideration.

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. 642**), and there were—yeas 65, nays 34, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Manchin, Marcum, Miley, Morgan, Moye, Perdue, Perry,

Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecoast and P. White.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

**“ARTICLE 2. AUTHORIZATION FOR THE DEPARTMENT
OF ADMINISTRATION TO PROMULGATE
LEGISLATIVE RULES; REPEALING
UNAUTHORIZED AND OBSOLETE RULES
OF THE DEPARTMENT OF
ADMINISTRATION.**

§64-2-1. Department of Administration.

(a) The legislative rule filed in the State Register on September 1, 2015, authorized under the authority of section four, article three, chapter five-a, of this code, relating to the Department of Administration (Purchasing Division, 148 CSR 1), is authorized.

(b) The legislative rule effective on April 3, 1991, authorized under the authority of section seven, article eight, chapter nine of this code, relating to the Department of Administration (availability of state surplus buildings and equipment to charity food banks, 148 CSR 5), is repealed.

§64-2-2. Consolidated Public Retirement Board.

(a) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated Public Retirement

Board to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on November 5, 2015, relating to the Consolidated Public Retirement Board (benefit determination and appeal, 162 CSR 2), is authorized.

(b) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on September 22, 2015, relating to the Consolidated Public Retirement Board (Teachers' Defined Contribution System, 162 CSR 3), is authorized with the following amendment:

On page seven, subsection 7.4.1, line 4, following the word "amounts" and the period, by adding the following: "Using irrevocably forfeited amounts pursuant to the authority of this subsection will reduce the employer contributions in future years as required by W. Va. Code §18-7B-11."

(c) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on September 22, 2015, relating to the Consolidated Public Retirement Board (Teachers' Retirement System, 162 CSR 4), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on September 22, 2015, relating to the Consolidated Public Retirement Board (refund, reinstatement, retroactive service, loan and correction of error interest factors, 162 CSR 7), is authorized.

(e) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section one, article ten-d, chapter five, of this code, relating to the Consolidated Public Retirement Board (service credit for accrued and unused sick leave, 162 CSR 8), is authorized.

(f) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on November 5, 2015, relating to the Consolidated Public Retirement Board (West Virginia State Police, 162 CSR 9), is authorized.

(g) The legislative rule filed in the State Register on July 28, 2015, authorized under the authority of section one, article ten-d, chapter five, of this code, modified by the Consolidated Public Retirement Board to meet the objections of the Legislative Rule-making Review Committee and refiled in the State Register on November 5, 2015, relating to the Consolidated Public Retirement Board (Deputy Sheriff Retirement System, 162 CSR 10), is authorized.

§64-2-3. Ethics Commission.

(a) The legislative rule filed in the State Register on June 30, 2015, authorized under the authority of section five-c, article two, chapter six-b, of this code, relating to the Ethics Commission (public use of names or likenesses, 158 CSR 21), is authorized with the amendment set forth below:

On page one, following section one, by striking out the remainder of the proposed rule, and inserting in lieu thereof the following:

§158-21-1. Definitions.

As used in this article:

(a) ‘Advertising’ means publishing, distributing, disseminating, communicating or displaying information to the general public through

audio, visual or other media tools. It includes, but is not limited to, billboard, radio, television, mail, electronic mail, publications, banners, table skirts, magazines, social media, websites and other forms of publication, dissemination, display or communication.

(b) ‘Agent’ means any volunteer or employee, contractual or permanent, serving at the discretion of a public official or public employee.

(c) ‘Educational materials’ means publications, guides, calendars, handouts, pamphlets, reports or booklets intended to provide information about the public official or governmental office. It includes information or details about the office, services the office provides to the public, updates on laws and services and other informational items that are intended to educate the public.

(d) ‘Instructional material’ means written instructions explaining or detailing steps for completion of a governmental agency document or form.

(e) ‘Likeness’ means a photograph, drawing or other depiction of an individual.

(f) ‘Mass media communication’ means communication through audio, visual, or other media tools, including U.S. mail, electronic mail, and social media, intended for general dissemination to the public. Examples include mass mailing by U.S. mail, list-serve emails and streaming clips on websites. It does not include (i) regular responses to constituent requests or questions during the normal course of business or (ii) communications that are authorized or required by law to be publicly disseminated, such as legal notices.

(g) ‘Public employee’ means any full-time or part-time employee of any state, or political subdivision of the state, and their respective boards, agencies, departments and commissions, or in any other regional or local governmental agency.

(h) ‘Public official’ means any person who is elected or appointed to any state, county or municipal office or position, including boards, agencies, departments and commissions, or in any other regional or local governmental agency.

(i) ‘Public payroll’ means payment of public monies as a wage or salary from the state, or political subdivision of the state, or any other regional or local governmental agency, whether accepted or not.

(j) ‘Social media’ means forms of electronic communication through which users create online communities to share information, ideas, personal messages and other content. It includes web and mobile-based technologies which are used to turn communication to interactive dialogue among organizations, communities and individuals. Examples include, but are not limited to, Facebook, MySpace, Twitter and YouTube.

(k) ‘Trinkets’ means items of tangible personal property that are not vital or necessary to the duties of the public official’s or public employee’s office, including, but not limited to, the following: magnets, mugs, cups, key chains, pill holders, band-aid dispensers, fans, nail files, matches and bags.

§158-21-2. Limitations on a public official from using his or her name or likeness.

(a) *Trinkets* — Public officials, their agents, or anyone on public payroll may not place the public official’s name or likeness on trinkets paid for with public funds: *Provided*, That when appropriate and reasonable, public officials may expend a minimal amount of public funds for the purchase of pens, pencils or other markers to be used during ceremonial signings.

(b) *Advertising* — (1) Public officials, their agents, or anyone on public payroll may not use public funds, including funds of the office held by the public official, public employees, or public resources to

distribute, disseminate, publish or display the public official's name or likeness for the purpose of advertising to the general public.

(2) Notwithstanding the prohibitions in subdivision (1) of this subsection, the following conduct is not prohibited:

(A) A public official's name and likeness may be used in a public announcement or mass media communication when necessary, reasonable and appropriate to relay specific public safety, health or emergency information.

(B) A public official's name and likeness may appear on an agency's social media and website provided it complies with section three of this article.

(C) Dissemination of office press releases or agency information via email, social media or other public media tools for official purposes is not considered advertising or prohibited under this subsection, if it (i) is intended for a legitimate news or informational purpose, (ii) is not intended as a means of promotion of the public official, and (iii) is not being used as educational material.

(3) Banners and table skirts are considered advertising and may not include the public official's name or likeness.

(4) Nothing in this article shall be interpreted as prohibiting public officials from using public funds to communicate with constituents in the normal course of their duties as public officials if the communications do not include any reference to voting in favor of the public official in an election.

(c) *Vehicles* — Public officials, their agents, or any person on public payroll may not use or place the public official's name or likeness on any publicly-owned vehicles.

(d) *Educational Materials* — A public official's name or likeness may not be placed on any educational material that is paid for with

public funds: *Provided*, That this prohibition does not apply to the submission of a report required to be issued by law.

§158-21-3. Limitations on promotion through social media.

(a) A public official's name and likeness may appear on a public agency's website and social media subject to the following restrictions:

(1) The public official's name may appear throughout the website if it is reasonable, incidental, appropriate and has a primary purpose to promote the agency's mission and services rather than to promote the public official.

(2) The public official's likeness may only appear on the agency's website home page and on any pages or sections devoted to biographical information regarding the public official.

(3) The public official's name and likeness may appear on the agency's social media if it is reasonable, incidental, appropriate and has a primary purpose to promote the agency's mission and services rather than to promote the public official.

(b) This section does not apply to personal or non-public agency social media accounts.

(c) A public agency's website or social media may not provide links or reference to a public official's or public employee's personal or campaign social media or website.

§158-21-4. Use of public resources to display or distribute.

(a) Unless otherwise permitted under section two of this article, a public official and public employee may not use public resources to display or distribute trinkets, educational material or advertising with his or her name or likeness. This prohibition includes:

(1) Trinkets, educational material or advertising paid for with non-public funds, personal funds, third-party funds, campaign funds

and those that have been provided through an in-kind gift to the public agency or official; and

(2) Use of offices, counters, vehicles and other public spaces maintained or controlled by the public official's or public employee's agency;

(b) Notwithstanding any other provisions of this section, public officials or public employees, having a separate personal office or workspace in a public space may, inside that office or workspace;

(1) Display political or non-political awards, certificates, plaques, photographs and other similar materials; or

(2) Display or distribute trinkets of de minimus value to visitors, provided the trinkets are not paid for with public funds, do not advocate for or against any political candidate or political cause, do not promote any private business in which the public official or public employee has a financial interest and contain only general personal information including, but not limited to the public official or public employee's title, name, address, telephone number and email address.

§158-21-5. Exceptions to use of name or likeness.

(a) A public official may use his or her name or likeness on any official record or report, letterhead, document or certificate or instructional material issued in the course of his or her duties as a public official: *Provided*, That other official documents used in the normal course of the agency, including but not limited to, facsimile cover sheets, press release headers, office signage and envelopes may include the public official's name: *Provided, however*, That if the official documents are reproduced for distribution or dissemination to the public as educational material, the items are subject to the prohibitions in subsection (d), section two of this article.

(b) When appropriate and reasonable, the West Virginia Division of Tourism may use a public official's name and likeness on material used for tourism promotion.

(c) The prohibitions contained in this article do not apply to any person who is employed as a member of the faculty, staff, administration, or president of a public institution of higher education and who is engaged in teaching, research, consulting, coaching, recruiting or publication activities: *Provided*, That the activity is approved as a part of an employment contract with the governing board of the institution of higher education or has been approved by the employee's department supervisor or the president of the institution by which the faculty or staff member is employed.

(d) The prohibitions contained in section two of this article do not apply to a public official's campaign-related expenditures or materials.

(e) The prohibitions contained in section two of this article do not apply to items paid for with the public official's personal money.

(f) The prohibitions contained in section two of this article do not apply to items or materials required by law to contain the public official's name or likeness.

§158-21-6. Existing items as of the effective date.

(a) If a public official, public employee or public agency possesses items or materials in contravention of this rule or section five-c, article two, chapter six-b of the code that were purchased prior to the effective date of this rule, the public official, public employee or public agency may not continue to distribute, disseminate, communicate or display publicly these items or materials.

(b) Notwithstanding the prohibition in subsection (a) of this section,

(1) Materials may be used publicly if the public official's name or likeness are permanently removed or covered: *Provided*, That a public official's name or likeness may be covered with a sticker, be marked out or obliterated in any other manner;

(2) The public agency may use the items or materials for internal use if they are not publicly distributed, disseminated, communicated or displayed; and

(3) When appropriate and in compliance with law, a public agency may donate the items to surplus, charity or an organization serving the poor and needy.

§158-21-7. Allowance for exemption.

If any of the prohibitions contained in this article create an undue hardship or will cause significant financial impact upon the public agency to bring existing material, vehicles or items into compliance with this article, the public agency may seek a written exemption from the West Virginia Ethics Commission. In any request, the Ethics Commission shall make public the name of public agency seeking the exemption, along with the affected public official, if any.

(b) The legislative rule effective on September 1, 1993, authorized under the authority of section two, article two, chapter six-b of this code, relating to Ethics Commission (advisory opinions, 158 CSR 2), is repealed.

(c) The legislative rule effective on April 10, 1995, authorized under the authority of section twenty-eight, article twenty, chapter thirty-one of this code, relating to Ethics Commission (guidelines and standards for determining the existence of disqualifying financial interests, 158 CSR 4), is repealed.

(d) The legislative rule effective on June 1, 1992, authorized under the authority of section one, article two, chapter six-b of this code, relating to Ethics Commission (contributions, 158 CSR 10), is repealed.

§64-2-4. Division of Personnel.

The legislative rule filed in the State Register on July 21, 2015, authorized under the authority of section ten, article six, chapter

twenty-nine, of this code, relating to the Division of Personnel (administrative rule of the West Virginia Division of Personnel, 143 CSR 1), is authorized with the following amendment:

On page forty-eight, by removing the strikethrough of subparagraph 14.3.f.1, and restoring the original language, with modification, to read as follows:

14.3.f.1. An employee may elect to be paid in installments at his or her usual rate and frequency of pay as if employment were continuing until the pay period during which the accrued annual leave is exhausted. If the last day for which leave payment is due falls before the day on which the pay period ends, terminal annual leave payment for those days within that pay period shall be calculated using the daily rate for pay period in which the last day on payroll occurs. Employees in positions allocated to job classes assigned to an hourly pay schedule or per diem pay schedule approved by the Board shall be paid according to those standard procedures.”

And ,

Renumbering the subparagraphs thereafter.

And,

On page fifty, by removing the strikethrough in subparagraph 14.4.e.2, and restoring the original language of subparagraph 14.4.e.2.

§64-2-5. State Building Commission.

The procedural rule effective on July 21, 1995, authorized under the authority of section three, article nine-a, chapter six of this code, relating to the State Building Commission (procedural rules for meetings, 159 CSR 1), is repealed.

§64-2-6. Public Employees Insurance Agency.

The procedural rule effective on June 20, 1991, authorized under the authority of section six, article sixteen, chapter five of this code,

relating to the Public Employees Insurance Agency (procedural rules for the Public Employees Insurance Agency Advisory Board, 151 CSR 5), is repealed.

§64-2-7. Board of Risk and Insurance Management.

The legislative rule effective on April 14, 1992, authorized under the authority of section five, article twelve, chapter twenty-nine of this code, relating to the Board of Risk and Insurance Management (discontinuation of professional malpractice insurance, 115 CSR 4), is repealed.”

And,

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

Com. Sub. for H. B. 4046 – “A Bill to amend and reenact article two, chapter sixty-four of the Code of West Virginia, 1931, as amended, relating generally to administrative rules of the Department of Administration; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments by the Legislature; repealing certain legislative, procedural or interpretative rules that are no longer authorized or are obsolete of certain agencies and commissions under Department of Administration; authorizing the Department of Administration to promulgate a legislative rule relating to the purchasing division; repealing Department of Administration legislative rule relating to the availability of state surplus buildings and equipment to charity food banks; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to benefit determination and appeal; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers’ Defined Contribution System; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers’ Retirement System; authorizing the Consolidated Public

Retirement Board to promulgate a legislative rule relating to refund, reinstatement, retroactive service, loan and correction of error interest factors; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to service credit for accrued and unused sick leave; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the West Virginia State Police; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Deputy Sheriff Retirement System; authorizing the Ethics Commission to promulgate a legislative rule relating to the public use of names or likenesses; repealing Ethics Commission legislative rule relating to advisory opinions; repealing Ethics Commission legislative rule relating to guidelines and standards for determining the existence of disqualifying financial interests; repealing Ethics Commission legislative rule relating to contributions; authorizing the Division of Personnel to promulgate a legislative rule relating to the administrative rule of the West Virginia Division of Personnel; repealing State Building Commission procedural rule relating to procedural rules for meetings; repealing Public Employees Insurance Agency procedural rules relating to procedural rules for the Public Employees Insurance Agency Advisory Board; and repealing Board of Risk and Insurance Management legislative rule relating to discontinuation of professional malpractice insurance.”

On motion of Delegate Cowles, the Senate amendment was amended, on page three, section three, line one, by striking out all of subsection (a) and insert in lieu thereof a new subsection (a), to read as follows:

“(a) The legislative rule filed in the State Register on June 30, 2015, authorized under the authority of section five-c, article two, chapter six-b, of this code, relating to the Ethics Commission (public use of names or likenesses, 158 CSR 21), is not authorized.”

And,

Re-lettering the remaining subsections.

On the adoption of the amendment of the Senate as further amended by the House, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been *Ordered*, they were taken (**Roll No. 643**), and there were—yeas 64, nays 35, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Morgan, Moye, Perdue, Perry, Pethtel, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Moore.

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

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. 644**), and there were—yeas 69, nays 30, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Caputo, Eldridge, Fast, Ferro, Fleischauer, Fluharty, Guthrie, Hicks, Longstreth, Lynch, Manchin, Marcum, Miley, Morgan, Perdue, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Trecost, Walters and P. White.

Absent and Not Voting: Moore.

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. 4046) passed.

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

Com. Sub. for H. B. 4046 – “A Bill to amend and reenact article two, chapter sixty-four of the Code of West Virginia, 1931, as amended, relating generally to administrative rules of the Department of Administration; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; authorizing certain of the agencies to promulgate certain legislative rules with various amendments by the legislature; repealing certain legislative, procedural or interpretative rules that are no longer authorized or are obsolete of certain agencies and commissions under Department of Administration; authorizing the Department of Administration to promulgate a legislative rule relating to the purchasing division; repealing Department of Administration legislative rule relating to the availability of state surplus buildings and equipment to charity food banks; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to benefit determination and appeal; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers’ Defined Contribution System; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Teachers’ Retirement System; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to refund, reinstatement, retroactive service, loan and correction of error interest factors; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to service credit for accrued and unused sick leave; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the West Virginia State Police; authorizing the Consolidated Public Retirement Board to promulgate a legislative rule relating to the Deputy Sheriff Retirement System; authorizing the Ethics Commission to promulgate a legislative rule relating to the public use of names or likenesses; repealing Ethics Commission legislative rule relating to advisory opinions; repealing

Ethics Commission legislative rule relating to guidelines and standards for determining the existence of disqualifying financial interests; repealing Ethics Commission legislative rule relating to contributions; authorizing the Division of Personnel to promulgate a legislative rule relating to the administrative rule of the West Virginia Division of Personnel; repealing State Building Commission procedural rule relating to procedural rules for meetings; repealing Public Employees Insurance Agency procedural rules relating to procedural rules for the Public Employees Insurance Agency Advisory Board; and repealing Board of Risk and Insurance Management legislative rule relating to discontinuation of professional malpractice insurance.”

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

On this question, the yeas and nays were taken (**Roll No. 645**), and there were—yeas 65, nays 34, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Fast, Ferro, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Morgan, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Moore.

So, two thirds of the members elected to the House of Delegates not having voted in the affirmative, the Speaker declared the motion rejected.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates 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. 4201, Increasing the criminal penalties for participating in an animal fighting venture.

Delegate Cowles moved that the bill be taken up for immediate consideration.

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. 646**), and there were—yeas 92, nays 6, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Eldridge, Ihle, Lynch, Marcum, McGeehan and Skinner.

Absent and Not Voting: Moore and Statler.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting section and inserting in lieu thereof the following:

**“ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY
AND DECENCY.**

§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 section two, article ten-b, chapter nineteen 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.

(a) (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.

~~(b)~~ (d) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ~~\$100~~ \$300 and not more than ~~\$1,000~~ \$2,000, or confined in the county jail not exceeding one year, or both so fined and confined, and may be divested of ownership and control of such animals, ~~and be liable for all costs for their care and maintenance:~~ *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 ~~\$1,000~~ \$2,500 and not more than ~~\$5,000~~ \$5,000, and imprisoned in a state correctional facility for not less than one 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.

§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 to attend,

an animal fighting venture involving animals as defined in section nineteen-a, article eight of this chapter.

(b) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than ~~\$100~~ \$300 and not more than ~~\$1,000~~ \$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 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.”

And,

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

Com. Sub. for H. B. 4201 – “A Bill to amend and reenact §61-8-19a and §61-8-19b of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-8-19c, all relating to increasing the criminal penalties for participating in an animal fighting venture; defining terms; making unlawful the possession of an animal for the purpose of engaging the animal in an animal fighting venture; making it unlawful to knowingly cause an individual under the age of eighteen to attend an animal fighting venture; providing that wagering at an animal fighting venture is a crime; adding conducting, financing, managing, supervising, directing, or knowingly allowing property under one’s control to be used for an animal fighting venture to types of prohibited conduct; providing for penalties; and providing increased penalties for third or subsequent violations for certain offenses.”

Delegate Cowles moved to concur in the Senate amendment with amendment, as follows:

On page one, section nineteen-a, line sixteen, after the word “confined”, by deleting the comma, and striking out the words “and may be divested of ownership and control of such animals”.

And,

On page two, section nineteen-a, line twenty-six, after the word “maintenance” and the period, by inserting the words “pursuant to section four, article ten, chapter seven of this code” and a period.

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. 647**), and there were—yeas 83, nays 14, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Eldridge, Hicks, Ihle, Kurcaba, Lynch, Marcum, McGeehan, Morgan, J. Nelson, Perdue, R. Phillips, Rodighiero, Walters and P. White.

Absent and Not Voting: Moore, Skinner and Statler.

So, a majority of the members present and voting having voted in the affirmative, the motion to concur in the Senate amendment with further amendment prevailed.

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. 648**), and there were—yeas 87, nays 10, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Eldridge, Ihle, Kurcaba, Lynch, Marcum, McGeehan, Perdue, R. Phillips, Walters and P. White.

Absent and Not Voting: Hicks, Moore and Statler.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4201) passed.

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

Com. Sub. for H. B. 4201 – “A Bill to amend and reenact §61-8-19a and §61-8-19b of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §61-8-19c, all relating to increasing the criminal penalties for participating in an animal fighting venture; defining terms; adding conducting, financing, managing, supervising, directing, or knowingly allowing property under one’s control to be used for an animal fighting venture to types of prohibited conduct; making unlawful the possession of an animal for the purpose of engaging the animal in an animal fighting venture; providing for penalties; providing for divesting a convicted person of ownership of such animals and making a convicted person liable for all costs of the such animals care and maintenance; making it unlawful to knowingly cause an individual under the age of

eighteen to attend an animal fighting venture; providing for penalties; providing penalties for third or subsequent offenses; providing that wagering at an animal fighting venture is a crime; providing for penalties; and providing increased penalties for third or subsequent offenses.”

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 agreed to the appointment of a Committee of Conference of five from each house on the disagreeing votes of the two houses as to

Com. Sub. for S. B. 269, Budget Bill.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Hall, Walters, Sypolt, Prezioso and Plymale.

At the request of Delegate Cowles 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. Armstead, Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

H. R. 5, Expressing concern of the House of Delegates to the growth of the federal government’s power over the individual states of the United States,

Com. Sub. for H. C. R. 25, Frosty the Snowman Day,

Com. Sub. for H. C. R. 39, U.S. Army PFC Cornelius Vance Memorial Bridge,

Com. Sub. for H. C. R. 63, U.S. Air Force MSgt Johnny Baxter Clark and U.S. Air Force MSgt Carl Richard (Dick) Clark Memorial Bridge,

Com. Sub. for H. C. R. 65, U.S. Army CPL Wilson B. Lambert, Jr. Memorial Road,

Com. Sub. for H. C. R. 66, 1SG Carl J. Crabtree Memorial Road,

Com. Sub. for H. C. R. 77, U.S. Army SGT Denver E. Short Memorial Bridge,

Com. Sub. for H. C. R. 82, U.S. Army SPC David H. Stamper Memorial Bridge,

H. C. R. 87, Proclaiming and making the fiddle the official musical instrument of the State of West Virginia,

H. C. R. 116, Requesting a study to provide a mechanism for decreasing corporate municipality limits,

H. C. R. 117, Requesting a study of the Mountaineer Challenge Academy,

H. C. R. 118, Requesting a study how best to implement work and job-training requirements for recipients of SNAP,

H. C. R. 119, Requesting to study mechanism to allow nonresidents of a municipality to opt out of fire protection coverage by the municipality,

H. C. R. 120, Requesting to study potential improvements to pensions for retired teachers and public employees,

H. C. R. 121, Requesting to study creating a mechanism for more frequent assessment procedures for County Commissions to reevaluate

and appraise properties in areas that have been affected by a severe economic downturn,

H. C. R. 122, Expressing the Legislature's support for continued research by the medical community to find a cure for Multiple System Atrophy,

H. C. R. 123, Requesting to study the impact of providing for the issuance of a home-based micro-processing permit for use by farmers market vendors,

H. C. R. 124, Requesting to study the impact to expand the list of persons the Commissioner of Agriculture may license to grow or cultivate industrial hemp,

H. C. R. 125, Requesting Congressional Representatives of the State of WV to ask the federal government to reinstitute the Compassionate Investigational New Drug Program,

H. C. R. 126, Requesting study on the health care work force in the State of West Virginia,

S. C. R. 2, Urging Congress provide funding for WV National Guard,

S. C. R. 3, Julian, Earl and Edward Hill Brothers Memorial Bridge,

S. C. R. 6, USMC PFC Marshall Lee King Memorial Bridge,

Com. Sub. for S. C. R. 7, Rosie the Riveters Memorial Bridge,

S. C. R. 8, US Army PFC Ernest D. Marcum Bridge,

S. C. R. 9, US Army First Sergeant Jesse T. McPeake Memorial Road,

S. C. R. 11, US Marine Corps Sergeant Gerald Leslie Perry Memorial Bridge,

S. C. R. 12, Wayne County Veterans Memorial Highway,

S. C. R. 13, Tom Williams Family Bridge,

S. C. R. 14, US Marine Corps PFC Billy Joe Vickers Memorial Bridge,

S. C. R. 15, US Army SFC Jesse Muncy Memorial Bridge,

Com. Sub. for S. C. R. 17, US Army Sergeant Charles Edward Smith Memorial Bridge,

S. C. R. 19, Rev. Rexford Montgomery Workman Memorial Bridge,

S. C. R. 22, Trautwein Family Bridge,

S. C. R. 24, US Army PFC Arland W. Hatcher Memorial Bridge,

S. C. R. 26, Charles Edward Ellis and Ira Virgil Ellis Memorial Bridge,

S. C. R. 30, Lester W. and Ida C. Ellis Memorial Bridge,

Com. Sub. for S. C. R. 37, US Army PFC Willie Paul Wilson bridge,

S. C. R. 38, Army PFC Denver Holly Memorial Bridge,

S. C. R. 41, US Army SGT Philip Ray Casto Memorial Bridge,

S. C. R. 53, Harry C. "Buck" Markley, Jr. Memorial Bridge,

S. C. R. 54, Union Army CPT John Bond Memorial Bridge,

S. C. R. 55, Dewey "Duke" Maynard Memorial Road,

S. C. R. 56, Judge Ronald G. Pearson Bridge,

And,

S. C. R. 59, U. S. Army SPC 4 Everette R. Johnson Memorial Bridge,

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

At the request of Delegate Cowles, and by unanimous consent, the resolutions (H. R. 5, Com. Sub. for H. C. R. 25, Com. Sub. for H. C. R. 39, Com. Sub. for H. C. R. 63, Com. Sub. for H. C. R. 65, Com. Sub. for H. C. R. 66, Com. Sub. for H. C. R. 77, Com. Sub. for H. C. R. 82, H. C. R. 87, H. C. R. 116, H. C. R. 117, H. C. R. 118, H. C. R. 119, H. C. R. 120, H. C. R. 121, H. C. R. 122, H. C. R. 123, H. C. R. 124, H. C. R. 125, H. C. R. 126, S. C. R. 2, S. C. R. 3, S. C. R. 6, Com. Sub. for S. C. R. 7, S. C. R. 8, S. C. R. 9, S. C. R. 11, S. C. R. 12, S. C. R. 13, S. C. R. 14, S. C. R. 15, Com. Sub. for S. C. R. 17, S. C. R. 19, S. C. R. 22, S. C. R. 24, S. C. R. 26, S. C. R. 30, Com. Sub. for S. C. R. 37, S. C. R. 38, S. C. R. 41, Com. Sub. for S. C. R. 53, S. C. R. 54, S. C. R. 55, S. C. R. 56 and S. C. R. 59) were taken up for immediate consideration and adopted.

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

Motions

Delegate Skinner moved to recall Com. Sub. for S. B. 159, Authorizing promulgation of legislative rules by miscellaneous boards and commissions.

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. 649**), and there were—yeas 36, nays 62, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Ambler, Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle,

Longstreth, Lynch, Manchin, Marcum, Miley, Morgan, Moye, E. Nelson, Perdue, Perry, Pethtel, Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, Trecost and P. White.

Absent and Not Voting: Azinger and Moore.

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

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. 4566, Relating to school personnel.

Delegate Cowles moved the bill be taken up for immediate consideration.

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

The yeas and nays having been ordered, they were taken (**Roll No. 650**), and there were—yeas 70, nays 29, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Morgan, Moye, Perdue, Pethtel, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, Sponaugle, Trecost and P. White.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

Delegate Cowles moved the House of Delegates concur in the following Senate amendment:

On page thirty-two, section eight-e, lines one hundred five through one hundred seven, by striking out all of subdivision (5) and inserting in lieu thereof a new subdivision, designated subdivision (5), to read as follows:

“(5) The state board shall promulgate, in accordance with article three-b, chapter twenty-nine-a of this code, revised rules in compliance with this subsection.”

On the motion to concur in the amendment of the Senate, to the House bill, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 651**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Hartman.

Absent and Not Voting: Moore.

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

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 652**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Marcum and Moye.

Absent and Not Voting: Moore.

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. 4566) 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. 4738, Relating to the offense of driving in an impaired state.

Delegate Cowles moved that the bill be taken up for immediate consideration.

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. 653**), and there were—yeas 69, nays 27, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Byrd, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hornbuckle, Longstreth, Lynch, Manchin, Miley, Morgan, Perdue, Perry, Pethtel, Pushkin, Reynolds, Rowe, Shaffer, Skinner, P. Smith, Sponaugle and Trecost.

Absent and Not Voting: Flanigan, Marcum, Moore and Wagner.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

The following Senate amendments were reported by the Clerk:

On page one, section two, line five, after the word “or”, by inserting the word “inhalant”.

And,

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

H. B. 4738 – “A Bill amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended, relating to the offense of driving in

an impaired state; establishing the offense of driving a vehicle while he or she is in an impaired state; establishing the offense of driving a vehicle while he or she is in an impaired state but has an alcohol concentration in his or her blood of less than fifteen hundredths of one percent by weight; adding influence of inhalant substances in definition of impaired state; and providing for penalties.”

Delegate Cowles moved to concur in the Senate amendments.

On the motion to concur in the adoption of the amendments of the Senate, to the House bill, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 654**), 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: Flanigan, Marcum and Moore.

So, a majority of the members present and voting having voted in the affirmative, the amendments were adopted.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 655**), 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: Marcum and Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4738) 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 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 S. B. 157, Authorizing Department of Revenue to promulgate legislative rules.

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Trump, Blair and Kirkendoll.

Delegate Cowles moved that the bill be taken up for immediate consideration.

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. 656**), and there were—yeas 76, nays 23, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Blackwell, Byrd, Caputo, Ferro, Fluharty, Guthrie, Hartman, Longstreth, Lynch, Manchin, Marcum, Miley, Morgan, Perdue, Pethtel, Pushkin, Rowe, Shaffer, Skinner, P. Smith, R. Smith, Sponaugle and P. White.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

Delegate Cowles moved that the House reconsider its action of having refused to concur in the amendments of the Senate.

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. 657**), and there were—yeas 72, nays 27, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Byrd, Campbell, Caputo, Eldridge, Ferro, Fluharty, Hicks, Hornbuckle, Longstreth, Lynch, Manchin, Marcum, Miley, Morgan, Perdue, Perry, R. Phillips, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, Sponaugle and P. White.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the motion to reconsider its previous action prevailed.

Delegate Cowles then moved that the House concur in the Senate amendments.

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

The yeas and nays having been ordered, they were taken (**Roll No. 658**), and there were—yeas 86, nays 13, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Hicks, Lynch, Marcum, Morgan, Pushkin, Rodighiero, Sponaugle and P. White.

Absent and Not Voting: Moore.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 659**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Lynch.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 157) 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. 4489, Relating generally to human trafficking.

On motion of Delegate Cowles, the bill was taken up for immediate consideration.

The following Senate amendments were reported by the Clerk:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §61-2-17 of the Code of West Virginia, 1931, as amended, be repealed; that §15-9A-2 of said code be amended and reenacted; that §48-26-401 of said code be amended and reenacted; that §49-1-201 of said code be amended and reenacted; that §49-4-301 of said code be amended and reenacted; that said code be amended by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8, §61-14-9 and §61-14-10; and that §62-1D-8 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 9A. DIVISION OF JUSTICE AND COMMUNITY SERVICES.

§15-9A-2. Division established; appointment of director.

(a) The Division of Justice and Community Services is created. The purpose of the division is to provide executive and administrative support to the Governor's Committee on Crime Delinquency and Correction in the coordination of planning for the criminal justice system, to administer federal and state grant programs assigned to it by the actions of the Governor or Legislature and to perform such other duties as the Legislature may, from time to time, assign to the division. The division is the designated staffing agency for the Governor's Committee on Crime, Delinquency and Correction, and all of its subcommittees. The division may apply for grants and other funding from federal or state programs, foundations, corporations and organizations which funding is consistent with its responsibilities and the purposes assigned to it or the subcommittees it staffs. The Division of Justice and Community Services is hereby designated as the state administrative agency responsible for criminal justice and juvenile justice systems, and various component agencies of state and local government, for the planning and development of state programs and grants which may be funded by federal, state or other allocations in the areas of community corrections, law-enforcement training and compliance, sexual assault forensic examinations, victim services, human trafficking and juvenile justice.

(b) The director of the division shall be named by the Governor to serve at his will and pleasure.

(c) The director of the division shall take and subscribe to an oath of office in conformity with article IV, section five of the Constitution of the State of West Virginia.

CHAPTER 48. DOMESTIC RELATIONS.**ARTICLE 26. DOMESTIC VIOLENCE ACT.****§48-26-401. Powers and duties of board.**

(a) The board shall:

(1) Propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article and any applicable federal guidelines;

(2) Receive and consider applications for licensure of domestic violence programs, batterer intervention and prevention programs and monitored parenting and exchange programs;

(3) Assess the need for domestic violence programs, batterer intervention and prevention programs and monitored parenting and exchange programs, including licensure preapplication and application processes;

(4) Conduct licensure renewal reviews of domestic violence programs, batterer intervention and prevention programs and monitored parenting and exchange programs, that will ensure the safety, well-being and health of the programs' participants and staff;

(5) For each fiscal year, expend from the Family Protection Fund a sum not to exceed fifteen percent for the costs of administering the provisions of this article, and direct the Department of Health and Human Resources to distribute one half of the remaining funds equally and the other half of the remaining funds in accordance with a formula determined by the board, to licensed domestic violence programs;

(6) Submit an annual report on the status of programs licensed under the provisions of this article to the Governor and the Joint Committee on Government and Finance;

(7) Conduct hearings as necessary under this article; and

(8) Collect data about licensed programs for use in the annual report of the board.

(b) The board may:

(1) Advise the Secretary of the Department of Health and Human Resources and the Chair of the Governor's Committee on Crime, Delinquency and Correction on matters of concern relative to their responsibilities under this article;

(2) Delegate to the Secretary of the Department of Health and Human Resources such powers and duties of the board as the board considers appropriate to delegate, including, but not limited to, the authority to approve, disapprove, revoke or suspend licenses;

(3) Advise administrators of state or federal funds of licensure violations and closures of programs; and

(4) Exercise all other powers necessary to implement the provisions of this article.

(c) The board shall develop a comprehensive list and inventory of services available in this state for victims of human trafficking and provide the information developed to state, county and local law-enforcement law agencies.

(d) The board shall coordinate with the appropriate government agencies to develop a program to promote public awareness about human trafficking, victim remedies and services available to victims.

CHAPTER 49. CHILD WELFARE.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§49-1-201. Definitions related, but not limited, to child abuse and neglect.

When used in this chapter, terms defined in this sections have the meanings ascribed to them that relate to, but are not limited to, child abuse and neglect, except in those instances where a different meaning is provided or the context in which the word is used clearly indicates that a different meaning is intended.

‘Abandonment’ means any conduct that demonstrates the settled purpose to forego the duties and parental responsibilities to the child;

‘Abused child’ means a child whose health or welfare is being harmed or threatened by:

(A) A parent, guardian or custodian who knowingly or intentionally inflicts, attempts to inflict or knowingly allows another person to inflict, physical injury or mental or emotional injury, upon the child or another child in the home. Physical injury may include an injury to the child as a result of excessive corporal punishment;

(B) Sexual abuse, or sexual exploitation or commercial sexual exploitation;

(C) The sale or attempted sale of a child by a parent, guardian or custodian in violation of section fourteen-h, article two, chapter sixty-one of this code; or

(D) Domestic violence as defined in section two hundred two, article twenty-seven, chapter forty-eight of this code.

‘Abusing parent’ means a parent, guardian or other custodian, regardless of his or her age, whose conduct has been adjudicated by the court to constitute child abuse or neglect as alleged in the petition charging child abuse or neglect.

‘Battered parent’, for the purposes of part six, article four of this chapter, means a respondent parent, guardian or other custodian who has been adjudicated by the court to have not condoned the abuse or neglect and has not been able to stop the abuse or neglect of the child or children due to being the victim of domestic violence as defined by section two hundred two, article twenty-seven, chapter forty-eight of this code which was perpetrated by the same person or persons determined to have abused or neglected the child or children.

‘Child abuse and neglect services’ means social services which are directed toward:

(A) Protecting and promoting the welfare of children who are abused or neglected;

(B) Identifying, preventing and remedying conditions which cause child abuse and neglect;

(C) Preventing the unnecessary removal of children from their families by identifying family problems and assisting families in resolving problems which could lead to a removal of children and a breakup of the family;

(D) In cases where children have been removed from their families, providing time-limited reunification services to the children and the families so as to reunify those children with their families or some portion thereof;

(E) Placing children in suitable adoptive homes when reunifying the children with their families, or some portion thereof, is not possible or appropriate; and

(F) Assuring the adequate care of children or juveniles who have been placed in the custody of the department or third parties.

‘Condition requiring emergency medical treatment’ means a condition which, if left untreated for a period of a few hours, may result in permanent physical damage; that condition includes, but is not limited to, profuse or arterial bleeding, dislocation or fracture, unconsciousness and evidence of ingestion of significant amounts of a poisonous substance.

‘Imminent danger to the physical well-being of the child’ means an emergency situation in which the welfare or the life of the child is threatened. These conditions may include an emergency situation when there is reasonable cause to believe that any child in the home is or has been sexually abused or sexually exploited, or reasonable cause to believe that the following conditions threaten the health, life or safety of any child in the home:

(A) Nonaccidental trauma inflicted by a parent, guardian, custodian, sibling or a babysitter or other caretaker;

(B) A combination of physical and other signs indicating a pattern of abuse which may be medically diagnosed as battered child syndrome;

(C) Nutritional deprivation;

(D) Abandonment by the parent, guardian or custodian;

(E) Inadequate treatment of serious illness or disease;

(F) Substantial emotional injury inflicted by a parent, guardian or custodian;

(G) Sale or attempted sale of the child by the parent, guardian or custodian;

(H) The parent, guardian or custodian's abuse of alcohol or drugs or other controlled substance as defined in section one hundred one, article one, chapter sixty-a of this code, has impaired his or her parenting skills to a degree as to pose an imminent risk to a child's health or safety; or

(I) Any other condition that threatens the health, life or safety of any child in the home.

'Neglected child' means a child:

(A) Whose physical or mental health is harmed or threatened by a present refusal, failure or inability of the child's parent, guardian or custodian to supply the child with necessary food, clothing, shelter, supervision, medical care or education, when that refusal, failure or inability is not due primarily to a lack of financial means on the part of the parent, guardian or custodian; or

(B) Who is presently without necessary food, clothing, shelter, medical care, education or supervision because of the disappearance or absence of the child's parent or custodian;

(C) ‘Neglected child’ does not mean a child whose education is conducted within the provisions of section one, article eight, chapter eighteen of this code.

‘Petitioner or co-petitioner’ means the department or any reputable person who files a child abuse or neglect petition pursuant to section six hundred one, article four of this chapter.

‘Permanency plan’ means the part of the case plan which is designed to achieve a permanent home for the child in the least restrictive setting available.

‘Respondent’ means all parents, guardians, and custodians identified in the child abuse and neglect petition who are not petitioners or co-petitioners.

‘Sexual abuse’ means:

(A) Sexual intercourse, sexual intrusion, sexual contact, or conduct proscribed by section three, article eight-c, chapter sixty-one, which a parent, guardian or custodian engages in, attempts to engage in, or knowingly procures another person to engage in with a child notwithstanding the fact that for a child who is less than sixteen years of age the child may have willingly participated in that conduct or the child may have suffered no apparent physical injury or mental or emotional injury as a result of that conduct or, for a child sixteen years of age or older the child may have consented to that conduct or the child may have suffered no apparent physical injury or mental or emotional injury as a result of that conduct;

(B) Any conduct where a parent, guardian or custodian displays his or her sex organs to a child, or procures another person to display his or her sex organs to a child, for the purpose of gratifying the sexual desire of the parent, guardian or custodian, of the person making that display, or of the child, or for the purpose of affronting or alarming the child; or

(C) Any of the offenses proscribed in sections seven, eight or nine, article eight-b, chapter sixty-one of this code.

‘Sexual assault’ means any of the offenses proscribed in sections three, four or five, article eight-b, chapter sixty-one of this code.

‘Sexual contact’ means sexual contact as that term is defined in section one, article eight-b, chapter sixty-one of this code.

‘Sexual exploitation’ means an act where:

(A) A parent, custodian or guardian, whether for financial gain or not, persuades, induces, entices or coerces a child to engage in sexually explicit conduct as that term is defined in section one, article eight-c, chapter sixty-one of this code; or

(B) A parent, guardian or custodian persuades, induces, entices or coerces a child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian or a third person, or to display his or her sex organs under circumstances in which the parent, guardian or custodian knows that the 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 section one, article eight-b, chapter sixty-one of this code.

‘Sexual intrusion’ means sexual intrusion as that term is defined in section one, article eight-b, chapter sixty-one of this code.

‘Serious physical abuse’ 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.

‘Commercial sexual exploitation’ means the sexual commodification of children’s bodies for the purposes of financial or material gain including, but not limited to, exploitation of children for sexual purposes, child sex tourism, child pornography and child sex trafficking.

ARTICLE 4. COURT ACTIONS.**§49-4-301. Custody of a neglected child by law enforcement in emergency situations; protective custody; requirements; notices; petition for appointment of special guardian; discharge; immunity.**

(a) A child believed to be a neglected child or an abused child may be taken into custody without the court order otherwise required by section six hundred two of this article by a law-enforcement officer if:

(1) The child is without supervision or shelter for an unreasonable period of time in light of the child's age and the ability to care for himself or herself in circumstances presenting an immediate threat of serious harm to that child; or

(2) That officer determines that the child is in a condition requiring emergency medical treatment by a physician and the child's parents, parent, guardian or custodian refuses to permit the treatment, or is unavailable for consent. A child who suffers from a condition requiring emergency medical treatment, whose parents, parent, guardian or custodian refuses to permit the providing of the emergency medical treatment, may be retained in a hospital by a physician against the will of the parents, parent, guardian or custodian, as provided in subsection (c) of this section.

(b) A child taken into protective custody pursuant to subsection (a) of this section may be housed by the department or in any authorized child shelter facility. The authority to hold the child in protective custody, absent a petition and proper order granting temporary custody pursuant to section six hundred two of this article, terminates by operation of law upon the happening of either of the following events, whichever occurs first:

(1) The expiration of ninety-six hours from the time the child is initially taken into protective custody; or

(2) The expiration of the circumstances which initially warranted the determination of an emergency situation.

No child may be considered in an emergency situation and custody withheld from the child's parents, parent, guardian or custodian presenting themselves, himself or herself in a fit and proper condition and requesting physical custody of the child. No child may be removed from a place of residence as in an emergency under this section until after:

(1) All reasonable efforts to make inquiries and arrangements with neighbors, relatives and friends have been exhausted; or if no arrangements can be made; and

(2) The state department may place in the residence a home services worker with the child for a period of not less than twelve hours to await the return of the child's parents, parent, guardian or custodian.

Prior to taking a child into protective custody as abandoned at a place at or near the residence of the child, the law-enforcement officer shall post a typed or legibly handwritten notice at the place the child is found, informing the parents, parent, guardian or custodian that the child was taken by a law-enforcement officer, the name, address and office telephone number of the officer, the place and telephone number where information can continuously be obtained as to the child's whereabouts, and if known, the worker for the state department having responsibility for the child.

Following a first encounter with a child who reasonably appears to a law-enforcement officer to be a victim who has engaged in commercial sexual activity, that officer shall notify the Department of Health and Human Resources and the Domestic Violence Program serving the area where the child is found. The child may be eligible for services including, but not limited to, appropriate child welfare services under chapter forty-nine of this code, victim treatment programs, child advocacy services, shelter services, rape crisis services

and domestic violence programs required by article twenty-six, chapter forty-eight of this code, or other social services.

(c) A child taken into protective custody pursuant to this section for emergency medical treatment may be held in a hospital under the care of a physician against the will of the child's parents, parent, guardian or custodian for a period not to exceed ninety-six hours. The parents, parent, guardian or custodian may not be denied the right to see or visit with the child in a hospital. The authority to retain a child in protective custody in a hospital as requiring emergency medical treatment terminates by operation of law upon the happening of either of the following events, whichever occurs first:

(1) When the condition, in the opinion of the physician, no longer required emergency hospitalization, or;

(2) Upon the expiration of ninety-six hours from the initiation of custody, unless within that time, a petition is presented and a proper order obtained from the circuit court.

(d) Prior to assuming custody of a child from a law-enforcement officer, pursuant to this section, a physician or worker from the department shall require a typed or legibly handwritten statement from the officer identifying the officer's name, address and office telephone number and specifying all the facts upon which the decision to take the child into protective custody was based, and the date, time and place of the taking.

(e) Any worker for the department assuming custody of a child pursuant to this section shall immediately notify the parents, parent, guardian or custodian of the child of the taking of the custody and the reasons therefor, if the whereabouts of the parents, parent, guardian or custodian are known or can be discovered with due diligence; and if not, notice and explanation shall be given to the child's closest relative, if his or her whereabouts are known or can be discovered with due diligence within a reasonable time. An inquiry shall be made of relatives and neighbors, and if a relative or appropriate neighbor is

willing to assume custody of the child, the child will temporarily be placed in custody.

(f) No child may be taken into custody under circumstances not justified by this section or pursuant to section six hundred two of this article without appropriate process. Any retention of a child or order for retention of a child not complying with the time limits and other requirements specified in this article shall be void by operation of law.

(g) *Petition for appointment of special guardian.* — Upon the verified petition of any person showing:

(1) That any person under the age of eighteen years is threatened with or there is a substantial possibility that the person will suffer death, serious or permanent physical or emotional disability, disfigurement or suffering; and

(2) That disability, disfigurement or suffering is the result of the failure or refusal of any parent, guardian or custodian to procure, consent to or authorize necessary medical treatment, the circuit court of the county in which the person is located may direct the appointment of a special guardian for the purposes of procuring, consenting to and giving authorization for the administration of necessary medical treatment. The circuit court may not consider any petition filed in accordance with this section unless it is accompanied by a supporting affidavit of a licensed physician.

(h) *Notice of petition.* — So far as practicable, the parents, guardian or custodian of any person for whose benefit medical treatment is sought shall be given notice of the petition for the appointment of a special guardian under this section. Notice is not necessary if it would cause a delay that would result in the death or irreparable harm to the person for whose benefit medical treatment is sought. Notice may be given in a form and manner as may be necessary under the circumstances.

(i) *Discharge of special guardian.* — Upon the termination of necessary medical treatment to any person under this section, the circuit court order the discharge of the special guardian from any further authority, responsibility or duty.

(j) *Immunity from civil liability.* — No person appointed special guardian in accordance with this article is civilly liable for any act done by virtue of the authority vested in him or her by order of the circuit court.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 14. HUMAN TRAFFICKING.

§61-14-1. Definitions.

When used in this article, the following words and terms shall have meaning specified unless the context clearly indicates a different meaning:

‘Adult’ means an individual eighteen years of age or older.

‘Coercion’ 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.

‘Commercial sexual activity’ means sexual activity for which anything of value is given to, promised to or received by a person.

‘Debt bondage’ means inducing an individual to provide:

(1) Commercial sexual activity in payment toward or satisfaction of a real or purported debt; or

(2) Labor or services in payment toward or satisfaction of a real or purported debt if:

(A) The reasonable value of the labor or services is not applied toward the liquidation of the debt; or

(B) The length of the labor or services is not limited, and the nature of the labor or services is not defined.

‘Forced labor’ means labor or services that are performed or provided by another person and are obtained or maintained through the following:

(1) Threat, either implicit or explicit, deception or fraud, scheme, plan, or pattern or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services that person or another person would suffer serious bodily harm, physical restraint or deportation: *Provided*, That this does not include work or services provided by a minor to the minor’s parent or legal guardian so long as the legal guardianship or custody of the minor was not obtained for the purpose compelling the minor to participate in commercial sex acts or sexually explicit performance, or perform forced labor or services.

(2) Physically restraining or threatening to physically restrain a person;

(3) Abuse or threatened abuse of the legal process; or

(4) Destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of another person: *Provided*, That ‘forced labor’ does not mean labor or services required to be performed by a person in compliance with a court order or as a required condition of probation, parole, or imprisonment.

‘Identification document’ means a passport, driver’s license, immigration document, travel document or other government-issued identification document, including a document issued by a foreign government.

‘Labor or services’ means activity having economic value.

‘Minor’ means an individual less than eighteen years of age.

‘Patronize’ means giving, agreeing to give or offering to give anything of value to another person in exchange for commercial sexual activity.

‘Person’ means an individual, estate, business or nonprofit entity, or other legal entity. The term does not include a public corporation or government or governmental subdivision, agency or instrumentality.

‘Protective custody’ means custody within a hospital or other medical facility or a place previously designated for such custody by the Department of Health and Human Resources, subject to review by the court, including an authorized child shelter facility, group home or other institution; but such place shall not be a jail or place for the detention of criminal or juvenile offenders.

‘Serious harm’ means harm, whether physical or nonphysical, including psychological, economic or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.

‘Sexual activity’ means sexual contact, sexual intercourse or sexual intrusion, as defined in section one, article eight-b of this chapter, or sexually explicit conduct, as defined in section one, article eight-c of this chapter.

‘Sexual servitude’ means:

(1) Maintaining or making available a minor for the purpose of engaging the minor in commercial sexual activity; or

(2) Using coercion to compel an adult to engage in commercial sexual activity.

‘Traffics’ or ‘trafficking’ means recruiting, transporting, transferring, harboring, receiving, providing, obtaining, isolating, maintaining or enticing an individual in furtherance of forced labor or sexual servitude.

‘Victim’ means an individual who is subjected to trafficking or to conduct that would have constituted trafficking had this article been in effect when the conduct occurred, regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted.

§61-14-2. Trafficking an individual; penalties.

(a) Any person who knowingly and willfully traffics an adult is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$200,000, or both confined and fined.

(b) Any person who knowingly and willfully traffics a minor is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than five nor more than twenty years, fined not more than \$300,000, or both confined and fined.

§61-14-3. Forced labor; penalties.

(a) Any person who knowingly uses an adult in forced labor to provide labor or services, is guilty of a felony and, upon conviction,

shall be confined in a state correctional facility for not less than one nor more than five years, fined not more than \$100,000, or both confined and fined.

(b) Any person who knowingly uses a minor in forced labor to provide labor or services, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$300,000, or both confined and fined.

§61-14-4. Debt bondage; penalties.

(a) Any person who knowingly uses an adult in debt bondage is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than one nor more than five years, fined not more than \$100,000, or both confined and fined.

(b) Any person who knowingly uses a minor in debt bondage is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$300,000, or both confined 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 felony and, upon conviction, shall be confined in a state correctional facility for not less than three, nor more than fifteen years, fined not more than \$200,000, or both confined 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 felony and, upon conviction, shall be confined in a state correctional facility for not less than five nor more than twenty years, fined not more than \$300,000, or both confined and fined.

(c) It is not a defense in a prosecution under subsection (b) of this section that the minor consented to engage in the 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 an individual to engage in commercial sexual activity with a third party who is an adult, and who knows that such adult is a victim of sexual servitude, is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not less than one nor more than five years, fined not more than \$100,000, or both confined and fined.

(b) Any person who knowingly patronizes an individual to engage in commercial sexual activity with a third party who is a minor is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$300,000, or both confined and fined.

§61-14-7. General provisions and other penalties.

(a) *Separate violations* — For purposes of this article, each adult or minor victim is a separate offense.

(b) *Aggravating circumstance.* —

(1) If an individual is convicted of an offense under this article and the court makes a finding that the offense involved an aggravating circumstance, the individual may not be eligible for parole before serving three years in a state correctional facility.

(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 individuals subjected to 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 section four, article eleven-a of this chapter, 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 for five years after entry of the order, the restitution shall be paid to the Crime Victims Compensation Fund created under section four, article two-a, chapter fourteen of this code.

(d) *Disgorgement.* — In addition to the fine and penalties set forth in this article, any business entity that engages in the offenses established in this article may be fined not more than \$500,000 for each violation, be required to disgorge profit from activity in violation of this article pursuant to section five, article thirteen of this chapter and be debarred from state and local government contracts.

(e) *Eligibility for Compensation Fund.* — Notwithstanding the definition of victim in section three, article two-a, chapter fourteen 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 subsection (b), section fourteen, article two-a, chapter fourteen 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.

§61-14-8. Immunity for minor victim of sex trafficking.

(a) A minor is not criminally liable or subject to juvenile proceedings for an offense of prostitution in violation of subsection (b), section five, article eight of this chapter because it is presumed that he or she committed the offense as a direct result of being a victim.

(b) This section does not apply in a prosecution or a juvenile proceeding for soliciting, inducing, enticing or procuring a prostitute in violation of subsection (b), section five, article eight of this chapter, 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 a juvenile delinquency proceeding is presumed to be an abused child, in need of services under chapter forty-nine of this code and shall not be arrested or detained but placed under protective custody.

§61-14-9. Immunity for adult victims of sex trafficking.

(a) An adult determined to be a victim of sex trafficking as defined in section one of this article shall not be criminally liable for an offense of prostitution or soliciting, inducing, enticing or procuring a prostitute in violation of subsection (b), section five, article eight of this chapter if it is further determined by the court that he or she engaged in the criminal behavior only because he or she was coerced.

§61-14-10. Petition to vacate and expunge conviction of sex trafficking victim.

(a) Notwithstanding the age and criminal history limitations set forth in section twenty-six, article eleven of this chapter, an individual convicted of prostitution in violation of subsection (b), section five, article eight of this chapter as a direct result of being a victim of trafficking, may apply by petition to the circuit court in the county of conviction to vacate the conviction and expunge the record of conviction. 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 shall not be 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 shall meet the procedural requirements of section twenty-six, article eleven of this chapter: *Provided*, That a victim of trafficking is not subject to the age or criminal history limitations in that section.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 1D. WIRETAPPING AND ELECTRONIC SURVEILLANCE ACT.

§62-1D-8. County prosecuting attorney or duly appointed special prosecutor may apply for order authorizing interception.

The prosecuting attorney of any county or duly appointed special prosecutor may apply to one of the designated circuit judges referred to in section seven of this article and such judge, in accordance with the provisions of this article, may grant an order authorizing the interception of wire, oral or electronic communications by an officer of the investigative or law-enforcement agency when the prosecuting attorney or special prosecutor has shown reasonable cause to believe the interception would provide evidence of the commission of: (i) Kidnapping or abduction as defined and prohibited by the provisions of sections fourteen and fourteen-a, article two, chapter sixty-one of this code and including threats to kidnap or demand ransom as defined and prohibited by the provisions of section fourteen-c of said article two ~~or~~; (ii) of any offense included and prohibited by section eleven, article four, chapter twenty-five of said code, sections eight, nine and ten, article five, chapter sixty-one of said code or section one, article eight, chapter sixty-two of said code to the extent that any of said sections provide for offenses punishable as a felony; ~~or~~ (iii) dealing, transferring or trafficking in any controlled substance or substances in the felonious violation of chapter sixty-a of this code; ~~or (iv)~~ (iv) of any offense included and prohibited by article fourteen, chapter sixty-one of this code; or (v) any aider or abettor to any of the

foregoing offenses or any conspiracy to commit any of the foregoing offenses if any aider, abettor or conspirator is a party to the communication to be intercepted.”

And,

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

H. B. 4489 – “A Bill to repeal §61-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-9A-2 of said code; to amend and reenact §48-26-401; to amend and reenact §49-1-201 of said code; to amend and reenact §49-4-301 of said code; to amend said code by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8, §61-14-9 and §61-14-10; and to amend and reenact §62-1D-8 of said code, all relating generally to human trafficking; designating the Division of Justice and Community Services to be the state administrative agency responsible for criminal justice and juvenile justice systems for the planning and development of state programs and grants relating to human trafficking; designating the Family Protection Services Board to be the body responsible for the development of a comprehensive list and inventory of available services regarded trafficking victims to provide to state, county and local law-enforcement agencies; establishing that the Family Protection Services Board shall work in collaboration with the appropriate government agencies to devise a program to promote public awareness about human trafficking, victim remedies and services; adding commercial sexual exploitation to the definition of abused child and defining the term; describing the appropriate procedure to be followed by a law-enforcement officer upon encountering a child who appears to be a victim who has engaged in commercial sexual activity and listing the services available to child victims; eliminating existing criminal offense and penalties for human trafficking; creating felony offenses and penalties for trafficking an individual; defining terms; creating felony offenses and penalties for using an individual in forced labor; creating felony offenses and penalties for using an individual in debt bondage; creating felony offenses and penalties for compelling an

adult through coercion to engage in commercial sexual activity; creating a felony offense for maintaining or making available a minor for the purpose of engaging in commercial sexual activity; clarifying that consent of minor and misbelief as to age are not defenses to prosecution for sexual servitude offense; creating a felony offense of patronizing an individual to engage in commercial sexual activity; clarifying that each victim shall be considered a separate offense; limiting ability for parole in circumstances where the court makes a finding of aggravated circumstances; defining aggravated circumstances; providing for restitution to victims and the enforcement of a judgment order for restitution; directing unclaimed restitution to be paid to the Crime Victims Compensation Fund; providing for disgorgement of profits and debarment from state and local government contracts; making victims eligible for compensation under the Crime Victims Compensation Fund; providing for criminal immunity for offense of prostitution for minors so charged; defining a trafficked minor as an abused child in need of services who shall not be arrested or detained but put under protective custody and establishing that a child who is determined to be a victim may also be granted immunity for soliciting, inducing, enticing or procuring a prostitute if it is determined by the court that he or she was coerced into the criminal behavior; authorizing immunity for adults engaged in prostitution or in soliciting, inducing, enticing or procuring a prostitute upon a determination that they are a victim and only engaged in the activity due to coercion; providing for expungement of prostitution conviction for victims of trafficking; and authorizing law enforcement to use wiretaps to conduct investigations.”

Delegate Shott moved to concur in the Senate amendments with amendment, as follows:

On page one, by striking out everything after the enacting clause and inserting in lieu thereof the following:

“That §61-2-17 of the Code of West Virginia, 1931, as amended, be repealed; that §15-9A-2 of said code be amended and reenacted; that §49-1-201 of said code be amended and reenacted; that said code be

amended by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8 and §61-14-9; and that §62-1D-8 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 9A. DIVISION OF JUSTICE AND COMMUNITY SERVICES.

§15-9A-2. Division established; appointment of director.

(a) The Division of Justice and Community Services is created. The purpose of the division is to provide executive and administrative support to the Governor's Committee on Crime Delinquency and Correction in the coordination of planning for the criminal justice system, to administer federal and state grant programs assigned to it by the actions of the Governor or Legislature and to perform such other duties as the Legislature may, from time to time, assign to the division. The division is the designated staffing agency for the Governor's Committee on Crime, Delinquency and Correction, and all of its subcommittees. The division may apply for grants and other funding from federal or state programs, foundations, corporations and organizations which funding is consistent with its responsibilities and the purposes assigned to it or the subcommittees it staffs. The Division of Justice and Community Services is hereby designated as the state administrative agency responsible for criminal justice and juvenile justice systems, and various component agencies of state and local government, for the planning and development of state programs and grants which may be funded by federal, state or other allocations in the areas of community corrections, law-enforcement training and compliance, sexual assault forensic examinations, victim services, human trafficking and juvenile justice.

(b) The director of the division shall be named by the Governor to serve at his will and pleasure.

(c) The director of the division shall take and subscribe to an oath of office in conformity with article IV, section five of the Constitution of the State of West Virginia.

CHAPTER 49. CHILD WELFARE.

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§49-1-201. Definitions related, but not limited, to child abuse and neglect.

When used in this chapter, terms defined in this sections have the meanings ascribed to them that relate to, but are not limited to, child abuse and neglect, except in those instances where a different meaning is provided or the context in which the word is used clearly indicates that a different meaning is intended.

‘Abandonment’ means any conduct that demonstrates the settled purpose to forego the duties and parental responsibilities to the child;

‘Abused child’ means a child whose health or welfare is being harmed or threatened by:

(A) A parent, guardian or custodian who knowingly or intentionally inflicts, attempts to inflict or knowingly allows another person to inflict, physical injury or mental or emotional injury, upon the child or another child in the home. Physical injury may include an injury to the child as a result of excessive corporal punishment;

(B) Sexual abuse, or sexual exploitation or commercial sexual exploitation;

(C) The sale or attempted sale of a child by a parent, guardian or custodian in violation of section fourteen-h, article two, chapter sixty-one of this code; or

(D) Domestic violence as defined in section two hundred two, article twenty-seven, chapter forty-eight of this code.

‘Abusing parent’ means a parent, guardian or other custodian, regardless of his or her age, whose conduct has been adjudicated by the court to constitute child abuse or neglect as alleged in the petition charging child abuse or neglect.

‘Battered parent’, for the purposes of part six, article four of this chapter, means a respondent parent, guardian or other custodian who has been adjudicated by the court to have not condoned the abuse or neglect and has not been able to stop the abuse or neglect of the child or children due to being the victim of domestic violence as defined by section two hundred two, article twenty-seven, chapter forty-eight of this code which was perpetrated by the same person or persons determined to have abused or neglected the child or children.

‘Child abuse and neglect services’ means social services which are directed toward:

(A) Protecting and promoting the welfare of children who are abused or neglected;

(B) Identifying, preventing and remedying conditions which cause child abuse and neglect;

(C) Preventing the unnecessary removal of children from their families by identifying family problems and assisting families in resolving problems which could lead to a removal of children and a breakup of the family;

(D) In cases where children have been removed from their families, providing time-limited reunification services to the children and the families so as to reunify those children with their families or some portion thereof;

(E) Placing children in suitable adoptive homes when reunifying the children with their families, or some portion thereof, is not possible or appropriate; and

(F) Assuring the adequate care of children or juveniles who have been placed in the custody of the department or third parties.

‘Commercial sexual exploitation’ means the sexual commodification of children’s bodies for the purposes of financial or material gain including, but not limited to, exploitation of children for sexual purposes, child sex tourism, child pornography and child sex trafficking.

‘Condition requiring emergency medical treatment’ means a condition which, if left untreated for a period of a few hours, may result in permanent physical damage; that condition includes, but is not limited to, profuse or arterial bleeding, dislocation or fracture, unconsciousness and evidence of ingestion of significant amounts of a poisonous substance.

‘Imminent danger to the physical well-being of the child’ means an emergency situation in which the welfare or the life of the child is threatened. These conditions may include an emergency situation when there is reasonable cause to believe that any child in the home is or has been sexually abused or sexually exploited, or reasonable cause to believe that the following conditions threaten the health, life or safety of any child in the home:

(A) Nonaccidental trauma inflicted by a parent, guardian, custodian, sibling or a babysitter or other caretaker;

(B) A combination of physical and other signs indicating a pattern of abuse which may be medically diagnosed as battered child syndrome;

(C) Nutritional deprivation;

(D) Abandonment by the parent, guardian or custodian;

(E) Inadequate treatment of serious illness or disease;

(F) Substantial emotional injury inflicted by a parent, guardian or custodian;

(G) Sale or attempted sale of the child by the parent, guardian or custodian;

(H) The parent, guardian or custodian's abuse of alcohol or drugs or other controlled substance as defined in section one hundred one, article one, chapter sixty-a of this code, has impaired his or her parenting skills to a degree as to pose an imminent risk to a child's health or safety; or

(I) Any other condition that threatens the health, life or safety of any child in the home.

'Neglected child' means a child:

(A) Whose physical or mental health is harmed or threatened by a present refusal, failure or inability of the child's parent, guardian or custodian to supply the child with necessary food, clothing, shelter, supervision, medical care or education, when that refusal, failure or inability is not due primarily to a lack of financial means on the part of the parent, guardian or custodian; or

(B) Who is presently without necessary food, clothing, shelter, medical care, education or supervision because of the disappearance or absence of the child's parent or custodian;

(C) 'Neglected child' does not mean a child whose education is conducted within the provisions of section one, article eight, chapter eighteen of this code.

'Petitioner or co-petitioner' means the department or any reputable person who files a child abuse or neglect petition pursuant to section six hundred one, article four of this chapter.

'Permanency plan' means the part of the case plan which is designed to achieve a permanent home for the child in the least restrictive setting available.

'Respondent' means all parents, guardians, and custodians identified in the child abuse and neglect petition who are not petitioners or co-petitioners.

‘Sexual abuse’ means:

(A) Sexual intercourse, sexual intrusion, sexual contact, or conduct proscribed by section three, article eight-c, chapter sixty-one, which a parent, guardian or custodian engages in, attempts to engage in, or knowingly procures another person to engage in with a child notwithstanding the fact that for a child who is less than sixteen years of age the child may have willingly participated in that conduct or the child may have suffered no apparent physical injury or mental or emotional injury as a result of that conduct or, for a child sixteen years of age or older the child may have consented to that conduct or the child may have suffered no apparent physical injury or mental or emotional injury as a result of that conduct;

(B) Any conduct where a parent, guardian or custodian displays his or her sex organs to a child, or procures another person to display his or her sex organs to a child, for the purpose of gratifying the sexual desire of the parent, guardian or custodian, of the person making that display, or of the child, or for the purpose of affronting or alarming the child; or

(C) Any of the offenses proscribed in sections seven, eight or nine, article eight-b, chapter sixty-one of this code.

‘Sexual assault’ means any of the offenses proscribed in sections three, four or five, article eight-b, chapter sixty-one of this code.

‘Sexual contact’ means sexual contact as that term is defined in section one, article eight-b, chapter sixty-one of this code.

‘Sexual exploitation’ means an act where:

(A) A parent, custodian or guardian, whether for financial gain or not, persuades, induces, entices or coerces a child to engage in sexually explicit conduct as that term is defined in section one, article eight-c, chapter sixty-one of this code; or

(B) A parent, guardian or custodian persuades, induces, entices or coerces a child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian or a third person, or to display his or her sex organs under circumstances in which the parent, guardian or custodian knows that the 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 section one, article eight-b, chapter sixty-one of this code.

‘Sexual intrusion’ means sexual intrusion as that term is defined in section one, article eight-b, chapter sixty-one of this code.

‘Serious physical abuse’ 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.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

~~§61-2-17. Human trafficking; criminal penalties.~~

~~(a) As used in this section:~~

~~(1) ‘Debt bondage’ means the status or condition of a debtor arising from a pledge by the debtor of the debtor’s personal services or those of a person under the debtor’s control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined:~~

~~(2) ‘Forced labor or services’ means labor or services that are performed or provided by another person and are obtained or maintained through a person’s:~~

~~(A) Threat, either implicit or explicit, deception or fraud, scheme, plan, or pattern, or other action intended to cause a person to believe~~

that, if the person did not perform or provide the labor or services that person or another person would suffer serious bodily harm or physical restraint: *Provided*, That, this does not include work or services provided by a minor to the minor's parent or legal guardian so long as the legal guardianship or custody of the minor was not obtained for the purpose compelling the minor to participate in commercial sex acts or sexually explicit performance, or perform forced labor or services:

~~(B) Physically restraining or threatening to physically restrain a person;~~

~~(C) Abuse or threatened abuse of the legal process; or~~

~~(D) Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.~~

~~'Forced labor or services' does not mean labor or services required to be performed by a person in compliance with a court order or as a required condition of probation, parole, or imprisonment.~~

~~(3) 'Human trafficking' means the labor trafficking or sex trafficking involving adults or minors where two or more persons are trafficked within any one-year period.~~

~~(4) 'Labor trafficking' means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining or receipt of a person by any means, whether a United States citizen or foreign national, for the purpose of:~~

~~(A) Debt bondage or forced labor or services; or~~

~~(B) Slavery or practices similar to slavery.~~

~~(5) 'Sex trafficking of minors' means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining or receipt of a person under the age of eighteen by any means, whether a~~

~~United States citizen or foreign national, for the purpose of causing the minor to engage in sexual acts, or in sexual conduct violating the provisions of subsection (b), section five, article eight of this chapter or article eight c of this chapter.~~

~~(6) ‘Sex trafficking of adults’ means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining, receipt of a person eighteen years of age or older, whether a United States citizen or foreign national for the purposes of engaging in violations of subsection (b), section five, article eight of this chapter by means of force, threat, coercion, deception, abuse or threatened abuse of the legal process, or any scheme, plan, pattern, or other action intended to cause a person to believe that, if the person did not engage in a violation of subsection (b), section five, article eight of this chapter, that person or another person would suffer serious bodily harm or physical restraint.~~

~~(b) Any person who knowingly and wilfully engages in human trafficking is guilty of a felony and upon conviction shall be incarcerated in a state correctional facility for an indeterminate sentence of not less than three nor more than fifteen years or fined not more than \$200,000, or both.~~

~~(c) Any person who is a victim of human trafficking may bring a civil action in circuit court. The court may award actual damages, compensatory damages, punitive damages, injunctive relief and any other appropriate relief. A prevailing plaintiff is also entitled to attorneys fees and costs. Treble damages shall be awarded on proof of actual damages where defendant’s acts were willful and malicious.~~

~~(d) Notwithstanding the definition of victim in subsection (k), section three, article two a, chapter fourteen of this code, a person who is a victim of human trafficking is a victim for all purposes of article two a, chapter fourteen of this code.~~

~~(e) This article and the rights and remedies provided in this article are cumulative and in addition to other existing rights.~~

~~(f) Notwithstanding the age and criminal history limitations set forth in section twenty-six, article eleven of this chapter, any person convicted of prostitution in violation of subsection (b), section five, article eight of this chapter where the conviction was a result of the person being a victim of human trafficking as defined in this section, may petition the circuit court of the county of conviction for an order of expungement pursuant to section twenty-six, article eleven of this chapter.~~

~~No victim of human trafficking seeking relief under this subsection shall be required to prove her or she has rehabilitated himself or herself in order to obtain expungement.~~

ARTICLE 14. HUMAN TRAFFICKING.

§61-14-1. Definitions.

When used in this article, the following words and terms shall have meaning specified unless the context clearly indicates a different meaning:

‘Adult’ means an individual eighteen years of age or older.

‘Coercion’ 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.

'Commercial sexual activity' means sexual activity for which anything of value is given to, promised to or received by a person.

'Debt bondage' means inducing an individual to provide:

(1) Commercial sexual activity in payment toward or satisfaction of a real or purported debt; or

(2) Labor or services in payment toward or satisfaction of a real or purported debt if:

(A) The reasonable value of the labor or services is not applied toward the liquidation of the debt; or

(B) The length of the labor or services is not limited, and the nature of the labor or services is not defined.

'Forced labor' means labor or services that are performed or provided by another person and are obtained or maintained through the following:

(1) Threat, either implicit or explicit, deception or fraud, scheme, plan, or pattern or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services that person or another person would suffer serious bodily harm, physical restraint or deportation: *Provided*, That this does not include work or services provided by a minor to the minor's parent or legal guardian so long as the legal guardianship or custody of the minor was not obtained for the purpose compelling the minor to participate in commercial sex acts or sexually explicit performance, or perform forced labor or services.

(2) Physically restraining or threatening to physically restrain a person;

(3) Abuse or threatened abuse of the legal process; or

(4) Destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of another person: *Provided*, That ‘forced labor’ does not mean labor or services required to be performed by a person in compliance with a court order or as a required condition of probation, parole, or imprisonment.

‘Identification document’ means a passport, driver’s license, immigration document, travel document or other government-issued identification document, including a document issued by a foreign government.

‘Labor or services’ means activity having economic value.

‘Minor’ means an individual less than eighteen years of age.

‘Patronize’ means giving, agreeing to give or offering to give anything of value to another person in exchange for commercial sexual activity.

‘Person’ means an individual, estate, business or nonprofit entity, or other legal entity. The term does not include a public corporation or government or governmental subdivision, agency or instrumentality.

‘Serious harm’ means harm, whether physical or nonphysical, including psychological, economic or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.

‘Sexual activity’ means sexual contact, sexual intercourse or sexual intrusion, as defined in section one, article eight-b of this chapter, or sexually explicit conduct, as defined in section one, article eight-c of this chapter.

‘Sexual servitude’ means:

(1) Maintaining or making available a minor for the purpose of engaging the minor in commercial sexual activity; or

(2) Using coercion to compel an adult to engage in commercial sexual activity.

‘Traffics’ or ‘trafficking’ means recruiting, transporting, transferring, harboring, receiving, providing, obtaining, isolating, maintaining or enticing an individual in furtherance of forced labor or sexual servitude.

‘Victim’ means an individual who is subjected to trafficking or to conduct that would have constituted trafficking had this article been in effect when the conduct occurred, regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted.

§61-14-2. Trafficking an individual; penalties.

(a) Any person who knowingly and willfully traffics an adult is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$200,000, or both confined and fined.

(b) Any person who knowingly and willfully traffics a minor is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than five nor more than twenty years, fined not more than \$300,000, or both confined and fined.

§61-14-3. Forced labor; penalties.

(a) Any person who knowingly uses an adult in forced labor to provide labor or services, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than one nor more than five years, fined not more than \$100,000, or both confined and fined.

(b) Any person who knowingly uses a minor in forced labor to provide labor or services, is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$300,000, or both confined and fined.

§61-14-4. Debt bondage; penalties.

(a) Any person who knowingly uses an adult in debt bondage is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than one nor more than five years, fined not more than \$100,000, or both confined and fined.

(b) Any person who knowingly uses a minor in debt bondage is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$300,000, or both confined 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 felony and, upon conviction, shall be confined in a state correctional facility for not less than three, nor more than fifteen years, fined not more than \$200,000, or both confined 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 felony and, upon conviction, shall be confined in a state correctional facility for not less than five nor more than twenty years, fined not more than \$300,000, or both confined and fined.

(c) It is not a defense in a prosecution under subsection (b) of this section that the minor consented to engage in the 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 an individual to engage in commercial sexual activity with a third party who is an adult, and who knows that such adult is a victim of sexual servitude, is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not less than one nor more than five years, fined not more than \$100,000, or both confined and fined.

(b) Any person who knowingly patronizes an individual to engage in commercial sexual activity with a third party who is a minor is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less than three nor more than fifteen years, fined not more than \$300,000, or both confined and fined.

§61-14-7. General provisions and other penalties.

(a) *Separate violations* — For purposes of this article, each adult or minor victim is a separate offense.

(b) *Aggravating circumstance.* —

(1) If an individual is convicted of an offense under this article and the court makes a finding that the offense involved an aggravating circumstance, the individual may not be eligible for parole before serving three years in a state correctional facility.

(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 individuals subjected to 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 section four, article eleven-a of this chapter, 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 for five years after entry of the order, the restitution shall be paid to the Crime Victims Compensation Fund created under section four, article two-a, chapter fourteen of this code.

(d) *Disgorgement.* — In addition to the fine and penalties set forth in this article, any business entity that engages in the offenses established in this article may be fined not more than \$500,000 for each violation, be required to disgorge profit from activity in violation of this article pursuant to section five, article thirteen of this chapter and be debarred from state and local government contracts.

(e) *Eligibility for Compensation Fund.* — Notwithstanding the definition of victim in section three, article two-a, chapter fourteen 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 subsection (b), section fourteen, article two-a, chapter fourteen 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.

(f) *Law Enforcement Notification.* — Should a law enforcement officer encounter 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 and, if available, the Domestic Violence Program serving the area where the child is found.

§61-14-8. Immunity for minor victim of sex trafficking.

(a) A minor is not criminally liable or subject to juvenile proceedings for an offense of prostitution in violation of subsection (b), section five, article eight of this chapter because it is presumed that he or she committed the offense as a direct result of being a victim.

(b) This section does not apply in a prosecution or a juvenile proceeding for soliciting, inducing, enticing or procuring a prostitute in violation of subsection (b), section five, article eight of this chapter, 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 a juvenile delinquency proceeding is presumed to be an abused child, and may be eligible for services under chapter forty-nine of this code including, but not limited to, appropriate child welfare services.

§61-14-9. Petition to vacate and expunge conviction of sex trafficking victim.

(a) Notwithstanding the age and criminal history limitations set forth in section twenty-six, article eleven of this chapter, an individual convicted of prostitution in violation of subsection (b), section five, article eight of this chapter as a direct result of being a victim of trafficking, may apply by petition to the circuit court in the county of conviction to vacate the conviction and expunge the record of conviction. 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 shall not be 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 shall meet the

procedural requirements of section twenty-six, article eleven of this chapter: *Provided*, That a victim of trafficking is not subject to the age or criminal history limitations in that section.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 1D. WIRETAPPING AND ELECTRONIC SURVEILLANCE ACT.

§62-1D-8. County prosecuting attorney or duly appointed special prosecutor may apply for order authorizing interception.

The prosecuting attorney of any county or duly appointed special prosecutor may apply to one of the designated circuit judges referred to in section seven of this article and such judge, in accordance with the provisions of this article, may grant an order authorizing the interception of wire, oral or electronic communications by an officer of the investigative or law-enforcement agency when the prosecuting attorney or special prosecutor has shown reasonable cause to believe the interception would provide evidence of the commission of: (i) Kidnapping or abduction as defined and prohibited by the provisions of sections fourteen and fourteen-a, article two, chapter sixty-one of this code and including threats to kidnap or demand ransom as defined and prohibited by the provisions of section fourteen-c of said article two ~~or~~; (ii) of any offense included and prohibited by section eleven, article four, chapter twenty-five of said code, sections eight, nine and ten, article five, chapter sixty-one of said code or section one, article eight, chapter sixty-two of said code to the extent that any of said sections provide for offenses punishable as a felony; ~~or~~ (iii) dealing, transferring or trafficking in any controlled substance or substances in the felonious violation of chapter sixty-a of this code; ~~or~~ ~~(iv)~~ (iv) of any offense included and prohibited by article fourteen, chapter sixty-one of this code; or (v) any aider or abettor to any of the foregoing offenses or any conspiracy to commit any of the foregoing offenses if any aider, abettor or conspirator is a party to the communication to be intercepted.”

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. 660**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Caputo, Ferro, Guthrie and Marcum.

Absent and Not Voting: Moore.

So, a majority of the members present and voting having voted in the affirmative, the amendment as further amended by the House was adopted.

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. 661**), 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: Moore.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4489) passed.

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

H. B. 4489 – “A Bill to repeal §61-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §15-9A-2 of said code; to amend and reenact §49-1-201 of said code; to amend said code by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8 and §61-14-9; and to amend and reenact §62-1D-8 of said code, all relating generally to human trafficking; designating the Division of Justice and

Community Services to be the state administrative agency responsible for criminal justice and juvenile justice systems for the planning and development of state programs and grants relating to human trafficking; adding commercial sexual exploitation to the definition of abused child and defining the term; eliminating existing criminal offense and penalties for human trafficking; creating felony offenses and penalties for trafficking an individual; defining terms; creating felony offenses and penalties for using an individual in forced labor; creating felony offenses and penalties for using an individual in debt bondage; creating felony offenses and penalties for compelling an adult through coercion to engage in commercial sexual activity; creating a felony offense for maintaining or making available a minor for the purpose of engaging in commercial sexual activity; clarifying that consent of minor and misbelief as to age are not defenses to prosecution for sexual servitude offense; creating a felony offense of patronizing an individual to engage in commercial sexual activity; clarifying that each victim shall be considered a separate offense; limiting ability for parole in circumstances where the court makes a finding of aggravated circumstances; defining aggravated circumstances; providing for restitution to victims and the enforcement of a judgment order for restitution; directing unclaimed restitution to be paid to the Crime Victims Compensation Fund; providing for disgorgement of profits and debarment from state and local government contracts; making victims eligible for compensation under the Crime Victims Compensation Fund; describing the appropriate procedure to be followed by a law-enforcement officer upon encountering a child who appears to be a victim of an offense under this article; providing for criminal immunity for offense of prostitution for minors so charged because it is presumed that he or she committed the offense as a direct result of being a victim; defining a minor victim of sex trafficking as an abused child and establishing a child's eligibility for services therefor; establishing that a child who is determined to be a victim of sex trafficking may also be granted immunity for soliciting, inducing, enticing or procuring a prostitute if it is determined by the court that he or she was coerced into the

criminal behavior; providing for expungement of prostitution conviction for victims of trafficking; and authorizing law enforcement to use wiretaps to conduct investigations.”

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 receded from its amendment to, and the passage, of

Com. Sub. for H. B. 2897, Young Entrepreneur Reinvestment Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendments of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

Com. Sub. for H. B. 2110, Relating generally to the tax treatment of manufacturing entities,

Com. Sub. for H. B. 2904, Requiring the clerk of a county commission to maintain a county ordinance book,

Com. Sub. for H. B. 4014, Preventing the State Board of Education from implementing common core academic standards and assessments,

Com. Sub. for H. B. 4046, Relating to the promulgation of rules by the Department of Administration,

H. B. 4309, Increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person,

H. B. 4428, Clarifying that optometrists may continue to exercise the same prescriptive authority which they possessed prior to hydrocodone being reclassified,

Com. Sub. for H. B. 4448, Clarifying that communication by a lender or debt collector which is allowed under the West Virginia Consumer Credit and Protection Act, likewise does not violate the provisions of the West Virginia Computer Crime and Abuse Act,

H. B. 4618, Relating to limitations on use of a public official's name or likeness,

Com. Sub. for H. B. 4673, Providing for a crime for the theft, damage or release of deer from private game farms,

H. B. 4725, Relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate and making certain clarifications,

And,

H. B. 4739, Unclaimed Life Insurance Benefits Act.

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. 4315, Relating to air-ambulance fees for emergency treatment or air transportation.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, to take effect July 1, 2016 , a bill of the House of Delegates as follows:

Com. Sub. for H. B. 4668, Raising the allowable threshold of the coal severance tax revenue fund budgeted for personal 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. 4013, Requiring a person desiring to vote to present documentation identifying the voter.

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. 262, Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings,

Com. Sub. for S. B. 293, Neighborhood Investment Program Act,

Com. Sub. for S. B. 339, Establishing Judicial Compensation Commission,

S. B. 345, Relating to parking on state-owned or leased property,

Com. Sub. for S. B. 361, Prohibiting persons who have committed crimes against elderly from performing community service involving elderly,

S. B. 431, Authorizing pharmacists and pharmacy interns dispense opioid antagonists,

Com. Sub. for S. B. 504, Relating to confidentiality of juvenile records,

Com. Sub. for S. B. 567, Providing protection against property crimes committed against coal mines, railroads, utilities and other industrial facilities,

S. B. 618, Allowing Economic Development Authority to make loans to certain whitewater outfitters,

And,

Com. Sub. for S. B. 686, Authorizing local governing authorities hold sanctioned motor vehicle races on roads, streets or airports under their jurisdiction.

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

S. B. 578, Protecting utility workers from crimes against person.

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, to take effect from passage, of

Com. Sub. for S. B. 601, Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities.

A message from the Senate, by

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

H. B. 4150, Making a supplementary appropriation to the Department of Health and Human Resources,

H. B. 4151, Making a supplementary appropriation to the Department of Education,

H. B. 4152, Making a supplementary appropriation to the Division of Environmental Protection – Protect Our Water Fund,

Com. Sub. for H. B. 4218, Expanding the definition of “underground facility” in the One-Call System Act,

Com. Sub. for H. B. 4301, Relating to a framework for initiating comprehensive transformation of school leadership,

H. B. 4316, Relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification,

H. B. 4347, Providing pregnant women priority to substance abuse treatment,

Com. Sub. for H. B. 4435, Authorizing the Public Service Commission to approve expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects,

H. B. 4461, Relating to School Building Authority School Major Improvement Fund eligibility,

Com. Sub. for H. B. 4463, Permitting the practice of telemedicine,

Com. Sub. for H. B. 4586, Ensuring that the interest of protected persons, incarcerated persons and unknown owners are protected in condemnation actions filed by the Division of Highways,

H. B. 4594, Relating to predoctoral psychology internship qualifications,

Com. Sub. for H. B. 4587, Relating to violations associated with absent voters' ballots,

And,

H. B. 4728, Relating to schedule three controlled substances.

Miscellaneous Business

Delegate E. Nelson noted to the Clerk that he was absent when the vote was taken on Roll No. 631, and that had he been present, he would have voted "Yea" thereon.

Delegate Upson noted to the Clerk that she was absent when the votes were taken on Roll Nos. 605, 607, 608, 610, 612 and 613, and that had she been present, she would have voted "Yea" thereon. The Delegate also noted that she was absent when the vote was taken on Roll No. 606, and that had she been present, she would have voted "Nay" thereon.

Delegate Arvon noted to the Clerk that she was absent when the votes were taken on Com. Sub. for S. 278, Com. Sub. for S. B. 404, S. B. 427, Com. Sub. for S. B. 465 and S. B. 578 and had she been present she would have voted "Yea" thereon.

Delegate D. Evans noted to the Clerk that he was absent when the vote was taken on H. B. 4334 and had he been present, he would have voted "Yea" thereon.

Delegate Campbell noted to the Clerk that she was absent when the votes were taken on S. B. 415, S. B. 656, and S. B. 678 and had she been present, she would have voted "Yea" thereon.

The Constitutional expiration of the Regular Session having arrived at 12:00 midnight, the House of Delegates adjourned until 12:15 a.m., Sunday, March 13, 2016.

SUNDAY, MARCH 13, 2016

SIXTY-FIRST DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 12:15 a.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Saturday, March 12, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

The Speaker recognized the Clerk of the House, who presented service pins to the following members:

5 YEAR PINS:

Delegates Border, Ellington, Householder, Marcum and Shott.

10 YEAR PINS:

Delegates Cowles, Eldridge, Guthrie, Ireland, Miller, Moye, Reynolds and Rowe.

20 YEAR PINS:

Delegates Boggs, Caputo, Fleishchauer and Morgan.

45 YEAR PIN:

Delegate Deem.

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 662**), and 98 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Cooper and Moore.

Delegate Cooper was also present for part of the session but absent during the quorum call.

Leaves of Absence

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

At 12:39 a.m., the House of Delegates adjourned until 5:00 p.m., Monday, March 14, 2016.

MONDAY, MARCH 14, 2016

SIXTY-SECOND DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 5:00 p.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

The Clerk proceeded to read the Journal of Sunday, March 13, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 663**), and 83 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Blackwell, Border, Campbell, Deem, Duke, Ellington, Folk, Gearheart, Hicks, Ireland, Kurcaba, Manchin, Marcum, J. Nelson, Perdue, Reynolds and Skinner.

Committee Reports

Delegate McCuskey, 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 14th day of March, 2016, 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. 4171**), Relating to the public school calendar,

(**H. B. 4246**), Changing the Martinsburg Public Library to the Martinsburg-Berkeley County Public Library,

(**H. B. 4340**), Amending licensing requirements for an act which may be called Lynette's Law,

(**H. B. 4345**), Repealing the West Virginia Permitting and Licensing Information Act,

(**H. B. 4417**), Increasing wages protected from garnishment,

(**H. B. 4651**), Relating to professional examination requirements for hearing-aid dealers and fitters,

(**Com. Sub. for S. B. 39**), Regulating off-road motorcycles within Hatfield-McCoy Recreation Area,

(**S. B. 94**), Designating State Police Superintendent as administrator and enforcer of motor vehicle inspection program,

(**S. B. 346**), Updating projects managed by Project Management Office,

(**S. B. 349**), Updating meaning of federal adjusted gross income,

(**Com. Sub. for S. B. 400**), Reducing amount of sales tax proceeds dedicated to School Major Improvement Fund,

(**S. B. 469**), Clarifying what personal funds are exempt from levy following judgment,

And,

(**S. B. 592**), Relating to pipeline safety.

Messages from the Executive

Mr. Speaker, Mr. Armstead, presented a communication from His Excellency, the Governor, advising that on March 12, 2016, he approved **Com. Sub. for S. B. 582**.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Blackwell, Border, Campbell, Deem, Duke, Ellington, Folk, Gearheart, Hicks, Ireland, Kurcaba, Manchin, Marcum, J. Nelson, Perdue, Reynolds and Skinner.

At 5:32 p.m., the House of Delegates adjourned until 5:00 p.m., Tuesday, March 15, 2016.

TUESDAY, MARCH 15, 2016

SIXTY-THIRD DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 5:00 p.m., and was called to order by the Honorable Tim Armstead, 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 14, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Messages from the Senate

A message from the Senate, by

Senators Walters, Blair and Laird, announced that the Senate had completed the business of this Second Regular Session and was ready to adjourn *sine die*.

Committee Reports

Delegate McCuskey, 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 11th day of March, 2016, 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. 68), Disallowing Health Care Authority to conduct rate review and set rates for hospitals,

And,

(S. B. 658), Allowing licensed professionals donate time to care of indigent and needy in clinical setting.

Delegate McCuskey, 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 14th day of March, 2016, 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. 601), Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities.

Delegate McCuskey, 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 15th day of March, 2016, 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. 334), Identifying coyote as fur-bearing animal and woodchuck as game animal,

(S. B. 415), Lengthening maximum term of negotiable certificates of deposit municipal funds can hold,

(S. B. 426), Continuing Office of Coalfield Community Development,

(S. B. 439), Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances,

(Com. Sub. for S. B. 474), Eliminating requirement that budget director approve requisitions for personal services payment under certain circumstances,

(S. B. 648), Allowing local authorities permit flashing traffic signals during low traffic times,

(S. B. 656), Creating Upper Kanawha Valley Resiliency and Revitalization Program,

(S. B. 678), Relating to ownership and use of conduit providing telephone service,

(Com. Sub. for H. B. 2588), Relating to the filing of financial statements with the Secretary of State,

(H. B. 4346), Relating to bear hunting and offenses and penalties,

And,

(Com. Sub. for H. B. 4587), Relating to violations associated with absent voters' ballots.

Messages from the Executive

Communications were received from His Excellency, the Governor, advising that on March 9, 2016, he approved Com. Sub. for H. B. 4007, H. B. 4235 and Com. Sub. for S. B. 27; on March 10, 2016, he approved H. B. 4362; and on March 15 he approved Com. Sub. for H. B. 2800.

The Speaker laid before the House of Delegates a communication from His Excellency, the Governor, as follows:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 15, 2016

HOUSE EXECUTIVE MESSAGE NO. 4

2016 REGULAR SESSION

The Honorable Tim Armstead

Speaker, West Virginia House of Delegates
 Building 1, Room M-228
 1900 Kanawha Boulevard, East
 Charleston, West Virginia 25305

Dear Speaker Armstead:

The following amends and replaces the “FY 2017 Official Estimate General Revenue – Statement of Revenues by Source” which I submitted to you on January 13, 2016 as part of my Budget Document for the fiscal year ending June 30, 2017:

General Revenue Fund
 Statement of Revenues by Source
 (Expressed in Thousands)

<u>Source of Revenue</u>	<u>FY 2017 Official Estimate Revised</u>
Business and Occupation Tax	\$ 115,500
Consumers Sales and Use Tax	1,285,000 ¹
Personal Income Tax	1,914,225
Liquor Profit Transfers	18,000
Beer Tax and Licenses	8,300
Tobacco Products Tax (Cigarette & Other)	97,800 ²
Business Franchise Fees	650
Charter Tax	0
Property Transfer Tax	10,500
Property Tax	7,200
Insurance Tax	119,000
Departmental Collections	19,100
Corporate Income/Business Franchise Tax	137,400
Miscellaneous Transfers	1,000
Interest Income	8,000
Severance Tax	262,544
Miscellaneous Receipts	9,700

2016]

HOUSE OF DELEGATES

3691

HB102 - Lottery Transfers	65,000
Video Lottery Transfers	0
Liquor License Renewal	0
Senior Citizen Tax Credit Reimbursement	<u>10,000</u>
Total	<u>\$ 4,088,919</u> ³

¹ Revised from \$1,378,800 to \$1,285,000 – decrease of \$60,000 due to failure of SB355/HB4220 and decrease of \$9,000 due to the failure of SB354/HB4294 during the 2016 Regular Legislative Session.

² Revised from \$175,800 to \$97,800 – decrease of \$78,000 due to failure of SB420/HB4494 during the 2016 Regular Legislative Session.

³ Revised from \$4,327,794 to \$4,088,919 – decrease of \$238,875, \$92,400 of which is due to downward trends in Personal Income Tax and Consumer Sales Tax collections, downward pressure on energy prices, and less economic growth than originally forecast for both the national and State economy. We will continue to monitor and evaluate this adjustment as additional data becomes available.

Thank you for your cooperation in this matter.

Sincerely,

Earl Ray Tomblin,
Governor.

Messages from the Executive

The Speaker laid before the House of Delegates a communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, as follows:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

March 14, 2016

Veto Message

The Honorable Tim Armstead

Speaker, West Virginia House of Delegates
Room 228M, Building 1
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 601

Dear Speaker Armstead:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for Senate Bill 601, for technical reasons.

The bill's title is deficient. The title states that the bill is amending and reenacting W. Va. Code §22-15-10 and adding a new section, designated §24-2-1L, but does not provide that it is also amending and reenacting §22-15-2. For this reason, I disapprove and return the bill. I urge the Legislature to correct this technical issue, and to return the bill to my desk for signature.

Sincerely,

Earl Ray Tomblin,
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

Com. Sub. for S. B. 601, Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities.

On motion of Delegate Cowles, the bill was taken up for immediate consideration and the House of Delegates proceeded to reconsider the bill and concurred in the following Senate amendments, in an effort to meet the objections of the Governor.

On pages one through seven, section two, lines one through one hundred-forty-seven, by striking out all of section two.

On page ten, section one-1, line seven, by striking out the word “chapter” and inserting in lieu thereof the word “section”.

And,

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §22-15-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and to amend said code by adding thereto a new section, designated §24-2-11, to read as follows” and a semicolon.

And,

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

Com. Sub. for S. B. 601 – “An Act to amend and reenact §22-15-10 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §24-2-11, all relating to exemption from the jurisdiction of the Public Service Commission for materials recovery facilities or mixed waste processing facilities; and providing an exception to allow the Public Service Commission to retain limited jurisdiction over facilities meeting certain requirements which received a certificate of need prior to July 1, 2016.”

On motion of Delegate Cowles, the House of Delegates concurred in the Senate amendments, in an effort to meet the objections of the Governor.

The Speaker propounded, "Shall the bill pass, in an effort to meet the objections of the Governor?"

On this question, the yeas and nays were taken (**Roll No. 664**), and there were--yeas 77, nays 7, absent and not voting 16, with the nays and absent and not voting being as follows:

Yeas: Ambler, Anderson, Arvon, Atkinson, Azinger, Bates, Blair, Boggs, Butler, Byrd, Cadle, Canterbury, Caputo, Cooper, Coles, Duke, Eldridge, Espinosa, A. Evans, D. Evans, Faircloth, Fast, Ferro, Flanigan, Foster, Frich, Gearheart, Guthrie, Hamilton, Hamrick, Hanshaw, Hornbuckle, Householder, Howell, Ihle, Kelly, Kessinger, Kurcaba, Longstreth, Lynch, McCuskey, McGeehan, Miley, Miller, Moffatt, Moore, Morgan, E. Nelson, J. Nelson, O'Neal, Overington, Perry, Pethtel, Phillips, Pushkin, Rodighiero, Rohrbach, Romine, Rowan, Rowe, Shott, R. Smith, Sobonya, Sponaugle, Stansbury, Statler, Summers, Trecost, Upson, Wagner, Walters, Waxman, Weld, Westfall, P. White, Zatezalo and Mr. Speaker (Mr. Armstead).

Nays: Fleischauer, Fluharty, Moye, Perdue, Shaffer, P. Smith and Storch.

Absent and Not Voting: Blackwell, Border, Campbell, Deem, Ellington, Folk, Hartman, Hicks, Ireland, Lane, Manchin, Marcum, Phillips, Reynolds, Skinner and B. White.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 601) passed, as a result of the objections of the Governor.

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

On this question, the yeas and nays were taken (**Roll No. 665**), and there were--yeas 77, nays 7, absent and not voting 16, with the nays and absent and not voting being as follows:

Nays: Fleischauer, Fluharty, Moye, Perdue, Shaffer, P. Smith and Storch.

Absent and Not Voting: Blackwell, Border, Campbell, Deem, Ellington, Folk, Hartman, Hicks, Ireland, Lane, Manchin, Marcum, Phillips, Reynolds, Skinner and B. White.

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. 601) effect from its passage.

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

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Blackwell, Border, Campbell, Deem, Ellington, Folk, Hartman, Hicks, Ireland, Lane, Manchin, Marcum, Phillips, Reynolds, Skinner and B. White.

Miscellaneous Business

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three to notify the Senate that the House of Delegates had completed the business of this Second Regular Session of the 82nd Legislature and was ready to adjourn *sine die*.

Whereupon,

The Speaker appointed as members of said committee the following:

Delegates Stansbury, R. Smith and Boggs.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three on the part of the House of Delegates, to join with a similar committee of the Senate, to inform His Excellency, the Governor, that the Legislature was ready to adjourn *sine die*.

The Speaker appointed as members of such committee the following:

Delegates Summers, Gearheart and P. White.

Committee Reports

Delegate McCuskey, Chair of the Joint Committee on Enrolled Bills, filed the following reports with the Clerk after it had examined, found truly enrolled and presented to His Excellency, the Governor, for his action, bills passed but not presented to him prior to adjournment of this session of the Legislature:

March 16, 2016

(Com. Sub. for H. B. 4080), Department of Veterans' Assistance, rule relating to VA headstones or markers,

(H. B. 4351), Transferring the Cedar Lakes Camp and Conference Center from the West Virginia Board of Education to the Department of Agriculture,

(Com. Sub. for H. B. 4487), Relating to state retirement systems,

And,

(Com. Sub. for H. B. 4502), Allowing reciprocity agreements with contiguous states to establish regulations, licensing requirements and taxes for small businesses.

March 18, 2016

(H. B. 4150), Making a supplementary appropriation to the Department of Health and Human Resources,

(H. B. 4151), Making a supplementary appropriation to the Department of Education,

(H. B. 4152), Making a supplementary appropriation to the Division of Environmental Protection – Protect Our Water Fund,

(H. B. 4155), Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund, and the Department of Health and Human Resources, Division of Human Services - Medical Services Trust Fund,

And,

(Com. Sub. for S. B. 597), Relating generally to Health Care Authority.

March 20, 2016

(S. B. 427), Transferring funds from State Excess Lottery Fund to Department of Revenue.

March 21, 2016

(Com. Sub. for S. B. 157), Authorizing Department of Revenue to promulgate legislative rules,

(Com. Sub. for S. B. 159), Authorizing promulgation of legislative rules by miscellaneous boards and commissions,

(Com. Sub. for S. B. 202), Authorizing Department of Commerce promulgate legislative rules,

(Com. Sub. for S. B. 265), Allowing library volunteers necessary access to user records,

(Com. Sub. for S. B. 376), Expanding authority of Secretary of State and State Police,

(S. B. 476), Relating to driving restrictions in school zones,

(S. B. 588), Repealing certain obsolete legislative rules by Department of Transportation,

And,

(**Com. Sub. for S. B. 591**), Relating to voter registration list maintenance and combined voter registration and driver licensing fund,

March 22, 2016

(**Com. Sub. for H. B. 2444**), Providing for the assignment of economic development office representatives to serve as Small Business Allies as facilitators to assist small business entities and individuals,

(**Com. Sub. for H. B. 4265**), Relating to payment by the West Virginia Municipal Bond Commission or state sinking fund commission or the governing body issuing the bonds,

(**Com. Sub. for H. B. 4310**), Relating to the West Virginia University Institute of Technology,

(**Com. Sub. for H. B. 4360**), Increasing the criminal penalty for the unlawful practice of law,

(**H. B. 4411**), Relating to penalty for illegally taking native brook trout,

(**Com. Sub. for H. B. 4519**), Allowing certain municipalities to elect to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System,

(**Com. Sub. for H. B. 4612**), Relating generally to tax increment financing and economic opportunity development districts,

(**H. B. 4726**), Relating to coal mining generally,

(**H. B. 4734**), Relating to mine subsidence insurance,

(**Com. Sub. for S. B. 6**), Requiring drug screening and testing of applicants for TANF program,

(**Com. Sub. for S. B. 43**), Clarifying means of posting to prohibit hunting or trespassing,

(**Com. Sub. for S. B. 47**), Rewriting licensing requirements for practice of medicine and surgery and podiatry,

(**Com. Sub. for S. B. 104**), Classifying Marshall University Forensic Science Center as a criminal justice agency,

(**Com. Sub. for S. B. 195**), Authorizing DHHR to promulgate legislative rules,

(**S. B. 323**), Correcting statute subsection designations regarding trespassing on property,

(**Com. Sub. for S. B. 326**), Repeal and recodify law relating to contributing to delinquency of minor child,

(**S. B. 329**), Eliminating sunset provision for commission to study residential placement of children,

(**Com. Sub. for S. B. 330**), Requiring automobile liability insurers provide 10 days' notice of intent to cancel due to nonpayment of premium,

(**Com. Sub. for S. B. 338**), Compiling and maintaining Central State Mental Health Registry,

(**S. B. 416**), Allowing terminally ill patients access to investigational products,

(**Com. Sub. for S. B. 429**), Adopting two National Association of Insurance Commissioners' models to protect enrollees and general public and permit greater oversight,

(**S. B. 461**), Updating WV Workforce Investment Act to the WV Workforce Innovation and Opportunity Act,

(Com. Sub. for S. B. 484), Relating to reemployment rights of military personnel,

(S. B. 494), Creating Legislative Oversight Commission on Department of Transportation Accountability,

(Com. Sub. for S. B. 520), Allowing PEIA ability to recover benefits or claims obtained through fraud,

(Com. Sub. for S. B. 575), Requiring leases for state office space provide landlord or owner be responsible for cleaning or janitorial services,

(Com. Sub. for S. B. 581), Eliminating sunset provision terminating pilot domestic violence court program,

And,

(S. B. 627), Permitting physician to decline prescribing controlled substance.

March 23, 2016

(Com. Sub. for H. B. 2110), Relating generally to the tax treatment of manufacturing entities,

(H. B. 2494), Creating a provisional plea process in criminal cases,

(H. B. 2605), Removing the limitation on actions against the perpetrator of sexual assault or sexual abuse upon a minor,

(Com. Sub. for H. B. 2615), West Virginia Small Business Capital Act,

(Com. Sub. for H. B. 2665), Relating to participation in Motor Vehicle Alcohol Test and Lock Program,

(Com. Sub. for H. B. 2826), Requiring the Commissioner of the Division of Highways to approve points of access to and from state highways to real property used or to be used for commercial, industrial or mercantile purposes; “Sarah Nott’s Law”,

(Com. Sub. for H. B. 2852), Relating to legalizing and regulating the sale and use of fireworks,

(Com. Sub. for H. B. 2897), Young Entrepreneur Reinvestment Act,

(Com. Sub. for H. B. 2904), Requiring the clerk of a county commission to maintain a county ordinance book,

(Com. Sub. for H. B. 4013), Requiring a person desiring to vote to present documentation identifying the voter,

(Com. Sub. for H. B. 4014), Preventing the State Board of Education from implementing common core academic standards and assessments,

(H. B. 4033), Adding criminal penalties for the unauthorized practice of pharmacists care,

(Com. Sub. for H. B. 4201), Increasing the criminal penalties for participating in an animal fighting venture,

(Com. Sub. for H. B. 4218), Expanding the definition of “underground facility” in the One-Call System Act,

(Com. Sub. for H. B. 4237), Supporting and Strengthening Families Act,

(Com. Sub. for H. B. 4295), Relating to the School Innovation Zones Act,

(**Com. Sub. for H. B. 4301**), Relating to a framework for initiating comprehensive transformation of school leadership,

(**Com. Sub. for H. B. 4307**), Clarifying that a firearm may be carried for self defense in state parks, state forests and state recreational areas,

(**Com. Sub. for H. B. 4314**), Prohibiting the sale of powdered or crystalline alcohol,

(**H. B. 4315**), Relating to air-ambulance fees for emergency treatment or air transportation,

(**H. B. 4316**), Relating to reimbursement of certification fee for National Board for Professional Teaching Standards certification,

(**H. B. 4334**), Clarifying the requirements for a license to practice as an advanced practice registered nurse and expanding prescriptive authority,

(**H. B. 4347**), Providing pregnant women priority to substance abuse treatment,

(**Com. Sub. for H. B. 4365**), Relating to the certificate of need process,

(**H. B. 4428**), Clarifying that optometrists may continue to exercise the same prescriptive authority which they possessed prior to hydrocodone being reclassified,

(**Com. Sub. for H. B. 4435**), Authorizing the Public Service Commission to approve expedited cost recovery of electric utility coal-fired boiler modernization and improvement projects,

(**Com. Sub. for H. B. 4448**), Clarifying that communication by a lender or debt collector which is allowed under the West Virginia

Consumer Credit and Protection Act, likewise does not violate the provisions of the West Virginia Computer Crime and Abuse Act,

(H. B. 4461), Relating to School Building Authority School Major Improvement Fund eligibility,

(Com. Sub. for H. B. 4463), Permitting the practice of telemedicine,

(Com. Sub. for H. B. 4507), Providing an employer may grant preference in hiring to a veteran or disabled veteran,

(Com. Sub. for H. B. 4517), Limiting the ability of an agent under a power of attorney to take self-benefiting actions,

(Com. Sub. for H. B. 4586), Ensuring that the interest of protected persons, incarcerated persons and unknown owners are protected in condemnation actions filed by the Division of Highways,

(H. B. 4594), Relating to predoctoral psychology internship qualifications,

(H. B. 4618), Relating to limitations on use of a public official's name or likeness,

(Com. Sub. for H. B. 4659), Authorizing local health departments to bill health insurance plans for services,

(Com. Sub. for H. B. 4668), Raising the allowable threshold of the coal severance tax revenue fund budgeted for personal services,

(Com. Sub. for H. B. 4673), Providing for a crime for the theft, damage or release of deer from private game farms,

(H. B. 4725), Relating to providing the procedures for the filling of vacancies in the offices of justices of the Supreme Court of Appeals, circuit judge, family court judge or magistrate and making certain clarifications,

(**H. B. 4728**), Relating to schedule three controlled substances,

(**H. B. 4739**), Unclaimed Life Insurance Benefits Act,

(**H. B. 4740**), Permitting that current members of the National Guard or Reserves may be excused from jury duty,

(**S. B. 54**), Altering how tax is collected on homeowners' associations,

(**Com. Sub. for S. B. 259**), Amending Unfair Trade Practices Act,

(**Com. Sub. for S. B. 270**), Repealing code relating to insurance policies,

(**S. B. 352**), Dedicating corporation net income tax proceeds to railways,

(**S. B. 384**), Requiring Bureau for Medical Services seek federal waiver for 30-day waiting period for tubal ligation,

(**S. B. 459**), Requiring county board of education to pay tuition to Mountaineer Challenge Academy,

(**Com. Sub. for S. B. 468**), Allowing lender charge and receive interest on rescindable loan during rescission period,

(**Com. Sub. for S. B. 493**), Allowing creation of self-settled spendthrift trusts,

(**S. B. 505**), Exempting certain uses of field gas from motor fuel excise taxes,

(**S. B. 516**), Relating to registration for selective service,

(**Com. Sub. for S. B. 517**), Clarifying PEIA plans that are exempt from regulation by Insurance Commissioner,

(**S. B. 563**), Increasing retirement benefit multiplier for WV Emergency Medical Services Retirement System members,

(**Com. Sub. for S. B. 595**), Increasing retirement benefit multiplier for WV Emergency Medical Services Retirement System members,

(**Com. Sub. for S. B. 599**), Relating generally to Uniform Unclaimed Property Act,

(**S. B. 613**), Defining total capital for purposes of calculating state-chartered bank's lending limit,

(**Com. Sub. for S. B. 614**), Conforming statute with court interpretation by replacing "unconscionable" with "fraudulent" when referring to conduct,

And,

(**Com. Sub. for S. B. 691**), Modifying certain air pollution standards.

March 24, 2016

(**Com. Sub. for H. B. 2205**), Creating the crime of prohibited sexual contact by a psychotherapist,

(**Com. Sub. for H. B. 2366**), Relating generally to the solicitation of minors,

(**Com. Sub. for H. B. 4009**), Letting Our Counties Act Locally Act,

(**Com. Sub. for H. B. 4038**), Relating to insurance requirements for the refilling of topical eye medication,

(**Com. Sub. for H. B. 4040**), Regulating step therapy protocols in health benefit plans,

(**Com. Sub. for H. B. 4046**), Relating to the promulgation of rules by the Department of Administration,

(Com. Sub. for H. B. 4146), Providing insurance cover abuse-deterrent opioid analgesic drugs,

(Com. Sub. for H. B. 4174), Exempting activity at indoor shooting ranges from the prohibition of shooting or discharging a firearm within five hundred feet of any church or dwelling house,

(Com. Sub. for H. B. 4176), Permitting the Regional Jail and Correctional Facility Authority to participate in the addiction treatment pilot program,

(Com. Sub. for H. B. 4186), Relating to additional duties of the Public Service Commission,

(Com. Sub. for H. B. 4261), Prohibiting the sale or transfer of student data to vendors and other profit making entities,

(H. B. 4309), Increasing criminal penalties for conviction of certain offenses of financial exploitation of an elderly person,

(Com. Sub. for H. B. 4317), Limiting factors in parenting plans,

(Com. Sub. for H. B. 4323), Relating to the reporting of emergency incidents by well operators and pipeline operators,

(H. B. 4364), Internet Privacy Protection Act,

(H. B. 4378), Relating to access to and receipt of certain information regarding a protected person by certain relatives of the protected person,

(Com. Sub. for H. B. 4388), Relating to stroke centers,

(Com. Sub. for H. B. 4537), Relating to the regulation of chronic pain clinics,

(Com. Sub. for H. B. 4554), Allowing an increase of gross weight limitations on certain roads in Greenbrier County,

(H. B. 4558), Relating to victim notification and designation of additional individuals to receive notice of an offender's release,

(Com. Sub. for H. B. 4561), Creating a special hiring process for West Virginia Division of Highways employees,

(Com. Sub. for H. B. 4566), Relating to school personnel,

(Com. Sub. for H. B. 4604), Relating to violations of the Ethics Act,

(H. B. 4655), Prohibiting insurers, vision care plan or vision care discount plans from requiring vision care providers to provide discounts on noncovered services or materials,

(Com. Sub. for H. B. 4662), Permitting the Superintendent of the State Police to collect \$3 dollars from the sale of motor vehicle inspection stickers,

(H. B. 4705), Relating to adding an additional type of West Virginia source income of nonresident individual,

(H. B. 4724), Relating to adding a requirement for the likelihood of imminent lawless action to the prerequisites for the crime of intimidation and retaliation,

(H. B. 4730), Relating to computer science courses of instruction,

(H. B. 4738), Relating to the offense of driving in an impaired state,

(Com. Sub. for S. B. 13), Increasing penalties for overtaking and passing stopped school buses,

(S. B. 107), Uniform Interstate Depositions and Discovery Act,

(Com. Sub. for S. B. 262), Eliminating need for law enforcement to obtain court order prior to having access to inmate mail and phone recordings,

(**Com. Sub. for S. B. 267**), Modifying removal procedure for certain county, school district and municipal officers,

(**Com. Sub. for S. B. 272**), Allowing investigators from Attorney General's office to carry concealed weapons,

(**Com. Sub. for S. B. 278**), Clarifying physicians' mutual insurance company is not state or quasi-state actor,

(**Com. Sub. for S. B. 283**), Creating crime when fire is caused by operation of a clandestine drug laboratory,

(**S. B. 306**), Permitting sale of county or district property online,

(**S. B. 333**), Taking and registering of wildlife,

And,

(**Com. Sub. for S. B. 619**), 2016 Regulatory Reform Act.

March 28, 2016

(**Com. Sub. for S. B. 293**), Neighborhood Investment Program Act,

(**Com. Sub. for S. B. 298**), Allowing restaurants, private clubs and wineries sell alcoholic beverages on Sundays,

(**S. B. 311**), Allowing permanent exception for mortgage modification or refinancing loan under federal Making Home Affordable program,

(**Com. Sub. for S. B. 339**), Establishing Judicial Compensation Commission,

(**S. B. 345**), Relating to parking on state-owned or leased property,

(**Com. Sub. for S. B. 361**), Prohibiting persons who have committed crimes against elderly from performing community service involving elderly,

(**Com. Sub. for S. B. 404**), Removing prohibition on billing persons for testing for HIV and sexually transmitted diseases,

(**S. B. 431**), Authorizing pharmacists and pharmacy interns dispense opioid antagonists,

(**S. B. 437**), Updating and clarifying code relating to rules governing mixed martial arts,

(**Com. Sub. for S. B. 454**), Licensing and regulating medication-assisted treatment programs for substance use disorders,

(**Com. Sub. for S. B. 465**), Allowing professional employer insure certain risks through pure insurance captive,

(**Com. Sub. for S. B. 504**), Relating to confidentiality of juvenile records,

(**Com. Sub. for S. B. 524**), Rewriting Board of Barbers and Cosmetologists article,

(**Com. Sub. for S. B. 545**), Relating to asbestos abatement on oil and gas pipelines,

(**Com. Sub. for S. B. 567**), Providing protection against property crimes committed against coal mines, railroads, utilities and other industrial facilities,

(**S. B. 578**), Protecting utility workers from crimes against person,

(**Com. Sub. for S. B. 601**), Relating to exception from jurisdiction of PSC for materials recovery facilities or mixed waste processing facilities,

(**Com. Sub. for S. B. 602**), Relating to Patient Injury Compensation Fund,

(**S. B. 618**), Allowing Economic Development Authority to make loans to certain whitewater outfitters,

(**Com. Sub. for S. B. 621**), Exempting taxicab companies with independent contract drivers from providing workers' compensation coverage,

(**Com. Sub. for S. B. 625**), Revising exceptions from FOIA provided for in Aboveground Storage Tank Act,

(**Com. Sub. for S. B. 634**), Creating William R. Laird IV Second Chance Driver's License Act,

(**Com. Sub. for S. B. 686**), Authorizing local governing authorities hold sanctioned motor vehicle races on roads, streets or airports under their jurisdiction,

(**S. B. 702**), Allowing title of real estate to pass to individuals entitled to sale proceeds if executor fails to do so within 5 years of closing estate,

And,

(**Com. Sub. for H. B. 4060**), Relating generally to the promulgation of administrative rules by the Department of Military Affairs and Public Safety.

Messages from the Executive

Actions of His Excellency, the Governor, on other bills following adjournment of the session, as indicated in communications addressed to the Secretary of State, as follows:

State of West Virginia
Office of the Governor
Charleston

March 15, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for Senate Bill 254

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for Senate Bill 254. This bill would bar county parks and recreation commissions from promulgating or enforcing rules and regulations prohibiting the possession of firearms. I believe counties are in a better position than the Legislature to evaluate local issues and determine whether firearm prohibitions in county parks and recreation areas are appropriate. Accordingly, I veto this bill in deference to county judgment on matters of public safety.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

March 21, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 4433

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for House Bill 4433 for a technical reason.

The bill is technically flawed because its title is defective. *See State ex rel. Davis v. Oakley*, 156 W. Va. 154, 191 S.E.2d 610 (1972) (requiring bill title to provide notice of bill's contents). The bill's title provides that it is "*extending* the effective period of the allowed adjustment." (Emphasis added). The adjustment to gross income provided for in the bill previously terminated for taxable years on and after January 1, 2015. This bill *reinstates* the allowable exemption "for tax years beginning January 1, 2016." *See* page 2, line 17. Additionally, the bill provides for the termination of the allowable exemption for "taxable years on and after January 1, 2021." *See* page 2, line 18.

The title fails to provide notice that the allowable exemption is being reinstated and that it also has a subsequent termination. Because of this technical defect, I disapprove and return this bill.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April, 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 2110

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for House Bill 2110. This bill relates to providing special property tax treatment and tax credits to small arms and ammunition manufacturers. In doing so, it decreases the investment threshold for receiving special property tax treatment from \$50 million to \$1 million, and increases the percentage of tax credit available from 5% to 50% of the qualified manufacturing investment. Lowering the investment threshold and increasing the tax credit to such levels is fiscally imprudent to provide to a single industry. Our state has several small manufacturers that have made greater investments and have not received such favorable treatment. For this reason, I disapprove this bill.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April, 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled House Bill 2796

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove House Bill 2796. This bill provides that any state employee who is designated an essential member of an emergency aid provider may be granted leave from his or her state employment with pay, for not more than fifteen work days in each year, to provide disaster relief or emergency services in areas of the state in which a state of emergency has been declared. The aim of this bill is laudable. However, I am concerned about agencies using the Civil Contingent Fund to pay for up to \$300,000 a year in paid leave without the governor's prior approval. Because this bill sidesteps executive oversight of governor's office funds and could lead to abuse, it is hereby vetoed.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 4014

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove the Enrolled Committee Substitute for House Bill 4014. This bill makes numerous revisions to the section of the West Virginia Code governing public education assessment programs and accountability measures. In particular, the bill requires the State Board of Education to discontinue the use of the state's current summative assessment test in a very limited timeframe. This provision is problematic for two key reasons:

- 1) It discounts the time and consideration that will be needed to evaluate and establish a new statewide summative assessment test.
- 2) The uncertainty that will be caused by the assessment mandates has me concerned about the potential disruption of our state's ongoing implementation of the new A-F school accountability system.

As governor, I have championed and the Legislature has endorsed education reform measures that will improve student achievement. We need to give these changes and measures added time to take hold, and

see what works and what does not. While revisions may be warranted as we move along, we need to be cautious not to undermine stability for our teachers or the children they are trying to educate. Because this bill occasions yet more uncertainty and instability in our system of public education, it is hereby vetoed.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 4080

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for House Bill 4080. This bill authorizing the Department of Veterans' Assistance ("DVA") to promulgate legislative rules is defective from a technical standpoint. First, it purports (perhaps inadvertently) to amend and reenact W. Va. Code §64-11-1, which would cancel out the Legislature's technical

corrections to certain legislative rules filed by the former Division of Environmental Protection, Office of Oil and Gas. In other words, this bill appears to amend the wrong section of the West Virginia Code. Second, the bill's internal citation to W. Va. Code §9A-2-10 for the DVA's authority to promulgate legislative rules is incorrect because §9A-2-10 does not exist. In these circumstances, I must veto this bill on the foregoing technical grounds.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 4168

Dear Secretary of State Tennant:

Pursuant to section fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for House Bill 4168. This bill creates a special motor vehicle collectors license plate which among other things, allows the individual holding

the plate to “transfer a . . . plate among multiple collector motor vehicles” and to “maintain or renew the . . . plate” even if the individual no longer owns a collector motor vehicle. See §§17A-6F-3(c) and 17A-6F-2(b).

Both law enforcement officials and the Division of Motor vehicles have expressed concern over the transferability of the plate between potentially unregistered vehicles. They have expressed that this bill may result in confusion in the enforcement of traffic regulations as well as potentially opening the door to subterfuge by certain persons. In view of the foregoing and in deference to our law enforcement officials, I hereby disapprove Enrolled House Bill 4168.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 4171

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove the Enrolled Committee Substitute for House Bill 4171. This bill makes several revisions to the statute governing the public school calendar. Two revisions are particularly problematic. Specifically, this bill deletes the requirement that the calendar shall provide 180 “separate” days of instruction. It also sets an inflexible instructional term that “shall begin no earlier than August 10 and end no later than June 10,” unless the school operates on a balanced calendar.

To be college or career ready, West Virginia’s students need to be in the classroom receiving instruction and learning for at least 180 separate days a year—even if this means making up lost time due to weather or emergencies. With proper planning, a county school system should be able to achieve 180 separate days of instruction without encroaching on summer vacation to a great degree. Because this bill retreats from the comprehensive education reforms I championed in 2013, including the flexible school calendar concept, it is hereby vetoed.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia

Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled House Bill 4246

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 4246. This bill provides for a special act that, among other things, changes the essential character of a public library corporation established by the City of Martinsburg in Berkeley County, West Virginia. Martinsburg's mayor has advised me the city opposes this bill's intrusion on city affairs. To the extent that a change in the public library corporation is desired, it should be negotiated between the interested local parties (i.e., the city, the county commission, and the county board of education) rather than dictated by the Legislature. I veto this bill because it infringes on local decision-making and may very well violate W. Va. Const. Art. VI, §39 (prohibiting local and special laws that regulate or change county or district affairs).

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant

Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 4307

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for House Bill 4307 because its title is defective. See *State ex rel. Davis v. Oakley*, 191 S.E.2d.610 (W. Va. 1972) (requiring bill title to provide notice of bill's contents). Specifically the bill's title fails to provide notice of how it impacts wildlife management areas and rail trails. In light of this technical defect, the bill is hereby vetoed.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol

Charleston, WV 25305

Re: Enrolled House Bill 4378

Dear Secretary of State Tennant:

Pursuant to section fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove Enrolled House Bill 4378. This bill creates a new legal process by which a court may order that a guardian of a vulnerable person allows access and provide information about that person to certain relatives.

This bill has several flaws. First, it broadly allows relatives of a protected person to access certain patient information. The sole factor to be used by the court in granting access to certain confidential information of a protected person is whether the protected person “is desirous of contact” with the relative. A protected person’s desire to visit with a relative does not necessarily equal the intent to provide access to other confidential data. This is especially true when the definition of “relative” extends beyond the customary familial relationships to include “any person who has a family-type relationship with a protected person.”

Second, in situations where a protected person is under guardianship of the Department of Health and Human Resources as a patient, the bill’s provisions on releasing information have the potential to conflict with current code relating to confidential disclosures. (See W. Va. Code §27-3-1, Definition of confidential information; disclosures.) Specifically, the access to information provided under W. Va. Code §44A-3-18 will not always be consistent to the exceptions for disclosure of confidential information. *Id.*

In view of the foregoing, I hereby disapprove Enrolled House Bill 4378.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 4505

Dear Secretary of State Tennant:

Pursuant to section fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for House Bill 4505. This bill amends the State Lottery Act and the Freedom of Information Act to allow Powerball, Mega Millions, and Hot Lotto winners to claim prizes anonymously. However, this bill contains a fatal technical error that requires its veto.

This bill would amend section §29B-1-4 of the West Virginia Freedom of Information Act. This same section of code was also amended in Enrolled Committee Substitute for House Bill 2800. Therefore, this bill conflicts with amendments I signed into law as part of Enrolled Committee Substitute for House Bill 2800.

In view of the foregoing, I hereby disapprove Enrolled Committee Substitute for House Bill 4505.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 4561

Dear Secretary of State Tennant:

Pursuant to section fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 4561. This bill requires the Commissioner of the Division of Highways and the Director of the Division of Personnel to collaborate on developing a special hiring procedure for personnel positions in the Division of Highways.

Expediting the hiring process of Division of Highways employees is a laudable goal, a goal that both the Division of Highways and the Division of Personnel have been collaboratively working toward for over a year. However, the changes made in this bill would have the effect of creating a policy that would undermine the integrity and statutory requirements of the civil service merit system in its entirety. Additionally, the proposed new policy would be in direct conflict with existing West Virginia Code and rules related to civil service and the duties and requirements of the Division of Personnel.

In view of the foregoing, I hereby disapprove and return Enrolled Committee Substitute for House Bill 4561. However, I have instructed the Division of Personnel and the Division of Highways to continue

working cooperatively to resolve any existing inefficiencies in internal processes while ensuring that the Division of Highways' employees retain merit based status.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for House Bill 4668

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for House Bill 4668. This bill increases the allowable threshold of coal severance tax revenue distributed to county and local governments that may be budgeted for personal services from one-fourth to one-half. When the Legislature originally contemplated distributions of coal severance tax revenue to county and local governments, it was intended that such funds would be used to build

infrastructure and public facilities to benefit the local citizens. It was not intended that such funds be used to increase the staff and payrolls of the beneficiary governments.

For a variety of reasons, we now face a time when coal severance tax revenues are becoming more volatile and less certain. When coal severance tax revenues are the basis for an employee's paycheck, it may allow a local government to hire more personnel during more prosperous times; but when we face tough times in the coal industry, as we do right now, more layoffs are likely to occur. Increasing the percentages of such funds that may be used for personal services will only exacerbate this volatility. For this reason, I disapprove this bill.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for Senate Bill 102

Dear Secretary of State Tennant:

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 102. This bill provides county prosecutors with, among other things, limited arrest powers and the right to carry a concealed firearm for self-defense purposes. The proper role of prosecutors, however, is to represent the state in criminal proceedings; their job should not entail arresting suspects in county courthouses and being conflicted out of prosecuting them.

Further, the concealed carry right that would be afforded by this bill is duplicative of the Enrolled Committee Substitute for House Bill 4145. House Bill 4145 generally authorizes the concealed carry of a deadly weapon with or without a license. Because the Legislature overrode my veto of House Bill 4145, it will become law in May, 2016. Consequently, this May the general public (including prosecutors) will have the right to carry a concealed deadly weapon with or without a license, although that right may be qualified in a courthouse. In these circumstances, the Enrolled Committee Substitute for Senate Bill 102 is unnecessary and hereby vetoed.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K

State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for Senate Bill 157

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for Senate Bill 157. This bill authorizes, repeals and directs promulgation of several legislative and procedural rules by the Department of Revenue. Among these is a legislative rule relating to the "Valuation of Timberland and Managed Timberland." The authorization for this rule includes significant amendment to the rule, which is problematic for two reasons. First, these amendments occurred in the last days of the legislative session, not permitting those affected by such changes to fully appreciate or address the impacts of such changes. Second, these amendments will have a disproportionate and significant negative impact on the counties located in southern West Virginia. These amendments deserve further review before we make such sweeping changes in the law. For these reasons, I disapprove this bill.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State

State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for Senate Bill 159

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for Senate Bill 159. This bill authorizes, repeals and directs promulgation of several legislative, procedural and interpretive rules. Among these is a reauthorization for a rule previously promulgated by the Enterprise Resource Board, which requires an amendment that would cap the amount of user fees that may be assessed in a fiscal year at \$8,312,200 and would terminate the user fee on January 1, 2018. These limitations placed on the user fee are fiscally irresponsible and will prevent the Enterprise Resource Board from carrying out its statutory obligations. For this reason, I disapprove this bill.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State

State of West Virginia
Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for Senate Bill 272

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove the Enrolled Committee Substitute for Senate Bill 272. This bill authorizes the Attorney General to allow designed investigators in his employ to carry a firearm in the course of performing their official duties. Likewise, it authorizes the Commissioner of the Alcohol Beverage Control Administration (“ABCA”) to designate certain employees of its Enforcement Division to carry a firearm. Per statutory authorization, ABCA’s Enforcement Division utilizes State Police assistance, where necessary, in issuing citations; its employees do not require firearms in carrying-out their official duties. ABCA has advised me it opposes this bill. In the interests of public safety, it is hereby vetoed.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia

Building 1, Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Senate Bill 437

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Senate Bill 437 for technical reasons.

The bill's title and enacting clause are deficient. The title and enacting clause each state that the bill is amending and reenacting W. Va. Code §29-5A-1, §29-5A-15, and §29-5A-24, but do not provide that it is also amending and reenacting §29-5A-3, §29-5A-3b, §29-5A-5, and §29-5A-20. For these reasons, I disapprove this bill.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K
State Capitol

Charleston, WV 25305

Re: Enrolled Committee Substitute for Senate Bill 599

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Committee Substitute for Senate Bill 599.

By law, the State Treasurer is the administrator of the Uniform Unclaimed Property Act. See West Virginia Code ' 36-8-1(1). This bill seeks to divest the State Treasurer of certain administrative duties and assign those duties to the Insurance Commissioner. As the law is clear that the State Treasurer shall act as the administrator, it is unwise to subdivide duties under the Uniform Unclaimed Property Act and assign those duties to other state actors.

In view of the foregoing, I must disapprove Enrolled Committee Substitute for Senate Bill 599.

Sincerely,

Earl Ray Tomblin,
Governor.

State of West Virginia
Office of the Governor
Charleston

April 1, 2016

Veto Message

The Honorable Natalie E. Tennant
Secretary of State
State of West Virginia
Building 1, Suite 157-K

State Capitol
Charleston, WV 25305

Re: Enrolled Senate Bill 658

Dear Secretary of State Tennant:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove Enrolled Senate Bill 658. This bill would allow licensed professionals, such as doctors, nurses, pharmacists and dentists, to donate time to the care of indigent and needy patients in a clinical setting. The bill also requires licensing boards to accept donated time to meet continuing education requirements for the professions.

Donating time to the care of the indigent and needy is critical to the framework of our society. That is why professionals are already authorized, encouraged, and in some instances mandated to donate their time and skills in this manner. Therefore, the “authorization” to donate contained in this bill is unnecessary.

That said, my concern with this bill is its requirement that donated time to be used to complete continuing education requirements. Each licensing board has specific continuing education requirements tailored to their profession. These requirements ensure that the state’s licensed healthcare professionals are informed about changes in their profession and are educated to provide the best care to their patients. Further, some licensing boards already offer professionals continuing education credit for donated time. Therefore, the continuing education provision in this bill providing one-to-one credit, up to ten hours would decrease the critical training received by our healthcare professionals through their continuing education courses.

In view of the foregoing, I must disapprove Enrolled Senate Bill 658.

Sincerely,

Earl Ray Tomblin,
Governor.

Messages from the Executive

Subsequent to the adjournment of the session, communications were received from His Excellency, the Governor, advising that on March 15, 2016, he approved S. B. 94, S. B. 271, Com. Sub. for S. B. 274, Com. Sub. for S. B. 303, S. B. 346, S. B. 349, Com. Sub. for S. B. 400, S. B. 415, S. B. 426, S. B. 483, S. B. 509, S. B. 515, Com. Sub. for H. B. 4228, H. B. 4617 and H. B. 4644; on March 16, 2016, he approved Com. Sub. for S. B. 39, S. B. 469, Com. Sub. for S. B. 474, S. B. 507, Com. Sub. for S. B. 592, S. B. 648, S. B. 656, Com. Sub. for H. B. 2122, Com. Sub. for H. B. 2801, Com. Sub. for H. B. 2823, H. B. 4160, Com. Sub. for H. B. 4209, Com. Sub. for H. B. 4225, H. B. 4322, Com. Sub. for H. B. 4330, H. B. 4345, Com. Sub. for H. B. 4377, H. B. 4417; on March 8, 2016, he approved Com. Sub. for S. B. 500, S. B. 597 and S. B. 678; on March 21, 2016, he approved Com. Sub. for S. B. 265, S. B. 334, S. B. 439, S. B. 476, Com. Sub. for S. B. 591, Com. Sub. for H. B. 2588, H. B. 4346, Com. Sub. for H. B. 4487 and Com. Sub. for H. B. 4587; on March 23, he approved Com. Sub. for S. B. 6, S. B. 29, Com. Sub. for S. B. 43, Com. Sub. for S. B. 47, S. B. 54, Com. Sub. for S. B. 104, Com. Sub. for S. B. 259, Com. Sub. for S. B. 270, S. B. 323, Com. Sub. for S. B. 326, S. B. 329, Com. Sub. for S. B. 330, Com. Sub. for S. B. 338, S. B. 352, Com. Sub. for S. B. 376, S. B. 384, S. B. 416, *S. B. 427, Com. Sub. for S. B. 429, S. B. 459, Com. Sub. for S. B. 468, Com. Sub. for S. B. 484, Com. Sub. for S. B. 493, S. B. 505, S. B. 516, Com. Sub. for S. B. 517, Com. Sub. for S. B. 520, Com. Sub. for S. B. 575, Com. Sub. for S. B. 581, S. B. 613, S. B. 627, Com. Sub. for S. B. 691, *H. B. 4150, *H. B. 4151, *H. B. 4152, *H. B. 4155, Com. Sub. for H. B. 4360 and Com. Sub. for H. B. 4520; on March 24, 2016, he approved Com. Sub. for S. B. 13, S. B. 107, Com. Sub. for S. B. 262, Com. Sub. for S. B. 267, Com. Sub. for S. B. 278,

S. B. 306, S. B. 333, S. B. 461, Com. Sub. for H. B. 2444, H. B. 2494, H. B. 2605, Com. Sub. for H. B. 2615, Com. Sub. for H. B. 2897, Com. Sub. for H. B. 2904, H. B. 4033, Com. Sub. for H. B. 4218, Com. Sub. for H. B. 4265, Com. Sub. for H. B. 4314, H. B. 4347, H. B. 4351, H. B. 4411, Com. Sub. for H. B. 4435, Com. Sub. for H. B. 4448, H. B. 4461, Com. Sub. for H. B. 4463, Com. Sub. for H. B. 4507, Com. Sub. for H. B. 4517, Com. Sub. for H. B. 4612, Com. Sub. for H. B. 4659, Com. Sub. for H. B. 4673, H. B. 4725 and H. B. 4740; on March 25, 2016, he approved Com. Sub. for S. B. 283, Com. Sub. for H. B. 2205, Com. Sub. for H. B. 2366, Com. Sub. for H. B. 4038, Com. Sub. for H. B. 4186, Com. Sub. for H. B. 4261, Com. Sub. for H. B. 4295, Com. Sub. for H. B. 4301, Com. Sub. for H. B. 4309, Com. Sub. for H. B. 4310, H. B. 4315, H. B. 4316, H. B. 4340, Com. Sub. for H. B. 4365, Com. Sub. for H. B. 4502, Com. Sub. for H. B. 4537, H. B. 4558, H. B. 4594, Com. Sub. for H. B. 4604, H. B. 4651, Com. Sub. for H. B. 4662, H. B. 4705, H. B. 4730, H. B. 4734 and H. B. 4738; on March 29, 2016, he approved Com. Sub. for S. B. 293, Com. Sub. for S. B. 298, S. B. 311, S. B. 345, Com. Sub. for S. B. 404, S. B. 431, Com. Sub. for S. B. 454, Com. Sub. for S. B. 465, Com. Sub. for S. B. 545, Com. Sub. for S. B. 602, Com. Sub. for S. B. 614, S. B. 618, Com. Sub. for S. B. 621, Com. Sub. for S. B. 634, S. B. 702, Com. Sub. for H. B. 2826, Com. Sub. for H. B. 4040, Com. Sub. for H. B. 4046, Com. Sub. for H. B. 4060, Com. Sub. for H. B. 4146, Com. Sub. for H. B. 4176, Com. Sub. for H. B. 4317, H. B. 4334, Com. Sub. for H. B. 4388, Com. Sub. for H. B. 4554, Com. Sub. for H. B. 4586, H. B. 4618, H. B. 4724 and H. B. 4728; on March 30, he approved Com. Sub. for S. B. 195, Com. Sub. for S. B. 202, Com. Sub. for S. B. 339, Com. Sub. for S. B. 361, S. B. 494, Com. Sub. for S. B. 567, S. B. 578, Com. Sub. for S. B. 625, Com. Sub. for S. B. 686, Com. Sub. for H. B. 2665, Com. Sub. for H. B. 4174, Com. Sub. for H. B. 4201 and Com. Sub. for H. B. 4323; and on April 1, 2016, he approved Com. Sub. for S. B. 68, Com. Sub. for S. B. 504, Com. Sub. for S. B. 524, S. B. 563, S. B. 588, Com. Sub. for S. B. 595, Com. Sub. for S. B. 601, Com. Sub. for S. B. 619, Com. Sub. for H. B. 2852, Com. Sub. for H. B. 4009, Com. Sub. for H. B. 4013,

Com. Sub. for H. B. 4237, H. B. 4364, H. B. 4428, Com. Sub. for H. B. 4519, H. B. 4566, H. B. 4655, H. B. 4726 and H. B. 4739.

(*Note: Due to these bills being signed after the five day deadline, they are considered as having become law without the Governor's signature on March 20, 2016.)

There being no further business to come before the House, at 5:16 p.m., on motion of Delegate Cowles, the House of Delegates adjourned *sine die*.



We hereby certify that the forgoing record of the proceedings of the House of Delegates, Second Regular Session, 2016, is the Official Journal of the House of Delegates for said session.

TIM ARMSTEAD

Speaker of the House of Delegates

STEPHEN J. HARRISON

Clerk of the House of Delegates



West Virginia Legislature
JOURNAL
of the
HOUSE of DELEGATES

Eighty-Second Legislature
First Extraordinary Session

Charleston, Monday, May 16, 2016

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

Pursuant to the Proclamation of His Excellency, the Governor, issued the twelfth day of May, 2016, and hereinafter set forth, convening the Legislature in Extraordinary Session on the sixteenth day of May, 2016, the House of Delegates assembled in its Chamber in the Capitol Building in the City of Charleston, and at twelve o'clock meridian, was called to order by the Speaker, the Honorable Tim Armstead.

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

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 666**), and

87 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Ambler, Border, Duke, Ellington, Espinosa, Fleischauer, Fluharty, Hornbuckle, Manchin, Phillips, Shott, Skinner and Zatezalo.

Delegate Hornbuckle was also present for part of the session.

Messages from the Executive

The Speaker laid before the House of Delegates the Proclamation of His Excellency, the Governor, convening the Legislature in extraordinary session, which was read by the Clerk, as follows:

A P R O C L A M A T I O N

By the Governor

I, EARL RAY TOMBLIN, by virtue of the authority vested in the Governor by Section 7, Article VII, of the Constitution of West Virginia, do hereby call the West Virginia Legislature to convene in Extraordinary Session at noon on the sixteenth day of May, Two Thousand Sixteen, in its chambers in the State Capitol, City of Charleston, for the limited purpose of considering and acting upon the following matters:

FIRST: A bill enacting a state budget for fiscal year 2017;

SECOND: A bill increasing the tax on cigarettes and tobacco products, and imposing a tax on e-cigarettes;

THIRD: A bill increasing the Consumers Sales and Service tax rate and the Use tax rate by not more than one percentage point;

FOURTH: A bill eliminating the exemption from Consumers Sales and Service tax and Use tax on sales of telecommunications service and ancillary services;

FIFTH: A bill expiring to the unappropriated balance in the State Fund, General Revenue, for fiscal year 2016, the following:

\$12,150,000.00 from the Joint Expenses, Tax Reduction and Federal Funding Increased Compliance (TRAFFIC) Fund, fund 0175, fiscal year 2009, organization 2300, appropriation 64200; \$8,500,000.00 from the Attorney General, Consumer Protection Recovery Fund, fund 1509, fiscal year 2016, organization 1500; \$2,500,000.00 from the West Virginia Health Care Authority, Health Care Cost Review Fund, fund 5375, fiscal year 2016, organization 0507; \$29,000,000.00 from the Office of the Secretary of Revenue, Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2016, organization 0701; \$5,000,000.00 from the Insurance Commissioner, Insurance Commission Fund, fund 7152, fiscal year 2016, organization 0704; \$4,631,089.49 from the Lottery Commission, Operating and Expense Fund, fund 7200, fiscal year 2016, organization 0705; and \$2,000,000.00 from the Public Service Commission, fund 8623, fiscal year 2016, organization 0926;

SIXTH: A bill authorizing the Governor to furlough state employees in the event of certain fiscal emergencies; and

SEVENTH: Legislation authorizing and appropriating the expenditure of public funds to pay the expenses for the Extraordinary Session.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



By the Governor:

DONE at the Capitol in the City of Charleston, State of West Virginia, this twelfth day of May, in the year of our Lord, Two Thousand Sixteen, and in the One Hundred Fifty-Third year of the State.

EARL RAY TOMBLIN,
Governor.

NATALIE E. TENNANT

Secretary of State

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three to notify the Senate that the House of Delegates had assembled in extraordinary session and was ready to enter upon the business stated in the Proclamation by which it had been called together.

Whereupon,

The Speaker appointed as members of such committee:

Delegates Ireland, R. Smith and Trecost.

On motion of Delegate Cowles, the Speaker was authorized to appoint a committee of three, to join with a similar committee on the part of the Senate, to inform His Excellency, the Governor, that the Legislature had assembled in extraordinary session and was ready to enter upon the business stated in the Proclamation.

Whereupon,

The Speaker appointed as members of such committee:

Delegates Kessinger, Atkinson and P. Smith.

Messages from the Executive

The Clerk laid before the House of Delegates a communication from His Excellency, the Governor, which was read by the Clerk as follows:

State of West Virginia
Office of the Governor
Charleston, WV 25305

May 16, 2016

EXECUTIVE MESSAGE NO. 1
FIRST EXTRAORDINARY SESSION

The Honorable Tim Armstead, Speaker
West Virginia House of Delegates
State Capitol
Charleston, WV 25305

Dear Speaker Armstead:

I herewith submit, pursuant to the Constitution of the State of West Virginia, a budget bill for the fiscal year beginning, July, 1, 2016.

Sincerely,

Earl Ray Tomblin,
Governor.

Whereupon,

In compliance with Subdivision (4), Subsection B, Section 51, Article VI of the Constitution, a bill was introduced, which was read by its title and referred to the Committee on Finance:

By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:

H. B. 101 – “A Bill making appropriations of public money out of the Treasury in accordance with Section 51, Article VI of the Constitution.”

Bills Introduced

Bills were introduced, pursuant to House Rule 92, and severally referred as follows:

By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:

H. B. 102 – “A Bill expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30,

2016, in the amount of \$12,150,000 from the Joint Expenses, Tax Reduction and Federal Funding Increased Compliance (TRAFFIC), fund 0175, fiscal year 2009, organization 2300, appropriation 64200; in the amount of \$8,500,00 from the Attorney General, Consumer Protection Recovery Fund, fund 1509, fiscal year 2016, organization 1500; in the amount of \$2,500,000 from the Department of Health and Human Resources, West Virginia Health Care Authority – Health Care Costs Review Fund, fund 5375, fiscal year 2016, organization 0507; in the amount of \$29,000,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2016, organization 0701; in the amount of \$5,000,000 from the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2016, organization 0704; in the amount of \$4,631,089.49 from the Department of Revenue, Lottery Commission, Operating and Expenses Fund, fund 7200, fiscal year 2016, organization 0705; and in the amount of \$2,000,000 from the Public Service Commission, fund 8623, fiscal year 2016, organization 0926”; to the Committee on Finance.

By Mr. Speaker (Mr. Armstead) and Delegate Miley

[By Request of the Executive]:

H. B. 103 – “A Bill to amend and reenact §11-17-3 and §11-17-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-17-4b, all relating to increasing the tax rate on cigarettes and tobacco products; requiring a physical inventory of tax stamps, tobacco products and e-cigarette liquids upon the effective date of tax imposition and upon any tax rate increase; applying tax rate changes to inventories; requiring a report of such inventory be filed sixty days after the effective date of the tax imposition or tax rate change; levying the excise tax on e-cigarette liquid; defining terms; providing for administration of the tax on e-cigarette liquid; specifying penalty for failure to file required reports; specifying criminal sanctions; and specifying effective date”; to the Committee on Finance.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Ambler, Border, Duke, Ellington, Espinosa, Fleischauer, Fluharty, Manchin, Phillips, Shott, Skinner and Zatezalo.

At 12:23 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, May 17, 2016.

TUESDAY, MAY 17, 2016

SECOND DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, 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, May 16, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 667**), and 89 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Deem, Duke, Fleischauer, Fluharty, Manchin, Marcum, Perdue, Phillips, Rowe, Shott and Trecost.

Delegate Deem was also present for part of the session and arose to announce his presence.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Duke, Fleischauer, Fluharty, Manchin, Marcum, Perdue, Phillips, Rowe, Shott and Trecost.

At 11:27 a.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, May 18, 2016.

WEDNESDAY, MAY 18, 2016

THIRD DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, 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, May 17, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 668**), and 92 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Duke, Hicks, Manchin, Marcum, Phillips, Reynolds, Shott and Trecost.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Duke, Hicks, Manchin, Marcum, Phillips, Reynolds, Shott and Trecost.

At 11:16 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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Messages from the Senate

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. 1002 – “A Bill expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2016, in the amount of \$12,150,000 from the Joint Expenses, Tax Reduction and Federal Funding Increased Compliance (TRAFFIC), fund 0175, fiscal year 2009, organization 2300, appropriation 64200; in the amount of \$8,500,00 from the Attorney General, Consumer Protection Recovery Fund, fund 1509, fiscal year 2016, organization 1500; in the amount of \$2,500,000 from the Department of Health and Human Resources, West Virginia Health Care Authority – Health Care Costs Review Fund, fund 5375, fiscal year 2016, organization 0507; in the amount of \$29,000,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2016, organization 0701; in the amount of \$5,000,000 from the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2016, organization 0704; in the amount of \$4,631,089.49 from the Department of Revenue, Lottery Commission, Operating and Expenses Fund, fund 7200, fiscal year 2016, organization 0705; and in the amount of \$2,000,000 from the Public Service Commission, fund 8623, fiscal year 2016, organization 0926”; which was referred to the Committee on Finance.

At 5:11 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, May 19, 2016.

THURSDAY, MAY 19, 2016

FOURTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, 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, May 18, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 669**), and 89 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Caputo, Duke, Ellington, Hanshaw, Hornbuckle, Manchin, Marcum, Perry, Phillips, Shott and Trecost.

Bills Introduced

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

By Delegate Lane:

H. B. 104 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-23-30; to amend said code by adding thereto a new section, designated §29-22-31; to amend said code by adding thereto a new section, designated §29-22A-20; and to amend said code by adding thereto a new section, designated §29-22C-35, all relating to redirecting certain

racing and gaming revenues from greyhound development and racing funds to the State Road Fund”; to the Committee on Finance.

By Delegate Lane:

H. B. 105 –“A Bill to amend and reenact §29-22A-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-25-22 and §29-25-22b of said code, all relating to ending transfers to the Licensed Racetrack Modernization Fund; transferring funds remaining in the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund to the General Revenue Fund of the state during the fiscal year ending June 30, 2016; providing exceptions for recoupment of certain expenditures for eligible facility modernization improvements from the Licensed Racetrack Modernization Fund; and closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund”; to the Committee on Finance.

At 11:20 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:30 p.m.

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Evening Session

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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. 1005 – “A Bill to amend and reenact §11-17-3 and §11-17-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-17-4b, all relating to increasing the tax rate on cigarettes and other tobacco products; specifying where a portion of the tax revenue shall be dedicated; requiring a physical inventory of tax stamps, tobacco

products and e-cigarette liquids upon the effective date of tax imposition and upon any tax rate increase; applying tax rate changes to inventories; requiring a report of such inventory be filed sixty days after the effective date of the tax imposition or tax rate change; levying the excise tax on e-cigarette liquid; defining terms; providing for administration of the tax on e-cigarette liquid; specifying penalty for failure to file required reports; specifying criminal sanctions; and specifying effective date.”

Delegate Cowles asked and obtained unanimous consent to dispense with committee reference for the bill.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Caputo, Duke, Ellington, Hornbuckle, Manchin, Marcum, Perry, Phillips, Shott and Trecost.

Delegate Hanshaw was present at the evening session.

At 5:41 p.m., the House of Delegates adjourned until 11:00 a.m., Friday, May 20, 2016.

FRIDAY, MAY 20, 2016

FIFTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, 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, May 19, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 670**), and 83 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Campbell, Caputo, Duke, Ellington, A. Evans, Guthrie, Hicks, Hornbuckle, Ihle, Manchin, Perdue, Perry, Phillips, Reynolds, Shott, Stansbury and Trecost.

Delegates Guthrie and Reynolds were also present for part of the session.

Committee Reports

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

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 E. Nelson, Butler, Frich, Canterbury, Gearheart, Miller, O’Neal, Walters, Waxman and Westfall:

H. B. 106 – “A Bill to amend and reenact §29-22-18d of the Code of West Virginia, 1931, as amended, relating to the West Virginia Infrastructure Fund; reducing the distributions to the West Virginia Infrastructure Fund to \$20 million for fiscal year 2017.”

HOUSE CALENDAR

First Reading

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

Com. Sub. for S. B. 1005, Increasing tax rate on cigarettes and tobacco products.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Campbell, Caputo, Duke, Ellington, A. Evans, Hicks, Hornbuckle, Ihle, Manchin, Perdue, Perry, Phillips, Shott, Stansbury and Trecost.

Remarks by Members

Delegate Lane asked and obtained unanimous consent that the remarks of Delegates Butler, E. Nelson, Fast, Zatezalo, Householder, J. Nelson and Sobonya regarding the Committee on Finance be printed in the Appendix to the Journal.

Delegate Fleischauer asked and obtained unanimous consent that the remarks of Delegate Sponaugle regarding the extraordinary session and Delegate Morgan regarding the budget be printed in the Appendix to the Journal.

At 11:45 a.m., the House of Delegates adjourned until 11:00 a.m., Monday, May 23, 2016.

MONDAY, MAY 23, 2016

SIXTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, 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, May 20, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

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

Your Committee on Finance has had under consideration:

H. B. 105, Ending transfers to the Licensed Racetrack Modernization Fund, closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund, and transferring remaining funds to the General Revenue Fund,

And reports back a committee substitute therefore, with a new title, as follows:

Com. Sub. for H. B. 105 – “A Bill to amend and reenact §29-22A-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-25-22 and §29-25-22b of said code, all relating to ending transfers to the Licensed Racetrack Modernization Fund;

transferring funds remaining in the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund to the Revenue Shortfall Reserve Fund of the state during the fiscal year ending June 30, 2016; providing exceptions for recoupment of certain expenditures for eligible facility modernization improvements from the Licensed Racetrack Modernization Fund; closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund; and preserving operative effect of certain provisions,”

With the recommendation that the committee substitute do pass.

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

Your Committee on Finance has had under consideration:

S. B. 1002, Expiring funds from various accounts to appropriated balance in State Fund, General Revenue,

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

House Calendar

Second Reading

Com. Sub. for S. B. 1005, Increasing tax rate on cigarettes and tobacco products; on second reading, coming up in regular order, was read a second time.

Delegates Gearhart, Perry, Phillips, Storch and Waxman moved to amend the bill on page one, section three, line one, by striking out the words “and tobacco products other than cigarettes”.

On page one, section three, line five, by striking out the words “and tobacco products other than cigarettes”.

On page two, section three, lines sixteen through twenty, after the word “dealer”, by striking out the proviso.

On page three, section four, line eight, by striking out the words “other than cigarettes”.

On pages three through eight, by striking out all of section four-b.

And,

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §11-17-3 and §11-17-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows” and a colon.

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

The yeas and nays having been ordered, they were taken (**Roll No. 671**), and there were—yeas 28, nays 67, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Azinger, Blair, Butler, Ellington, Faircloth, Folk, Gearheart, Hill, Householder, Ihle, Kessinger, Kurcaba, Lane, Marcum, McGeehan, Moffatt, Moye, O’Neal, Perry, Phillips, Rodighiero, R. Smith, Sobonya, Stansbury, Storch, Upson, Waxman and Zatezalo.

Absent and Not Voting: Caputo, Duke, Kelly, J. Nelson and Trecost.

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

On motion of Delegate Faircloth, the bill was amended on page four, by striking out all of section four-b,

And,

By striking out the enacting section and inserting in lieu thereof a new enacting section, to read as follows:

“That §11-17-3 and §11-17-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows” and a colon.

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

The yeas and nays having been ordered, they were taken (**Roll No. 672**), and there were—yeas 52, nays 43, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Ambler, Atkinson, Bates, Blackwell, Boggs, Border, Cadle, Campbell, Canterbury, Cooper, Cowles, Deem, Espinosa, A. Evans, D. Evans, Fast, Flanigan, Fleischauer, Foster, Guthrie, Hamilton, Hanshaw, Ireland, McCuskey, Miller, Morgan, E. Nelson, Overington, Perdue, Rohrbach, Romine, Rowan, Shaffer, Shott, Skinner, P. Smith, R. Smith, Sponaugle, Wagner, Weld, Westfall, B. White and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Caputo, Duke, Kelly, J. Nelson and Trecost.

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

On motion of Delegate Faircloth the bill was amended on page two, subsection (c), line seventeen, following the word “cigarettes”, by adding the words “with the exception and not including electronic cigarettes or similar devices and vapor products”.

There being no further amendments, the bill was then ordered to third reading.

First Reading

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

H. B. 106, Reducing the distributions to the West Virginia Infrastructure Fund.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Caputo, Duke, Kelly, J. Nelson and Trecost.

At 12:33 p.m., the House of Delegates adjourned until 11:00 a.m., Tuesday, May 24, 2016.

TUESDAY, MAY 24, 2016

SEVENTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, 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, May 23, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Bills Introduced

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

By Delegate Lane:

H. B. 107 – “A Bill to amend and reenact §5A-3-50 of the Code of West Virginia, 1931, as amended, relating to a moratorium on state vehicle purchases”; to the Committee on Finance.

By Delegate Lane:

H. B. 108 – “A Bill to amend and reenact §5F-1-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §5F-2-1 of said code; to amend said code by adding thereto a new section, designated §5F-2-1a; to amend and reenact §10-5-2a of said code; and to amend and reenact §18-10A-1, §18-10A-2, §18-10A-2a, §18-10A-3, §18-10A-5 and §18-10A-12 of said code, all relating to the termination of the Department of Education and the Arts as an executive branch department; eliminating the Department of Education and the Arts as

a department under the executive branch of government; transferring the Library Commission and Division of Culture and History from the Department of Education and the Arts; transferring the Division of Rehabilitation Services to the Department of Commerce; removing the Educational Broadcasting Authority as a part of the Department of Education and the Arts; providing that the agencies and programs operating under the auspices of the Department as of June 30, 2016 shall continue independent of the Department of Education and the Arts; requiring the Governor to evaluate the agencies and programs of the Department of Education and the Arts and make a written report to the Joint Committee on Government and Finance; setting forth information to be provided, at a minimum in the written report; removing the Secretary of the Department of Education and the Arts as the contract agent on behalf of the state with institutions of higher education and the state Board of Education for the development or operation, or both, of state employee training programs transmitted by telecommunications technology; transferring the Division of Rehabilitation Services and its related divisions to the Department of Commerce; and defining terms”; to the Committee on Education then Finance.

By Delegate Lane:

H. B. 109 – “A Bill to amend and reenact §11-8-6f of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-4, §18-9A-5, §18-9A-7, §18-9A-10 and §18-9A-11 of said code, all relating to public school finance; eliminating authority of growth county boards of education to designate regular school board levy revenues due to new construction or improvements to a growth county school facilities act fund; adjusting the formula for foundation allowance for professional educators; adjusting the formula for foundation allowance for service personnel; adjusting and eliminating certain adjustments of the foundation allowance for transportation costs; adjusting the calculation for the foundation allowance to improve instructional programs; and eliminating certain restrictions in the computation of local share”; to the Committee on Education then Finance.

By Delegate Lane:

H. B. 110 – “A Bill to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to the cancellation of the Smarter Balanced Assessment and the Partnership for Assessment of Readiness for College and Careers (PARCC) as a statewide assessment programs; prohibiting the use of the Smarter Balanced Assessment or PARCC as a statewide assessment program; requiring the immediate withdrawal from any agreement, memorandum of understanding or contract to use the Smarter Balanced Assessment or PARCC; requiring that cancellation of any such agreement, memorandum of understanding or contract by June 30, 2016; and requiring the state board to withdraw as a governing state in the Smarter Balanced Assessment Consortium”; to the Committee on Education then Finance.

By Delegate Lane:

H. B. 111 – “A Bill to amend and reenact §17-1-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §17-30-1, §17-30-2, §17-30-3 and §17-30-4, all relating to the privatization of the Courtesy Patrol Program; eliminating authority of Department of Highways to collect revenues for the Courtesy Patrol Program; eliminating authority of Department of Highways to retain and expend moneys from the Courtesy Patrol Fund; setting forth legislative findings; defining terms; providing for the continuation of the courtesy patrol program under the Department of Highways; requiring the Department of Highways to provide the program through a contract with a private entity; requiring the contract to be based on competitive sealed bids conducted pursuant to the competitive procedures and process set forth in article three of chapter five-a; setting forth certain terms and conditions to be included in the contract; authorizing the use of advertising, logos and sponsorships by the private entity; authorizing contracts on regional or county basis and with multiple private entities; setting the duration term of the contract; authorizing renewals; transferring balance of Courtesy Patrol Fund to general revenue; and closing the Courtesy Patrol Fund special revenue account”; to the Committee on Finance.

By Delegate Lane:

H. B. 112 – “A Bill to repeal §18-9A-8a of the Code of West Virginia, 1931 as amended; to amend and reenact §5B-3-5 of said code; to amend and reenact §16-4C-6c of said code; to amend and reenact §18-2-5b, §18-2-26 and §18-2-26a of said code; to amend and reenact §18-2A-3 of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-3 and §18-2I-4 of said code; to amend and reenact §18-9D-3 of said code; to amend and reenact §18-9E-4 of said code; to amend and reenact §18A-3-1b of said code; to amend and reenact §18A-3A-1 of said code; to amend and reenact §30-21-2 of said code; and to amend and reenact §30-31-11 of said code, all relating to abolishing the regional educational service agencies (RESAs) generally, transferring all powers and duties of the same to the county boards of education; providing for the transfer and disposition of assets, property and records of the agencies; authorizing legislative and emergency rulemaking; amending provisions relating to the Joint Commission on Economic Development Studies, certification requirements for emergency medical technician-industrial, Medicaid eligible children and school health services advisory committees; amending provisions relating to meetings on shared services and functions; amending provisions relating to disposition of and requests for textbook samples; removing use of RESAs as an indicator of efficiency; removing requirement that the state board provide RESA with annual professional development master plan established by state board; removing requirement that state board promulgate legislative rules regarding processes for collaboration by RESAs; removing requirement that state board promulgate legislative rules regarding processes for collaboration by RESAs; removing power of School Building authority to contract for architectural, engineering or other professional services for RESAs; removing power of State Board to assign HVAC technicians to be employed by RESAs; removing RESA from section regarding formation of partnerships to provide an alternative program; removing reference to RESA in definitions relating to psychologists and school psychologists; and removing reference to RESAs in persons exempted from licensure as

licensed professional counselors”; to the Committee on Education then Finance.

By Delegate Lane:

H. B. 113 – “A Bill to repeal §18B-1B-2, §18B-1B-3, §18B-1B-5, §18B-1B-10 and §18B-1B-13 of the Code of West Virginia, 1931, as amended; to repeal §18B-2B-2, §18B-2B-3, §18B-2B-4, §18B-2B-5, §18B-2B-7 and §18B-2B-8 of said code; to amend and reenact §18B-1B-1 of said code; and to amend and reenact §18B-2B-1 and §18B-2B-6 of said code, all relating to abolishing the West Virginia Higher Education Policy Commission and the West Virginia Council for Community and Technical College Education; transferring all powers and duties of the commission relating to internal governance of institutions of higher education to the board of governors of the institutions; transferring all powers and duties of the commission to secure, provide, or administer financial support for educational or research purposes to the Secretary for the Department of Education and the Arts; providing for the transfer and disposition of assets, property and records of the commission; repealing certain obsolete and redundant powers and responsibilities of the commission; and authorizing legislative and emergency rule making; transferring all powers and duties of the council to the Secretary for the Department of Education and the Arts, including rule-making authority; repealing certain obsolete and redundant powers and responsibilities of the council; and providing for the transfer and disposition of assets, property and records of the council”; to the Committee on Education then Finance.

By Delegates Pushkin, Folk, McGeehan, Flanigan and Fluharty:

H. B. 114 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-28-1; to amend and reenact §60-3A-6 of said code; to amend and reenact §60A-2-204 of said code; to amend and reenact §60A-4-401 and §60A-4-402 and §60A-4-407 of said code; to amend said code by adding thereto two new sections, designated §60A-4-414 and

§60A-4-415, all relating to permitted use and possession of marihuana; decriminalizing and permitting personal use, growth and possession of certain amounts of marihuana by persons over the age of twenty-one; removing marihuana from the list of schedule I drugs; decriminalizing first offense distribution of under 30 grams of marihuana; continuing criminal penalties for sales and manufacture of marihuana; establishing new criminal penalties associated with possession of marihuana; providing that the tax department issue tax stamps for certain residents to lawfully possess up to two ounces of marihuana; providing that the Tax Commissioner promulgate rules; authorizing persons holding retail liquor licenses to sell tax stamps; establishing cost of and allocation for tax stamp proceeds; allowing for tax penalties for failure to pay for tax stamp; providing conditions for creation and distribution of stamp; and providing for a medical exemption to criminal laws against marihuana use or possession”; to the Committee on Health and Human Resources then the Judiciary then Finance.

By Delegates Folk, McGeehan, Ihle, Moffatt and Faircloth:

H. B. 115 – “A Bill to amend and reenact §11-21-12 of the Code of West Virginia, 1931, as amended, relating to exempting the first \$20,000 of income from adjusted gross income for the purpose of determining personal income tax liability”; to the Committee on Finance.

House Calendar

Third Reading

Com. Sub. for S. B. 1005, Increasing tax rate on cigarettes and tobacco products; on third reading, coming up in regular order, was read a third time.

In response to points of order raised during debate on Com. Sub. for S. B. 1005, the Speaker responded that he was granting some leeway but reminded Members to confine their remarks to the subject of the bill.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 673**), and there were, including 2 paired--yeas 44, nays 55, absent and not voting 1, with the paired, yeas, absent and not voting being as follows:

Pursuant to House Rule 43, the following pairing was filed and announced by the Clerk:

Paired:

Yea: Border Nay: Householder

Yeas: Ambler, Anderson, Arvon, Atkinson, Blair, Cadle, Canterbury, Cooper, Cowles, Deem, Ellington, Espinosa, A. Evans, D. Evans, Fast, Flanigan, Foster, Frich, Hamilton, Hamrick, Hanshaw, Howell, Ireland, Kelly, Kurcaba, McCuskey, Miller, E. Nelson, Rohrbach, Romine, Rowan, Shott, Statler, Storch, Summers, Trecost, Wagner, Walters, Waxman, Weld, Westfall, Zatezalo and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Duke.

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 1005) rejected.

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

Second Reading

H. B. 106, Reducing the distributions to the West Virginia Infrastructure Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

S. B. 1002, Expiring funds from various accounts to unappropriated balance in State Fund, General Revenue,

And,

Com. Sub. for H. B. 105, Ending transfers to the Licensed Racetrack Modernization Fund, closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund, and transferring remaining funds to the General Revenue Fund.

At the request of Delegate Cowles 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 Nelson, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

H. B. 101, 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 therefore, with the same title, as follows:

Com. Sub. for H. B. 101 – “A Bill making appropriations of public money out of the treasury in accordance with section fifty-one, article VI of the Constitution,”

With the recommendation that the committee substitute do pass.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Border and Duke.

At 2:30 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, May 25, 2016.

WEDNESDAY, MAY 25, 2016

EIGHTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, 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, May 24, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 674**), and 92 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Bates, Ellington, Kurcaba, Marcum, Perdue, Reynolds, Storch and Trecost.

Delegates Perdue and Reynolds were also present for part of the session.

House Calendar

Third Reading

H. B. 106, Reducing the distributions to the West Virginia Infrastructure Fund; on third reading, coming up in regular order, was, on motion of Delegate Cowles, postponed one day.

Second Reading

S. B. 1002, Expiring funds from various accounts to unappropriated balance in State Fund, General Revenue; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for H. B. 105, Ending transfers to the Licensed Racetrack Modernization Fund, closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund, and transferring remaining funds to the General Revenue Fund; 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 H. B. 101, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution; on first reading, coming up in regular order, was read a first time and ordered to second reading.

Delegate Rowe inquired whether Com. Sub. for H. B. 105 was within the scope of the Governor's Proclamation for the Extraordinary Session. The Speaker replied and indicated that if a point of order is made on Third Reading, he plans to put the question to a vote as has been a prior practice of the House.

Remarks by Members

Unanimous consent was requested and obtained to print in the Appendix to the Journal the remarks made by Delegates Morgan, Frich, Shaffer, Blackwell, Ireland and Summers during this Order of Business.

At 12:04 p.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:30 p.m.

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Evening Session

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Delegate Cowles addressed the House regarding the anticipated schedule for the next few days.

Delegate Bates was present in the evening session.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Ellington, Kurcaba, Marcum, Storch and Trecost.

Miscellaneous Business

Delegate Folk filed forms with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 110 and H. B. 113.

At 5:43 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, May 26, 2016.

THURSDAY, MAY 26, 2016

NINTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 11:00 a.m., and was called to order by the Honorable Tim Armstead, 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, May 25, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

House Calendar

Third Reading

S. B. 1002, Expiring funds from various accounts to unappropriated balance in State Fund, General Revenue; on third reading, coming up in regular order, with amendments pending and the general right to amend, was reported by the Clerk

An amendment, recommended by the Committee on Finance, was reported by the Clerk and adopted, amending the bill on page one, line sixteen, by striking out the remainder of the bill and inserting in lieu thereof the following:

“Whereas, The Governor submitted to the Legislature the Executive Budget document, dated January 13, 2016, which included a Statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2015, and further included the estimate of revenues for the fiscal year 2016, less net appropriation balances forwarded and regular appropriations for the fiscal year 2016; and

Whereas, Current economic and fiscal trends are anticipated to result in projected year-end revenue deficits, including potential significant shortfalls in Severance Tax, and shortfalls in Personal Income Tax and Consumers Sales and Use Tax; and

Whereas, Unappropriated balances and projected year-end revenue surpluses in various other General Revenue sources will only offset a small portion of these deficits; and

Whereas, The total projected year-end revenue deficit for the General Revenue Fund prior to any budget or revenue adjustments was estimated at \$464.5 million; and

Whereas, On October 22, 2015, the Governor issued Executive Order 7-15 which directed a spending reduction for General Revenue appropriations for fiscal year 2016 totaling \$93,379,526; and

Whereas, The Legislature agreed to take voluntary action to effect a four percent spending reduction of its General Revenue appropriation for fiscal year 2016 totaling \$938,067; and

Whereas, The Governor recommended and the Legislature passed SB 342, that reduced General Revenue appropriations to the Department of Health and Human Resources and the Bureau of Senior Services by \$53,900,000; and

Whereas, During the 2016 regular session the Legislature passed HB 4155, which expired \$22,989,375 to the Medical Services Trust Fund from various special revenue balances; and

Whereas, The Secretary of the Department of Revenue has submitted a monthly General Revenue Fund Collections Report for the first ten months of fiscal year 2016 as prepared by the State Budget Office; and

Whereas, This report, which includes approximately \$110 million of additional revenue collected due to previous legislative actions in SB 364 and SB 419 during the 2016 regular session, demonstrates that

the State of West Virginia has experienced a revenue shortfall of approximately \$218.7 million for the first ten months of fiscal year 2016, as compared to the monthly revenue estimates for the first ten months of the fiscal year 2016; and

Whereas, An additional \$63 million is anticipated to be collected in May and June due to legislative action in SB 419; and

Whereas, There still remains an estimated deficit of \$111 million that must be addressed; and

Whereas, The Governor intends to issue an additional Executive Order to reduce spending from General Revenue appropriation for the Department of Health and Human Resources for fiscal year 2016 totaling up to \$45,797,000; and

Whereas, The Revenue Shortfall Reserve Fund may be drawn on in the event of a revenue shortfall in lieu of imposing additional reductions in appropriations; and

Whereas, The Legislature finds that the account balances in the Governor's Office, Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 61400; in the Governor's Office, Civil Contingent Fund – Total – Surplus, fund 0105, fiscal year 2005, organization 0100, appropriation 23800; in the Governor's Office, Civil Contingent Fund, fund 0105, fiscal year 2006, organization 0100, appropriation 61400; in the Joint Expenses, Tax Reduction and Federal Funding Increased Compliance (TRAFFIC), fund 0175, fiscal year 2009, organization 2300, appropriation 64200; in the Treasurer's Office, Personal Income Tax Reserve Fund, fund 1313, fiscal year 2016, organization 1300; in the Attorney General, Consumer Protection Recovery Fund, fund 1509, fiscal year 2016, organization 1500; in the Department of Health and Human Resources, West Virginia Health Care Authority – Health Care Costs Review Fund, fund 5375, fiscal year 2016, organization 0507; in the Department of Revenue, Office of the Secretary - Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2016, organization 0701; in the Department of

Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2016, organization 0704; in the Department of Revenue, Lottery Commission, Operating and Expenses Fund, fund 7200, fiscal year 2016, organization 0705; and in the Public Service Commission, fund 8623, fiscal year 2016, organization 0926, exceed that which is necessary for the purposes for which the accounts were established; therefore

Be it enacted by the Legislature of West Virginia:

That the balance of the funds available for expenditure in the fiscal year ending June 30, 2016, in the Governor's Office, Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 61400, be decreased by expiring the amount of \$1,000,000; in the Governor's Office, Civil Contingent Fund – Total – Surplus, fund 0105, fiscal year 2005, organization 0100, appropriation 23800, be decreased by expiring the amount of \$1,000,000; in the Governor's Office, Civil Contingent Fund, fund 0105, fiscal year 2006, organization 0100, appropriation 61400, be decreased by expiring the amount of \$1,000,000; Joint Expenses, Tax Reduction and Federal Funding Increased Compliance (TRAFFIC), fund 0175, fiscal year 2009, organization 2300, appropriation 64200, be decreased by expiring the amount of \$3,150,000; in the Treasurer's Office, Personal Income Tax Reserve Fund, fund 1313, fiscal year 2016, organization 1300, be decreased by expiring the amount of \$3,000,000; in the Attorney General, Consumer Protection Recovery Fund, fund 1509, fiscal year 2016, organization 1500, be decreased by expiring the amount of \$8,500,000; in the Department of Health and Human Resources, West Virginia Health Care Authority – Health Care Costs Review Fund, fund 5375, fiscal year 2016, organization 0507, be decreased by expiring the amount of \$2,500,000; in the Department of Revenue, Office of the Secretary - Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2016, organization 0701, be decreased by expiring the amount of \$32,000,000; in the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2016, organization 0704, be decreased by expiring the

amount of \$5,000,000; in the Department of Revenue, Lottery Commission, Operating and Expenses Fund, fund 7200, fiscal year 2016, organization 0705, be decreased by expiring the amount of \$4,631,089.49; and in the Public Service Commission, fund 8623, fiscal year 2016, organization 0926, be decreased by expiring the amount of \$2,000,000, all to the unappropriated balance of the State Fund, General Revenue, to be available during the fiscal year ending June 30, 2016.”

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. 675**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Folk.

Absent and Not Voting: Cowles, A. Evans, Hicks, Reynolds and Trecoast.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 1002) 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. 1002 – “A Bill expiring funds to the unappropriated balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2016, in the amount of \$1,000,000 from the Governor’s Office, Civil Contingent Fund, fund 0105, fiscal year 2004, organization 0100, appropriation 61400; in the amount of \$1,000,000 from the Governor’s Office, Civil Contingent Fund – Total – Surplus, fund 0105, fiscal year 2005, organization 0100, appropriation 23800; in the amount of \$1,000,000 from the Governor’s Office, Civil Contingent Fund, fund 0105, fiscal year 2006, organization 0100, appropriation 61400;

\$3,150,000 from the Joint Expenses, Tax Reduction and Federal Funding Increased Compliance (TRAFFIC), fund 0175, fiscal year 2009, organization 2300, appropriation 64200; in the amount of \$3,000,000 from the Treasurer's Office, Personal Income Tax Reserve Fund, fund 1313, fiscal year 2016, organization 1300; in the amount of \$8,500,000 from the Attorney General, Consumer Protection Recovery Fund, fund 1509, fiscal year 2016, organization 1500; in the amount of \$2,500,000 from the Department of Health and Human Resources, West Virginia Health Care Authority – Health Care Costs Review Fund, fund 5375, fiscal year 2016, organization 0507; in the amount of \$32,000,000 from the Department of Revenue, Office of the Secretary – Revenue Shortfall Reserve Fund, fund 7005, fiscal year 2016, organization 0701; in the amount of \$5,000,000 from the Department of Revenue, Insurance Commissioner – Insurance Commission Fund, fund 7152, fiscal year 2016, organization 0704; in the amount of \$4,631,089.49 from the Department of Revenue, Lottery Commission, Operating and Expenses Fund, fund 7200, fiscal year 2016, organization 0705; and in the amount of \$2,000,000 from the Public Service Commission, fund 8623, fiscal year 2016, organization 0926.”

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

On this question, the yeas and nays were taken (**Roll No. 676**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Folk.

Absent and Not Voting: Cowles, A. Evans, Hicks, Reynolds and Trecoast.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 1002) 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. 105, Ending transfers to the Licensed Racetrack Modernization Fund, closing the Licensed Racetrack Modernization Fund and the Historic Resort Hotel Modernization Fund, and transferring remaining funds to the General Revenue Fund; on third reading, coming up in regular order, was read a third time.

Delegate Skinner arose to a point of order that the bill was outside the purview of the Proclamation of the Governor for this Extraordinary Session and asked for clarification regarding the Speaker's statement yesterday that such a point of order would be put to a vote of the House.

The Speaker replied that voting on points of order regarding bills or amendments being within the scope of the Governor's Proclamation for an Extraordinary Session was in accordance with past practice and procedures of the House.

After lengthy discussion on the point of order, the Speaker propounded the question, "Shall the point of order be sustained?"

On this question, the yeas and nays were taken (**Roll No. 677**), and there were—yeas 28, nays 66, absent and not voting 6, with the yeas, nays and absent and not voting being as follows:

Yeas: Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Longstreth, Lynch, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethel, Rowe, Shaffer, Skinner, Sponaugle and P. White.

Nays: Ambler, Anderson, Arvon, Atkinson, Azinger, Bates, Blair, Border, Butler, Cadle, Canterbury, Cooper, Deem, Duke, Ellington, Espinosa, D. Evans, Faircloth, Fast, Flanigan, Folk, Foster, Frich, Gearheart, Hamilton, Hamrick, Hanshaw, Hill Hornbuckle, Householder, Howell, Ihle, Ireland, Kelly, Kessinger, Kurcaba, Lane, McCuskey, Miller, Moffatt, E. Nelson, J. Nelson, O'Neal, Overington, Phillips, Pushkin, Rodighiero, Rohrbach, Romine, Rowan, Shott, P. Smith, R. Smith, Sobonya, Stansbury, Statler, Storch, Summers,

Upson, Wagner, Walters, Eaxman, Weld, Westfall, B. White and Mr. Speaker (Mr. Armstead).

Absent and Not Voting: Cowles, A. Evans, Hicks, Reynolds, Trecost and Zatezalo.

So, a majority of the members present and voting not having voted in the affirmative, the point of order was not sustained.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 678**), and there were—yeas 64, nays 31, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Blackwell, Blair, Byrd, Caputo, Espinosa, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Hornbuckle, Ihle, Longstreth, Manchin, Marcum, McGeehan, Miley, Moore, Morgan, Perdue, Perry, Pethtel, Pushkin, Rowe, Skinner, Sponaule, Storch, Upson, Weld, P. White and Zatezalo.

Absent and Not Voting: Cowles, A. Evans, Hicks, Reynolds and Trecost.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 105) passed.

Delegate Miller moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 679**), and there were—yeas 71, nays 24, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Byrd, Caputo, Ferro, Fleischauer, Fluharty, Guthrie, Hornbuckle, Ihle, Longstreth, Manchin, Marcum, McGeehan, Miley, Moore, Pethtel, Pushkin, Rowe, Skinner, Sponaule, Storch, Upson, Weld, P. White and Zatezalo.

Absent and Not Voting: Cowles, A. Evans, Hicks, Reynolds and Trecost.

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. 105) takes effect July 1, 2016.

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

H. B. 106, Reducing the distributions to the West Virginia Infrastructure Fund; on third reading, coming up in regular order was reported by the Clerk.

Delegate E. Nelson asked and obtained unanimous consent that the bill be recommitted to the Committee on Finance.

Delegate Zatezalo arose to announce that he voted “Nay” on Roll No. 677 but his vote did not register.

Delegate Miller moved that the House recess until 3:00 p.m.

Whereupon,

Delegate Miller then asked and obtained unanimous consent to withdraw her motion.

At 1:12 p.m., on motion of Delegate Miller, the House of Delegates recessed until 5:00 p.m.

* * * * *

Evening Session

* * * * *

Second Reading

Com. Sub. for H. B. 101, 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.

An amendment to the bill, offered by Delegate E. Nelson, 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:

TITLE I — GENERAL PROVISIONS.

1 **Section 1. General policy.** — The purpose of this bill is to
2 appropriate money necessary for the economical and efficient
3 discharge of the duties and responsibilities of the state and its
4 agencies during the fiscal year 2017.

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

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

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

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

9 The “fiscal year 2017” shall mean the period from July 1,
10 2016, through June 30, 2017.

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

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

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

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

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

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

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

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

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

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

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

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

57 monthly for all such amounts. Such expenditures shall be
58 considered a current expense.

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

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

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

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

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

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

78 Appropriations classified in any of the above categories shall
79 be expended only for the purposes as defined above and only for
80 the spending units herein designated: *Provided*, That the
81 secretary of each department shall have the authority to transfer
82 within the department those general revenue funds appropriated
83 to the various agencies of the department: *Provided, however*,
84 That no more than five percent of the general revenue funds
85 appropriated to any one agency or board may be transferred to
86 other agencies or boards within the department: and no funds

87 may be transferred to a “personal services and employee
88 benefits” appropriation unless the source funds are also wholly
89 from a “personal services and employee benefits” line, or unless
90 the source funds are from another appropriation that has
91 exclusively funded employment expenses for at least twelve
92 consecutive months prior to the time of transfer and the
93 position(s) supported by the transferred funds are also
94 permanently transferred to the receiving agency or board within
95 the department: *Provided further*, That the secretary of each
96 department and the director, commissioner, executive secretary,
97 superintendent, chairman or any other agency head not governed
98 by a departmental secretary as established by Chapter 5F of the
99 Code shall have the authority to transfer funds appropriated to
100 “personal services and employee benefits,” “current expenses,”
101 “repairs and alterations,” “equipment,” “other assets,” “land,”
102 and “buildings” to other appropriations within the same account
103 and no funds from other appropriations shall be transferred to the
104 “personal services and employee benefits” or the “unclassified”
105 appropriation: *And provided further*, That no authority exists
106 hereunder to transfer funds into appropriations to which no funds
107 are legislatively appropriated: *And provided further*, That if the
108 Legislature by subsequent enactment consolidates agencies,
109 boards or functions, the secretary or other appropriate agency
110 head may transfer the funds formerly appropriated to such
111 agency, board or function in order to implement such
112 consolidation. No funds may be transferred from a Special
113 Revenue Account, dedicated account, capital expenditure
114 account or any other account or fund specifically exempted by
115 the Legislature from transfer, except that the use of the
116 appropriations from the State Road Fund for the office of the
117 Secretary of the Department of Transportation is not a use other
118 than the purpose for which such funds were dedicated and is
119 permitted.

120 Appropriations otherwise classified shall be expended only
121 where the distribution of expenditures for different purposes

122 cannot well be determined in advance or it is necessary or
123 desirable to permit the spending unit the freedom to spend an
124 appropriation for more than one of the above classifications.

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

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

TITLE II — APPROPRIATIONS.

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. Appropriations from revenues available pursuant to executive order.
- SECTION 14. State improvement fund appropriations.
- SECTION 15. Specific funds and collection accounts.
- SECTION 16. Appropriations for refunding erroneous payment.
- SECTION 17. Sinking fund deficiencies.
- SECTION 18. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 20. General school fund.

1 **Section 1. Appropriations from general revenue.** — From
 2 the State Fund, General Revenue, there are hereby appropriated
 3 conditionally upon the fulfillment of the provisions set forth in
 4 Article 2, Chapter 11B the following amounts, as itemized, for
 5 expenditure during the fiscal year 2017.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2017 Org 2100

			General Revenue Fund
	Appro- priation	\$	
1	Compensation of Members (R). . . . 00300		0

2	Compensation and Per Diem of	
3	Officers and Employees (R).. . . 00500	0
4	Employee Benefits (R).. 01000	0
5	Current Expenses and	
6	Contingent Fund (R).. 02100	100
7	Repairs and Alterations (R).. 06400	100
8	Unclassified (R).. 09900	951,606
9	Computer Supplies (R).. 10100	100
10	Computer Systems (R).. 10200	100
11	Printing Blue Book (R).. 10300	100
12	Expenses of Members (R).. 39900	100
13	BRIM Premium (R).. 91300	0
14	Total..	\$ 952,206

15 The appropriations for the Senate for the fiscal year 2016 are
16 to remain in full force and effect and are hereby reappropriated
17 to June 30, 2017, with the exception of fund 0165, fiscal year
18 2016, appropriation 39900 (\$238,088) which shall expire on
19 June 30, 2016. Any balances so reappropriated may be
20 transferred and credited to the fiscal year 2016 accounts.

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

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

35 The Clerk of the Senate, with the approval of the President,
36 or the President of the Senate shall have authority to employ
37 such staff personnel during any session of the Legislature as
38 shall be needed in addition to staff personnel authorized by the
39 Senate resolution adopted during any such session. The Clerk of
40 the Senate, with the approval of the President, or the President
41 of the Senate shall have authority to employ such staff personnel
42 between sessions of the Legislature as shall be needed, the
43 compensation of all staff personnel during and between sessions
44 of the Legislature, notwithstanding any such Senate resolution,
45 to be fixed by the President of the Senate. The Clerk is hereby
46 authorized to draw his or her requisitions upon the Auditor for
47 the payment of all such staff personnel for such services, payable
48 out of the appropriation for Compensation and Per Diem of
49 Officers and Employees or Current Expenses and Contingent
50 Fund of the Senate.

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

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

62 Included in the above appropriation for Senate (fund 0165,
63 appropriation 09900), an amount not less than \$5,000 is to be
64 used for the West Virginia Academy of Family Physicians - Doc
65 of the Day Program.

2 - House of Delegates

Fund 0170 FY 2017 Org 2200

1	Compensation of Members (R).	00300	\$	3,000,000
2	Compensation and Per Diem of			
3	Officers and Employees (R).	00500		575,000
4	Current Expenses and			
5	Contingent Fund (R).	02100		1,929,031
6	Expenses of Members (R).	39900		1,350,000
7	BRIM Premium (R).	91300		50,000
8	Total.		\$	6,904,031

9 The appropriations for the House of Delegates for the fiscal
10 year 2016 are to remain in full force and effect and are hereby
11 reappropriated to June 30, 2017, with the exception of fund
12 0170, fiscal year 2016, appropriation 00300 (\$175,000), fund
13 0170, fiscal year 2016, appropriation 00500 (\$71,161), and fund
14 0170, fiscal year 2016, appropriation 59900 (\$110,000) which
15 shall expire on June 30, 2016. Any balances so reappropriated
16 may be transferred and credited to the fiscal year 2016 accounts.

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

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

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

44 For duties imposed by law and by the House of Delegates,
 45 including salary allowed by law as keeper of the rolls, the Clerk
 46 of the House of Delegates shall be paid a monthly salary as
 47 provided in the House resolution, unless increased between
 48 sessions under the authority of the Speaker, with the approval of
 49 the House committee on rules, and payable out of the
 50 appropriation for Compensation and Per Diem of Officers and
 51 Employees or Current Expenses and Contingent Fund of the
 52 House of Delegates.

53 Included in the above appropriation for House of Delegates
 54 (fund 0170, appropriation 02100), an amount not less than
 55 \$5,000 is to be used for the West Virginia Academy of Family
 56 Physicians - Doc of the Day Program.

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2017 Org 2300

1	Joint Committee on Government and		
2	Finance (R).	10400	\$ 5,758,015

2016]	HOUSE OF DELEGATES	3793
3	Legislative Printing (R)..... 10500	760,000
4	Legislative Rule-Making	
5	Review Committee (R) 10600	147,250
6	Legislative Computer System (R).. 10700	902,500
7	BRIM Premium (R)..... 91300	<u>27,692</u>
8	Total.....	\$ 7,595,457

9 The appropriations for the joint expenses for the fiscal year
10 2016 are to remain in full force and effect and are hereby
11 reappropriated to June 30, 2017, with the exception of fund
12 0175, fiscal year 2016, appropriation 10400 (\$343,818) and fund
13 0175, fiscal year 2009, appropriation 64200 (\$9,000,000) which
14 shall expire on June 30, 2016. Any balances reappropriated may
15 be transferred and credited to the fiscal year 2016 accounts.

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

23 The appropriation for the Tax Reduction and Federal
24 Funding Increased Compliance (TRAFFIC) (fund 0175,
25 appropriation 64200) is intended for possible general state tax
26 reductions or the offsetting of any reductions in federal funding
27 for state programs.

JUDICIAL

*4 - Supreme Court –
General Judicial*

Fund 0180 FY 2017 Org 2400

1	Personal Services and Employee	
2	Benefits (R)..... 00100	\$ 101,924,358

3	Children’s Protection Act (R).	09000	2,900,000
4	Current Expenses (R).	13000	32,498,862
5	Repairs and Alterations (R).	06400	736,450
6	Equipment (R).	07000	1,800,000
7	Judges’ Retirement System (R).	11000	900,000
8	Buildings (R).	25800	100,000
9	Other Assets (R).	69000	500,000
10	BRIM Premium (R).	91300	<u>400,000</u>
11	Total.		\$ 141,759,670

12 The appropriations to the Supreme Court of Appeals for the
 13 fiscal years 2015 and 2016 are to remain in full force and effect
 14 and are hereby reappropriated to June 30, 2017. Any balances so
 15 reappropriated may be transferred and credited to the fiscal year
 16 2016 accounts.

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

22 The appropriation for the Judges’ Retirement System (fund
 23 0180, appropriation 11000) is to be transferred to the
 24 Consolidated Public Retirement Board, in accordance with the
 25 law relating thereto, upon requisition of the Administrative
 26 Director of the Supreme Court of Appeals.

EXECUTIVE

5 - Governor’s Office

(WV Code Chapter 5)

Fund 0101 FY 2017 Org 0100

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0

2016]	HOUSE OF DELEGATES	3795
3	Current Expenses (R)..... 13000	0
4	Repairs and Alterations. 06400	0
5	Unclassified. 09900	3,973,304
6	National Governors Association. . . 12300	0
7	Herbert Henderson Office of	
8	Minority Affairs. 13400	153,591
9	Southern Governors' Association. . 31400	0
10	BRIM Premium. 91300	0
11	Total.....	\$ 4,126,895

12 Any unexpended balances remaining in the appropriations
13 for Unclassified (fund 0101, appropriation 09900), Current
14 Expenses (fund 0101, appropriation 13000), and JOBS Fund
15 (fund 0101, appropriation 66500) at the close of the fiscal year
16 2016 are hereby reappropriated for expenditure during the fiscal
17 year 2017, with the exception of fund 0101, fiscal year 2016,
18 appropriation 13000 (\$115,266) which shall expire on June 30,
19 2016.

20 Included in the above appropriation to Unclassified (fund
21 0101, appropriation 09900), is \$150,000 for the Salary of the
22 Governor.

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

*6 - Governor's Office –
Custodial Fund*

(WV Code Chapter 5)

Fund 0102 FY 2017 Org 0100

1	Personal Services and		
2	Employee Benefits. 00100	\$	0
3	Unclassified. 09900		561,422

4	Current Expenses (R).....	13000		0
5	Repairs and Alterations.....	06400		0
6	Total.....		\$	561,422

7 Any unexpended balance remaining in the appropriation for
 8 Current Expenses (fund 0102, appropriation 13000) at the close
 9 of the fiscal year 2016 is hereby reappropriated for expenditure
 10 during the fiscal year 2017.

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

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

(WV Code Chapter 5)

Fund 0105 FY 2017 Org 0100

1 Any unexpended balances remaining in the appropriations
 2 for Business and Economic Development Stimulus – Surplus
 3 (fund 0105, appropriation 08400), Civil Contingent Fund – Total
 4 (fund 0105, appropriation 11400), 2012 Natural Disasters –
 5 Surplus (fund 0105, appropriation 13500), Civil Contingent
 6 Fund – Total – Surplus (fund 0105, appropriation 23800), Civil
 7 Contingent Fund – Surplus (fund 0105, appropriation 26300),
 8 Business and Economic Development Stimulus (fund 0105,
 9 appropriation 58600), Civil Contingent Fund (fund 0105,
 10 appropriation 61400), and Natural Disasters – Surplus (fund
 11 0105, appropriation 76400) at the close of the fiscal year 2016
 12 are hereby reappropriated for expenditure during the fiscal year
 13 2017.

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

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

*8 - Auditor’s Office –
 General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified (R)	09900	2,759,889
4	Current Expenses (R)..	13000	0
5	BRIM Premium.	91300	0
6	Volunteer Fire Department Workers’		
7	Compensation Subsidy.	83200	<u>2,000,000</u>
8	Total.. . . .		\$ 4,759,889

9 Any unexpended balance remaining in the appropriation for
 10 Current Expenses (fund 0116, appropriation 13000) at the close
 11 of the fiscal year 2016 is hereby reappropriated for expenditure
 12 during the fiscal year 2017.

13 Included in the above appropriation to Unclassified (fund
 14 0116, appropriation 09900), is \$95,000 for the Salary of the
 15 Auditor.

16 The above appropriation to Volunteer Fire Department
 17 Workers’ Compensation Subsidy, appropriation 83200, is to be
 18 expended by the State Auditor for the purpose of administering
 19 a Volunteer Fire Department Workers’ Compensation Subsidy
 20 Program in the same manner as the Volunteer Fire Department
 21 Workers’ Compensation Subsidy Program was administered by
 22 the State Auditor prior to July 1, 2016, as prescribed in West
 23 Virginia Code § 12-4-14a.

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2017 Org 1300

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 0
3	Unclassified.....	09900	3,110,341
4	Current Expenses (R).....	13000	0
5	Abandoned Property Program.....	11800	0
6	Other Assets.....	69000	0
7	BRIM Premium.....	91300	0
8	Total.....		\$ 3,110,341

9 Any unexpended balances remaining in the appropriations
10 for Current Expenses (fund 0126, appropriation 13000) and
11 Tuition Trust Fund (fund 0126, appropriation 69200) at the close
12 of the fiscal year 2016 are hereby reappropriated for expenditure
13 during the fiscal year 2017, with the exception of fund 0126,
14 fiscal year 2016, appropriation 13000 (\$11,476) and fund 0126,
15 fiscal year 2016, appropriation 69200 (\$73,207) which shall
16 expire on June 30, 2016.

17 Included in the above appropriation to Unclassified (fund
18 0126, appropriation 09900), is \$95,000 for the Salary of the
19 Treasurer.

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 5,249,045
3	Animal Identification Program. . .	03900	124,636
4	State Farm Museum.....	05500	89,550

5	Current Expenses (R).....	13000	154,498
6	Repairs and Alterations.....	06400	8,133
7	Gypsy Moth Program (R).....	11900	942,939
8	Huntington Farmers Market.....	12800	37,900
9	Black Fly Control.....	13700	460,031
10	Donated Foods Program.....	36300	45,000
11	Predator Control (R).....	47000	180,000
12	Logan Farmers Market.....	50100	42,119
13	Bee Research.....	69100	67,237
14	Charleston Farmers Market.....	74600	72,887
15	Microbiology Program (R).....	78500	99,443
16	Moorefield Agriculture Center (R).....	78600	930,931
17	Chesapeake Bay Watershed.....	83000	104,796
18	Livestock Care Standards Board.....	84300	9,000
19	BRIM Premium.....	91300	120,202
20	Threat Preparedness.....	94200	70,943
21	WV Food Banks.....	96900	126,000
22	Senior's Farmers' Market Nutrition		
23	Coupon Program.....	97000	<u>55,923</u>
24	Total.....		\$ 8,991,213

25 Any unexpended balances remaining in the appropriations
26 for Unclassified – Surplus (fund 0131, appropriation 09700),
27 Gypsy Moth Program (fund 0131, appropriation 11900), Current
28 Expenses (fund 0131, appropriation 13000), Predator Control
29 (fund 0131, appropriation 47000), Capital Outlay, Repairs and
30 Equipment – Surplus (fund 0131, appropriation 67700), Capital
31 Outlay and Maintenance (fund 0131, appropriation 75500),
32 Microbiology Program (fund 0131, appropriation 78500),
33 Moorefield Agriculture Center (fund 0131, appropriation 78600),
34 and Agricultural Disaster and Mitigation Needs – Surplus (fund
35 0131, appropriation 85000) at the close of the fiscal year 2016
36 are hereby reappropriated for expenditure during the fiscal year
37 2017, with the exception of fund 0131, fiscal year 2016,
38 appropriation 11900 (\$101,180), fund 0131, fiscal year 2016,
39 appropriation 13000 (\$93,162), fund 0131, fiscal year 2016,

40 appropriation 78500 (\$4,604), and fund 0131, fiscal year 2016,
41 appropriation 78600 (\$43,099) which shall expire on June 30,
42 2016.

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

46 The above appropriation for Predator Control (fund 0131,
47 appropriation 47000) \$180,000 is to be made available to the
48 United States Department of Agriculture, Wildlife Services to
49 administer the Predator Control Program.

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

53 From the above appropriation for WV Food Banks (fund
54 0131, appropriation 96900), \$20,000 is for House of Hope and
55 the remainder of the appropriation shall be allocated to the
56 Huntington Food Bank and the Mountaineer Food Bank in
57 Braxton County.

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified (R).	09900	7,231,886
4	Current Expenses (R).	13000	0
5	Repairs and Alterations.	06400	0
6	Soil Conservation Projects (R). . .	12000	0
7	BRIM Premium.	91300	0
8	Total.		\$ 7,231,886

9 Any unexpended balances remaining in the appropriations
 10 for Unclassified (fund 0132, appropriation 09900), Soil
 11 Conservation Projects (fund 0132, appropriation 12000), and
 12 Current Expenses (fund 0132, appropriation 13000) at the close
 13 of the fiscal year 2016 are hereby reappropriated for expenditure
 14 during the fiscal year 2017, with the exception of fund 0132,
 15 fiscal year 2016, appropriation 12000 (\$313,452) which shall
 16 expire on June 30, 2016.

*12 - Department of Agriculture –
 Meat Inspection Fund*

(WV Code Chapter 19)

Fund 0135 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	655,015
4	Current Expenses.	13000	<u>0</u>
5	Total.		\$ 655,015

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

*13 - Department of Agriculture –
 Agricultural Awards Fund*

(WV Code Chapter 19)

Fund 0136 FY 2017 Org 1400

1	Unclassified.	09900	\$ 48,825
2	Programs and Awards for		
3	4-H Clubs and FFA/FHA.	57700	0
4	Commissioner’s Awards and		
5	Programs.	73700	<u>0</u>
6	Total.		\$ 48,825

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

(WV Code Chapter 8A)

Fund 0607 FY 2017 Org 1400

1	Personal Services and		
2	Employee Benefits. 00100	\$	0
3	Unclassified. 09900		88,652
4	Total..	\$	88,652

15 - Attorney General

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

Fund 0150 FY 2017 Org 1500

1	Personal Services and		
2	Employee Benefits (R). 00100	\$	0
3	Unclassified (R). 09900		4,478,728
4	Current Expenses (R). 13000		0
5	Repairs and Alterations. 06400		0
6	Equipment. 07000		0
7	Criminal Convictions and		
8	Habeas Corpus Appeals (R). . . 26000		0
9	Better Government Bureau. 74000		0
10	BRIM Premium. 91300		0
11	Total..	\$	4,478,728

12 Any unexpended balances remaining in the above
 13 appropriations for Personal Services and Employee Benefits
 14 (fund 0150, appropriation 00100), Unclassified (fund 0150,
 15 appropriation 09900), Current Expenses (fund 0150,
 16 appropriation 13000), Criminal Convictions and Habeas Corpus
 17 Appeals (fund 0150, appropriation 26000), and Agency Client
 18 Revolving Liquidity Pool (fund 0150, appropriation 36200) at
 19 the close of the fiscal year 2016 are hereby reappropriated for

20 expenditure during the fiscal year 2017, with the exception of
21 fund 0150, fiscal year 2016, appropriation 00100 (\$206,569)
22 which shall expire on June 30, 2016.

23 Included in the above appropriation to Unclassified (fund
24 0150, appropriation 09900), is \$95,000 for the Salary of the
25 Attorney General.

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

16 - Secretary of State

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2017 Org 1600

1	Personal Services and		
2	Employee Benefits.	00100	\$ 0
3	Unclassified (R).	09900	973,189
4	Current Expenses (R).	13000	0
5	BRIM Premium.	91300	0
6	Total.		\$ 973,189

7 Any unexpended balances remaining in the appropriations
8 for Unclassified (fund 0155, appropriation 09900), Current
9 Expenses (fund 0155, appropriation 13000), and Technology

10 Improvements – Surplus (fund 0155, appropriation 72500) at the
 11 close of the fiscal year 2016 are hereby reappropriated for
 12 expenditure during the fiscal year 2017, with the exception of
 13 fund 0155, fiscal year 2016, appropriation 13000 (\$45,439)
 14 which shall expire on June 30, 2016.

15 Included in the above appropriation to Unclassified (fund
 16 0155, appropriation 09900), is \$95,000 for the Salary of the
 17 Secretary of State.

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2017 Org 1601

1	Personal Services and		
2	Employee Benefits.	00100	\$ 0
3	Unclassified.	09900	7,508
4	Current Expenses.	13000	<u>0</u>
5	Total.		\$ 7,508

DEPARTMENT OF ADMINISTRATION

*18 - Department of Administration –
 Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2017 Org 0201

1	Personal Services and		
2	Employee Benefits.	00100	\$ 0
3	Unclassified.	09900	691,139
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Equipment.	07000	0
7	Financial Advisor (R).	30400	98,535
8	Lease Rental Payments.	51600	15,000,000
9	Design-Build Board.	54000	0

3	Unclassified.	09900		183,722
4	Current Expenses.	13000		0
5	Repairs and Alterations.	06400		0
6	Equipment.	07000		0
7	GAAP Project (R).	12500		581,201
8	Other Assets.	69000		0
9	BRIM Premium.	91300		0
10	Total.		\$	764,923

11 Any unexpended balance remaining in the appropriation for
 12 GAAP Project (fund 0203, appropriation 12500) at the close of
 13 the fiscal year 2016 is hereby reappropriated for expenditure
 14 during the fiscal year 2017.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2017 Org 0211

1	Personal Services and Employee			
2	Benefits.	00100	\$	0
3	Unclassified.	09900		3,529,087
4	Current Expenses.	13000		0
5	Repairs and Alterations.	06400		0
6	Equipment.	07000		0
7	Fire Service Fee.	12600		0
8	Buildings (R).	25800		0
9	Preservation and Maintenance of			
10	Statues and Monuments			
11	on Capitol Grounds.	37100		66,640
12	Capital Outlay, Repairs and			
13	Equipment (R).	58900		4,040,473
14	Other Assets.	69000		0
15	Land (R).	73000		0
16	BRIM Premium.	91300		0
17	Total.		\$	7,636,200

18 Any unexpended balances remaining in the above
 19 appropriations for Buildings (fund 0230, appropriation 25800),
 20 Capital Outlay, Repairs and Equipment (fund 0230,
 21 appropriation 58900), Capital Outlay, Repairs and Equipment –
 22 Surplus (fund 0230, appropriation 67700), and Land (fund 0230,
 23 appropriation 73000) at the close of the fiscal year 2016 are
 24 hereby reappropriated for expenditure during the fiscal year
 25 2017, with the exception of fund 0230, fiscal year 2016,
 26 appropriation 58900 (\$552,068) which shall expire on June 30,
 27 2016.

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

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

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2017 Org 0213

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	1,020,159
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Equipment.	07000	0
7	Other Assets.	69000	0
8	BRIM Premium.	91300	0
9	Total.		\$ 1,020,159

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

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2017 Org 0215

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	1,315,146
4	Current Expenses.	13000	0
5	Equipment.	07000	0
6	Buildings (R).	25800	0
7	Other Assets.	69000	0
8	Total.		\$ 1,315,146

9 Any unexpended balance remaining in the appropriation for
 10 Buildings (fund 0615, appropriation 25800) at the close of the
 11 fiscal year 2016 is hereby reappropriated for expenditure during
 12 the fiscal year 2017.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2017 Org 0217

1	Current Expenses.	13000	\$ 45,550
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2 To pay expenses for members of the commission on uniform
 3 state laws.

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2017 Org 0219

2016]

HOUSE OF DELEGATES

3809

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	1,071,641
4	Current Expenses.	13000	0
5	Equipment.	07000	0
6	BRIM Premium.	91300	0
7	Total.		<u>\$ 1,071,641</u>

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2017 Org 0220

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	691,813
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Other Assets.	69000	0
7	BRIM Premium.	91300	0
8	Total.		<u>\$ 691,813</u>

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2017 Org 0221

1	Personal Services and		
2	Employee Benefits.	00100	\$ 1,364,314
3	Unclassified	09900	314,700
4	Current Expenses.	13000	45,840
5	Public Defender Corporations.	35200	19,199,374
6	Appointed Counsel Fees (R).	78800	10,723,115
7	BRIM Premium.	91300	8,884
8	Total.		<u>\$ 31,656,227</u>

9 Any unexpended balance remaining in the above
 10 appropriation for Appointed Counsel Fees (fund 0226,
 11 appropriation 78800) at the close of the fiscal year 2016 is
 12 hereby reappropriated for expenditure during the fiscal year
 13 2017.

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

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

(WV Code Chapter 5A)

Fund 0233 FY 2017 Org 0224

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

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2017 Org 0225

1 The Division of Highways, Division of Motor Vehicles,
 2 Public Service Commission and other departments, bureaus,
 3 divisions, or commissions operating from special revenue funds
 4 and/or federal funds shall pay their proportionate share of the
 5 public employees health insurance cost for their respective
 6 divisions.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2017 Org 0228

1	Forensic Medical		
2	Examinations (R).....	68300	\$ 138,272
3	Federal Funds/Grant Match (R)....	74900	<u>99,016</u>
4	Total.....		\$ 237,288
5	Any unexpended balances remaining in the appropriations		
6	for Forensic Medical Examinations (fund 0557, appropriation		
7	68300) and Federal Funds/Grant Match (fund 0557,		
8	appropriation 74900) at the close of the fiscal year 2016 are		
9	hereby reappropriated for expenditure during the fiscal year		
10	2017.		

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2017 Org 0233

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 0
3	Unclassified.....	09900	829,094
4	Current Expenses.....	13000	0
5	Repairs and Alterations.....	06400	0
6	Equipment.....	07000	0
7	BRIM Premium.....	91300	<u>0</u>
8	Total.....		\$ 829,094

DEPARTMENT OF COMMERCE

32 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 0

3	Unclassified.	09900	2,507,738
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Equipment (R).	07000	0
7	BRIM Premium.	91300	0
8	Total.		\$ 2,507,738

9 Any unexpended balance remaining in the appropriation for
 10 Equipment (fund 0250, appropriation 07000) at the close of the
 11 fiscal year 2016 is hereby reappropriated for expenditure during
 12 the fiscal year 2017, with the exception of fund 0250, fiscal year
 13 2016, appropriation 07000 (\$27,000) which shall expire on June
 14 30, 2016.

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

33 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2017 Org 0306

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	2,833,849
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Mineral Mapping System (R).	20700	0
7	BRIM Premium.	91300	0
8	Total.		\$ 2,833,849

9 Any unexpended balance remaining in the appropriation for
 10 Mineral Mapping System (fund 0253, appropriation 20700) at
 11 the close of the fiscal year 2016 is hereby reappropriated for
 12 expenditure during the fiscal year 2017, with the exception of

13 fund 0253, fiscal year 2016, appropriation 20700 (\$60,767)
14 which shall expire on June 30, 2016.

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

34 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2017 Org 0307

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	ARC-WV Home of Your Own		
4	Alliance.	04800	0
5	Unclassified.	09900	8,663,248
6	Current Expenses.	13000	0
7	Southern WV Career Center.	07100	0
8	National Youth Science Camp.	13200	241,570
9	Local Economic Development		
10	Partnerships (R).	13300	792,000
11	ARC Assessment.	13600	0
12	Mid-Atlantic Aerospace Complex.	23100	0
13	Guaranteed Work Force Grant (R).	24200	973,518
14	Robert C. Byrd Institute for		
15	Advanced/Flexible Manufacturing -		
16	Technology Outreach and Programs		
17	for Environmental and Advanced		
18	Technologies.	36700	0
19	Chemical Alliance Zone.	39000	0
20	WV High Tech Consortium.	39100	0
21	Regional Contracting Assistance		
22	Center.	41800	0
23	Highway Authorities.	43100	0

24	International Offices (R).	59300	0
25	WV Manufacturing Extension		
26	Partnership.	73100	0
27	Polymer Alliance.	75400	0
28	Regional Councils.	78400	0
29	Mainstreet Program.	79400	0
30	National Institute of Chemical		
31	Studies.	80500	0
32	I-79 Development Council.	82400	0
33	Mingo County Post Mine Land Use		
34	Projects	84100	0
35	BRIM Premium.	91300	0
36	Hatfield McCoy Recreational Trail.	96000	198,415
37	Hardwood Alliance Zone.	99200	0
38	Total.		<u>\$ 10,868,751</u>

39 Any unexpended balances remaining in the appropriations
40 for Unclassified – Surplus (fund 0256, appropriation 09700),
41 Partnership Grants (fund 0256, appropriation 13100), Local
42 Economic Development Partnerships (fund 0256, appropriation
43 13300), Guaranteed Work Force Grant (fund 0256, appropriation
44 24200), Industrial Park Assistance (fund 0256, appropriation
45 48000), Small Business Development (fund 0256, appropriation
46 70300), Local Economic Development Assistance (fund 0256,
47 appropriation 81900), and 4-H Camp Improvements (fund 0256,
48 appropriation 94100) at the close of the fiscal year 2016 are
49 hereby reappropriated for expenditure during the fiscal year
50 2017. From the reappropriation for Industrial Park Assistance
51 (fund 0256, appropriation 48000), \$152,000 shall be awarded to
52 Huntington Tri-State Airport to fund water infrastructure
53 improvements.

54 The above appropriation to Local Economic Development
55 Partnerships (fund 0256, appropriation 13300) shall be used by
56 the West Virginia Development Office for the award of funding
57 assistance to county and regional economic development

58 corporations or authorities participating in the certified
 59 development community program developed under the
 60 provisions of W.Va. Code §5B-2-14. The West Virginia
 61 Development Office shall award the funding assistance through
 62 a matching grant program, based upon a formula whereby
 63 funding assistance may not exceed \$34,000 per county served by
 64 an economic development or redevelopment corporation or
 65 authority.

35 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 0260 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	2,555,271
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Equipment.	07000	0
7	BRIM Premium.	91300	<u>0</u>
8	Total.		\$ 2,555,271

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

(WV Code Chapter 21)

Fund 0616 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	153,694
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Equipment.	07000	0
7	BRIM Premium.	91300	<u>0</u>
8	Total.		\$ 153,694

37 - *Division of Natural Resources*

(WV Code Chapter 20)

Fund 0265 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	18,855,743
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Equipment.	07000	0
7	Buildings (R).	25800	0
8	Litter Control Conservation		
9	Officers.	56400	0
10	Upper Mud River Flood Control. . .	65400	0
11	Other Assets.	69000	0
12	Land (R).	73000	0
13	Law Enforcement.	80600	0
14	BRIM Premium.	91300	0
15	Total.		\$ 18,855,743

16 Any unexpended balances remaining in the appropriations
 17 for Buildings (fund 0265, appropriation 25800), Land (fund
 18 0265, appropriation 73000), and State Park Improvements –
 19 Surplus (fund 0265, appropriation 76300) at the close of the
 20 fiscal year 2016 are hereby reappropriated for expenditure
 21 during the fiscal year 2017, with the exception of fund 0265,
 22 fiscal year 2016, appropriation 25800 (\$300) and fund 0265,
 23 fiscal year 2016, appropriation 73000 (\$300) which shall expire
 24 on June 30, 2016.

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

38 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2017 Org 0314

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	12,179,084
4	Current Expenses.	13000	0
5	Coal Dust and Rock Dust		
6	Sampling.	27000	0
7	BRIM Premium.	91300	<u>0</u>
8	Total.		\$ 12,179,084
9	Included in the above appropriation for Unclassified (fund		
10	0277, appropriation 09900) is \$500,000 for the Southern West		
11	Virginia Community and Technical College Mine Rescue and		
12	Rapid Response Team.		

39 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2017 Org 0319

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	356,248
4	Current Expenses.	13000	<u>0</u>
5	Total.		\$ 356,248

40 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2017 Org 0323

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0

3	Unclassified.	09900		61,133
4	Current Expenses.	13000		<u>0</u>
5	Total.		\$	61,133

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

(WV Code Chapter 19)

Fund 0606 FY 2017 Org 0327

1	Personal Services and Employee			
2	Benefits.	00100	\$	0
3	Unclassified.	09900		372,402
4	Current Expenses.	13000		<u>0</u>
5	Total.		\$	372,402

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

Fund 0617 FY 2017 Org 0327

1	Office of Economic Opportunity. . .	03400	\$	96,354
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43 - Division of Energy

(WV Code Chapter 5H)

Fund 0612 FY 2017 Org 0328

1	Personal Services and Employee			
2	Benefits.	00100	\$	196,280
3	Unclassified.	09900		15,518
4	Current Expenses.	13000		1,151,155
5	BRIM Premium.	91300		<u>3,297</u>
6	Total.		\$	1,366,250

7 From the above appropriation for Current Expenses (fund
8 0612, appropriation 13000) \$500,000 is for West Virginia

- 9 University and \$500,000 is for Southern West Virginia
- 10 Community and Technical College for the Mine Training and
- 11 Energy Technologies Academy.

DEPARTMENT OF EDUCATION

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

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits..... 00100	\$	321,931
3	Current Expenses..... 13000		<u>2,118,490</u>
4	Total.....	\$	2,440,421

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

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits..... 00100	\$	4,278,989
3	Technology System Specialist.... 06200		2,000,000
4	Teachers' Retirement Savings		
5	Realized..... 09500		37,656,000
6	Unclassified (R)..... 09900		300,000
7	Current Expenses (R)..... 13000		2,579,645
8	Equipment..... 07000		5,000
9	Increased Enrollment..... 14000		3,430,000
10	Safe Schools..... 14300		4,980,178
11	Teacher Mentor (R)..... 15800		550,000
12	Buildings (R)..... 25800		1,000
13	Allowance for County Transfers. . . 26400		282,732

14	Technology Repair and		
15	Modernization.	29800	951,003
16	HVAC Technicians.	35500	495,507
17	Early Retirement Notification		
18	Incentive.	36600	300,000
19	MATH Program.	36800	336,532
20	Assessment Programs.	39600	1,339,588
21	21st Century Fellows.	50700	274,899
22	English as a Second Language.	52800	96,000
23	Teacher Reimbursement.	57300	297,188
24	Hospitality Training.	60000	267,123
25	Hi-Y Youth in Government.	61600	100,000
26	High Acuity Special Needs (R).	63400	1,500,000
27	Foreign Student Education.	63600	89,347
28	Principals Mentorship.	64900	69,250
29	State Board of Education		
30	Administrative Costs.	68400	366,152
31	Other Assets.	69000	1,000
32	IT Academy (R).	72100	500,000
33	Land (R).	73000	1,000
34	Early Literacy Program.	75600	5,700,000
35	School Based Truancy		
36	Prevention (R).	78101	2,000,000
37	Innovation in Education.	78102	2,496,144
38	Elementary/Middle Alternative		
39	Schools.	83300	0
40	21st Century Learners (R).	88600	1,706,441
41	Technology Initiatives.	90100	0
42	BRIM Premium.	91300	295,036
43	High Acuity Health Care Needs		
44	Program.	92000	0
45	21st Century Assessment and		
46	Professional Development.	93100	2,999,007
47	21st Century Technology Infrastructure		
48	Network		
49	Tools and Support.	93300	7,636,586

50	Regional Education Service		
51	Agencies.	97200	3,543,120
52	Educational Program Allowance. . .	99600	<u>516,250</u>
53	Total.		\$ 89,940,717

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

56 Any unexpended balances remaining in the appropriations
57 for Unclassified (fund 0313, appropriation 09900), Current
58 Expenses (fund 0313, appropriation 13000), Teacher Mentor
59 (fund 0313, appropriation 15800), National Teacher Certification
60 (fund 0313, appropriation 16100), Buildings (fund 0313,
61 appropriation 25800), High Acuity Special Needs (fund 0313,
62 appropriation 63400), IT Academy (fund 0313, appropriation
63 72100), Land (fund 0313, appropriation 73000), School Based
64 Truancy Prevention (fund 0313, appropriation 78101), and 21st
65 Century Learners (fund 0313, appropriation 88600) at the close
66 of the fiscal year 2016 are hereby reappropriated for expenditure
67 during the fiscal year 2017, with the exception of fund 0313,
68 fiscal year 2016, appropriation 13000 (\$106,923), fund 0313,
69 fiscal year 2016, appropriation 16100 (\$150,000), fund 0313,
70 fiscal year 2016, appropriation 72100 (\$20,000), fund 0313,
71 fiscal year 2016, appropriation 78101 (\$1,400,000), and fund
72 0313, fiscal year 2016, appropriation 88600 (\$68,675) which
73 shall expire on June 30, 2016.

74 The above appropriation for Technology System Specialists
75 (fund 0313, appropriation 06200), shall first be used for the
76 continuance of current pilot projects. The remaining balance, if
77 any, may be used to expand the pilot project for additional
78 counties.

79 The above appropriation for Teachers' Retirement Savings
80 Realized (fund 0313, appropriation 09500) shall be transferred
81 to the Employee Pension and Health Care Benefit Fund (fund
82 2044).

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

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

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2017 Org 0402

1	Special Education – Counties. . . .	15900	\$	7,271,757
2	Special Education – Institutions. . .	16000		3,748,794
3	Education of Juveniles Held in			
4	Predispositional			
5	Juvenile Detention Centers. . . .	30200		591,646
6	Education of Institutionalized			
7	Juveniles and Adults (R).	47200		<u>15,574,235</u>
8	Total.		\$	27,186,432

9 Any unexpended balance remaining in the appropriation for
 10 Education of Institutionalized Juveniles and Adults (fund 0314,
 11 appropriation 47200) at the close of the fiscal year 2016 is
 12 hereby reappropriated for expenditure during the fiscal year
 13 2017, with the exception of fund 0314, fiscal year 2016,
 14 appropriation 47200 (\$173,354) which shall expire on June 30,
 15 2016.

16 From the above appropriations, the superintendent shall have
 17 authority to expend funds for the costs of special education for
 18 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 2017 Org 0402

1	Other Current Expenses.....	02200	\$	152,089,960
2	Advanced Placement.....	05300		543,661
3	Professional Educators.....	15100		856,017,057
4	Service Personnel.....	15200		290,711,435
5	Fixed Charges.....	15300		102,033,345
6	Transportation.....	15400		74,729,928
7	Professional Student Support			
8	Services.....	65500		36,952,999
9	Improved Instructional Programs. .	15600		49,131,108
10	21st Century Strategic Technology			
11	Learning Growth.....	93600		20,756,981
12	Basic Foundation Allowances.....			1,582,966,474
13	Less Local Share.....			(467,039,269)
14	Adjustments.....			(2,527,044)
15	Total Basic State Aid.....			1,113,400,161
16	Public Employees' Insurance			
17	Matching.....	01200		241,429,043
18	Teachers' Retirement System. . . .	01900		67,464,000
19	School Building Authority.....	45300		23,421,520
20	Retirement Systems –			
21	Unfunded Liability.....	77500		<u>320,634,000</u>
22	Total.....			\$1,766,348,724

*48 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2017 Org 0402

1	Personal Services and Employee			
2	Benefits.....	00100	\$	1,275,473
3	Unclassified.....	09900		268,800
4	Current Expenses.....	13000		882,131

5	Wood Products – Forestry Vocational		
6	Program.....	14600	67,417
7	Albert Yanni Vocational Program..	14700	131,951
8	Vocational Aid.....	14800	22,215,162
9	Adult Basic Education.....	14900	4,523,322
10	Program Modernization.....	30500	884,313
11	High School Equivalency		
12	Diploma Testing (R).....	72600	778,815
13	FFA Grant Awards.....	83900	11,496
14	Pre-Engineering Academy Program.	84000	265,294
15	Total.....		\$ 31,304,174

16 Any unexpended balances remaining in the appropriations
 17 for GED Testing (fund 0390, appropriation 33900) and High
 18 School Equivalency Diploma Testing (fund 0390, appropriation
 19 72600) at the close of the fiscal year 2016 is hereby
 20 reappropriated for expenditure during the fiscal year 2017, with
 21 the exception of fund 0390, fiscal year 2016, appropriation
 22 72600 (\$240,037) which shall expire on June 30, 2016.

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

(WV Code Chapters 18 and 18A)

Fund 0573 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 848,582
3	Unclassified.....	09900	7,000
4	Current Expenses.....	13000	294,316
5	Repairs and Alterations.....	06400	1,000
6	Equipment.....	07000	1,000
7	Other Assets.....	69000	1,000
8	Total.....		\$ 1,152,898

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

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2017 Org 0403

1	Personal Services and Employee		
2	Benefits.	00100	\$ 11,606,686
3	Unclassified.	09900	107,329
4	Current Expenses.	13000	1,761,169
5	Repairs and Alterations.	06400	115,000
6	Equipment.	07000	35,000
7	Buildings (R).	25800	50,000
8	Capital Outlay and		
9	Maintenance (R).	75500	62,500
10	BRIM Premium.	91300	102,750
11	Total.		<u>\$ 13,840,434</u>

12 Any unexpended balances remaining in the appropriations
 13 for Buildings (fund 0320, appropriation 25800) and Capital
 14 Outlay and Maintenance (fund 0320, appropriation 75500) at the
 15 close of the fiscal year 2016 are hereby reappropriated for
 16 expenditure during the fiscal year 2017.

DEPARTMENT OF EDUCATION AND THE ARTS

*51 - Department of Education and the Arts –
 Office of the Secretary*

(WV Code Chapter 5F)

Fund 0294 FY 2017 Org 0431

1	Personal Services and Employee		
2	Benefits.	00100	\$ 425,877
3	Unclassified.	09900	35,000
4	Current Expenses.	13000	27,818
5	Center for Professional		
6	Development (R).	11500	1,500,000
7	WV Early Childhood Planning		
8	Task Force	14498	109,780

9	WV Humanities Council.	16800	400,000
10	Benedum Professional Development		
11	Collaborative (R)..	42700	505,645
12	Governor's Honors		
13	Academy (R)..	47800	997,714
14	Educational Enhancements.	69500	200,000
15	S.T.E.M. Education and Grant		
16	Program (R)..	71900	500,292
17	Energy Express.	86100	390,750
18	BRIM Premium.	91300	4,509
19	Special Olympic Games.. . . .	96600	25,000
20	Total..		\$ 5,122,385

21 As originally envisioned, the Department of Education and
 22 the Arts was to administer the State's public and higher
 23 education systems in addition to the programming currently
 24 under its control. In this time of structural deficit and declining
 25 industrial base, it is the intention of the Legislature to reorganize
 26 the Department's programming and divisions in the 2017
 27 Regular Session, eliminating the Office of the Secretary and
 28 distributing all administrative responsibilities for its composite
 29 programs and divisions to other units of government. The
 30 funding appropriated in this budget to Personal Services and
 31 Employee Benefits, appropriation 00100, is intended to require
 32 a reduction in force in the Secretary's Office, pay expenses
 33 incidental to the reduction in force, redistribute administrative
 34 responsibilities to the subject programs and divisions where
 35 possible and posture the programs and divisions of the
 36 Department for reorganization in FY 2018.

37 Any unexpended balances remaining in the appropriations
 38 for Center for Professional Development (fund 0294,
 39 appropriation 11500), Benedum Professional Development
 40 Collaborative (fund 0294, appropriation 42700), Governor's
 41 Honors Academy (fund 0294, appropriation 47800), and
 42 S.T.E.M. Education and Grant Program (fund 0294,

43 appropriation 71900) at the close of the fiscal year 2016 are
 44 hereby reappropriated for expenditure during the fiscal year
 45 2017, with the exception of fund 0294, fiscal year 2016,
 46 appropriation 11500 (\$92,000) and fund 0294, fiscal year 2016,
 47 appropriation 42700 (\$300,250) which shall expire on June 30,
 48 2016.

49 From the above appropriation for Educational Enhancements
 50 (fund 0294, appropriation 69500), \$100,000 shall be used for the
 51 Clay Center and \$100,000 for Reconnecting McDowell – Save
 52 the Children.

52 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2017 Org 0432

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified (R).	09900	4,421,667
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Equipment.	07000	0
7	Buildings (R).	25800	0
8	Other Assets.	69000	0
9	Land (R).	73000	0
10	Culture and History Programming..	73200	0
11	Capital Outlay and		
12	Maintenance (R).	75500	0
13	Historical Highway Marker		
14	Program.	84400	0
15	BRIM Premium.	91300	0
16	Total.		\$ 4,421,667

17 Any unexpended balances remaining in the appropriations
 18 for Unclassified (fund 0293, appropriation 09900), Buildings

19 (fund 0293, appropriation 25800), Capital Outlay, Repairs and
 20 Equipment (fund 0293, appropriation 58900), Capital
 21 Improvements – Surplus (fund 0293, appropriation 66100),
 22 Capital Outlay, Repairs and Equipment – Surplus (fund 0293,
 23 appropriation 67700), Land (fund 0293, appropriation 73000),
 24 and Capital Outlay and Maintenance (fund 0293, appropriation
 25 75500) at the close of the fiscal year 2016 are hereby
 26 reappropriated for expenditure during the fiscal year 2017.

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

53 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2017 Org 0433

1	Personal Services and		
2	Employee Benefits.	00100	\$ 0
3	Unclassified.	09900	1,639,828
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Services to Blind & Handicapped. .	18100	0
7	BRIM Premium.	91300	0
8	Total.		\$ 1,639,828

54 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2017 Org 0439

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0

2016] HOUSE OF DELEGATES 3829

3	Unclassified.	09900	4,353,677
4	Current Expenses.	13000	0
5	Mountain Stage.	24900	294,000
6	Capital Outlay and Maintenance (R)75500		0
7	BRIM Premium.	91300	0
8	Total.		\$ 4,647,677

9 Any unexpended balance remaining in the appropriation for
10 Capital Outlay and Maintenance (fund 0300, appropriation
11 75500) at the close of the fiscal year 2016 is hereby
12 reappropriated for expenditure during the fiscal year 2017, with
13 the exception of fund 0300, fiscal year 2016, appropriation
14 75500 (\$40,000) which shall expire on June 30, 2016.

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

(WV Code Chapter 18)

Fund 0310 FY 2017 Org 0932

1	Personal Services and		
2	Employee Benefits.	00100	\$ 0
3	Independent Living Services.	00900	0
4	Unclassified.	09900	12,172,885
5	Current Expenses.	13000	0
6	Workshop Development	16300	2,073,826
7	Supported Employment		
8	Extended Services.	20600	0
9	Ron Yost Personal Assistance		
10	Fund.	40700	0
11	Employment Attendant Care		
12	Program	59800	0
13	BRIM Premium.	91300	0
14	Total.		\$ 14,246,711

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

56 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2017 Org 0311

1	Personal Services and		
2	Employee Benefits.	00100	\$ 0
3	Unclassified.	09900	103,182
4	Current Expenses.	13000	0
5	Repairs and Alterations.	06400	0
6	Equipment.	07000	0
7	Other Assets.	69000	0
8	BRIM Premium.	91300	0
9	Total.		\$ 103,182

57 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Water Resources Protection and		
4	Management.	06800	568,491
5	Current Expenses.	13000	0
6	Repairs and Alterations.	06400	0

2016]	HOUSE OF DELEGATES	3831
7	Equipment. 07000	0
8	Unclassified. 09900	4,230,220
9	Dam Safety. 60700	208,085
10	West Virginia Stream Partners	
11	Program. 63700	75,848
12	Meth Lab Cleanup. 65600	201,560
13	Other Assets. 69000	0
14	WV Contributions to River	
15	Commissions. 77600	145,515
16	Office of Water Resources	
17	Non-Enforcement Activity. 85500	<u>908,412</u>
18	Total.	\$ 6,338,131

19 A portion of the appropriations for Unclassified (fund 0273,
20 appropriation 09900) and Dam Safety (fund 0273, appropriation
21 60700) may be transferred to the special revenue fund Dam
22 Safety Rehabilitation Revolving Fund (fund 3025) for the state
23 deficient dams rehabilitation assistance program.

58 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2017 Org 0325

1	Personal Services and Employee	
2	Benefits. 00100	\$ 0
3	Unclassified. 09900	76,611
4	Current Expenses. 13000	0
5	Repairs and Alterations. 06400	0
6	Equipment. 07000	0
7	Other Assets. 69000	0
8	BRIM Premium. 91300	<u>0</u>
9	Total.	\$ 76,611

**DEPARTMENT OF HEALTH AND HUMAN
RESOURCES**

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

(WV Code Chapter 5F)

Fund 0400 FY 2017 Org 0501

1	Personal Services and Employee		
2	Benefits.	00100	\$ 376,440
3	Unclassified.	09900	8,063
4	Current Expenses.	13000	48,784
5	Women's Commission (R).	19100	84,524
6	Commission for the Deaf and		
7	Hard of Hearing.	70400	<u>216,635</u>
8	Total.		\$ 734,446
9	Any unexpended balance remaining in the appropriation for		
10	the Women's Commission (fund 0400, appropriation 19100) at		
11	the close of the fiscal year 2016 is hereby reappropriated for		
12	expenditure during the fiscal year 2017.		

*60 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2017 Org 0506

1	Personal Services and		
2	Employee Benefits.	00100	\$ 12,142,743
3	Chief Medical Examiner.	04500	5,485,477
4	Unclassified.	09900	691,862
5	Current Expenses.	13000	4,640,355
6	State Aid for Local and Basic		
7	Public Health Services.	18400	12,649,545
8	Safe Drinking Water Program (R)..	18700	2,172,181
9	Women, Infants and Children.	21000	38,621
10	Early Intervention.	22300	6,044,884

2016]

HOUSE OF DELEGATES

3833

11	Cancer Registry.	22500	197,207
12	CARDIAC Project.	37500	427,500
13	State EMS Technical Assistance. . .	37900	1,353,656
14	Statewide EMS Program		
15	Support (R).	38300	957,473
16	Black Lung Clinics	46700	170,885
17	Center for End of Life.	54500	420,198
18	Pediatric Dental Services.	55000	51,888
19	Vaccine for Children	55100	334,076
20	Tuberculosis Control	55300	366,879
21	Maternal and Child Health Clinics,		
22	Clinicians, Medical		
23	Contracts and Fees (R).	57500	6,200,000
24	Epidemiology Support.	62600	1,503,498
25	Primary Care Support.	62800	4,670,953
26	Sexual Assault Intervention and		
27	Prevention.	72300	125,000
28	Health Right Free Clinics.	72700	2,750,000
29	Capital Outlay and		
30	Maintenance (R).	75500	50,000
31	Healthy Lifestyles.	77800	147,034
32	Maternal Mortality Review.	83400	46,973
33	Osteoporosis and Arthritis		
34	Prevention.	84900	158,530
35	Diabetes Education and Prevention.	87300	97,125
36	Tobacco Education Program (R). . .	90600	3,037,643
37	BRIM Premium.	91300	211,214
38	State Trauma and Emergency		
39	Care System.	91800	<u>1,993,374</u>
40	Total.		\$ 69,136,774

41 Any unexpended balances remaining in the appropriations
42 for Safe Drinking Water Program (fund 0407, appropriation
43 18700), Statewide EMS Program Support (fund 0407,
44 appropriation 38300), Maternal and Child Health Clinics,
45 Clinicians and Medical Contracts and Fees (fund 0407,

46 appropriation 57500), Capital Outlay and Maintenance (fund
 47 0407, appropriation 75500), Emergency Response Entities –
 48 Special Projects (fund 0407, appropriation 82200), and Tobacco
 49 Education Program (fund 0407, appropriation 90600) at the close
 50 of the fiscal year 2016 are hereby reappropriated for expenditure
 51 during the fiscal year 2017. Any unexpended balances remaining
 52 in the appropriation for Assistance to Primary Health Care
 53 Centers Community Health Foundation (fund 0407,
 54 appropriation 84500), at the close of the fiscal year 2016 is
 55 hereby not reappropriated for expenditure during the fiscal year
 56 2017.

57 From the above appropriation for Current Expenses (fund
 58 0407, appropriation 13000), an amount not less than \$100,000 is
 59 for the West Virginia Cancer Coalition; \$50,000 shall be
 60 expended for the West Virginia Aids Coalition; \$100,000 is for
 61 Adolescent Immunization Education; \$73,065 is for informal
 62 dispute resolution relating to nursing home administrative
 63 appeals; and \$50,000 is for Hospital Hospitality House of
 64 Huntington.

65 From the above appropriation for Maternal and Child Health
 66 Clinics, Clinicians and Medical Contracts and Fees (fund 0407,
 67 appropriation 57500) up to \$400,000 shall be transferred to the
 68 Breast and Cervical Cancer Diagnostic Treatment Fund (fund
 69 5197) and \$11,000 is for the Marshall County Health
 70 Department for dental services.

61 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,567,519
3	Current Expenses.	13000	12,463

4	Behavioral Health Program (R)....	21900	64,723,691
5	Family Support Act.	22100	251,226
6	Institutional Facilities		
7	Operations (R).....	33500	105,711,029
8	Substance Abuse Continuum of		
9	Care (R).....	35400	5,000,000
10	Capital Outlay and		
11	Maintenance (R).	75500	950,000
12	Renaissance Program.....	80400	165,996
13	BRIM Premium.	91300	<u>1,088,070</u>
14	Total.....		\$ 179,469,994

15 Any unexpended balances remaining in the appropriations
16 for Behavioral Health Program (fund 0525, appropriation
17 21900), Institutional Facilities Operations (fund 0525,
18 appropriation 33500), Substance Abuse Continuum of Care
19 (fund 0525, appropriation 35400), Capital Outlay (fund 0525,
20 appropriation 51100), Behavioral Health Program – Surplus
21 (fund 0525, appropriation 63100), Institutional Facilities
22 Operations – Surplus (fund 0525, appropriation 63200),
23 Substance Abuse Continuum of Care – Surplus (fund 0525,
24 appropriation 72200), and Capital Outlay and Maintenance (fund
25 0525, appropriation 75500) at the close of the fiscal year 2016
26 are hereby reappropriated for expenditure during the fiscal year
27 2017, with the exception of fund 0525, fiscal year 2016,
28 appropriation 21900 (\$20,000,000) and fund 0525, fiscal year
29 2016, appropriation 33500 (\$20,000,000) which shall expire on
30 June 30, 2016.

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

34 From the above appropriation for Institutional Facilities
35 Operations (fund 0525, appropriation 33500), together with
36 available funds from the Division of Health – Hospital Services

37 Revenue Account (fund 5156, appropriation 33500), on July 1,
 38 2016, the sum of \$160,000 shall be transferred to the Department
 39 of Agriculture – Land Division – Farm Operating Fund (1412)
 40 as advance payment for the purchase of food products; actual
 41 payments for such purchases shall not be required until such
 42 credits have been completely expended.

43 The above appropriation for Institutional Facilities
 44 Operations (fund 0525, appropriation 33500) contains prior year
 45 salary increases due to the Hartley court order in the amount of
 46 \$2,202,013 for William R. Sharpe Jr. Hospital, and \$2,067,984
 47 for Mildred Mitchel-Bateman Hospital.

48 From the above appropriation for Substance Abuse
 49 Continuum of Care (fund 0525, appropriation 35400), the
 50 funding will be consistent with the goal areas outlined in the
 51 Comprehensive Substance Abuse Strategic Action Plan.

52 Additional funds have been appropriated in fund 5156, fiscal
 53 year 2017, organization 0506, for the operation of the
 54 institutional facilities. The secretary of the Department of Health
 55 and Human Resources is authorized to utilize up to ten percent
 56 of the funds from the Institutional Facilities Operations
 57 appropriation to facilitate cost effective and cost saving services
 58 at the community level.

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

(WV Code Chapter 16)

Fund 0561 FY 2017 Org 0506

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

3 The above appropriation for Drinking Water Treatment
 4 Revolving Fund – Transfer shall be transferred to the West

5 Virginia Drinking Water Treatment Revolving Fund or
 6 appropriate bank depository and the Drinking Water Treatment
 7 Revolving – Administrative Expense Fund as provided by
 8 Chapter 16 of the Code.

63 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2017 Org 0510

1	Personal Services and Employee		
2	Benefits.	00100	\$ 914,175
3	Unclassified.	09900	4,024
4	Current Expenses.	13000	191,766
5	BRIM Premium.	91300	<u>9,311</u>
6	Total.		\$ 1,119,276

64 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 43,255,270
3	Unclassified.	09900	5,688,944
4	Current Expenses.	13000	11,298,895
5	Child Care Development.	14400	11,228,136
6	Medical Services Contracts and		
7	Office of Managed Care.	18300	1,835,469
8	Medical Services.	18900	307,234,696
9	Social Services.	19500	142,485,812
10	Family Preservation Program.	19600	1,565,000
11	Family Resource Networks.	27400	1,762,464
12	Domestic Violence Legal		
13	Services Fund.	38400	400,000

14	James "Tiger" Morton Catastrophic		
15	Illness Fund.	45500	101,682
16	I/DD Waiver.	46600	88,753,483
17	Child Protective Services Case		
18	Workers	46800	22,581,819
19	OSCAR and RAPIDS	51500	6,413,863
20	Title XIX Waiver for Seniors.	53300	13,593,620
21	WV Teaching Hospitals Tertiary/ Safety Net.	54700	6,356,000
22	Child Welfare System	60300	1,259,065
23	In-Home Family Education.	68800	1,000,000
24	WV Works Separate State Program.	69800	3,250,000
25	Child Support Enforcement.	70500	6,297,412
26	Medicaid Auditing.	70600	607,142
27	Temporary Assistance for Needy Families/Maintenance of Effort.	70700	22,969,096
28	Child Care - Maintenance of Effort Match.	70800	5,693,743
29	Child and Family Services.	73600	2,850,000
30	Grants for Licensed Domestic Violence Programs and Statewide Prevention.	75000	2,500,000
31	Capital Outlay and Maintenance (R).	75500	11,875
32	Community Based Services and Pilot Programs for Youth.	75900	1,000,000
33	Medical Services Administrative Costs.	78900	35,630,109
34	Traumatic Brain Injury Waiver.	83500	800,000
35	Indigent Burials (R).	85100	2,050,000
36	BRIM Premium.	91300	834,187
37	Rural Hospitals Under 150 Beds.	94000	2,596,000
38	Children's Trust Fund – Transfer	95100	<u>220,000</u>
39	Total.		\$ 754,123,782

49 Any unexpended balances remaining in the appropriations
50 for Capital Outlay and Maintenance (fund 0403, appropriation
51 75500) and Indigent Burials (fund 0403, appropriation 85100) at
52 the close of the fiscal year 2016 are hereby reappropriated for
53 expenditure during the fiscal year 2017.

54 Notwithstanding the provisions of Title I, section three of
55 this bill, the secretary of the Department of Health and Human
56 Resources shall have the authority to transfer funds within the
57 above appropriations: *Provided*, That no more than five percent
58 of the funds appropriated to one appropriation may be
59 transferred to other appropriations: *Provided, however*, That no
60 funds from other appropriations shall be transferred to the
61 personal services and employee benefits appropriation.

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

65 Included in the above appropriation for Social Services (fund
66 0403, appropriation 19500) is funding for continuing education
67 requirements relating to the practice of social work.

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

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

77 The above appropriation for WV Works Separate State
78 Program (fund 0403, appropriation 69800), shall be transferred
79 to the WV Works Separate State College Program Fund (fund
80 5467), and the WV Works Separate State Two-Parent Program

81 Fund (fund 5468) as determined by the secretary of the
82 Department of Health and Human Resources.

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

88 From the above appropriation for the Grants for Licensed
89 Domestic Violence Programs and Statewide Prevention (fund
90 0403, appropriation 75000), 50% of the total shall be divided
91 equally and distributed among the fourteen (14) licensed
92 programs and the West Virginia Coalition Against Domestic
93 Violence (WVCADV). The balance remaining in the
94 appropriation for Grants for Licensed Domestic Violence
95 Programs and Statewide Prevention (fund 0403, appropriation
96 75000), shall be distributed according to the formula established
97 by the Family Protection Services Board.

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

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY**

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

(WV Code Chapter 5F)

Fund 0430 FY 2017 Org 0601

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified (R).	09900	1,353,777
4	Current Expenses.	13000	0

2016]	HOUSE OF DELEGATES	3841
5	Repairs and Alterations.	06400 0
6	Equipment.	07000 0
7	Fusion Center (R).	46900 526,912
8	Other Assets.	69000 0
9	Directed Transfer.	70000 31,360
10	BRIM Premium.	91300 0
11	WV Fire and EMS Survivor	
12	Benefit (R).	93900 250,000
13	Homeland State Security	
14	Administrative Agency (R).	95300 <u>0</u>
15	Total.	\$ 2,184,191

16 Any unexpended balances remaining in the appropriations
17 for Unclassified (fund 0430, appropriation 09900), Fusion
18 Center (fund 0430, appropriation 46900), Substance Abuse
19 Program – Surplus (fund 0430, appropriation 69600), Justice
20 Reinvestment Training – Surplus (fund 0430, appropriation
21 69900), WV Fire and EMS Survivor Benefit (fund 0430,
22 appropriation 93900), and Homeland State Security
23 Administrative Agency (fund 0430, appropriation 95300) at the
24 close of the fiscal year 2016 are hereby reappropriated for
25 expenditure during the fiscal year 2017, with the exception of
26 fund 0430, fiscal year 2016, appropriation 46900 (\$7,122), fund
27 0430, fiscal year 2016, appropriation 93900 (\$200,000), and
28 fund 0430, fiscal year 2016, appropriation 95300 (\$7,123) which
29 shall expire on June 30, 2016.

30 The above appropriation for Directed Transfer (fund 0430,
31 appropriation 70000) shall be transferred to the
32 Law-Enforcement, Safety and Emergency Worker Funeral
33 Expense Payment Fund (fund 6003).

*66 - Adjutant General –
State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2017 Org 0603

1	Unclassified (R).....	09900	\$	14,122,225
2	College Education Fund.....	23200		0
3	Mountaineer Challenge Academy..	70900		0
4	Armory Board Transfer.....	70015		0
5	Military Authority.....	74800		0
6	Total.....		\$	14,122,225

7 Any unexpended balance remaining in the appropriation for
 8 Unclassified (fund 0433, appropriation 09900) at the close of the
 9 fiscal year 2016 is hereby reappropriated for expenditure during
 10 the fiscal year 2017, with the exception of fund 0433, fiscal year
 11 2016, appropriation 09900 (\$599,750) which shall expire on
 12 June 30, 2016.

13 From the above appropriations an amount approved by the
 14 Adjutant General and the secretary of Military Affairs and Public
 15 Safety may be transferred to the State Armory Board for
 16 operation and maintenance of National Guard Armories.

17 The adjutant general shall have the authority to transfer
 18 between appropriations.

19 From the above appropriation and other state and federal
 20 funding, the Adjutant General shall provide an amount not less
 21 than \$4,500,000 to the Mountaineer Challenge Academy to
 22 meet anticipated program demand.

*67 - Adjutant General –
 Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2017 Org 0603

1	Personal Services and Employee			
2	Benefits.....	00100	\$	0

2016] HOUSE OF DELEGATES 3843

3	Unclassified.	09900		160,995
4	Current Expenses.	13000		0
5	Total.		\$	160,995

68 - West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2017 Org 0605

1	Personal Services and Employee			
2	Benefits.	00100	\$	0
3	Unclassified.	09900		1,182,595
4	Current Expenses.	13000		0
5	Salaries of Members of West Virginia			
6	Parole Board.	22700		0
7	BRIM Premium.	91300		0
8	Total.		\$	1,182,595

9 The above appropriation for Salaries of Members of West
10 Virginia Parole Board (fund 0440, appropriation 22700) includes
11 funding for salary, annual increment (as provided for in W.Va.
12 Code §5-5-1), and related employee benefits of board members.

*69 - Division of Homeland Security and
Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2017 Org 0606

1	Personal Services and Employee			
2	Benefits.	00100	\$	0
3	Unclassified.	09900		696,539
4	Current Expenses.	13000		0
5	Repairs and Alterations.	06400		0
6	Radiological Emergency			
7	Preparedness.	55400		17,103

8	Federal Funds/Grant Match (R) . . .	74900	664,247
9	Mine and Industrial Accident Rapid		
10	Response Call Center	78100	452,945
11	Early Warning Flood System (R) . .	87700	469,426
12	BRIM Premium	91300	0
13	WVU Charleston Poison Control		
14	Hotline	94400	<u>712,943</u>
15	Total		\$ 3,013,203

16 Any unexpended balances remaining in the appropriations
 17 for Federal Funds/Grant Match (fund 0443, appropriation
 18 74900), Early Warning Flood System (fund 0443, appropriation
 19 87700), and Disaster Mitigation (fund 0443, appropriation
 20 95200) at the close of the fiscal year 2016 are hereby
 21 reappropriated for expenditure during the fiscal year 2017, with
 22 the exception of fund 0443, fiscal year 2016, appropriation
 23 87700 (\$36,879) which shall expire on June 30, 2016.

*70 - Division of Corrections –
 Central Office*

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

Fund 0446 FY 2017 Org 0608

1	Personal Services and Employee		
2	Benefits	00100	\$ 0
3	Unclassified	09900	600,455
4	Current Expenses	13000	<u>0</u>
5	Total		\$ 600,455

*71 - Division of Corrections –
 Correctional Units*

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

Fund 0450 FY 2017 Org 0608

1	Employee Benefits.....	01000	\$	1,258,136
2	Children's Protection Act (R).	09000		938,437
3	Unclassified (R)	09900		1,623,738
4	Current Expenses (R).....	13000		23,132,313
5	Facilities Planning and			
6	Administration (R).	38600		1,166,627
7	Charleston Correctional Center.	45600		3,126,532
8	Beckley Correctional Center.	49000		1,815,364
9	Huntington Work Release Center.	49500		1,070,058
10	Anthony Correctional Center	50400		5,040,533
11	Huttonsville Correctional Center	51400		20,998,029
12	Northern Correctional Center	53400		6,938,571
13	Inmate Medical Expenses (R).	53500		21,226,064
14	Pruntytown Correctional Center	54300		7,060,326
15	Corrections Academy.	56900		1,441,819
16	Information Technology Services.	59901		3,341,064
17	Martinsburg Correctional Center...	66300		3,538,534
18	Parole Services.....	68600		5,131,198
19	Special Services	68700		6,122,439
20	Investigative Services.	71600		3,151,604
21	Capital Outlay and			
22	Maintenance (R).	75500		2,000,000
23	Salem Correctional Center.....	77400		9,943,952
24	McDowell County Correctional			
25	Center.	79000		1,949,983
26	Stevens Correctional Center	79100		6,474,500
27	Parkersburg Correctional Center.	82800		2,442,670
28	St. Mary's Correctional Center	88100		12,636,324
29	Denmar Correctional Center.	88200		4,414,286
30	Ohio County Correctional Center.	88300		1,738,335
31	Mt. Olive Correctional Complex.	88800		19,684,203
32	Lakin Correctional Center.....	89600		8,911,795
33	BRIM Premium.	91300		829,190
34	Total.....		\$	189,146,624

35 Any unexpended balances remaining in the appropriations
36 for Children's Protection Act (fund 0450, appropriation 09000),
37 Unclassified – Surplus (fund 0450, appropriation 09700),
38 Current Expenses (fund 0450, appropriation 13000), Facilities
39 Planning and Administration (fund 0450, appropriation 38600),
40 Inmate Medical Expenses (fund 0450, appropriation 53500),
41 Capital Improvements – Surplus (fund 0450, appropriation
42 66100), Capital Outlay, Repairs and Equipment – Surplus (fund
43 0450, appropriation 67700), Capital Outlay and Maintenance
44 (fund 0450, appropriation 75500), Security System
45 Improvements – Surplus (fund 0450, appropriation 75501), and
46 Operating Expenses – Surplus (fund 0450, appropriation 77900)
47 at the close of the fiscal year 2016 are hereby reappropriated for
48 expenditure during the fiscal year 2017, with the exception of
49 fund 0450, fiscal year 2016, appropriation 13000 (\$8,500,000)
50 which shall expire on June 30, 2016.

51 The commissioner of corrections shall have the authority to
52 transfer between appropriations to the individual correctional
53 units above and may transfer funds from the individual
54 correctional units to Current Expenses (fund 0450, appropriation
55 13000) or Inmate Medical Expenses (fund 0450, appropriation
56 53500).

57 From the above appropriation to Unclassified (fund 0450,
58 appropriation 09900), on July 1, 2016, the sum of \$300,000 shall
59 be transferred to the Department of Agriculture – Land Division
60 – Farm Operating Fund (1412) as advance payment for the
61 purchase of food products; actual payments for such purchases
62 shall not be required until such credits have been completely
63 expended.

64 From the above appropriation to Current Expenses (fund
65 0450, appropriation 13000) payment shall be made to house
66 Division of Corrections inmates in federal, county, and/or
67 regional jails.

68 Any realized savings from the Energy Savings Contract for
 69 Mt. Olive Correctional Complex, Huttonsville Correction
 70 Center, Pruntytown Correctional Center, or Denmar Correctional
 71 Center may be transferred from the listed individual correctional
 72 units to Facilities Planning and Administration (fund 0450,
 73 appropriation 38600).

72 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2017 Org 0612

1	Personal Services and Employee		
2	Benefits.	00100	\$ 57,760,209
3	Children’s Protection Act.	09000	954,509
4	Current Expenses.	13000	10,358,032
5	Repairs and Alterations.	06400	450,523
6	Barracks Lease Payments.	55600	246,478
7	Communications and Other		
8	Equipment (R).	55800	70,968
9	Trooper Retirement Fund..	60500	4,035,203
10	Handgun Administration Expense..	74700	82,692
11	Capital Outlay and		
12	Maintenance (R).	75500	250,000
13	Retirement Systems –		
14	Unfunded Liability.	77500	16,875,000
15	Automated Fingerprint Identification		
16	System.	89800	725,771
17	BRIM Premium.	91300	<u>4,946,608</u>
18	Total.		\$ <u>96,755,993</u>

19 Any unexpended balances remaining in the appropriations
 20 for Communications and Other Equipment (fund 0453,
 21 appropriation 55800), and Capital Outlay and Maintenance (fund
 22 0453, appropriation 75500) at the close of the fiscal year 2016
 23 are hereby reappropriated for expenditure during the fiscal year

24 2017, with the exception of fund 0453, fiscal year 2016,
 25 appropriation 55800 (\$1,162,002) which shall expire on June 30,
 26 2016.

27 From the above appropriation for Personal Services and
 28 Employee Benefits (fund 0453, appropriation 00100), an amount
 29 not less than \$25,000 shall be expended to offset the costs
 30 associated with providing police services for the West Virginia
 31 State Fair.

73 - Fire Commission

(WV Code Chapter 29)

Fund 0436 FY 2017 Org 0619

1	Current Expenses.	13000	\$	65,328
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74 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2017 Org 0620

1	Personal Services and			
2	Employee Benefits.	00100	\$	0
3	Unclassified.	09900		657,193
4	Current Expenses.	13000		0
5	Repairs and Alterations.	06400		0
6	Child Advocacy Centers (R).	45800		1,530,720
7	Community Corrections (R).	56100		7,137,238
8	Statistical Analysis Program.	59700		45,790
9	Sexual Assault Forensic Examination			
10	Commission.	71400		75,170
11	Qualitative Analysis and Training for			
12	Youth Services (R).	76200		355,247
13	Law Enforcement Professional			
14	Standards.	83800		152,355

15	BRIM Premium.	91300	0
16	Total.		\$ 9,953,713

17 Any unexpended balances remaining in the appropriations
 18 for Child Advocacy Centers (fund 0546, appropriation 45800),
 19 Community Corrections (fund 0546, appropriation 56100), and
 20 Qualitative Analysis and Training for Youth Services (fund
 21 0546, appropriation 76200) at the close of the fiscal year 2016
 22 are hereby reappropriated for expenditure during the fiscal year
 23 2017, with the exception of fund 0546, fiscal year 2016,
 24 appropriation 45800 (\$72,000), fund 0546, fiscal year 2016,
 25 appropriation 56100 (\$178,000), and fund 0546, fiscal year
 26 2016, appropriation 76200 (\$200,000) which shall expire on
 27 June 30, 2016.

28 From the above appropriation for Child Advocacy Centers
 29 (fund 0546, appropriation 45800), the division may retain an
 30 amount not to exceed two percent of the appropriation for
 31 administrative purposes.

75 - Division of Juvenile Services

(WV Code Chapter 49)

Fund 0570 FY 2017 Org 0621

1	Statewide Reporting Centers.	26200	\$ 6,183,502
2	Robert L. Shell Juvenile Center.	26700	1,930,411
3	Resident Medical Expenses.	53501	4,302,740
4	Central Office	70100	2,278,071
5	Capital Outlay and		
6	Maintenance (R).	75500	245,000
7	Gene Spadaro Juvenile Center	79300	2,098,458
8	BRIM Premium.	91300	96,187
9	Kenneth Honey Rubenstein		
10	Juvenile Center (R)	98000	4,852,994
11	Vicki Douglas Juvenile Center.	98100	1,844,994

3850	JOURNAL OF THE	[MAY 26
12	Northern Regional Juvenile Center. 98200	2,818,776
13	Lorrie Yeager Jr. Juvenile Center. . 98300	1,883,569
14	Sam Perdue Juvenile Center 98400	1,975,607
15	Tiger Morton Center 98500	2,085,142
16	Donald R. Kuhn Juvenile Center . . 98600	4,003,185
17	J.M. "Chick" Buckbee	
18	Juvenile Center 98700	<u>1,989,595</u>
19	Total.	\$ 38,588,231

20 Any unexpended balances remaining in the appropriations
21 for Capital Outlay and Maintenance (fund 0570, appropriation
22 75500) and Kenneth Honey Rubenstein Juvenile Center (fund
23 0570, appropriation 98000) at the close of the fiscal year 2016
24 are hereby reappropriated for expenditure during the fiscal year
25 2017.

26 From the above appropriations, on July 1, 2016, the sum of
27 \$50,000 shall be transferred to the Department of Agriculture –
28 Land Division – Farm Operating Fund (1412) as advance
29 payment for the purchase of food products; actual payments for
30 such purchases shall not be required until such credits have been
31 completely expended.

32 The director of Juvenile Services shall have the authority to
33 transfer between appropriations to the individual juvenile centers
34 above and may transfer funds from the individual juvenile
35 centers to Resident Medical Expenses (fund 0570, appropriation
36 53501).

76 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2017 Org 0622

1	Personal Services and Employee	
2	Benefits. 00100\$	2,678,975

2016]	HOUSE OF DELEGATES	3851
3	Unclassified (R)..... 09900	21,991
4	Current Expenses..... 13000	139,232
5	Repairs and Alterations..... 06400	8,500
6	Equipment (R)..... 07000	64,171
7	BRIM Premium..... 91300	<u>9,969</u>
8	Total.....	\$ 2,922,838

9 Any unexpended balances remaining in the appropriations
10 for Equipment (fund 0585, appropriation 07000), and
11 Unclassified (fund 0585, appropriation 09900) at the close of the
12 fiscal year 2016 are hereby reappropriated for expenditure
13 during the fiscal year 2017.

DEPARTMENT OF REVENUE

77 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2017 Org 0701

1	Personal Services and	
2	Employee Benefits..... 00100	\$ 0
3	Unclassified..... 09900	599,127
4	Current Expenses..... 13000	0
5	Repairs and Alterations..... 06400	0
6	Equipment..... 07000	0
7	Revenue Shortfall Reserve	
8	Fund – Transfer..... 59000	0
9	Other Assets..... 69000	<u>0</u>
10	Total.....	\$ 599,127

11 Any unexpended balance remaining in the appropriation for
12 Unclassified – Total (fund 0465, appropriation 09600) at the
13 close of the fiscal year 2016 is hereby reappropriated for
14 expenditure during the fiscal year 2017.

78 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2017 Org 0702

1	Personal Services and Employee		
2	Benefits (R).....	00100	\$ 0
3	Unclassified (R).....	09900	21,015,448
4	Current Expenses (R).....	13000	0
5	Repairs and Alterations.....	06400	0
6	Equipment.....	07000	0
7	Tax Technology Upgrade.....	09400	0
8	Multi State Tax Commission.....	65300	0
9	Other Assets.....	69000	0
10	BRIM Premium.....	91300	<u>0</u>
11	Total.....		\$ 21,015,448

12 Any unexpended balances remaining in the appropriations
13 for Personal Services and Employee Benefits (fund 0470,
14 appropriation 00100), Unclassified (fund 0470, appropriation
15 09900), Current Expenses (fund 0470, appropriation 13000), and
16 GIS Development Project (fund 0470, appropriation 56200) at
17 the close of the fiscal year 2016 are hereby reappropriated for
18 expenditure during the fiscal year 2017, with the exception of
19 fund 0470, fiscal year 2016, appropriation 00100 (\$400,000) and
20 fund 0470, fiscal year 2016, appropriation 13000 (\$535,745)
21 which shall expire on June 30, 2016.

79 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2017 Org 0703

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 0
3	Unclassified (R).....	09900	648,519

2016] HOUSE OF DELEGATES 3853

4	Current Expenses.....	13000		0
5	BRIM Premium.....	91300		0
6	Total.....		\$	648,519

7 Any unexpended balance remaining in the appropriation for
 8 Unclassified (fund 0595, appropriation 09900) at the close of the
 9 fiscal year 2016 is hereby reappropriated for expenditure during
 10 the fiscal year 2017.

80 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2017 Org 0709

1	Personal Services and Employee			
2	Benefits.....	00100	\$	0
3	Current Expenses (R).....	13000		0
4	Unclassified.....	09900		528,522
5	BRIM Premium.....	91300		0
6	Total.....		\$	528,522

7 Any unexpended balance remaining in the appropriation for
 8 Current Expenses (fund 0593, appropriation 13000) at the close
 9 of the fiscal year 2016 is hereby reappropriated for expenditure
 10 during the fiscal year 2017.

*81 - Division of Professional and Occupational Licenses –
 State Athletic Commission*

(WV Code Chapter 29)

Fund 0523 FY 2017 Org 0933

1	Personal Services and Employee			
2	Benefits.....	00100	\$	0
3	Unclassified.....	09900		36,811
4	Current Expenses.....	13000		0
5	Total.....		\$	36,811

DEPARTMENT OF TRANSPORTATION

1 The following four General Revenue appropriations to the
 2 Department of Transportation shall be jointly administered by
 3 the Secretary of Transportation to consolidate staff functions and
 4 improve efficiencies. It is envisioned that these four discrete
 5 accounts may be further consolidated into a single account in the
 6 FY 2018 budget.

82 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2017 Org 0804

1	Personal Services and Employee		
2	Benefits.	00100	\$ 0
3	Unclassified.	09900	1,941,148
4	Current Expenses.	13000	0
5	Other Assets (R).	69000	0
6	BRIM Premium.	91300	<u>0</u>
7	Total.		\$ 1,941,148

8 Any unexpended balances remaining in the appropriations
 9 for Unclassified (fund 0506, appropriation 09900) and Other
 10 Assets (fund 0506, appropriation 69000) at the close of the fiscal
 11 year 2016 are hereby reappropriated for expenditure during the
 12 fiscal year 2017, with the exception of fund 0506, fiscal year
 13 2016, appropriation 69000 (\$25,000) which shall expire on June
 14 30, 2016.

83 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2017 Org 0805

1	Equipment (R).	07000	\$ 0
2	Unclassified (R).	09900	2,112,812

2016]

HOUSE OF DELEGATES

3855

3	Current Expenses (R).....	13000		0
4	Buildings (R).....	25800		0
5	Other Assets (R).....	69000		0
6	Total.....		\$	2,112,812

7 Any unexpended balances remaining in the appropriations
8 for Equipment (fund 0510, appropriation 07000), Current
9 Expenses (fund 0510, appropriation 13000), Buildings (fund
10 0510, appropriation 25800) and Other Assets (fund 0510,
11 appropriation 69000) at the close of the fiscal year 2016 are
12 hereby reappropriated for expenditure during the fiscal year
13 2017, with the exception of fund 0510, fiscal year 2016,
14 appropriation 07000 (\$58,429), fund 0510, fiscal year 2016,
15 appropriation 25800 (\$20,281), and fund 0510, fiscal year 2016,
16 appropriation 69000 (\$50,000) which shall expire on June 30,
17 2016.

84 - Public Port Authority

(WV Code Chapter 17)

Fund 0581 FY 2017 Org 0806

1	Personal Services and Employee			
2	Benefits.....	00100	\$	0
3	Unclassified.....	09900		250,250
4	Current Expenses.....	13000		0
5	Repairs and Alterations.....	06400		0
6	BRIM Premium.....	91300		0
7	Total.....		\$	250,250

85 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2017 Org 0807

1	Personal Services and Employee			
2	Benefits.....	00100	\$	0

3	Unclassified.	09900		995,529
4	Current Expenses (R)..	13000		0
5	Repairs and Alterations.	06400		0
6	Civil Air Patrol..	23400		0
7	BRIM Premium.	91300		0
8	Total..		\$	995,529

9 Any unexpended balance remaining in the appropriations for
 10 Unclassified (fund 0582, appropriation 09900) and Current
 11 Expenses (fund 0582, appropriation 13000) at the close of the
 12 fiscal year 2016 are hereby reappropriated for expenditure
 13 during the fiscal year 2017, with the exception of fund 0582,
 14 fiscal year 2016, appropriation 13000 (\$73,169) which shall
 15 expire on June 30, 2016.

16 From the above appropriation for Unclassified (fund 0582,
 17 appropriation 09900), the sum of \$120,000 shall be distributed
 18 equally to each of the twelve local Civil Air Patrol Squadrons.

DEPARTMENT OF VETERANS' ASSISTANCE

86 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2017 Org 0613

1	Personal Services and Employee			
2	Benefits.	00100	\$	1,784,222
3	Unclassified.	09900		19,600
4	Current Expenses.	13000		317,115
5	Repairs and Alterations.	06400		4,900
6	Veterans' Field Offices.	22800		243,378
7	Veterans' Nursing Home (R)..	28600		5,465,706
8	Veterans' Toll Free Assistance			
9	Line.	32800		1,975
10	Veterans' Reeducation			
11	Assistance (R)..	32900		28,912

2016]	HOUSE OF DELEGATES	3857
12	Veterans' Grant Program (R)..	34200 98,000
13	Veterans' Grave Markers..	47300 10,049
14	Veterans' Transportation..	48500 612,500
15	Veterans Outreach Programs..	61700 157,528
16	Memorial Day Patriotic Exercise..	69700 19,600
17	Veterans Cemetery..	80800 369,986
18	BRIM Premium.	91300 23,860
19	Total..	\$ 9,157,331

20 Any unexpended balances remaining in the appropriations
21 for Veterans' Nursing Home (fund 0456, appropriation 28600),
22 Veterans' Reeducation Assistance (fund 0456, appropriation
23 32900), Veterans' Grant Program (fund 0456, appropriation
24 34200), Veterans' Bonus – Surplus (fund 0456, appropriation
25 34400), Veterans' Bonus (fund 0456, appropriation 48300), and
26 Educational Opportunities for Children of Deceased Veterans
27 (fund 0456, appropriation 85400) at the close of the fiscal year
28 2016 are hereby reappropriated for expenditure during the fiscal
29 year 2017, with the exception of fund 0456, fiscal year 2016,
30 appropriation 28600 (\$342,977) which shall expire on June 30,
31 2016.

*87 - Department of Veterans' Assistance –
Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2017 Org 0618

1	Personal Services and Employee	
2	Benefits..	00100 \$ 0
3	Unclassified..	09900 1,146,799
4	Current Expenses..	13000 0
5	Total..	\$ 1,146,799

BUREAU OF SENIOR SERVICES

88 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2017 Org 0508

1 Transfer to Division of Human
 2 Services for Health Care
 3 and Title XIX Waiver for
 4 Senior Citizens. 53900 \$ 12,079,990

5 The above appropriation for Transfer to Division of Human
 6 Services for Health Care and Title XIX Waiver for Senior
 7 Citizens (fund 0420, appropriation 53900) along with the federal
 8 moneys generated thereby shall be used for reimbursement for
 9 services provided under the program.

10 The above appropriation is in addition to funding provided
 11 in fund 5405 for this program.

**WEST VIRGINIA COUNCIL FOR COMMUNITY
 AND TECHNICAL COLLEGE EDUCATION**

*89 - West Virginia Council for
 Community and Technical College Education –
 Control Account*

(WV Code Chapter 18B)

Fund 0596 FY 2017 Org 0420

1 West Virginia Council for Community
 2 and Technical Education (R)... 39200 \$ 756,232
 3 Transit Training Partnership. 78300 40,217
 4 Community College Workforce
 5 Development (R)... 87800 806,048
 6 College Transition Program... 88700 292,718
 7 West Virginia Advance Workforce
 8 Development (R)... 89300 3,269,964

9	Technical Program		
10	Development (R).....	89400	<u>1,895,214</u>
11	Total.....		\$ 7,060,393

12 Any unexpended balances remaining in the appropriations
 13 for West Virginia Council for Community and Technical
 14 Education (fund 0596, appropriation 39200), Capital
 15 Improvements – Surplus (fund 0596, appropriation 66100),
 16 Community College Workforce Development (fund 0596,
 17 appropriation 87800), West Virginia Advance Workforce
 18 Development (fund 0596, appropriation 89300), and Technical
 19 Program Development (fund 0596, appropriation 89400) at the
 20 close of the fiscal year 2016 are hereby reappropriated for
 21 expenditure during the fiscal year 2017, with the exception of
 22 fund 0596, fiscal year 2016, appropriation 39200 (\$10,030), fund
 23 0596, fiscal year 2016, appropriation 89300 (\$164,577), and
 24 fund 0596, fiscal year 2016, appropriation 89400 (\$89,384)
 25 which shall expire on June 30, 2016.

26 From the above appropriation for the Community College
 27 Workforce Development (fund 0596, appropriation 87800),
 28 \$200,000 shall be expended on the Mine Training Program in
 29 Southern West Virginia.

30 Included in the above appropriation for West Virginia
 31 Advance Workforce Development (fund 0596, appropriation
 32 89300) is \$200,000 to be used exclusively for advanced
 33 manufacturing and energy industry specific training programs.

90 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2017 Org 0444

1	Mountwest Community and		
2	Technical College.	48700	\$ 5,569,533

91 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2017 Org 0445

1	New River Community and		
2	Technical College.	35800	\$ 5,499,133

92 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2017 Org 0446

1	Pierpont Community and		
2	Technical College.	93000	\$ 7,323,810

93 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2017 Org 0447

1	Blue Ridge Community and		
2	Technical College.	88500	\$ 4,480,111

94 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2017 Org 0464

1	West Virginia University –		
2	Parkersburg.	47100	\$ 9,521,771

*95 - Southern West Virginia Community and
Technical College*

(WV Code Chapter 18B)

Fund 0380 FY 2017 Org 0487

- 1 Southern West Virginia Community and
- 2 Technical College. 44600 \$ 7,991,778

96 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2017 Org 0489

- 1 West Virginia Northern Community and Technical College
- 2 44700. \$ 6,898,459

97 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2017 Org 0492

- 1 Eastern West Virginia Community and
- 2 Technical College. 41200 \$ 1,834,647

98 - BridgeValley Community and Technical College

(WV Code Chapter 18B)

Fund 0618 FY 2017 Org 0493

- 1 BridgeValley Community and
- 2 Technical College. 71700 \$ 7,500,925

HIGHER EDUCATION POLICY COMMISSION

*99 - Higher Education Policy Commission –
Administration –
Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2017 Org 0441

1	Personal Services and		
2	Employee Benefits.	00100	\$ 2,438,271
3	Current Expenses.	13000	165,893
4	Higher Education Grant Program. . .	16400	39,019,864
5	Tuition Contract Program (R).	16500	1,249,555
6	Underwood-Smith Scholarship		
7	Program-Student Awards.	16700	328,349
8	Facilities Planning and		
9	Administration (R).	38600	1,821,849
10	PROMISE Scholarship –		
11	Transfer.	80000	18,500,000
12	HEAPS Grant Program (R).	86700	5,007,764
13	BRIM Premium.	91300	15,708
14	Total.		\$ 68,547,253

15 Any unexpended balances remaining in the appropriations
16 for Unclassified – Surplus (fund 0589, appropriation 09700),
17 Tuition Contract Program (fund 0589, appropriation 16500),
18 Facilities Planning and Administration (fund 0589, appropriation
19 38600), Capital Improvements – Surplus (fund 0589,
20 appropriation 66100), Capital Outlay and Maintenance (fund
21 0589, appropriation 75500), and HEAPS Grant Program (fund
22 0589, appropriation 86700) at the close of the fiscal year 2016
23 are hereby reappropriated for expenditure during the fiscal year
24 2017, with the exception of fund 0589, fiscal year 2016,
25 appropriation 38600 (\$75,910) which shall expire on June 30,
26 2016.

27 The above appropriation for Facilities Planning and
28 Administration (fund 0589, appropriation 38600) is for
29 operational expenses of the West Virginia Education, Research
30 and Technology Park between construction and full occupancy.

31 The above appropriation for Higher Education Grant
32 Program (fund 0589, appropriation 16400) shall be transferred

33 to the Higher Education Grant Fund (fund 4933, org 0441)
34 established by W.Va. Code §18C-5-3.

35 The above appropriation for Underwood-Smith Scholarship
36 Program-Student Awards (fund 0589, appropriation 16700) shall
37 be transferred to the Underwood-Smith Teacher Scholarship and
38 Loan Assistance Fund (fund 4922, org 0441) established by
39 W.Va. Code §18C-4-1.

40 The above appropriation for PROMISE Scholarship –
41 Transfer (fund 0589, appropriation 80000) shall be transferred
42 to the PROMISE Scholarship Fund (fund 4296, org 0441)
43 established by W.Va. Code §18C-7-7.

*100 - Higher Education Policy Commission –
Administration –
West Virginia Network for Educational Telecomputing
(WVNET)*

(WV Code Chapter 18B)

Fund 0551 FY 2017 Org 0495

1 WVNET..... 16900 \$ 1,654,572

*101 - West Virginia University –
School of Medicine
Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2017 Org 0463

1 WVU School of Health Science –
2 Eastern Division. 05600 \$ 2,248,472
3 WVU – School of Health Sciences. 17400 15,515,841
4 WVU – School of Health Sciences –
5 Charleston Division..... 17500 2,312,518

6	Rural Health Outreach		
7	Programs (R).....	37700	170,125
8	West Virginia University		
9	School of Medicine		
10	BRIM Subsidy.....	46000	<u>1,161,281</u>
11	Total.....		\$ 21,408,237

12 Any unexpended balance remaining in the appropriations for
 13 Rural Health Outreach Programs (fund 0343, appropriation
 14 37700), and Educational Enhancements – Surplus (fund 0343,
 15 appropriation 92700) at the close of the fiscal year 2016 are
 16 hereby reappropriated for expenditure during the fiscal year
 17 2017, with the exception of fund 0343, fiscal year 2016,
 18 appropriation 37700 (\$7,029) which shall expire on June 30,
 19 2016.

20 The above appropriation for Rural Health Outreach
 21 Programs (fund 0343, appropriation 37700) includes rural health
 22 activities and programs; rural residency development and
 23 education; and rural outreach activities.

24 The above appropriation for West Virginia University
 25 School of Medicine BRIM Subsidy (fund 0343, appropriation
 26 46000) shall be paid to the Board of Risk and Insurance
 27 Management as a general revenue subsidy against the “Total
 28 Premium Billed” to the institution as part of the full cost of their
 29 malpractice insurance coverage.

*102 - West Virginia University –
 General Administrative Fund*

(WV Code Chapter 18B)

Fund 0344 FY 2017 Org 0463

1	West Virginia University.....	45900	\$ 97,819,653
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11 37700) at the close of the fiscal year 2016 is hereby
 12 reappropriated for expenditure during the fiscal year 2017, with
 13 the exception of fund 0347, fiscal year 2016, appropriation
 14 37700 (\$6,984) which shall expire on June 30, 2016.

15 The above appropriation for Rural Health Outreach
 16 Programs (fund 0347, appropriation 37700) includes rural health
 17 activities and programs; rural residency development and
 18 education; and rural outreach activities.

19 The above appropriation for Marshall University Medical
 20 School BRIM Subsidy (fund 0347, appropriation 44900) shall be
 21 paid to the Board of Risk and Insurance Management as a
 22 general revenue subsidy against the “Total Premium Billed” to
 23 the institution as part of the full cost of their malpractice
 24 insurance coverage.

*104 - Marshall University –
 General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2017 Org 0471

1	Marshall University.....	44800	\$	45,926,078
2	Luke Lee Listening Language and			
3	Learning Lab.....	44801		102,076
4	Vista E-Learning (R).....	51900		249,089
5	State Priorities – Brownfield Professional			
6	Development (R).....	53100		334,364
7	Marshall University Graduate			
8	College Writing Project (R). . .	80700		20,737
9	WV Autism Training Center (R)...	93200		1,795,300
10	Total.....		\$	48,427,644

11 Any unexpended balances remaining in the appropriations
 12 for Vista E-Learning (fund 0348, appropriation 51900), State

13 Priorities – Brownfield Professional Development (fund 0348,
 14 appropriation 53100), Marshall University Graduate College
 15 Writing Project (fund 0348, appropriation 80700), and WV
 16 Autism Training Center (fund 0348, appropriation 93200) at the
 17 close of fiscal year 2016 are hereby reappropriated for
 18 expenditure during the fiscal year 2017, with the exception of
 19 fund 0348, fiscal year 2016, appropriation 51900 (\$10,368), fund
 20 0348, fiscal year 2016, appropriation 53100 (\$13,931), fund
 21 0348, fiscal year 2016, appropriation 80700 (\$864), and fund
 22 0348, fiscal year 2016, appropriation 93200 (\$73,873) which
 23 shall expire on June 30, 2016.

105 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2017 Org 0476

1	West Virginia School of		
2	Osteopathic Medicine.	17200	\$ 6,798,239
3	Rural Health Outreach		
4	Programs (R).	37700	168,354
5	West Virginia School of		
6	Osteopathic Medicine		
7	BRIM Subsidy.	40300	144,721
8	Rural Health Initiative –		
9	Medical Schools Support. . . .	58100	<u>404,968</u>
10	Total.		\$ <u>7,516,282</u>

11 Any unexpended balance remaining in the appropriation for
 12 Rural Health Outreach Programs (fund 0336, appropriation
 13 37700) at the close of fiscal year 2016 is hereby reappropriated
 14 for expenditure during the fiscal year 2017, with the exception
 15 of fund 0336, fiscal year 2016, appropriation 37700 (\$7,015)
 16 which shall expire on June 30, 2016.

17 The above appropriation for Rural Health Outreach
 18 Programs (fund 0336, appropriation 37700) includes rural health

19 activities and programs; rural residency development and
20 education; and rural outreach activities.

21 The above appropriation for West Virginia School of
22 Osteopathic Medicine BRIM Subsidy (fund 0336, appropriation
23 40300) shall be paid to the Board of Risk and Insurance
24 Management as a general revenue subsidy against the “Total
25 Premium Billed” to the institution as part of the full cost of their
26 malpractice insurance coverage.

106 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2017 Org 0482

1 Bluefield State College. 40800 \$ 5,636,862

107 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2017 Org 0483

1 Concord University. 41000 \$ 8,674,596

108 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2017 Org 0484

1 Fairmont State University. 41400 \$ 15,277,769

109 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2017 Org 0485

1 Glenville State College. 42800 \$ 5,891,397

2016]

HOUSE OF DELEGATES

3869

110 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2017 Org 0486

1 Shepherd University. 43200 \$ 9,551,994

111 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2017 Org 0488

1 West Liberty University. 43900 \$ 7,956,371

112 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2017 Org 0490

1 West Virginia State University. 44100 \$ 10,003,071

2 West Virginia State University

3 Land Grant Match. 95600 1,584,947

4 Total. \$ 11,588,018

5 Total TITLE II, Section 1 —

6 General Revenue

7 (Including claims against the state).. . \$4,088,919,000

1 **Sec. 2. Appropriations from state road fund.** — From the
2 state road fund there are hereby appropriated conditionally upon
3 the fulfillment of the provisions set forth in Article 2, Chapter
4 11B of the Code the following amounts, as itemized, for
5 expenditure during the fiscal year 2017.

DEPARTMENT OF TRANSPORTATION

113 - Division of Motor Vehicles

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20 and 24A)

Fund 9007 FY 2017 Org 0802

	Appro- piation	State Road Fund
1 Personal Services and Employee		
2 Benefits.	00100	\$ 23,278,949
3 Current Expenses.	13000	16,191,004
4 Repairs and Alterations.	06400	144,000
5 Equipment.	07000	1,080,000
6 Buildings.	25800	10,000
7 Other Assets.	69000	2,600,000
8 BRIM Premium.	91300	<u>74,776</u>
9 Total.		\$ 43,378,729

114 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2017 Org 0803

1 Debt Service.	04000	\$ 24,000,000
2 Maintenance.	23700	369,354,000
3 Maintenance, Contract Paving and		
4 Secondary Road Maintenance..	27200	54,000,000
5 Bridge Repair and Replacement. . .	27300	15,000,000
6 Inventory Revolving.	27500	4,000,000
7 Equipment Revolving.	27600	15,000,000
8 General Operations.	27700	55,995,000
9 Interstate Construction.	27800	100,000,000
10 Other Federal Aid Programs.	27900	432,000,000
11 Appalachian Programs.	28000	120,000,000
12 Nonfederal Aid Construction.	28100	15,000,000
13 Highway Litter Control.	28200	1,727,000

14	Courtesy Patrol.	28201	<u>3,000,000</u>
15	Total.		\$ 1,209,076,000

16 The above appropriations are to be expended in accordance
 17 with the provisions of Chapters 17 and 17C of the code.

18 The commissioner of highways shall have the authority to
 19 operate revolving funds within the state road fund for the
 20 operation and purchase of various types of equipment used
 21 directly and indirectly in the construction and maintenance of
 22 roads and for the purchase of inventories and materials and
 23 supplies.

24 There is hereby appropriated in addition to the above
 25 appropriations, sufficient money for the payment of claims,
 26 accrued or arising during this budgetary period, to be paid in
 27 accordance with Sections 17 and 18, Article 2, Chapter 14 of the
 28 code.

29 It is the intent of the Legislature to capture and match all
 30 federal funds available for expenditure on the Appalachian
 31 highway system at the earliest possible time. Therefore, should
 32 amounts in excess of those appropriated be required for the
 33 purposes of Appalachian programs, funds in excess of the
 34 amount appropriated may be made available upon
 35 recommendation of the commissioner and approval of the
 36 Governor. Further, for the purpose of Appalachian programs,
 37 funds appropriated by appropriation may be transferred to other
 38 appropriations upon recommendation of the commissioner and
 39 approval of the Governor.

115 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2017 Org 0808

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,585,201

3	Current Expenses.	13000	338,278
4	Repairs and Alterations.	06400	3,000
5	Equipment.	07000	15,500
6	BRIM Premium.	91300	<u>10,000</u>
7	Total.		\$ 1,951,979
8	Total TITLE II, Section 2 —		
9	State Road Fund		
10	(Including claims against the state).. .		<u>\$1,255,390,193</u>

1 **Sec. 3. Appropriations from other funds.** — From the
2 funds designated there are hereby appropriated conditionally
3 upon the fulfillment of the provisions set forth in Article 2,
4 Chapter 11B of the Code the following amounts, as itemized, for
5 expenditure during the fiscal year 2017.

LEGISLATIVE

116 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2017 Org 2300

		Appro- piation	Other Funds
1	Personal Services and Employee		
2	Benefits.	00100	\$ 498,020
3	Current Expenses.	13000	133,903
4	Repairs and Alterations.	06400	1,000
5	Economic Loss Claim Payment		
6	Fund.	33400	3,460,125
7	Other Assets.	69000	<u>3,700</u>
8	Total.		\$ 4,096,748

JUDICIAL

*117 - Supreme Court –
Family Court Fund*

(WV Code Chapter 51)

Fund 1763 FY 2017 Org 2400

1	Current Expenses.....	13000	\$	1,600,000
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EXECUTIVE

*118 - Governor's Office –
Minority Affairs Fund*

(WV Code Chapter 5)

Fund 1058 FY 2017 Org 0100

1	Personal Services and Employee			
2	Benefits.....	00100	\$	172,800
3	Current Expenses.....	13000		503,200
4	Martin Luther King, Jr. Holiday			
5	Celebration.....	03100		<u>8,926</u>
6	Total.....		\$	684,926

*119 - Auditor's Office –
Land Operating Fund*

(WV Code Chapters 11A, 12 and 36)

Fund 1206 FY 2017 Org 1200

1	Personal Services and Employee			
2	Benefits.....	00100	\$	642,647
3	Unclassified.....	09900		15,139
4	Current Expenses.....	13000		440,291
5	Repairs and Alterations.....	06400		2,600
6	Equipment.....	07000		426,741
7	Directed Transfer.....	70000		350,000
8	Cost of Delinquent Land Sales. . . .	76800		<u>1,341,168</u>
9	Total.....		\$	3,218,586

10 There is hereby appropriated from this fund, in addition to
 11 the above appropriations if needed, the necessary amount for the
 12 expenditure of funds other than personal services and employee
 13 benefits to enable the division to pay the direct expenses relating
 14 to land sales as provided in Chapter 11A of the West Virginia
 15 Code.

16 The above appropriation for Directed Transfer, appropriation
 17 70000, shall be transferred to the Medical Services Trust Fund
 18 (fund 5185, org 0511) for expenditure.

19 The total amount of these appropriations shall be paid from
 20 the special revenue fund out of fees and collections as provided
 21 by law.

*120 - Auditor's Office –
 Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 308,087
3	Current Expenses.	13000	62,030
4	Repairs and Alterations.	06400	6,000
5	Equipment.	07000	10,805
6	Other Assets.	69000	50,000
7	Directed Transfer.	70000	400,000
8	Statutory Revenue Distribution.	74100	<u>1,500,000</u>
9	Total.		\$ 2,336,922

10 There is hereby appropriated from this fund, in addition to
 11 the above appropriations if needed, the amount necessary to
 12 meet the transfer of revenue distribution requirements to provide
 13 a proportionate share of rebates back to the general fund of local
 14 governments based on utilization of the program in accordance
 15 with W.Va. Code §6-9-2b.

16 The above appropriation for Directed Transfer, appropriation
17 70000, shall be transferred to the Medical Services Trust Fund
18 (fund 5185, org 0511) for expenditure.

*121 - Auditor's Office –
Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,882,510
3	Unclassified.	09900	31,866
4	Current Expenses.	13000	838,830
5	Repairs and Alterations.	06400	12,400
6	Equipment.	07000	19,700
7	Other Assets.	69000	673,326
8	Directed Transfer.	70000	<u>750,000</u>
9	Total.		\$ 4,208,632

10 The above appropriation for Directed Transfer, appropriation
11 70000, shall be transferred to the Medical Services Trust Fund
12 (fund 5185, org 0511) for expenditure.

*122 - Auditor's Office –
Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2017 Org 1200

1	Current Expenses.	13000	\$ 160,000
2	Other Assets.	69000	<u>100,000</u>
3	Total.		\$ 260,000

4 Fifty percent of the deposits made into this fund shall be
5 transferred to the Treasurer's Office – Technology Support and

6 Acquisition Fund (fund 1329, org 1300) for expenditure for the
7 purposes described in W.Va. Code §12-3-10c.

*123 - Auditor's Office –
Purchasing Card Administration Fund*

(WV Code Chapter 12)

Fund 1234 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,499,307
3	Current Expenses.	13000	1,578,622
4	Repairs and Alterations.	06400	5,500
5	Equipment.	07000	650,000
6	Other Assets.	69000	308,886
7	Statutory Revenue Distribution.	74100	<u>4,000,000</u>
8	Total.		\$ 9,042,315

9 There is hereby appropriated from this fund, in addition to
10 the above appropriations if needed, the amount necessary to
11 meet the transfer and revenue distribution requirements to the
12 Purchasing Improvement Fund (fund 2264), the Hatfield-McCoy
13 Regional Recreation Authority, and the State Park Operating
14 Fund (fund 3265) per W.Va. Code §12-3-10d.

*124 - Auditor's Office –
Chief Inspector's Fund*

(WV Code Chapter 6)

Fund 1235 FY 2017 Org 1200

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,405,512
3	Current Expenses.	13000	765,915
4	Equipment.	07000	<u>50,000</u>
5	Total.		\$ 4,221,427

*125 - Auditor's Office –
Volunteer Fire Department Workers'
Compensation Premium Subsidy Fund*

(WV Code Chapters 12 and 33)

Fund 1239 FY 2017 Org 1200

1	Volunteer Fire Department		
2	Workers' Compensation		
3	Subsidy.	83200	\$ 2,500,000

*126 - Treasurer's Office –
College Prepaid Tuition and Savings Program
Administrative Account*

(WV Code Chapter 18)

Fund 1301 FY 2017 Org 1300

1	Personal Services and		
2	Employee Benefits.	00100	\$ 774,769
3	Unclassified.	09900	14,000
4	Current Expenses.	13000	619,862
5	Directed Transfer.	70000	<u>500,000</u>
6	Total.		\$ 1,908,631

7 The above appropriation for Directed Transfer, appropriation
8 70000, shall be transferred to the Medical Services Trust Fund
9 (fund 5185, org 0511) for expenditure.

*127 - Treasurer's Office –
Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1329 FY 2017 Org 1300

1	Personal Services and Employee		
2	Benefits.	00100	\$ 185,000

3	Unclassified.	09900		4,700
4	Current Expenses.	13000		236,949
5	Other Assets.	69000		<u>50,000</u>
6	Total.		\$	476,649

*128 - Department of Agriculture –
Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2017 Org 1400

1	Personal Services and Employee			
2	Benefits.	00100	\$	2,244,245
3	Unclassified.	09900		37,425
4	Current Expenses.	13000		1,356,184
5	Repairs and Alterations.	06400		58,500
6	Equipment.	07000		36,209
7	Other Assets.	69000		10,000
8	Directed Transfer.	70000		<u>1,000,000</u>
9	Total.		\$	4,742,563

10 The above appropriation for Directed Transfer, appropriation
11 70000, shall be transferred to the Medical Services Trust Fund
12 (fund 5185, org 0511) for expenditure.

*129 - Department of Agriculture –
West Virginia Rural Rehabilitation Program*

(WV Code Chapter 19)

Fund 1408 FY 2017 Org 1400

1	Personal Services and Employee			
2	Benefits.	00100	\$	73,807
3	Unclassified.	09900		10,476
4	Current Expenses.	13000		963,404
5	Directed Transfer.	70000		<u>500,000</u>
6	Total.		\$	1,547,687

7 The above appropriation for Directed Transfer, appropriation
 8 70000, shall be transferred to the Medical Services Trust Fund
 9 (fund 5185, org 0511) for expenditure.

*130 - Department of Agriculture –
 General John McCausland Memorial Farm Fund*

(WV Code Chapter 19)

Fund 1409 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 67,000
3	Unclassified.	09900	2,100
4	Current Expenses.	13000	89,500
5	Repairs and Alterations.	06400	36,400
6	Equipment.	07000	15,000
7	Total.		<u> \$ 210,000</u>

8 The above appropriations shall be expended in accordance
 9 with Article 26, Chapter 19 of the Code.

*131 - Department of Agriculture –
 Farm Operating Fund*

(WV Code Chapter 19)

Fund 1412 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 309,248
3	Unclassified.	09900	15,173
4	Current Expenses.	13000	1,167,464
5	Repairs and Alterations.	06400	238,722
6	Equipment.	07000	249,393
7	Other Assets.	69000	20,000
8	Total.		<u> \$ 2,000,000</u>

*132 - Department of Agriculture –
Donated Food Fund*

(WV Code Chapter 19)

Fund 1446 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 958,864
3	Unclassified.	09900	45,807
4	Current Expenses.	13000	3,410,542
5	Repairs and Alterations.	06400	128,500
6	Equipment.	07000	10,000
7	Other Assets.	69000	27,000
8	Directed Transfer.	70000	<u>500,000</u>
9	Total.		\$ 5,080,713

10 The above appropriation for Directed Transfer, appropriation
11 70000, shall be transferred to the Medical Services Trust Fund
12 (fund 5185, org 0511) for expenditure.

*133 - Department of Agriculture –
Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2017 Org 1400

1	Current Expenses.	13000	\$ 100,000
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*134 - Department of Agriculture –
West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 19)

Fund 1481 FY 2017 Org 1400

1	Current Expenses.	13000	\$ 100
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*135 - Department of Agriculture –
Veterans and Warriors to Agriculture Fund*

(WV Code Chapter 19)

Fund 1483 FY 2017 Org 1400

1	Current Expenses.....	13000	\$	7,500
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*136 - Department of Agriculture –
State FFA-FHA Camp and Conference Center*

(WV Code Chapters 18 and 18A)

Fund 1484 FY 2017 Org 1400

1	Personal Services and Employee			
2	Benefits.....	00100	\$	1,169,194
3	Unclassified.....	09900		17,000
4	Current Expenses.....	13000		707,223
5	Repairs and Alterations.....	06400		57,500
6	Equipment.....	07000		1,000
7	Buildings.....	25800		1,000
8	Other Assets.....	69000		10,000
9	Land.....	73000		<u>1,000</u>
10	Total.....		\$	1,963,917

*137 - Attorney General –
Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2017 Org 1500

1	Personal Services and Employee			
2	Benefits.....	00100	\$	356,900
3	Current Expenses.....	13000		148,803
4	Repairs and Alterations.....	06400		1,000
5	Equipment.....	07000		<u>1,000</u>
6	Total.....		\$	507,703

*138 - Attorney General –
Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2017 Org 1500

1	Personal Services and Employee		
2	Benefits.	00100	\$ 210,226
3	Current Expenses.	13000	54,615
4	Repairs and Alterations.	06400	1,000
5	Equipment.	07000	<u>1,000</u>
6	Total.		\$ 266,841

*139 - Attorney General –
Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2017 Org 1500

1	Current Expenses.	13000	\$ 901,135
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*140 - Secretary of State –
Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2017 Org 1600

1	Personal Services and Employee		
2	Benefits.	00100	\$ 791,051
3	Unclassified.	09900	4,524
4	Current Expenses.	13000	<u>8,036</u>
5	Total.		\$ 803,611

*141 - Secretary of State –
General Administrative Fees Account*

(WV Code Chapters 3, 5 and 59)

Fund 1617 FY 2017 Org 1600

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,769,898
3	Unclassified.	09900	25,529
4	Current Expenses.	13000	796,716
5	Technology Improvements.	59900	<u>750,000</u>
6	Total.		\$ 4,342,143

DEPARTMENT OF ADMINISTRATION

*142 - Department of Administration –
Office of the Secretary –
Tobacco Settlement Fund*

(WV Code Chapter 4)

Fund 2041 FY 2017 Org 0201

1	Tobacco Settlement Securitization		
2	Trustee Pass Thru.	65000	\$ 80,000,000

*143- Department of Administration –
Office of the Secretary –
Employee Pension and Health Care Benefit Fund*

(WV Code Chapter 18)

Fund 2044 FY 2017 Org 0201

1	Current Expenses.	13000	\$ 37,656,000
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2 The above appropriation for Current Expenses (fund 2044,
3 appropriation 13000) shall be transferred to the Consolidated
4 Public Retirement Board – West Virginia Teachers’ Retirement
5 System Employers Accumulation Fund (fund 2601).

144 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2017 Org 0210

1	Personal Services and Employee		
2	Benefits.	00100	\$ 23,378,322
3	Unclassified.	09900	382,354
4	Current Expenses.	13000	11,378,766
5	Repairs and Alterations.	06400	1,000
6	Equipment.	07000	2,050,000
7	Other Assets.	69000	<u>1,045,000</u>
8	Total.		\$ 38,235,442

9 The total amount of these appropriations shall be paid from
10 a special revenue fund out of collections made by the division of
11 information services and communications as provided by law.

12 Each spending unit operating from the general revenue fund,
13 from special revenue funds or receiving reimbursement for
14 postage from the federal government shall be charged monthly
15 for all postage meter service and shall reimburse the revolving
16 fund monthly for all such amounts.

*145 - Division of Purchasing –
Vendor Fee Fund*

(WV Code Chapter 5A)

Fund 2263 FY 2017 Org 0213

1	Personal Services and Employee		
2	Benefits.	00100	\$ 655,208
3	Unclassified.	09900	2,382
4	Current Expenses.	13000	238,115
5	Repairs and Alterations.	06400	5,000
6	Equipment.	07000	2,500
7	Other Assets.	69000	2,500
8	BRIM Premium.	91300	<u>810</u>
9	Total.		\$ 906,515

*146 - Division of Purchasing –
Purchasing Improvement Fund*

(WV Code Chapter 5A)

Fund 2264 FY 2017 Org 0213

1	Personal Services and Employee		
2	Benefits.	00100\$	540,889
3	Unclassified.	09900	5,562
4	Current Expenses.	13000	393,066
5	Repairs and Alterations.	06400	500,500
6	Equipment.	07000	500
7	Other Assets.	69000	500,500
8	Directed Transfer.	70000	500,000
9	BRIM Premium.	91300	850
10	Total.		<u>\$ 2,441,867</u>

11 The above appropriation for Directed Transfer, appropriation
12 70000, shall be transferred to the Medical Services Trust Fund
13 (fund 5185, org 0511) for expenditure.

*147 - Travel Management –
Fleet Management Office Fund*

(WV Code Chapter 5A)

Fund 2301 FY 2017 Org 0215

1	Personal Services and Employee		
2	Benefits.	00100	\$ 722,586
3	Unclassified.	09900	4,000
4	Current Expenses.	13000	8,130,614
5	Repairs and Alterations.	06400	12,000
6	Equipment.	07000	800,000
7	Other Assets.	69000	<u>2,000</u>
8	Total.		<u>\$ 9,671,200</u>

*148 - Travel Management –
Aviation Fund*

(WV Code Chapter 5A)

Fund 2302 FY 2017 Org 0215

1	Unclassified.	09900	\$	1,000
2	Current Expenses.	13000		149,700
3	Repairs and Alterations.	06400		400,237
4	Equipment.	07000		1,000
5	Buildings.	25800		100
6	Other Assets.	69000		100
7	Land.	73000		100
8	Total.		\$	552,237

9 From the above account, no funds may be expended in the
10 maintenance and operation of the Aviation Division's Cessna
11 Grand Caravan, except for those incidental to the sale of the
12 aircraft or the preparation for its sale to the public.

149 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2017 Org 0222

1	Personal Services and Employee			
2	Benefits.	00100	\$	3,942,590
3	Unclassified.	09900		51,418
4	Current Expenses.	13000		1,062,813
5	Repairs and Alterations.	06400		5,000
6	Equipment.	07000		20,000
7	Directed Transfer.	70000		500,000
8	Other Assets.	69000		60,000
9	Total.		\$	5,641,821

10 The total amount of these appropriations shall be paid from
11 a special revenue fund out of fees collected by the division of
12 personnel.

13 The above appropriation for Directed Transfer, appropriation
14 70000, shall be transferred to the Medical Services Trust Fund
15 (fund 5185, org 0511) for expenditure.

150 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2017 Org 0228

1	Personal Services and Employee		
2	Benefits.	00100	\$ 249,242
3	Unclassified.	09900	4,023
4	Current Expenses.	13000	297,528
5	Repairs and Alterations.	06400	600
6	Equipment.	07000	500
7	Other Assets.	69000	<u>500</u>
8	Total.		\$ 552,393

*151 - Office of Technology –
Chief Technology Officer Administration Fund*

(WV Code Chapter 5A)

Fund 2531 FY 2017 Org 0231

1	Personal Services and Employee		
2	Benefits.	00100	\$ 399,911
3	Unclassified.	09900	6,949
4	Current Expenses.	13000	227,116
5	Repairs and Alterations.	06400	1,000
6	Equipment.	07000	50,000
7	Other Assets.	69000	<u>10,000</u>
8	Total.		\$ 694,976

9 From the above fund, the provisions of W.Va. Code
 10 §11B-2-18 shall not operate to permit expenditures in excess of
 11 the funds authorized for expenditure herein.

DEPARTMENT OF COMMERCE

152 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,464,328
3	Current Expenses.	13000	282,202
4	Repairs and Alterations.	06400	<u>53,000</u>
5	Total.		\$ 1,799,530

153 - Division of Forestry –

Timbering Operations Enforcement Fund

(WV Code Chapter 19)

Fund 3082 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 224,433
3	Current Expenses.	13000	87,036
4	Repairs and Alterations.	06400	<u>11,250</u>
5	Total.		\$ 322,719

154 - Division of Forestry –

Severance Tax Operations

(WV Code Chapter 11)

Fund 3084 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 859,626

3	Current Expenses.....	13000		<u>435,338</u>
4	Total.....		\$	1,294,964

*155 - Geological and Economic Survey –
Geological and Analytical Services Fund*

(WV Code Chapter 29)

Fund 3100 FY 2017 Org 0306

1	Personal Services and Employee			
2	Benefits.....	00100	\$	37,966
3	Unclassified.....	09900		2,182
4	Current Expenses.....	13000		141,631
5	Repairs and Alterations.....	06400		6,500
6	Equipment.....	07000		20,000
7	Other Assets.....	69000		<u>10,000</u>
8	Total.....		\$	218,279

9 The above appropriations shall be used in accordance with
10 W.Va. Code §29-2-4.

*156 - West Virginia Development Office –
Department of Commerce –
Marketing and Communications Operating Fund*

(WV Code Chapter 5B)

Fund 3002 FY 2017 Org 0307

1	Personal Services and Employee			
2	Benefits.....	00100	\$	1,528,219
3	Unclassified.....	09900		30,000
4	Current Expenses.....	13000		<u>1,482,760</u>
5	Total.....		\$	3,040,979

*157 - Division of Labor –
Contractor Licensing Board Fund*

(WV Code Chapter 21)

Fund 3187 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,519,374
3	Unclassified.	09900	21,589
4	Current Expenses.	13000	597,995
5	Repairs and Alterations.	06400	15,000
6	Buildings.	25800	5,000
7	Directed Transfer.	70000	<u>1,200,000</u>
8	Total.		\$ 3,358,958

9 The above appropriation for Directed Transfer, appropriation
10 70000, shall be transferred to the Medical Services Trust Fund
11 (fund 5185, org 0511) for expenditure.

*158 - Division of Labor –
Elevator Safety Fund*

(WV Code Chapter 21)

Fund 3188 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 176,772
3	Unclassified.	09900	2,261
4	Current Expenses.	13000	44,112
5	Repairs and Alterations.	06400	2,000
6	Buildings.	25800	<u>1,000</u>
7	Total.		\$ 226,145

*159 - Division of Labor –
Crane Operator Certification Fund*

(WV Code Chapter 21)

Fund 3191 FY 2017 Org 0308

2016] HOUSE OF DELEGATES 3891

1	Personal Services and Employee		
2	Benefits.	00100	\$ 84,380
3	Unclassified.	09900	1,380
4	Current Expenses.	13000	49,765
5	Repairs and Alterations.	06400	1,500
6	Buildings.	25800	<u>1,000</u>
7	Total.		\$ 138,025

160 - Division of Labor –

Amusement Rides and Amusement Attraction Safety Fund

(WV Code Chapter 21)

Fund 3192 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 79,316
3	Unclassified.	09900	1,281
4	Current Expenses.	13000	44,520
5	Repairs and Alterations.	06400	2,000
6	Buildings.	25800	<u>1,000</u>
7	Total.		\$ 128,117

161 - Division of Labor –

State Manufactured Housing Administration Fund

(WV Code Chapter 21)

Fund 3195 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 133,768
3	Unclassified.	09900	1,847
4	Current Expenses.	13000	43,700
5	Repairs and Alterations.	06400	1,000
6	Buildings.	25800	1,000
7	BRIM Premium.	91300	<u>3,404</u>
8	Total.		\$ 184,719

*162 - Division of Labor –
Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2017 Org 0308

1	Current Expenses.....	13000	\$	48,000
2	Repairs and Alterations.....	06400		81,000
3	Equipment.....	07000		76,000
4	Total.....		\$	205,000

*163 - Division of Natural Resources –
License Fund – Wildlife Resources*

(WV Code Chapter 20)

Fund 3200 FY 2017 Org 0310

1	Wildlife Resources.....	02300	\$	5,551,895
2	Administration.....	15500		1,387,974
3	Capital Improvements and			
4	Land Purchase (R).....	24800		1,387,973
5	Law Enforcement.....	80600		5,551,895
6	Total.....		\$	13,879,737

7 The total amount of these appropriations shall be paid from
8 a special revenue fund out of fees collected by the division of
9 natural resources.

10 Any unexpended balance remaining in the appropriation for
11 Capital Improvements and Land Purchase (fund 3200,
12 appropriation 24800) at the close of the fiscal year 2016 is
13 hereby reappropriated for expenditure during the fiscal year
14 2017.

*164 - Division of Natural Resources –
Natural Resources Game Fish and Aquatic Life Fund*

(WV Code Chapter 22)

Fund 3202 FY 2017 Org 0310

1	Current Expenses.....	13000	\$	125,000
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*165 - Division of Natural Resources –
Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2017 Org 0310

1	Personal Services and Employee			
2	Benefits.....	00100	\$	678,109
3	Current Expenses.....	13000		201,930
4	Equipment.....	07000		<u>106,615</u>
5	Total.....		\$	986,654

*166 - Division of Natural Resources –
Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2017 Org 0310

1	Personal Services and Employee			
2	Benefits.....	00100	\$	189,520
3	Current Expenses.....	13000		157,864
4	Repairs and Alterations.....	06400		15,016
5	Equipment.....	07000		8,300
6	Buildings.....	25800		8,300
7	Other Assets.....	69000		1,000,000
8	Directed Transfer.....	70000		1,500,000
9	Land.....	73000		<u>31,700</u>
10	Total.....		\$	2,910,700

11 The above appropriation for Directed Transfer, appropriation
12 70000, shall be transferred to the Medical Services Trust Fund
13 (fund 5185, org 0511) for expenditure.

*167 - Division of Natural Resources –
Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 62,704
3	Current Expenses.	13000	64,778
4	Equipment.	07000	1,297
5	Buildings.	25800	<u>6,969</u>
6	Total.		\$ 135,748

*168 - Division of Natural Resources –
Whitewater Advertising and Promotion Fund*

(WV Code Chapter 20)

Fund 3256 FY 2017 Org 0310

1	Unclassified.	09900	\$ 200
2	Current Expenses.	13000	<u>19,800</u>
3	Total.		\$ 20,000

*169 - Division of Miners' Health, Safety and Training –
Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2017 Org 0314

1	Personal Services and Employee		
2	Benefits.	00100	\$ 471,606
3	WV Mining Extension Service.	02600	150,000
4	Unclassified.	09900	40,985
5	Current Expenses.	13000	1,954,557
6	Buildings.	25800	481,358
7	Directed Transfer.	70000	2,000,000

2016] HOUSE OF DELEGATES 3895

8	Land.	73000		<u>1,000,000</u>
9	Total.		\$	6,098,506

10 The above appropriation for Directed Transfer, appropriation
11 70000, shall be transferred to the Medical Services Trust Fund
12 (fund 5185, org 0511) for expenditure.

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

Broadband Enhancement Fund

Fund 3013 FY 2017 Org 0327

1	Current Expenses.	13000	\$	1,887,000
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*171 - Division of Energy –
Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2017 Org 0328

1	Energy Assistance – Total.	64700	\$	62,000
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*172 - Division of Energy –
Office of Coal Field Community Development*

(WV Code Chapter 5B)

Fund 3011 FY 2017 Org 0328

1	Personal Services and Employee			
2	Benefits.	00100	\$	430,724
3	Unclassified.	09900		8,300
4	Current Expenses.	13000		394,191
5	Repairs and Alterations.	06400		1,000
6	Equipment.	07000		<u>4,000</u>
7	Total.		\$	838,215

DEPARTMENT OF EDUCATION

*173 - State Board of Education –
Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 134,000
3	Unclassified.	09900	1,000
4	Current Expenses.	13000	<u>265,000</u>
5	Total.		\$ 400,000

*174 - State Board of Education –
School Construction Fund*

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2017 Org 0402

1	SBA Construction Grants.	24000	\$ 27,217,000
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175 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,087,932
3	Current Expenses.	13000	249,750
4	Repairs and Alterations.	06400	7,500
5	Equipment.	07000	<u>26,000</u>
6	Total.		\$ 1,371,182

7 The above appropriations are for the administrative expenses
8 of the school building authority and shall be paid from the

9 interest earnings on debt service reserve accounts maintained on
10 behalf of said authority.

DEPARTMENT OF EDUCATION AND THE ARTS

*176 - Office of the Secretary –
Lottery Education Fund Interest Earnings –
Control Account*

(WV Code Chapter 29)

Fund 3508 FY 2017 Org 0431

1 Any unexpended balance remaining in the appropriation for
2 Educational Enhancements (fund 3508, appropriation 69500) at
3 the close of the fiscal year 2016 is hereby reappropriated for
4 expenditure during the fiscal year 2017.

*177 - Division of Culture and History –
Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2017 Org 0432

1	Personal Services and Employee		
2	Benefits.	00100	\$ 211,418
3	Current Expenses.	13000	862,241
4	Equipment.	07000	75,000
5	Buildings.	25800	1,000
6	Other Assets.	69000	52,328
7	Land.	73000	<u>1,000</u>
8	Total.		\$ 1,202,987

*178 - State Board of Rehabilitation –
Division of Rehabilitation Services –
West Virginia Rehabilitation Center Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2017 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 119,738
3	Current Expenses.	13000	2,180,122
4	Repairs and Alterations.	06400	85,500
5	Equipment.	07000	220,000
6	Buildings.	25800	150,000
7	Other Assets.	69000	<u>150,000</u>
8	Total.		\$ 2,905,360

DEPARTMENT OF ENVIRONMENTAL PROTECTION*179 - Solid Waste Management Board*

(WV Code Chapter 22C)

Fund 3288 FY 2017 Org 0312

1	Personal Services and Employee		
2	Benefits.	00100	\$ 802,209
3	Current Expenses.	13000	2,061,057
4	Repairs and Alterations.	06400	1,000
5	Equipment.	07000	5,000
6	Other Assets.	69000	4,403
7	Directed Transfer.	70000	<u>1,000,000</u>
8	Total.		\$ 3,873,669

9 The above appropriation for Directed Transfer, appropriation
10 70000, shall be transferred to the Medical Services Trust Fund
11 (fund 5185, org 0511) for expenditure.

*180 - Division of Environmental Protection –
Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2017 Org 0313

3900	JOURNAL OF THE	[MAY 26
3	Current Expenses..... 13000	16,402,506
4	Repairs and Alterations..... 06400	79,950
5	Equipment..... 07000	130,192
6	Other Assets..... 69000	<u>32,000</u>
	Total.....	\$ 17,995,477

*183 - Division of Environmental Protection –
Oil and Gas Reclamation Fund*

(WV Code Chapter 22)

Fund 3322 FY 2017 Org 0313

1	Personal Services and Employee	
2	Benefits..... 00100	\$ 15,314
3	Current Expenses..... 13000	<u>356,094</u>
4	Total.....	\$ 371,408

*184 - Division of Environmental Protection –
Oil and Gas Operating Permit and Processing Fund*

(WV Code Chapter 22)

Fund 3323 FY 2017 Org 0313

1	Personal Services and Employee	
2	Benefits..... 00100	\$ 3,264,961
3	Current Expenses..... 13000	1,313,961
4	Repairs and Alterations..... 06400	20,600
5	Equipment..... 07000	8,000
6	Unclassified..... 09900	44,700
7	Other Assets..... 69000	15,000
8	Directed Transfer..... 70000	<u>2,000,000</u>
9	Total.....	\$ 6,667,222

10 The above appropriation for Directed Transfer, appropriation
11 70000, shall be transferred to the Medical Services Trust Fund
12 (fund 5185, org 0511) for expenditure.

*185 - Division of Environmental Protection –
Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits. 00100	\$	4,635,449
3	Current Expenses. 13000		2,406,092
4	Repairs and Alterations. 06400		60,260
5	Equipment. 07000		85,134
6	Unclassified. 09900		920
7	Other Assets. 69000		57,500
8	Total.	\$	7,245,355

*186 - Division of Environmental Protection –
Underground Storage Tank
Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits. 00100	\$	466,543
3	Current Expenses. 13000		318,420
4	Repairs and Alterations. 06400		5,350
5	Equipment. 07000		3,610
6	Unclassified. 09900		7,520
7	Other Assets. 69000		3,500
8	Total.	\$	804,943

*187 - Division of Environmental Protection –
Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 643,319
3	Current Expenses.	13000	422,386
4	Repairs and Alterations.	06400	7,014
5	Equipment.	07000	9,000
6	Unclassified.	09900	10,616
7	Other Assets.	69000	<u>11,700</u>
8	Total.		\$ 1,104,035

*188 - Division of Environmental Protection –
Solid Waste Reclamation and
Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 793,967
3	Current Expenses.	13000	3,605,237
4	Repairs and Alterations.	06400	25,000
5	Equipment.	07000	31,500
6	Unclassified.	09900	22,900
7	Other Assets.	69000	<u>1,000</u>
8	Total.		\$ 4,479,604

*189 - Division of Environmental Protection –
Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.	00100	\$ 3,041,424
3	Current Expenses.	13000	1,020,229

2016]	HOUSE OF DELEGATES	3903
4	Repairs and Alterations. 06400	30,930
5	Equipment. 07000	23,356
6	Unclassified. 09900	37,145
7	Other Assets. 69000	25,554
8	Directed Transfer. 70000	<u>3,000,000</u>
9	Total.	\$ 7,178,638

10 The above appropriation for Directed Transfer, appropriation
11 70000, shall be transferred to the Medical Services Trust Fund
12 (fund 5185, org 0511) for expenditure.

*190 - Division of Environmental Protection –
Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2017 Org 0313

1	Personal Services and Employee	
2	Benefits. 00100	\$ 5,667,421
3	Current Expenses. 13000	1,518,704
4	Repairs and Alterations. 06400	84,045
5	Equipment. 07000	115,356
6	Unclassified. 09900	5,580
7	Other Assets. 69000	52,951
8	Directed Transfer. 70000	<u>1,000,000</u>
9	Total.	\$ 8,444,057

10 The above appropriation for Directed Transfer, appropriation
11 70000, shall be transferred to the Medical Services Trust Fund
12 (fund 5185, org 0511) for expenditure.

*191 - Division of Environmental Protection –
Environmental Laboratory
Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 296,164
3	Current Expenses.....	13000	216,288
4	Repairs and Alterations.....	06400	1,000
5	Equipment.....	07000	6,500
6	Unclassified.....	09900	400
7	Other Assets.....	69000	4,000
	Total.....		<u>\$ 524,352</u>

*192 - Division of Environmental Protection –
Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2017 Org 0313

1	Current Expenses.....	13000	\$ 10,298,205
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*193 - Division of Environmental Protection –
Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2017 Org 0313

1	Current Expenses.....	13000	\$ 60,000
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*194 - Division of Environmental Protection –
Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2017 Org 0313

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 646,395
3	Current Expenses.....	13000	2,735,112

2016]	HOUSE OF DELEGATES	3905
4	Repairs and Alterations. 06400	800
5	Equipment. 07000	500
6	Unclassified. 09900	400
7	Other Assets. 69000	<u>2,500</u>
8	Total.	\$ 3,385,707

*195 - Division of Environmental Protection –
Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2017 Org 0313

1	Personal Services and Employee	
2	Benefits. 00100	\$ 1,228,345
3	Current Expenses. 13000	638,729
4	Repairs and Alterations. 06400	30,112
5	Equipment. 07000	23,725
6	Unclassified. 09900	1,180
7	Other Assets. 69000	15,500
	Total.	\$ 1,937,591

*196 - Oil and Gas Conservation Commission –
Special Oil and Gas Conservation Fund*

(WV Code Chapter 22C)

Fund 3371 FY 2017 Org 0315

1	Personal Services and Employee	
2	Benefits. 00100	\$ 157,224
3	Current Expenses. 13000	161,225
4	Repairs and Alterations. 06400	1,000
5	Equipment. 07000	9,481
6	Other Assets. 69000	<u>1,500</u>
7	Total.	\$ 330,430

**DEPARTMENT OF HEALTH AND HUMAN
RESOURCES**

*197 - Division of Health –
The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits. 00100	\$	876,771
3	Unclassified. 09900		15,500
4	Current Expenses.. . . . 13000		1,257,788
5	Total..	\$	2,150,059

*198 - Division of Health –
Hospital Services Revenue Account
Special Fund*

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2017 Org 0506

1	Institutional Facilities Operations. . 33500		
2	Medical Services Trust Fund –		
3	Transfer. 51200		27,800,000
4	Total..	\$	84,508,911

5 The total amount of these appropriations shall be paid from
6 the hospital services revenue account special fund created by
7 W.Va. Code §16-1-13, and shall be used for operating expenses
8 and for improvements in connection with existing facilities.

9 Additional funds have been appropriated in fund 0525, fiscal
10 year 2017, organization 0506, for the operation of the
11 institutional facilities. The secretary of the department of health

12 and human resources is authorized to utilize up to ten percent of
 13 the funds from the appropriation for Institutional Facilities
 14 Operations to facilitate cost effective and cost saving services at
 15 the community level.

16 Necessary funds from the above appropriation may be used
 17 for medical facilities operations, either in connection with this
 18 fund or in connection with the appropriation designated
 19 Institutional Facilities Operations in the consolidated medical
 20 service fund (fund 0525, organization 0506).

21 From the above appropriation to Institutional Facilities
 22 Operations, together with available funds from the consolidated
 23 medical services fund (fund 0525, appropriation 33500) on July
 24 1, 2016, the sum of \$160,000 shall be transferred to the
 25 Department of Agriculture – Land Division – Farm Operating
 26 Fund (1412) as advance payment for the purchase of food
 27 products; actual payments for such purchases shall not be
 28 required until such credits have been completely expended.

*199 - Division of Health –
 Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 912,657
3	Unclassified.	09900	18,114
4	Current Expenses.	13000	<u>880,716</u>
5	Total.		\$ 1,811,487

*200 - Division of Health –
 The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 605,950
3	Unclassified.	09900	7,113
4	Current Expenses.	13000	<u>98,247</u>
5	Total.		\$ 711,310

*201 - Division of Health –
Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2017 Org 0506

1	Current Expenses.	13000	\$ 13,800
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*202 - Division of Health –
Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 19,100
3	Unclassified.	09900	373
4	Current Expenses.	13000	<u>17,875</u>
5	Total.		\$ 37,348

*203 - Division of Health –
West Virginia Birth-to-Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 707,545

2016]	HOUSE OF DELEGATES	3909
3	Unclassified. 09900	223,999
4	Current Expenses. 13000	<u>24,668,438</u>
5	Total.	\$ 25,599,982

*204 - Division of Health –
Tobacco Control Special Fund*

(WV Code Chapter 16)

Fund 5218 FY 2017 Org 0506

1	Current Expenses. 13000	\$	7,579
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*205 - West Virginia Health Care Authority –
Health Care Cost Review Fund*

(WV Code Chapter 16)

Fund 5375 FY 2017 Org 0507

1	Personal Services and Employee		
2	Benefits. 00100	\$	3,033,821
3	Hospital Assistance. 02500		600,000
4	Unclassified. 09900		67,000
5	Current Expenses. 13000		2,837,945
6	Repairs and Alterations. 06400		25,000
7	Equipment. 07000		50,000
8	Buildings. 25800		25,000
9	Other Assets. 69000		<u>100,000</u>
10	Total.	\$	6,738,766

11 The above appropriation is to be expended in accordance
12 with and pursuant to the provisions of W.Va. Code §16-29B and
13 from the special revolving fund designated health care cost
14 review fund.

15 The Health Care Authority is authorized to transfer up to
16 \$1,500,000 from fund 5375 to the West Virginia Health

17 Information Network Account (fund 5380) as authorized per
18 W.Va. Code §16-29G-4.

*206 - West Virginia Health Care Authority –
West Virginia Health Information Network Account*

(WV Code Chapter 16)

Fund 5380 FY 2017 Org 0507

1	Personal Services and Employee		
2	Benefits.	00100	\$ 729,000
3	Unclassified.	09900	20,000
4	Current Expenses.	13000	1,251,000
5	Technology Infrastructure Network.	35100	<u>3,500,000</u>
	Total.		\$ 5,500,000

*207 - Division of Human Services –
Health Care Provider Tax –
Medicaid State Share Fund*

(WV Code Chapter 11)

Fund 5090 FY 2017 Org 0511

1	Medical Services.	18900	\$ 198,381,008
2	Medical Services Administrative		
3	Costs.	78900	<u>418,992</u>
4	Total.		\$ 198,800,000

5 The above appropriation for Medical Services
6 Administrative Costs (fund 5090, appropriation 78900) shall be
7 transferred to a special revenue account in the treasury for use by
8 the Department of Health and Human Resources for
9 administrative purposes. The remainder of all moneys deposited
10 in the fund shall be transferred to the West Virginia medical
11 services fund (fund 5084).

208 - Division of Human Services –
Child Support Enforcement Fund

(WV Code Chapter 48A)

Fund 5094 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 24,809,509
3	Unclassified (R).	09900	380,000
4	Current Expenses (R).	13000	<u>12,810,491</u>
5	Total.		\$ 38,000,000

6 Any unexpended balances remaining in the appropriations
7 for Unclassified (fund 5094, appropriation 09900) and Current
8 Expenses (fund 5094, appropriation 13000) at the close of the
9 fiscal year 2016 are hereby reappropriated for expenditure
10 during the fiscal year 2017.

209 - Division of Human Services –
Medical Services Trust Fund

(WV Code Chapter 9)

Fund 5185 FY 2017 Org 0511

1	Medical Services.	18900	\$ 246,836,566
2	Medical Services Administrative		
3	Costs.	78900	<u>548,723</u>
4	Total.		\$ 247,385,289

5 The above appropriation to Medical Services shall be used
6 to provide state match of Medicaid expenditures as defined and
7 authorized in subsection (c) of W.Va. Code §9-4A-2a.
8 Expenditures from the fund are limited to the following:
9 payment of backlogged billings, funding for services to future
10 federally mandated population groups and payment of the
11 required state match for Medicaid disproportionate share

12 payments. The remainder of all moneys deposited in the fund
13 shall be transferred to the division of human services accounts.

*210 - Division of Human Services –
James “Tiger” Morton Catastrophic Illness Fund*

(WV Code Chapter 16)

Fund 5454 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 89,392
3	Unclassified.	09900	16,031
4	Current Expenses.	13000	1,497,688
5	Directed Transfer.	70000	<u>1,000,000</u>
6	Total.		\$ 2,603,111

7 The above appropriation for Directed Transfer, appropriation
8 70000, shall be transferred to the Medical Services Trust Fund
9 (fund 5185, org 0511) for expenditure.

*211 - Division of Human Services –
Domestic Violence Legal Services Fund*

(WV Code Chapter 48)

Fund 5455 FY 2017 Org 0511

1	Current Expenses.	13000	\$ 1,077,982
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*212 - Division of Human Services –
West Virginia Works Separate State College Program Fund*

(WV Code Chapter 9)

Fund 5467 FY 2017 Org 0511

1	Current Expenses.	13000	\$ 1,065,000
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213 - Division of Human Services –

West Virginia Works Separate State Two-Parent Program Fund

(WV Code Chapter 9)

Fund 5468 FY 2017 Org 0511

1 Current Expenses..... 13000 \$ 3,250,000

214 - Division of Human Services – Marriage Education Fund

(WV Code Chapter 9)

Fund 5490 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits..... 00100	\$	10,000
3	Current Expenses..... 13000		<u>25,000</u>
4	Total.....	\$	35,000

DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY

215 - Department of Military Affairs and Public Safety – Office of the Secretary – Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund

(WV Code Chapter 15)

Fund 6003 FY 2017 Org 0601

1 Current Expenses..... 13000 \$ 32,000

216 - State Armory Board – General Armory Fund

(WV Code Chapter 15)

Fund 6057 FY 2017 Org 0603

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,643,528
3	Current Expenses.	13000	750,000
4	Repairs and Alterations.	06400	485,652
5	Equipment.	07000	300,000
6	Buildings.	25800	770,820
7	Land.	73000	<u>50,000</u>
8	Total.		\$ 4,000,000

9 From the above appropriations, the Adjutant General may
 10 receive and expend funds to conduct operations and activities to
 11 include functions of the Military Authority. The Adjutant
 12 General may transfer funds between appropriations, except no
 13 funds may be transferred to Personal Services and Employee
 Benefits (fund 6057, appropriation 00100).

*217 - Division of Homeland Security and
 Emergency Management –
 West Virginia Interoperable Radio Project*

(WV Code Chapter 24)

Fund 6295 FY 2017 Org 0606

1	Current Expenses.	13000	\$ 2,000,000
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2 Any unexpended balance remaining in the appropriation for
 3 Unclassified – Total (fund 6295, appropriation 09600) at the
 4 close of fiscal year 2016 is hereby reappropriated for expenditure
 during the fiscal year 2017.

*218 - West Virginia Division of Corrections –
 Parolee Supervision Fees*

(WV Code Chapter 62)

Fund 6362 FY 2017 Org 0608

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,013,793
3	Unclassified.	09900	9,804
4	Current Expenses.	13000	758,480
5	Equipment.	07000	30,000
6	Other Assets.	69000	40,129
7	Directed Transfer.	70000	<u>500,000</u>
8	Total.		\$ 2,352,206

9 The above appropriation for Directed Transfer, appropriation
10 70000, shall be transferred to the Medical Services Trust Fund
11 (fund 5185, org 0511) for expenditure.

*219 - West Virginia State Police –
Motor Vehicle Inspection Fund*

(WV Code Chapter 17C)

Fund 6501 FY 2017 Org 0612

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,786,923
3	Current Expenses.	13000	488,211
4	Repairs and Alterations.	06400	204,500
5	Equipment.	07000	3,350,000
6	Buildings.	25800	534,000
7	Other Assets.	69000	5,000
8	BRIM Premium.	91300	<u>302,432</u>
9	Total.		\$ 6,671,066

10 The total amount of these appropriations shall be paid from
11 the special revenue fund out of fees collected for inspection
12 stickers as provided by law.

*220 - West Virginia State Police –
Drunk Driving Prevention Fund*

(WV Code Chapter 15)

Fund 6513 FY 2017 Org 0612

1	Current Expenses.	13000	\$	1,327,000
2	Equipment.	07000		3,491,895
3	BRIM Premium.	91300		<u>154,452</u>
4	Total.		\$	4,973,347

5 The total amount of these appropriations shall be paid from
6 the special revenue fund out of receipts collected pursuant to
7 W.Va. Code §11-15-9a and 16 and paid into a revolving fund
8 account in the state treasury.

*221 - West Virginia State Police –
Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2017 Org 0612

1	Buildings.	25800	\$	443,980
2	Land.	73000		1,000
3	BRIM Premium.	91300		<u>77,222</u>
4	Total.		\$	522,202

*222 - West Virginia State Police –
Surplus Transfer Account*

(WV Code Chapter 15)

Fund 6519 FY 2017 Org 0612

1	Current Expenses.	13000	\$	114,063
2	Repairs and Alterations.	06400		10,000
3	Equipment.	07000		157,002
4	Buildings.	25800		40,000
5	Other Assets.	69000		<u>45,000</u>
6	Total.		\$	366,065

*223 - West Virginia State Police –
Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2017 Org 0612

1	Personal Services and Employee		
2	Benefits.	00100	\$ 236,881
3	Current Expenses.	13000	51,443
4	Repairs and Alterations.	06400	500
5	Equipment.	07000	200,500
6	Other Assets.	69000	500
7	BRIM Premium.	91300	<u>18,524</u>
8	Total.		\$ 508,348

*224 - West Virginia State Police –
Bail Bond Enforcer Account*

(WV Code Chapter 15)

Fund 6532 FY 2017 Org 0612

1	Current Expenses.	13000	\$ 8,300
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*225 - West Virginia State Police –
State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2017 Org 0612

1	Current Expenses.	13000	\$ 160,000
2	Repairs and Alterations.	06400	<u>40,000</u>
3	Total.		\$ 200,000

226 - Regional Jail and Correctional Facility Authority

(WV Code Chapter 31)

Fund 6675 FY 2017 Org 0615

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,971,039
3	Debt Service.	04000	9,000,000
4	Current Expenses.	13000	495,852
5	Repairs and Alterations.	06400	4,000
6	Equipment.	07000	<u>1,743</u>
7	Total.		\$ 11,472,634

*227 - Fire Commission –
Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2017 Org 0619

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,848,036
3	Unclassified.	09900	3,800
4	Current Expenses.	13000	1,249,550
5	Repairs and Alterations.	06400	58,500
6	Equipment.	07000	35,800
7	Other Assets.	69000	12,000
8	Directed Transfer.	70000	500,000
9	BRIM Premium.	91300	<u>50,000</u>
10	Total.		\$ 4,757,686

11 The above appropriation for Directed Transfer, appropriation
12 70000, shall be transferred to the Medical Services Trust Fund
13 (fund 5185, org 0511) for expenditure.

*228 - Division of Justice and Community Services –
WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2017 Org 0620

2016]

HOUSE OF DELEGATES

3919

1	Personal Services and Employee		
2	Benefits.	00100	\$ 152,000
3	Unclassified.	09900	750
4	Current Expenses.	13000	1,846,250
5	Repairs and Alterations.	06400	<u>1,000</u>
6	Total.		\$ 2,000,000

*229 - Division of Justice and Community Services –
Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2017 Org 0620

1	Personal Services and Employee		
2	Benefits.	00100	\$ 21,865
3	Current Expenses.	13000	<u>1,478,135</u>
4	Total.		\$ 1,500,000

DEPARTMENT OF REVENUE

230 - Division of Financial Institutions

(WV Code Chapter 31A)

Fund 3041 FY 2017 Org 0303

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,421,059
3	Unclassified.	09900	32,290
4	Current Expenses.	13000	729,227
5	Repairs and Alterations.	06400	500
6	Equipment.	07000	16,000
7	Other Assets.	69000	<u>30,000</u>
8	Total.		\$ 3,229,076

*231– Office of the Secretary
Revenue Shortfall Reserve Fund*

(WV Code Chapter 11B)

Fund 7005 FY 2017 Org 0701

- 1 Medical Services Trust Fund –
- 2 Transfer..... 51200 \$ 154,542,560
- 3 The above appropriation to Medical Services Trust Fund –
- 4 Transfer, appropriation 51200, is hereby appropriated up to \$9
- 5 million in additional funds via this line-item to cover any
- 6 deficiency that may be realized in the Senior Services Medicaid
- 7 Transfer – Lottery Surplus, appropriation 68199 of Sec. 10,
- 8 TITLE II, at fiscal year-end.

*232- Office of the Secretary –
State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2017 Org 0701

- 1 Directed Transfer..... 70000 \$ 20,000,000
- 2 The above appropriation for Directed Transfer shall be
- 3 transferred to the Consolidated Public Retirement Board – West
- 4 Virginia Public Employees Retirement System Employers
- 5 Accumulation Fund (fund 2510).

*233 - Tax Division –
Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2017 Org 0702

- 1 Personal Services and Employee
- 2 Benefits..... 00100 \$ 23,459
- 3 Current Expenses..... 13000 7,717
- 4 Total..... \$ 31,176

*234 - Tax Division –
Special Audit and Investigative Unit*

(WV Code Chapter 11)

Fund 7073 FY 2017 Org 0702

1	Personal Services and Employee		
2	Benefits.	00100	\$ 655,203
3	Unclassified.	09900	9,500
4	Current Expenses.	13000	273,297
5	Repairs and Alterations.	06400	7,000
6	Equipment.	07000	5,000
7	Total.		\$ 950,000

*235 - Tax Division –
Wine Tax Administration Fund*

(WV Code Chapter 60)

Fund 7087 FY 2017 Org 0702

1	Personal Services and Employee		
2	Benefits.	00100	\$ 254,162
3	Current Expenses.	13000	5,406
4	Total.		\$ 259,568

*236 - Tax Division –
Reduced Cigarette Ignition Propensity
Standard and Fire Prevention Act Fund*

(WV Code Chapter 47)

Fund 7092 FY 2017 Org 0702

1	Current Expenses.	13000	\$ 35,000
2	Equipment.	07000	15,000
3	Total.		\$ 50,000

*237 - Tax Division –
Local Sales Tax and Excise Tax
Administration Fund*

(WV Code Chapter 11)

Fund 7099 FY 2017 Org 0702

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,508,968
3	Unclassified.	09900	10,000
4	Current Expenses.	13000	784,563
5	Repairs and Alterations.	06400	1,000
6	Equipment.	07000	<u>5,000</u>
7	Total.		\$ 2,309,531

*238 - State Budget Office –
Public Employees Insurance Reserve Fund*

(WV Code Chapter 11B)

Fund 7400 FY 2017 Org 0703

1	Public Employees Insurance Reserve		
2	Fund – Transfer.	90300	\$ 6,800,000
3	The above appropriation for Public Employees Insurance		
4	Reserve Fund – Transfer shall be transferred to the Medical		
5	Services Trust Fund (fund 5185, org 0511) for expenditure.		

*239 - Insurance Commissioner –
Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2017 Org 0704

1	Personal Services and Employee		
2	Benefits.	00100	\$ 721,117

*242 - Insurance Commissioner –
Workers' Compensation Old Fund*

(WV Code Chapter 23)

Fund 7162 FY 2017 Org 0704

1	Employee Benefits.....	01000	\$ 125,000
2	Current Expenses.....	13000	549,875,000
3	Total.....		\$ 550,000,000

*243- Insurance Commissioner –
Workers' Compensation Uninsured Employers' Fund*

(WV Code Chapter 23)

Fund 7163 FY 2017 Org 0704

1	Current Expenses.....	13000	\$ 27,000,000
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*244 - Insurance Commissioner –
Self-Insured Employer Guaranty Risk Pool*

(WV Code Chapter 23)

Fund 7164 FY 2017 Org 0704

1	Current Expenses.....	13000	\$ 5,000,000
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*245 - Insurance Commissioner –
Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2017 Org 0704

1	Current Expenses.....	13000	\$ 10,000,000
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*246 - Lottery Commission –
Revenue Center Construction Fund*

(WV Code Chapter 29)

Fund 7209 FY 2017 Org 0705

1	Buildings.	25800	\$	500,000
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247 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2017 Org 0706

1	Personal Services and Employee			
2	Benefits.	00100	\$	247,523
3	Current Expenses.	13000		144,844
4	Equipment.	07000		100
5	Total.		\$	392,467

*248 - Racing Commission –
Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2017 Org 0707

1	Medical Expenses – Total.	24500	\$	57,000
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2 The total amount of this appropriation shall be paid from the
3 special revenue fund out of collections of license fees and fines
4 as provided by law.

5 No expenditures shall be made from this fund except for
6 hospitalization, medical care and/or funeral expenses for persons
7 contributing to this fund.

*249 - Racing Commission –
Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2017 Org 0707

1	Personal Services and Employee		
2	Benefits.	00100	\$ 256,665
3	Current Expenses.	13000	93,335
4	Other Assets.	69000	<u>5,000</u>
5	Total.		\$ 355,000

*250 - Racing Commission –
General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2017 Org 0707

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,271,339
3	Current Expenses.	13000	566,248
4	Repairs and Alterations.	06400	7,000
5	Other Assets.	69000	<u>50,000</u>
6	Total.		\$ 2,894,587

*251 - Racing Commission –
Administration, Promotion, Education, Capital Improvement
and Greyhound Adoption Programs
to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2017 Org 0707

1	Personal Services and Employee		
2	Benefits.	00100	\$ 864,474
3	Current Expenses.	13000	214,406
4	Other Assets.	69000	<u>200,000</u>
5	Total.		\$ 1,278,880

*252 - Alcohol Beverage Control Administration –
Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2017 Org 0708

1	Personal Services and Employee		
2	Benefits.	00100	\$ 122,339
3	Current Expenses.	13000	69,186
4	Repairs and Alterations.	06400	7,263
5	Equipment.	07000	10,000
6	Buildings.	25800	100,000
7	Other Assets.	69000	<u>100</u>
8	Total.		\$ 308,888

9 To the extent permitted by law, four classified exempt
10 positions shall be provided from Personal Services and
11 Employee Benefits appropriation for field auditors.

253 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2017 Org 0708

1	Personal Services and Employee		
2	Benefits.	00100	\$ 5,413,237
3	Current Expenses.	13000	2,897,577
4	Repairs and Alterations.	06400	84,000
5	Equipment.	07000	108,000
6	Buildings.	25800	100
7	Purchase of Supplies for Resale. . .	41900	72,500,000
8	Transfer Liquor Profits and Taxes..	42500	16,000,000
9	Other Assets.	69000	100
10	Land.	73000	<u>100</u>
11	Total.		\$ 97,003,114

12 The total amount of these appropriations shall be paid from
13 a special revenue fund out of liquor revenues and any other
14 revenues available.

15 The above appropriations include the salary of the
16 commissioner and the salaries, expenses and equipment of
17 administrative offices, warehouses and inspectors.

18 The above appropriations include funding for the
19 Tobacco/Alcohol Education Program.

20 There is hereby appropriated from liquor revenues, in
21 addition to the above appropriations as needed, the necessary
22 amount for the purchase of liquor as provided by law and the
23 remittance of profits and taxes to the General Revenue Fund.

254 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2017 Org 0933

1 Current Expenses..... 13000 \$ 20,000

DEPARTMENT OF TRANSPORTATION

*255 - Division of Motor Vehicles –
Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2017 Org 0802

1 Current Expenses..... 13000 \$ 189,000

*256 - Division of Motor Vehicles –
Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2017 Org 0802

1 Personal Services and Employee
2 Benefits..... 00100 \$ 2,852,799

2016]	HOUSE OF DELEGATES	3929
3	Current Expenses..... 13000	4,882,937
4	Repairs and Alterations..... 06400	16,000
5	Equipment..... 07000	75,000
6	Other Assets..... 69000	10,000
7	BRIM Premium..... 91300	<u>74,775</u>
8	Total.....	\$ 7,911,511

*257 - Division of Highways –
A. James Manchin Fund*

(WV Code Chapter 22)

Fund 8319 FY 2017 Org 0803

1	Current Expenses..... 13000	\$ 1,650,000
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*258 - Public Port Authority –
Special Railroad and Intermodal Enhancement Fund*

(WV Code Chapter 17)

Fund 8254 FY 2017 Org 0806

1	Current Expenses..... 13000	\$ 510,000
2	Other Assets..... 69000	<u>3,490,000</u>
3	Total.....	\$ 4,000,000

DEPARTMENT OF VETERANS' ASSISTANCE

259 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2017 Org 0613

1	Personal Services and Employee	
2	Benefits..... 00100	\$ 94,210
3	Current Expenses..... 13000	2,255,997
4	Repairs and Alterations..... 06400	10,000

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5	Equipment.	07000		10,000
6	Other Assets.....	69000		<u>10,000</u>
7	Total.....		\$	2,380,207

*260 - Department of Veterans' Assistance –
 WV Veterans' Home –
 Special Revenue Operating Fund*

(WV Code Chapter 9A)

Fund 6754 FY 2017 Org 0618

1	Current Expenses.....	13000	\$	700,000
2	Repairs and Alterations.....	06400		<u>50,000</u>
3	Total.....		\$	750,000

BUREAU OF SENIOR SERVICES

*261 - Bureau of Senior Services –
 Community Based Service Fund*

(WV Code Chapter 22)

Fund 5409 FY 2017 Org 0508

1	Personal Services and Employee			
2	Benefits.....	00100	\$	151,290
3	Current Expenses.....	13000		<u>10,348,710</u>
4	Total.....		\$	10,500,000

5 The total amount of these appropriations are funded from
 6 annual table game license fees to enable the aged and disabled
 7 citizens of West Virginia to stay in their homes through the
 8 provision of home and community-based services.

**WEST VIRGINIA COUNCIL FOR COMMUNITY AND
 TECHNICAL COLLEGE EDUCATION**

262 - West Virginia University at Parkersburg –

Land Sale Account

(WV Code Chapter 18B)

Fund 4322 FY 2017 Org 0464

1	Capital Outlay, Repairs and		
2	Equipment.....	58900	\$ 532,000

3 The total amount of this appropriation shall be used for the
 4 purchase of additional real property or technology, or for capital
 5 improvements at the institution.

HIGHER EDUCATION POLICY COMMISSION

*263 - 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 2017 Org 0442

1	Debt Service.....	04000	\$ 27,720,321
2	General Capital Expenditures.	30600	5,000,000
3	Facilities Planning and		
4	Administration.....	38600	<u>421,082</u>
5	Total.....		\$ 33,141,403

6 The total amount of these appropriations shall be paid from
 7 the special capital improvement fund created in W.Va. Code
 8 §18B-10-8. Projects are to be paid on a cash basis and made
 9 available on July 1.

10 The above appropriations, except for debt service, may be
 11 transferred to special revenue funds for capital improvement
 12 projects at the institutions.

264 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2017 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay (fund 4906, appropriation 51100) at the close of
3 the fiscal year 2016 is hereby reappropriated for expenditure
4 during the fiscal year 2017.

5 The appropriation shall be paid from available unexpended
6 cash balances and interest earnings accruing to the fund. The
7 appropriation shall be expended at the discretion of the Higher
8 Education Policy Commission and the funds may be allocated to
9 any institution within the system.

10 The total amount of this appropriation shall be paid from the
11 unexpended proceeds of revenue bonds previously issued
12 pursuant to W.Va. Code §18-12B-8, which have since been
13 refunded.

*265 - Community and Technical College –
Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2017 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Improvements – Total (fund 4908, appropriation 95800)
3 at the close of fiscal year 2016 is hereby reappropriated for
4 expenditure during the fiscal year 2017.

5 The total amount of this appropriation shall be paid from the
6 sale of the 2009 Series A Community and Technical College
7 Capital Improvement Revenue Bonds and anticipated interest
8 earnings.

266 - West Virginia University –
West Virginia University Health Sciences Center

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2017 Org 0463

1	Personal Services and Employee		
2	Benefits.	00100	\$ 10,274,340
3	Current Expenses.	13000	4,524,300
4	Repairs and Alterations.	06400	425,000
5	Equipment.	07000	512,000
6	Buildings.	25800	150,000
7	Other Assets.	69000	<u>50,000</u>
8	Total.		\$ 15,935,640

MISCELLANEOUS BOARDS AND COMMISSIONS

267- Board of Barbers and Cosmetologists –
Barbers and Beauticians Special Fund

(WV Code Chapters 16 and 30)

Fund 5425 FY 2017 Org 0505

1	Personal Services and Employee		
2	Benefits.	00100	\$ 504,497
3	Current Expenses.	13000	<u>239,969</u>
4	Total.		\$ 744,466

5 The total amount of these appropriations shall be paid from
6 a special revenue fund out of collections made by the board of
7 barbers and cosmetologists as provided by law.

268- Hospital Finance Authority –
Hospital Finance Authority Fund

(WV Code Chapter 16)

Fund 5475 FY 2017 Org 0509

1	Personal Services and Employee		
2	Benefits.	00100	\$ 85,981
3	Unclassified.. . . .	09900	1,450
4	Current Expenses.	13000	<u>57,740</u>
5	Total.. . . .		\$ 145,171

6 The total amount of these appropriations shall be paid from
7 the special revenue fund out of fees and collections as provided
8 by Article 29A, Chapter 16 of the Code.

*269 - WV State Board of Examiners for Licensed
Practical Nurses –
Licensed Practical Nurses*

(WV Code Chapter 30)

Fund 8517 FY 2017 Org 0906

1	Personal Services and Employee		
2	Benefits.	00100	\$ 430,324
3	Current Expenses.	13000	<u>53,133</u>
4	Total.. . . .		\$ 483,457

*270 - WV Board of Examiners for Registered
Professional Nurses –
Registered Professional Nurses*

(WV Code Chapter 30)

Fund 8520 FY 2017 Org 0907

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,081,694
3	Current Expenses.	13000	295,339
4	Repairs and Alterations.	06400	3,000
5	Equipment.	07000	19,500

Public Service Commission Pipeline Safety Fund

(WV Code Chapter 24B)

Fund 8624 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 284,198
3	Unclassified.	09900	3,851
4	Current Expenses.	13000	93,115
5	Repairs and Alterations.	06400	<u>4,000</u>
6	Total.		\$ 385,164

7 The total amount of these appropriations shall be paid from
8 a special revenue fund out of receipts collected for or by the
9 public service commission pursuant to and in the exercise of
10 regulatory authority over pipeline companies as provided by law.

*273 - Public Service Commission –
Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,243,526
3	Unclassified.	09900	29,233
4	Current Expenses.	13000	577,557
5	Repairs and Alterations.	06400	23,000
6	Equipment.	07000	<u>50,000</u>
7	Total.		\$ 2,923,316

8 The total amount of these appropriations shall be paid from
9 a special revenue fund out of receipts collected for or by the
10 public service commission pursuant to and in the exercise of
11 regulatory authority over motor carriers as provided by law.

*274 - Public Service Commission –
Consumer Advocate Fund*

(WV Code Chapter 24)

Fund 8627 FY 2017 Org 0926

1	Personal Services and Employee			
2	Benefits.	00100	\$	743,372
3	Current Expenses.	13000		276,472
4	Equipment.	07000		10,000
5	BRIM Premium.	91300		4,532
6	Total.		\$	1,034,376

7 The total amount of these appropriations shall be supported
8 by cash from a special revenue fund out of collections made by
9 the public service commission.

*275 - Real Estate Commission –
Real Estate License Fund*

(WV Code Chapter 30)

Fund 8635 FY 2017 Org 0927

1	Personal Services and Employee			
2	Benefits.	00100	\$	582,413
3	Current Expenses.	13000		285,622
4	Repairs and Alterations.	06400		5,000
5	Equipment.	07000		10,000
6	Total.		\$	883,035

7 The total amount of these appropriations shall be paid out of
8 collections of license fees as provided by law.

*276 - WV Board of Examiners for Speech-Language
Pathology and Audiology –
Speech-Language Pathology and Audiology Operating Fund*

(WV Code Chapter 30)

Fund 8646 FY 2017 Org 0930

1	Personal Services and Employee		
2	Benefits.	00100	\$ 73,190
3	Current Expenses.	13000	<u>65,623</u>
4	Total.		\$ 138,813

*277 - WV Board of Respiratory Care –
Board of Respiratory Care Fund*

(WV Code Chapter 30)

Fund 8676 FY 2017 Org 0935

1	Personal Services and Employee		
2	Benefits.	00100	\$ 79,583
3	Current Expenses.	13000	51,047
4	Repairs and Alterations.	06400	<u>400</u>
5	Total.		\$ 131,030

*278 - WV Board of Licensed Dietitians –
Dietitians Licensure Board Fund*

(WV Code Chapter 30)

Fund 8680 FY 2017 Org 0936

1	Personal Services and Employee		
2	Benefits.	00100	\$ 8,648
3	Current Expenses.	13000	<u>14,352</u>
4	Total.		\$ 23,000

*279 - Massage Therapy Licensure Board –
Massage Therapist Board Fund*

(WV Code Chapter 30)

Fund 8671 FY 2017 Org 0938

1	Personal Services and Employee		
2	Benefits.	00100	\$ 104,358
3	Current Expenses.	13000	<u>22,708</u>
4	Total.		\$ 127,066

*280 - Board of Medicine –
Medical Licensing Board Fund*

(WV Code Chapter 30)

Fund 9070 FY 2017 Org 0945

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,047,752
3	Current Expenses.	13000	988,789
4	Repairs and Alterations.	06400	<u>20,000</u>
5	Total.		\$ 2,056,541

*281 - West Virginia Enterprise Resource Planning Board –
Enterprise Resource Planning System Fund*

(WV Code Chapter 12)

Fund 9080 FY 2017 Org 0947

1	Personal Services and Employee		
2	Benefits.	00100	\$ 6,713,066
3	Unclassified.	09900	430,000
4	Current Expenses.	13000	42,306,934
5	Repairs and Alterations.	06400	100,000
6	Equipment.	07000	250,000
7	Buildings.	25800	100,000
8	Other Assets.	69000	<u>100,000</u>
9	Total.		\$ 50,000,000

*282 - Board of Treasury Investments –
Board of Treasury Investments Fee Fund*

(WV Code Chapter 12)

Fund 9152 FY 2017 Org 0950

1	Personal Services and Employee		
2	Benefits.	00100	\$ 715,279
3	Unclassified.	09900	12,667
4	Current Expenses.	13000	488,074
5	BRIM Premium.	91300	50,687
6	Fees of Custodians, Fund Advisors and		
7	Fund Managers.	93800	<u>3,500,000</u>
8	Total.		\$ 4,766,707

9 There is hereby appropriated from this fund, in addition to
10 the above appropriation if needed, an amount of funds necessary
11 for the Board of Treasury Investments to pay the fees and
12 expenses of custodians, fund advisors and fund managers for the
13 Consolidated fund of the State as provided in Article 6C,
14 Chapter 12 of the Code.

15 The total amount of these appropriations shall be paid from
16 the special revenue fund out of fees and collections as provided
17 by law.

18 Total TITLE II, Section 3 — Other Funds
19 (Including claims against the state).. . \$2,132,800,142

1 **Sec. 4. Appropriations from lottery net profits.** — Net
2 profits of the lottery are to be deposited by the director of the
3 lottery to the following accounts in the amounts indicated. The
4 director of the lottery shall prorate each deposit of net profits in
5 the proportion the appropriation for each account bears to the
6 total of the appropriations for all accounts.

7 After first satisfying the requirements for Fund 2252, Fund
8 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the
9 director of the lottery shall make available from the remaining

10 net profits of the lottery any amounts needed to pay debt service
 11 for which an appropriation is made for Fund 9065, Fund 4297,
 12 Fund 3390, and Fund 3514 and is authorized to transfer any such
 13 amounts to Fund 9065, Fund 4297, Fund 3390, and Fund 3514
 14 for that purpose. Upon receipt of reimbursement of amounts so
 15 transferred, the director of the lottery shall deposit the
 16 reimbursement amounts to the following accounts as required by
 17 this section.

*283 - Education, Arts, Sciences and Tourism –
 Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2017 Org 0211

		Appro- piation		Lottery Funds
1	Debt Service – Total.	31000	\$	10,000,000

*284 - West Virginia Development Office –
 Division of Tourism*

(WV Code Chapter 5B)

Fund 3067 FY 2017 Org 0304

1	Tourism – Telemarketing Center... 46300	\$	82,080
2	WV Film Office..... 49800		341,153
3	Tourism – Advertising (R)... 61800		1,821,419
4	Tourism – Operations (R). 66200		<u>3,970,510</u>
5	Total..	\$	6,215,162

6 Any unexpended balances remaining in the appropriations
 7 for Tourism – Advertising (fund 3067, appropriation 61800), and
 8 Tourism – Operations (fund 3067, appropriation 66200) at the
 9 close of the fiscal year 2016 are hereby reappropriated for
 10 expenditure during the fiscal year 2017.

285 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.....	00100	\$ 2,104,327
3	Current Expenses.....	13000	23,000
4	Pricketts Fort State Park.....	32400	106,560
5	Non-Game Wildlife (R).....	52700	367,248
6	State Parks and Recreation		
7	Advertising (R).....	61900	<u>494,578</u>
8	Total.....		\$ 3,095,713

9 Any unexpended balances remaining in the appropriations
10 for Unclassified (fund 3267, appropriation 09900), Capital
11 Outlay – Parks (fund 3267, appropriation 28800), Non-Game
12 Wildlife (fund 3267, appropriation 52700), and State Parks and
13 Recreation Advertising (fund 3267, appropriation 61900) at the
14 close of the fiscal year 2016 are hereby reappropriated for
15 expenditure during the fiscal year 2017.

286 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2017 Org 0402

1	FBI Checks.....	37200	\$ 108,860
2	Vocational Education Equipment		
3	Replacement.....	39300	800,000
4	Assessment Program (R).....	39600	2,946,059
5	21st Century Technology		
6	Infrastructure Network Tools and		
7	Support (R).....	93300	<u>14,151,287</u>
8	Total.....		\$ 18,006,206

9 Any unexpended balances remaining in the appropriations
 10 for Unclassified (fund 3951, appropriation 09900), Current
 11 Expenses (fund 3951, appropriation 13000), Assessment
 12 Program (fund 3951, appropriation 39600), and 21st Century
 13 Technology Infrastructure Network Tools and Support (fund
 14 3951, appropriation 93300) at the close of the fiscal year 2016
 15 are hereby reappropriated for expenditure during the fiscal year
 16 2017.

*287 - State Department of Education –
 School Building Authority –
 Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2017 Org 0402

1	Debt Service – Total.	31000	\$	7,507,700
2	Directed Transfer.	70000		<u>10,492,300</u>
3	Total.		\$	18,000,000

4 The School Building Authority shall have the authority to
 5 transfer between the above appropriations in accordance with
 6 W.Va. Code §29-22-18.

*288 - Department of Education and the Arts –
 Office of the Secretary –
 Control Account –
 Lottery Education Fund*

(WV Code Chapter 5F)

Fund 3508 FY 2017 Org 0431

1	Unclassified (R).	09900	\$	11,864
2	Current Expenses.	13000		108,136
3	Commission for National and			
4	Community Service.	19300		350,228

5	Arts Programs (R).	50000	81,510
6	College Readiness.	57900	154,906
7	Statewide STEM 21st Century		
8	Academy.	89700	130,000
9	Literacy Project (R).	89900	<u>350,000</u>
10	Total.		\$ 1,186,644

11 Any unexpended balances remaining in the appropriations
 12 for Unclassified (fund 3508, appropriation 09900), Governor’s
 13 Honors Academy (fund 3508, appropriation 47800), Arts
 14 Programs (fund 3508, appropriation 50000), and Literacy Project
 15 (fund 3508, appropriation 89900) at the close of fiscal year 2016
 16 are hereby reappropriated for expenditure during the fiscal year
 17 2017.

*289 - Division of Culture and History –
 Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2017 Org 0432

1	Huntington Symphony.	02700	\$ 73,823
2	Preservation West Virginia (R). . .	09200	587,519
3	Fairs and Festivals (R).	12200	1,668,297
4	Archeological Curation/Capital		
5	Improvements (R).	24600	37,593
6	Historic Preservation Grants (R). . .	31100	331,585
7	West Virginia Public Theater. . . .	31200	150,024
8	George Tyler Moore Center for the		
9	Study of the Civil War.	39700	46,739
10	Greenbrier Valley Theater.	42300	124,429
11	Theater Arts of West Virginia. . . .	46400	112,500
12	Marshall Artists Series.	51800	45,007
13	Grants for Competitive Arts		
14	Program (R).	62400	657,900
15	West Virginia State Fair.	65700	39,052

16	Save the Music.....	68000	27,000
17	Contemporary American Theater		
18	Festival.	81100	71,602
19	Independence Hall.	81200	34,097
20	Mountain State Forest Festival. ...	86400	47,734
21	WV Symphony.....	90700	73,823
22	Wheeling Symphony.....	90800	73,823
23	Appalachian Children's Chorus....	91600	<u>68,193</u>
24	Total.....		\$ 4,270,738

25 Any unexpended balances remaining in the appropriations
 26 for Preservation West Virginia (fund 3534, appropriation
 27 09200), Fairs and Festivals (fund 3534, appropriation 12200),
 28 Archeological Curation/Capital Improvements (fund 3534,
 29 appropriation 24600), Historic Preservation Grants (fund 3534,
 30 appropriation 31100), Grants for Competitive Arts Program
 31 (fund 3534, appropriation 62400), and Project ACCESS (fund
 32 3534, appropriation 86500) at the close of the fiscal year 2016
 33 are hereby reappropriated for expenditure during the fiscal year
 34 2017.

35 From the above appropriation for Fairs and Festivals (fund
 36 3534, appropriation 12200) funding shall be provided to A
 37 Princeton 4th (Mercer) \$2,250, African-American Cultural
 38 Heritage Festival (Jefferson) \$3,700, Alderson 4th of July
 39 Celebration (Greenbrier) \$3,700, Allegheny Echo (Pocahontas)
 40 \$5,550, Alpine Festival/Leaf Peepers Festival (Tucker) \$8,350,
 41 American Civil War (Grant) \$3,900, American Legion Post 8
 42 Veterans Day Parade (McDowell) \$1,550, Angus Beef and
 43 Cattle Show (Lewis) \$1,100, Annual Birch River Days
 44 (Nicholas) \$1,600, Annual Don Redman Heritage Concert &
 45 Awards (Jefferson) \$1,150, Annual Ruddle Park Jamboree
 46 (Pendleton) \$5,850, Antique Market Fair (Lewis) \$1,500, Apollo
 47 Theater-Summer Program (Berkeley) \$1,500, Apple Butter
 48 Festival (Morgan) \$4,450, Arkansaw Homemaker's Heritage
 49 Weekend (Hardy) \$2,600, Armed Forces Day-South Charleston

50 (Kanawha) \$2,200, Arthur Dale Heritage New Deal Festival
51 (Preston) \$3,700, Athens Town Fair (Mercer) \$1,500, Augusta
52 Fair (Randolph) \$3,700, Autumn Harvest Fest (Monroe) \$3,050,
53 Barbour County Fair \$18,550, Barboursville Octoberfest
54 (Cabell) \$3,700, Bass Festival (Pleasants) \$1,350, Battelle
55 District Fair (Monongalia) \$3,700, Battle of Dry Creek
56 (Greenbrier) \$1,100, Battle of Point Pleasant Memorial
57 Committee (Mason) \$3,700, Belle Town Fair (Kanawha) \$3,350,
58 Belleville Homecoming (Wood) \$14,850, Bergoo Down Home
59 Days (Webster) \$1,850, Berkeley County Youth Fair \$13,750,
60 Black Bear 4K Mountain Bike Race (Kanawha) \$900, Black
61 Heritage Festival (Harrison) \$4,450, Black Walnut Festival
62 (Roane) \$7,450, Blast from the Past (Upshur) \$1,800, Blue-Gray
63 Reunion (Barbour) \$2,600, Boone County Fair \$7,450, Boone
64 County Labor Day Celebration \$3,000, Bradshaw Fall Festival
65 (McDowell) \$1,500, Brandonville Heritage Day (Preston)
66 \$1,300, Braxton County Fair \$8,550, Braxton County Monster
67 Fest / West Virginia Autumn Festival \$1,850, Brooke County
68 Fair \$2,600, Bruceton Mills Good Neighbor Days (Preston)
69 \$1,500, Buckwheat Festival (Preston) \$6,300, Buffalo 4th of July
70 Celebration (Putnam) \$500, Buffalo October Fest (Putnam)
71 \$4,050, Burlington Apple Harvest Festival (Mineral) \$22,300,
72 Burlington Pumpkin Harvest Festival (Raleigh) \$3,700,
73 Burnsville Harvest Festival (Braxton) \$1,750, Cabell County
74 Fair \$7,450, Calhoun County Wood Festival \$1,500,
75 Campbell's Creek Community Fair (Kanawha) \$1,850, Cape
76 Coalwood Festival Association (McDowell) \$1,850, Capon
77 Bridge Founders Day Festival (Hampshire) \$1,500, Capon
78 Springs Ruritan 4th of July (Hampshire) \$900, Cass
79 Homecoming (Pocahontas) \$1,500, Cedarville Town Festival
80 (Gilmer) \$900, Celebration in the Park (Wood) \$3,000,
81 Celebration of America (Monongalia) \$4,450, Ceredo Freedom
82 Festival (Wayne) \$950, Chapmanville Apple Butter Festival
83 (Logan) \$900, Chapmanville Fire Department 4th of July
84 (Logan) \$2,250, Charles Town Christmas Festival (Jefferson)

85 \$3,700, Charles Town Heritage Festival (Jefferson) \$3,700,
86 Cherry River Festival (Nicholas) \$4,850, Chester Fireworks
87 (Hancock) \$1,100, Chester 4th of July Festivities (Hancock)
88 \$3,700, Chief Logan State Park-Civil War Celebration (Logan)
89 \$5,950, Chilifest West Virginia State Chili Championship
90 (Cabell) \$1,950, Christmas In Our Town (Marion) \$3,900,
91 Christmas in Shepherdstown (Jefferson) \$2,950, Christmas in the
92 Park (Brooke) \$3,700, Christmas in the Park (Logan) \$18,550,
93 City of Dunbar Critter Dinner (Kanawha) \$7,450, City of Logan
94 Polar Express (Logan) \$5,550, City of New Martinsville Festival
95 of Memories (Wetzel) \$8,150, Clay County Golden Delicious
96 Apple Festival \$5,200, Clay District Fair (Monongalia) \$1,350,
97 Coal Field Jamboree (Logan) \$26,000, Coalton Days Fair
98 (Randolph) \$5,200, Country Roads Festival (Fayette) \$1,500,
99 Cowen Railroad Festival (Webster) \$2,600, Craigsville Fall
100 Festival (Nicholas) \$2,600, Cruise into Princeton (Mercer)
101 \$2,700, Culturefest World Music & Arts Festival (Mercer)
102 \$5,850, Delbarton Homecoming (Mingo) \$2,600, Doddridge
103 County Fair \$5,200, Dorcas Ice Cream Social (Grant) \$4,450,
104 Durbin Days (Pocahontas) \$3,700, Elbert/Filbert Reunion
105 Festival (McDowell) \$1,100, Elkins Randolph County 4th of
106 July Car Show (Randolph) \$1,500, Fairview 4th of July
107 Celebration (Marion) \$900, Farm Safety Day (Preston) \$1,500,
108 Farmer's Day Festival (Monroe) \$2,900, Farmers' Day Parade
109 (Wyoming) \$900, Fenwick Mountain Old Time Community
110 Festival (Nicholas) \$3,600, FestivALL Charleston (Kanawha)
111 \$14,850, Flatwoods Days (Braxton) \$950, Flemington Day Fair
112 and Festival (Taylor) \$2,600, Follansbee Community Days
113 (Brooke) \$6,150, Fort Gay Mountain Heritage Days (Wayne)
114 \$3,700, Fort Henry Days (Ohio) \$3,950, Fort Henry Living
115 History (Ohio) \$1,950, Fort New Salem Spirit of Christmas
116 Festival (Harrison) \$3,050, Frankford Autumnfest (Greenbrier)
117 \$3,700, Franklin Fishing Derby (Pendleton) \$5,550, Freshwater
118 Folk Festival (Greenbrier) \$3,700, Friends Auxiliary of W.R.
119 Sharpe Hospital (Lewis) \$3,700, Frontier Days (Harrison)

120 \$2,250, Frontier Fest/Canaan Valley (Taylor) \$3,700, Fund for
121 the Arts-Wine & All that Jazz Festival (Kanawha) \$1,850,
122 Gassaway Days Celebration (Braxton) \$3,700, Gilbert
123 Elementary Fall Blast (Mingo) \$2,750, Gilbert Kiwanis Harvest
124 Festival (Mingo) \$3,000, Gilbert Spring Fling (Mingo) \$4,500,
125 Gilmer County Farm Show \$3,000, Grant County Arts Council
126 \$1,500, Grape Stomping Wine Festival (Nicholas) \$1,500, Great
127 Greenbrier River Race (Pocahontas) \$7,450, Greater Quinwood
128 Days (Greenbrier) \$1,000, Guyandotte Civil War Days (Cabell)
129 \$7,450, Hamlin 4th of July Celebration (Lincoln) \$3,700,
130 Hampshire Civil War Celebration Days (Hampshire) \$900,
131 Hampshire County 4th of July Celebration \$14,850, Hampshire
132 County Fair \$6,250, Hampshire Heritage Days (Hampshire)
133 \$2,950, Hancock County Oldtime Fair \$3,700, Hardy County
134 Commission - 4th of July \$7,450, Hatfield McCoy Matewan
135 Reunion Festival (Mingo) \$15,400, Hatfield McCoy Trail
136 National ATV and Dirt Bike Weekend (Wyoming) \$3,700,
137 Heat'n the Hills Chilifest (Lincoln) \$3,150, Heritage Craft
138 Festival (Monroe) \$1,300, Heritage Days Festival (Roane)
139 \$1,100, Hilltop Festival (Cabell) \$900, Hilltop Festival of Lights
140 (McDowell) \$1,500, Hinton Railroad Days (Summers) \$5,450,
141 Holly River Festival (Webster) \$1,100, Hometown Mountain
142 Heritage Festival (Fayette) \$3,050, Hundred 4th of July (Wetzel)
143 \$5,400, Hundred American Legion Earl Kiger Post Bluegrass
144 Festival (Wetzel) \$1,500, Hurricane 4th of July Celebration
145 (Putnam) \$3,700, Jaeger Town Fair (McDowell) \$1,100, Irish
146 Heritage Festival of West Virginia (Raleigh) \$3,700, Irish Spring
147 Festival (Lewis) \$900, Italian Heritage Festival-Clarksburg
148 (Harrison) \$22,300, Jackson County Fair \$3,700, Jamboree
149 (Pocahontas) \$3,700, Jane Lew Arts and Crafts Fair (Lewis)
150 \$900, Jefferson County Fair Association \$18,550, Jersey
151 Mountain Ruritan Pioneer Days (Hampshire) \$900, John Henry
152 Days Festival (Monroe) \$5,850, Johnnie Johnson Blues and Jazz
153 Festival (Marion) \$3,700, Johnstown Community Fair (Harrison)
154 \$1,850, Junior Heifer Preview Show (Lewis) \$1,500, Kanawha

155 Coal Riverfest-St. Albans 4th of July Festival (Kanawha)
156 \$3,700, Keeper of the Mountains-Kayford (Kanawha) \$1,850,
157 Kenova Autumn Festival (Wayne) \$5,450, Kermit Fall Festival
158 (Mingo) \$2,250, Keystone Reunion Gala (McDowell) \$1,950,
159 King Coal Festival (Mingo) \$3,700, Kingwood Downtown Street
160 Fair and Heritage Days (Preston) \$1,500, L.Z. Rainelle West
161 Virginia Veterans Reunion (Greenbrier) \$3,700, Lady of
162 Agriculture (Preston) \$900, Larry Joe Harless Center Octoberfest
163 Hatfield McCoy Trail (Mingo) \$7,450, Larry Joe Harless
164 Community Center Spring Middle School Event (Mingo)
165 \$3,700, Last Blast of Summer (McDowell) \$3,700, Lewis
166 County Fair Association \$2,600, Lewisburg Shanghai
167 (Greenbrier) \$1,500, Lincoln County Fall Festival \$5,950,
168 Lincoln County Winterfest \$3,700, Lindsie Veterans' Day
169 Parade \$900, Little Levels Heritage Festival (Pocahontas)
170 \$1,500, Lost Creek Community Festival (Harrison) \$5,200, Main
171 Street Arts Festival (Upshur) \$3,900, Main Street Martinsburg
172 Chocolate Fest and Book Fair (Berkeley) \$3,500, Mannington
173 District Fair (Marion) \$4,450, Maple Syrup Festival (Randolph)
174 \$900, Marion County FFA Farm Fest \$1,850, Marmet Labor
175 Day Celebration (Kanawha) \$3,850, Marshall County Antique
176 Power Show \$1,850, Marshall County Fair \$5,550, Mason
177 County Fair \$3,700, Mason Dixon Festival (Monongalia)
178 \$5,200, Matewan Massacre Reenactment (Mingo) \$6,250,
179 Matewan-Magnolia Fair (Mingo) \$19,900, McARTS-McDowell
180 County \$14,850, McDowell County Fair \$1,850, McGrew
181 House History Day (Preston) \$1,500, McNeill's Rangers
182 (Mineral) \$5,950, Meadow Bridge Hometown Festival (Fayette)
183 \$900, Meadow River Days Festival (Greenbrier) \$2,200, Mercer
184 Bluestone Valley Fair (Mercer) \$1,500, Mercer County Fair
185 \$1,500, Mercer County Heritage Festival \$4,350, Mid Ohio
186 Valley Antique Engine Festival (Wood) \$2,250, Milton
187 Christmas in the Park (Cabell) \$1,850, Milton 4th of July
188 Celebration (Cabell) \$1,850, Mineral County Fair \$1,300,
189 Mineral County Veterans Day Parade \$1,100, Molasses Festival

190 (Calhoun) \$1,500, Monongahfest (Marion) \$4,700, Moon Over
191 Mountwood Fishing Festival (Wood) \$2,250, Morgan County
192 Fair-History Wagon \$1,100, Moundsville Bass Festival
193 (Marshall) \$2,950, Moundsville July 4th Celebration (Marshall)
194 \$3,700, Mount Liberty Fall Festival (Barbour) \$1,850, Mountain
195 Fest (Monongalia) \$14,850, Mountain Festival (Mercer) \$3,450,
196 Mountain Heritage Arts and Crafts Festival (Jefferson) \$3,700,
197 Mountain Music Festival (McDowell) \$1,850, Mountain State
198 Apple Harvest Festival (Berkeley) \$5,550, Mountain State Arts
199 & Crafts Fair Cedar Lakes (Jackson) \$33,400, Mountaineer Hot
200 Air Balloon Festival (Monongalia) \$2,950, Mullens Dogwood
201 Festival (Wyoming) \$5,200, Multi-Cultural Festival of West
202 Virginia (Kanawha) \$14,850, Music and Barbecue - Banks
203 District VFD (Upshur) \$1,600, New Cumberland Christmas
204 Parade (Hancock) \$2,250, New Cumberland 4th of July
205 (Hancock) \$3,700, New River Bridge Day Festival (Fayette)
206 \$29,700, Newburg Volunteer Fireman's Field Day (Preston)
207 \$900, Nicholas County Fair \$3,700, Nicholas County Potato
208 Festival \$2,600, Oak Leaf Festival (Fayette) \$7,800, Oceana
209 Heritage Festival (Wyoming) \$4,450, Oglebay City Park -
210 Festival of Lights (Ohio) \$59,400, Oglebay Festival (Ohio)
211 \$7,450, Ohio County Country Fair \$6,700, Ohio River Fest
212 (Jackson) \$5,400, Ohio Valley Beef Association (Wood) \$1,850,
213 Ohio Valley Black Heritage Festival (Ohio) \$4,100, Old Central
214 City Fair (Cabell) \$3,700, Old Century City Fair (Barbour)
215 \$1,550, Old Tyme Christmas (Jefferson) \$1,800, Paden City
216 Labor Day Festival (Wetzel) \$4,850, Parkersburg Homecoming
217 (Wood) \$11,000, Patty Fest (Monongalia) \$1,500, Paw Paw
218 District Fair (Marion) \$2,600, Pax Reunion Committee (Fayette)
219 \$3,700, Pendleton County 4-H Weekend \$1,500, Pendleton
220 County Committee for Arts \$11,150, Pendleton County Fair
221 \$7,800, Pennsboro Country Road Festival (Ritchie) \$1,500,
222 Petersburg 4th of July Celebration (Grant) \$14,850, Petersburg
223 HS Celebration (Grant) \$7,450, Piedmont-Annual Back Street
224 Festival (Mineral) \$2,950, Pinch Reunion (Kanawha) \$1,100,

225 Pine Bluff Fall Festival (Harrison) \$2,950, Pine Grove 4th of
226 July Festival (Wetzel) \$5,200, Pineville Festival (Wyoming)
227 \$4,450, Pleasants County Agriculture Youth Fair \$3,700, Poca
228 Heritage Days (Putnam) \$2,250, Pocahontas County Pioneer
229 Days \$5,200, Point Pleasant Stern Wheel Regatta (Mason)
230 \$3,700, Pratt Fall Festival (Kanawha) \$1,850, Princeton
231 Autumnfest (Mercer) \$1,950, Princeton Street Fair (Mercer)
232 \$3,700, Putnam County Fair \$3,700, Quartets on Parade (Hardy)
233 \$2,950, Rainelle Fall Festival (Greenbrier) \$3,900, Rand
234 Community Center Festival (Kanawha) \$1,850, Randolph
235 County Community Arts Council \$2,250, Randolph County Fair
236 \$5,200, Randolph County Ramp and Rails \$1,500, Ranson
237 Christmas Festival (Jefferson) \$3,700, Ranson Festival
238 (Jefferson) \$3,700, Renick Liberty Festival (Greenbrier) \$900,
239 Ripley 4th of July (Jackson) \$11,150, Ritchie County Fair and
240 Exposition \$3,700, Ritchie County Pioneer Days \$900, River
241 City Festival (Preston) \$900, Roane County Agriculture Field
242 Day \$2,250, Rock the Park (Kanawha) \$4,050, Rocket Boys
243 Festival (Raleigh) \$2,150, Romney Heritage Days (Hampshire)
244 \$2,350, Ronceverte River Festival (Greenbrier) \$3,700,
245 Rowlesburg Labor Day Festival (Preston) \$900, Rupert Country
246 Fling (Greenbrier) \$2,250, Saint Spyridon Greek Festival
247 (Harrison) \$1,850, Salem Apple Butter Festival (Harrison)
248 \$2,950, Sistersville 4th of July (Tyler) \$4,100, Skirmish on the
249 River (Mingo) \$1,550, Smoke on the Water (Wetzel) \$2,250,
250 South Charleston Summerfest (Kanawha) \$7,450, Southern
251 Wayne County Fall Festival \$900, Spirit of Grafton Celebration
252 (Taylor) \$7,450, Springfield Peach Festival (Hampshire) \$900,
253 St. Albans City of Lights - December (Kanawha) \$3,700,
254 Sternwheel Festival (Wood) \$2,250, Stoco Reunion (Raleigh)
255 \$1,850, Stonewall Jackson Heritage Arts & Crafts Jubilee
256 (Lewis) \$8,150, Stonewall Jackson's Roundhouse Raid
257 (Berkeley) \$9,000, Storytelling Festival (Lewis) \$500,
258 Strawberry Festival (Upshur) \$22,300, Sylvester Big Coal River
259 Festival \$2,450, Tacy Fair (Barbour) \$900, Taste of Parkersburg

260 (Wood) \$3,700, Taylor County Fair \$4,100, Terra Alta VFD 4th
261 of July Celebration (Preston) \$900, The Gathering at Sweet
262 Creek (Wood) \$2,250, Three Rivers Coal Festival (Marion)
263 \$5,750, Thunder on the Tygart - Mothers' Day Celebration
264 (Taylor) \$11,150, Town of Delbarton 4th of July Celebration
265 (Mingo) \$2,250, Town of Fayetteville Heritage Festival
266 (Fayette) \$5,550, Town of Matoaka Hog Roast (Mercer) \$900,
267 Town of Rivesville 4th of July Festival (Marion) \$3,900, Town
268 of Winfield - Putnam County Homecoming \$4,050, St. Albans
269 Train Fest (Kanawha) \$7,650, Treasure Mountain Festival
270 (Pendleton) \$18,550, Tri-County Fair (Grant) \$28,200, Tucker
271 County Arts Festival and Celebration \$13,350, Tucker County
272 Fair \$3,550, Tucker County Health Fair \$1,500, Tunnelton
273 Depot Days (Preston) \$900, Tunnelton Volunteer Fire
274 Department Festival (Preston) \$900, Turkey Festival (Hardy)
275 \$2,250, Tyler County Fair \$3,850, Tyler County 4th of July
276 \$500, Tyler County OctoberFest \$900, Union Community Irish
277 Festival (Barbour) \$900, Uniquely West Virginia Festival
278 (Morgan) \$1,500, Upper Kanawha Valley Oktoberfest
279 (Kanawha) \$1,850, Upper Ohio Valley Italian Festival (Ohio)
280 \$8,900, Upshur County Youth Livestock Show \$1,800, Valley
281 District Fair (Preston) \$2,600, Veterans Welcome Home
282 Celebration (Cabell) \$1,200, Vietnam Veterans of America #
283 949 Christmas Party (Cabell) \$900, Volcano Days at
284 Mountwood Park (Wood) \$3,700, War Homecoming Fall
285 Festival (McDowell) \$1,100, Wardensville Fall Festival (Hardy)
286 \$3,700, Wayne County Fair \$3,700, Wayne County Fall Festival
287 \$3,700, Webster County Fair \$4,500, Webster County Wood
288 Chopping Festival \$11,150, Webster Wild Water Weekend
289 \$1,500, Weirton July 4th Celebration (Hancock) \$14,850,
290 Welcome Home Family Day (Wayne) \$2,400, Wellsburg 4th of
291 July Celebration (Brooke) \$5,550, Wellsburg Apple Festival of
292 Brooke County \$3,700, West Virginia Blackberry Festival
293 (Harrison) \$3,700, West Virginia Chestnut Festival (Preston)
294 \$900, West Virginia Coal Festival (Boone) \$7,450, West

295 Virginia Coal Show (Mercer) \$1,950, West Virginia Dairy Cattle
 296 Show (Lewis) \$7,450, West Virginia Dandelion Festival
 297 (Greenbrier) \$3,700, West Virginia Day at the Railroad Museum
 298 (Mercer) \$2,250, West Virginia Fair and Exposition (Wood)
 299 \$6,000, West Virginia Fireman’s Rodeo (Fayette) \$1,850, West
 300 Virginia Oil and Gas Festival (Tyler) \$8,150, West Virginia
 301 Peach Festival (Hampshire) \$4,050, West Virginia Polled
 302 Hereford Association (Braxton) \$1,100, West Virginia Poultry
 303 Festival (Hardy) \$3,700, West Virginia Pumpkin Festival
 304 (Cabell) \$7,450, West Virginia State Folk Festival (Gilmer)
 305 \$3,700, West Virginia Water Festival - City of Hinton
 306 (Summers) \$11,450, Weston VFD 4th of July Firemen Festival
 307 (Lewis) \$1,500, Wetzel County Autumnfest \$4,100, Wetzel
 308 County Town and Country Days \$12,600, Wheeling Celtic
 309 Festival (Ohio) \$1,500, Wheeling City of Lights (Ohio) \$5,950,
 310 Wheeling Sternwheel Regatta (Ohio) \$7,450, Wheeling Vintage
 311 Raceboat Regatta (Ohio) \$14,850, Whipple Community Action
 312 (Fayette) \$1,850, Wileyville Homecoming (Wetzel) \$2,950,
 313 Wine Festival and Mountain Music Event (Harrison) \$3,700,
 314 Winter Festival of the Waters (Berkeley) \$3,700, Wirt County
 315 Fair \$1,850, Wirt County Pioneer Days \$1,500, Wyoming
 316 County Civil War Days \$1,600, Youth Stockman Beef Expo
 317 (Lewis) \$1,500.

318 Any Fairs & Festivals awards shall be funded in addition to,
 319 and not in lieu of, individual grant allocations derived from the
 320 Arts Council and the Cultural Grant Program allocations.

*290 - Library Commission –
 Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2017 Org 0433

1	Books and Films.	17900	\$	360,784
2	Services to Libraries.	18000		550,000

3	Grants to Public Libraries.	18200		9,439,571
4	Digital Resources.	30900		219,992
5	Infomine Network.	88400		<u>858,315</u>
6	Total.		\$	11,428,662

7 Any unexpended balance remaining in the appropriation for
 8 Libraries – Special Projects (fund 3559, appropriation 62500) at
 9 the close of fiscal year 2016 is hereby reappropriated for
 10 expenditure during the fiscal year 2017.

*291 - Bureau of Senior Services –
 Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2017 Org 0508

1	Personal Services and Employee			
2	Benefits.	00100	\$	195,001
3	Current Expenses.	13000		332,095
4	Repairs and Alterations.	06400		1,000
5	Local Programs Service			
6	Delivery Costs.	20000		2,435,250
7	Silver Haired Legislature.	20200		18,500
8	Transfer to Division of Human			
9	Services for Health Care			
10	and Title XIX Waiver for			
11	Senior Citizens.	53900		22,486,468
12	Roger Tompkins Alzheimer's			
13	Respite Care.	64300		2,297,036
14	WV Alzheimer's Hotline.	72400		45,000
15	Regional Aged and Disabled			
16	Resource Center.	76700		425,000
17	Senior Services Medicaid			
18	Transfer.	87100		8,670,000
19	Legislative Initiatives for the			
20	Elderly.	90400		9,671,239

2016]	HOUSE OF DELEGATES	3955
21	Long Term Care Ombudsman. 90500	297,226
22	BRIM Premium. 91300	6,500
23	In-Home Services and Nutrition for	
24	Senior Citizens. 91700	<u>4,320,941</u>
25	Total..	\$ 51,201,256

26 Any unexpended balance remaining in the appropriation for
27 Senior Citizen Centers and Programs (fund 5405, appropriation
28 46200) at the close of the fiscal year 2016 is hereby
29 reappropriated for expenditure during the fiscal year 2017.

30 Included in the above appropriation for Current Expenses
31 (fund 5405, appropriation 13000), is funding to support an
32 in-home direct care workforce registry.

33 The above appropriation for Transfer to Division of Human
34 Services for Health Care and Title XIX Waiver for Senior
35 Citizens (appropriation 53900) along with the federal moneys
36 generated thereby shall be used for reimbursement for services
37 provided under the program.

*292 - Higher Education Policy Commission –
Lottery Education –
Higher Education Policy Commission –
Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2017 Org 0441

1	RHI Program and Site		
2	Support (R). 03600	\$	1,912,491
3	RHI Program and Site Support –		
4	RHEP Program		
5	Administration (R). 03700		146,653
6	RHI Program and Site Support –		
7	Grad Med Ed and Fiscal		
8	Oversight (R).. 03800		87,110

3956	JOURNAL OF THE	[MAY 26
9	Minority Doctoral Fellowship (R).. 16600	129,604
10	Health Sciences Scholarship (R). . . 17600	220,690
11	Vice Chancellor for Health Sciences –	
12	Rural Health Residency	
13	Program (R)..... 60100	62,725
14	WV Engineering, Science, and	
15	Technology Scholarship Program. . 86800	<u>452,831</u>
16	Total.....	\$ 3,012,104

17 Any unexpended balances remaining in the appropriations
18 for RHI Program and Site Support (fund 4925, appropriation
19 03600), RHI Program and Site Support – RHEP Program
20 Administration (fund 4925, appropriation 03700), RHI Program
21 and Site Support – Grad Med Ed and Fiscal Oversight (fund
22 4925, appropriation 03800), Minority Doctoral Fellowship (fund
23 4925, appropriation 16600), Health Sciences Scholarship (fund
24 4925, appropriation 17600), and Vice Chancellor for Health
25 Sciences – Rural Health Residency Program (fund 4925,
26 appropriation 60100) at the close of fiscal year 2016 are hereby
27 reappropriated for expenditure during the fiscal year 2017.

28 The above appropriation for WV Engineering, Science, and
29 Technology Scholarship Program (appropriation 86800) shall be
30 transferred to the West Virginia Engineering, Science and
31 Technology Scholarship Fund (fund 4928, org 0441) established
32 by W.Va. Code §18C-6-1.

*293 - Community and Technical College –
Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2017 Org 0442

1 Debt Service – Total. 31000 \$ 5,000,000

2 Any unexpended balance remaining in the appropriation for
3 Capital Outlay and Improvements – Total (fund 4908,

4 appropriation 84700) at the close of fiscal year 2016 is hereby
5 reappropriated for expenditure during the fiscal year 2017.

*294 - Higher Education Policy Commission –
Lottery Education –
West Virginia University – School of Medicine*

(WV Code Chapter 18B)

Fund 4185 FY 2017 Org 0463

1	WVU Health Sciences –		
2	RHI Program and Site		
3	Support (R).	03500	\$ 1,158,437
4	MA Public Health Program and		
5	Health Science Technology (R).	62300	54,798
6	Health Sciences Career Opportunities		
7	Program (R).	86900	334,296
8	HSTA Program (R).	87000	1,705,198
9	Center for Excellence in		
10	Disabilities (R).	96700	<u>306,019</u>
11	Total.		\$ 3,558,748

12 Any unexpended balances remaining in the appropriations
13 for WVU Health Sciences – RHI Program and Site Support
14 (fund 4185, appropriation 03500), MA Public Health Program
15 and Health Science Technology (fund 4185, appropriation
16 62300), Health Sciences Career Opportunities Program (fund
17 4185, appropriation 86900), HSTA Program (fund 4185,
18 appropriation 87000), and Center for Excellence in Disabilities
19 (fund 4185, appropriation 96700) at the close of fiscal year 2016
20 are hereby reappropriated for expenditure during the fiscal year
21 2017.

*295 - Higher Education Policy Commission –
Lottery Education –
Marshall University – School of Medicine*

(WV Code Chapter 18B)

Fund 4896 FY 2017 Org 0471

1	Marshall Medical School –		
2	RHI Program and Site		
3	Support (R).	03300	\$ 414,486
4	Vice Chancellor for Health Sciences –		
5	Rural Health Residency		
6	Program (R).	60100	<u>171,400</u>
7	Total.		\$ 585,886

8 Any unexpended balances remaining in the appropriations
9 for Marshall Medical School – RHI Program and Site Support
10 (fund 4896, appropriation 03300) and Vice Chancellor for
11 Health Sciences – Rural Health Residency Program (fund 4896,
12 appropriation 60100) at the close of fiscal year 2016 are hereby
13 reappropriated for expenditure during the fiscal year 2017.

14	Total TITLE II, Section 4 —		
15	Lottery Revenue.		<u>\$ 135,561,119</u>

1 **Sec. 5. Appropriations from state excess lottery revenue**
2 **fund.** — In accordance with W.Va. Code §29-22-18a,
3 §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the
4 following appropriations shall be deposited and disbursed by the
5 Director of the Lottery to the following accounts in this section
6 in the amounts indicated.

7 After first funding the appropriations required by W.Va.
8 Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and
9 §29-25-22b, the Director of the Lottery shall provide funding
10 from the State Excess Lottery Revenue Fund for the remaining
11 appropriations in this section to the extent that funds are
12 available. In the event that revenues to the State Excess Lottery
13 Revenue Fund are sufficient to meet all the appropriations
14 required made pursuant to this section, then the Director of the

15 Lottery shall then provide the funds available for fund 5365,
16 appropriation 18900.

*296 - Lottery Commission –
Refundable Credit*

Fund 7207 FY 2017 Org 0705

	Appro- piation	Excess Lottery Funds
1 Directed Transfer.....	70000	\$ 10,000,000

2 The above appropriation shall be transferred to the General
3 Revenue Fund to provide reimbursement for the refundable
4 credit allowable under W.Va. Code §11-21-21. The amount of
5 the required transfer shall be determined solely by the state tax
6 commissioner and shall be completed by the director of the
7 lottery upon the commissioner’s request.

*297 - Lottery Commission –
General Purpose Account*

Fund 7206 FY 2017 Org 0705

1 General Revenue Fund – Transfer..	70011	\$ 65,000,000
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2 The above appropriation shall be transferred to the General
3 Revenue Fund as determined by the director of the lottery in
4 accordance with W.Va. Code §29-22-18a.

*298 - Higher Education Policy Commission –
Education Improvement Fund*

Fund 4295 FY 2017 Org 0441

1 PROMISE Scholarship –		
2 Transfer.....	80000	\$ 29,000,000

3 The above appropriation shall be transferred to the
 4 PROMISE Scholarship Fund (fund 4296, org 0441) established
 5 by W.Va. Code §18C-7-7.

6 The Legislature has explicitly set a finite amount of
 7 available appropriations and directed the administrators of the
 8 Program to provide for the award of scholarships within the
 9 limits of available appropriations.

*299 - Economic Development Authority –
 Economic Development Project Fund*

Fund 9065 FY 2017 Org 0944

1 Debt Service – Total. 31000 \$ 19,000,000

2 Pursuant to W.Va. Code §29-22-18a, subsection (f), excess
 3 lottery revenues are authorized to be transferred to the lottery
 4 fund as reimbursement of amounts transferred to the economic
 5 development project fund pursuant to section four of this title
 6 and W.Va. Code §29-22-18, subsection (f).

*300 - Department of Education –
 School Building Authority*

Fund 3514 FY 2017 Org 0402

1 Debt Service – Total. 31000 \$ 19,000,000

*301 - West Virginia Infrastructure Council –
 West Virginia Infrastructure Transfer Fund*

Fund 3390 FY 2017 Org 0316

1 Directed Transfer. 70000 \$ 36,000,000

2 The above appropriation shall be allocated pursuant to
 3 W.Va. Code §29-22-18d and §31-15-9.

302 - Higher Education Policy Commission –
Higher Education Improvement Fund

Fund 4297 FY 2017 Org 0441

- 1 Directed Transfer..... 70000 \$ 15,000,000
- 2 The above appropriation shall be transferred to fund 4903,
- 3 org 0442 as authorized by Senate Concurrent Resolution No. 41.

303 - Division of Natural Resources
State Park Improvement Fund

Fund 3277 FY 2017 Org 0310

1	Current Expenses (R).....	13000	\$	2,438,300
2	Repairs and Alterations (R).....	06400		2,161,200
3	Equipment (R).....	07000		200,000
4	Buildings (R).....	25800		100,000
5	Other Assets (R).....	69000		<u>100,500</u>
6	Total.....		\$	5,000,000

7 Any unexpended balances remaining in the above
8 appropriations for Repairs and Alterations (fund 3277,
9 appropriation 06400), Equipment (fund 3277, appropriation
10 07000), Unclassified – Total (fund 3277, appropriation 09600),
11 Unclassified (fund 3277, appropriation 09900), Current
12 Expenses (fund 3277, appropriation 13000), Buildings (fund
13 3277, appropriation 25800), and Other Assets (fund 3277,
14 appropriation 69000) at the close of the fiscal year 2016 are
15 hereby reappropriated for expenditure during the fiscal year
16 2017.

304 - Racing Commission –

Fund 7308 FY 2017 Org 0707

- 1 Special Breeders Compensation

2 (WVC §29-22-18a,
3 subsection (I)). 21800 \$ 2,000,000

*305 - Lottery Commission –
Distributions to Statutory Funds and Purposes*

Fund 7213 FY 2017 Org 0705

1	Parking Garage Fund – Transfer. . .	70001	\$	500,000
2	2004 Capitol Complex Parking			
3	Garage Fund – Transfer.	70002		254,147
4	Capitol Dome and Improvements			
5	Fund – Transfer.	70003		2,155,201
6	Capitol Renovation and Improvement			
7	Fund – Transfer.	70004		2,795,627
8	Development Office Promotion			
9	Fund – Transfer.	70005		1,524,887
10	Research Challenge Fund –			
11	Transfer.	70006		2,033,184
12	Tourism Promotion Fund –			
13	Transfer.	70007		5,659,115
14	Cultural Facilities and Capitol			
15	Resources Matching			
16	Grant Program Fund – Transfer. . .	70008		1,433,371
17	Workers’ Compensation Debt			
18	Reduction Fund – Transfer. . .	70009		11,000,000
19	State Debt Reduction Fund –			
20	Transfer.	70010		20,000,000
21	General Revenue Fund – Transfer..	70011		1,513,472
22	West Virginia Racing Commission			
23	Racetrack Video Lottery			
24	Account.	70012		4,066,363
25	Historic Resort Hotel Fund.	70013		34,200
26	Licensed Racetrack Regular			
27	Purse Fund.	70014		0
28	Licensed Racetrack Thoroughbred			
29	Regular Purse Fund.			<u>10,111,678</u>

30 Total..... \$ 63,081,245

31 The above appropriation for Workers’ Compensation Debt
32 Reduction Fund – Transfer (fund 7213, appropriation 70009)
33 may be redirected by Executive Order to the General Revenue
34 Fund in accordance with §29-22A-10d and §29-22A-10e.

306 - Governor’s Office

(WV Code Chapter 5)

Fund 1046 FY 2017 Org 0100

1 Any unexpended balance remaining in the appropriation for
2 Publication of Papers and Transition Expenses – Lottery Surplus
3 (fund 1046, appropriation 06600) at the close of the fiscal year
4 2016 is hereby reappropriated for expenditure during the fiscal
5 year 2017.

307 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2017 Org 0307

1 Any unexpended balances remaining in the appropriations
2 for Unclassified – Total (fund 3170, appropriation 09600),
3 Recreational Grants or Economic Development Loans (fund
4 3170, appropriation 25300), and Connectivity Research and
5 Development – Lottery Surplus (fund 3170, appropriation
6 92300) at the close of the fiscal year 2016 are hereby
7 reappropriated for expenditure during the fiscal year 2017.

*308 - Higher Education Policy Commission –
Administration –
Control Account*

(WV Code Chapter 18B)

Fund 4932 FY 2017 Org 0441

1 Any unexpended balance remaining in the appropriation for
2 Advanced Technology Centers (fund 4932, appropriation 02800)
3 at the close of the fiscal year 2016 is hereby reappropriated for
4 expenditure during the fiscal year 2017.

*309 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 5219 FY 2017 Org 0506

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay and Maintenance (fund 5219, appropriation
3 75500) at the close of the fiscal year 2016 is hereby
4 reappropriated for expenditure during the fiscal year 2017.

310 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2017 Org 0511

1 Medical Services. 18900 \$ 21,377,985

*311 - Division of Corrections –
Correctional Units*

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

Fund 6283 FY 2017 Org 0608

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay and Maintenance (fund 6283, appropriation
3 75500) at the close of the fiscal year 2016 is hereby
4 reappropriated for expenditure during the fiscal year 2017.

5 Total TITLE II, Section 5 —

6 Excess Lottery Funds. \$ 284,459,230

1 **Sec. 6. Appropriations of federal funds.** — In accordance
 2 with Article 11, Chapter 4 of the Code from federal funds there
 3 are hereby appropriated conditionally upon the fulfillment of the
 4 provisions set forth in Article 2, Chapter 11B of the Code the
 5 following amounts, as itemized, for expenditure during the fiscal
 6 year 2017.

LEGISLATIVE

312 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2017 Org 2300

	Appro- piation		Federal Funds
1 Economic Loss Claim			
2 Payment Fund.	33400	\$	3,000,000

JUDICIAL

313 - Supreme Court

Fund 8867 FY 2017 Org 2400

1 Personal Services and Employee			
2 Benefits.	00100	\$	2,008,000
3 Current Expenses.	13000		<u>2,542,000</u>
4 Total.		\$	4,550,000

EXECUTIVE

314 - Governor's Office

(WV Code Chapter 5)

Fund 8742 FY 2017 Org 0100

1	Personal Services and Employee		
2	Benefits.	00100	\$ 86,677
3	Current Expenses.	13000	<u>138,323</u>
4	Total.		\$ 225,000

315 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,563,760
3	Unclassified.	09900	50,534
4	Current Expenses.	13000	3,828,661
5	Repairs and Alterations.	06400	650,000
6	Equipment.	07000	910,500
7	Other Assets.	69000	<u>50,000</u>
8	Total.		\$ 7,053,455

*316 - Department of Agriculture –
Meat Inspection Fund*

(WV Code Chapter 19)

Fund 8737 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits.	00100	\$ 610,830
3	Unclassified.	09900	8,755
4	Current Expenses.	13000	136,012
5	Repairs and Alterations.	06400	5,500
6	Equipment.	07000	<u>114,478</u>
7	Total.		\$ 875,575

*317 - Department of Agriculture –
State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits. 00100	\$	97,250
3	Current Expenses. 13000		<u>14,099,974</u>
4	Total.	\$	14,197,224

*318 - Department of Agriculture –
Land Protection Authority*

Fund 8896 FY 2017 Org 1400

1	Personal Services and Employee		
2	Benefits. 00100	\$	46,526
3	Unclassified. 09900		5,004
4	Current Expenses. 13000		<u>448,920</u>
5	Total.	\$	500,450

*319 - Secretary of State –
State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2017 Org 1600

1	Personal Services and Employee		
2	Benefits. 00100	\$	210,240
3	Unclassified. 09900		7,484
4	Current Expenses. 13000		415,727
5	Repairs and Alterations. 06400		15,000
6	Other Assets. 69000		<u>100,000</u>
7	Total.	\$	748,451

DEPARTMENT OF COMMERCE

320 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2017 Org 0305

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,578,347
3	Unclassified.	09900	51,050
4	Current Expenses.	13000	5,632,560
5	Repairs and Alterations.	06400	155,795
6	Equipment.	07000	100,000
7	Other Assets.	69000	<u>1,808,300</u>
8	Total.		\$ 9,326,052

321 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2017 Org 0306

1	Personal Services and Employee		
2	Benefits.	00100	\$ 54,432
3	Unclassified.	09900	2,803
4	Current Expenses.	13000	195,639
5	Repairs and Alterations.	06400	5,000
6	Equipment.	07000	7,500
7	Other Assets.	69000	<u>15,000</u>
8	Total.		\$ 280,374

322 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 8705 FY 2017 Org 0307

1	Personal Services and Employee		
2	Benefits.	00100	\$ 745,981
3	Unclassified.	09900	50,000
4	Current Expenses.	13000	<u>4,504,019</u>
5	Total.		\$ 5,300,000

323 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2017 Org 0308

1	Personal Services and Employee		
2	Benefits.	00100	\$ 384,072
3	Unclassified.	09900	5,572
4	Current Expenses.	13000	167,098
5	Repairs and Alterations.	06400	<u>500</u>
6	Total.		\$ 557,242

324 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2017 Org 0310

1	Personal Services and Employee		
2	Benefits.	00100	\$ 7,912,218
3	Unclassified.	09900	107,693
4	Current Expenses.	13000	5,556,594
5	Repairs and Alterations.	06400	289,400
6	Equipment.	07000	1,815,712
7	Buildings.	25800	951,000
8	Other Assets.	69000	1,951,000
9	Land.	73000	<u>1,000</u>
10	Total.		\$ 18,584,617

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

(WV Code Chapter 22)

Fund 8709 FY 2017 Org 0314

1	Personal Services and Employee		
2	Benefits.	00100	\$ 613,177

3	Current Expenses.....	13000		<u>150,000</u>
4	Total.....		\$	763,177

326 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2017 Org 0323

1	Unclassified.....	09900	\$	5,127
2	Current Expenses.....	13000		507,530
3	Reed Act 2002 – Unemployment			
4	Compensation.....	62200		2,850,000
5	Reed Act 2002 – Employment			
6	Services.....	63000		<u>1,650,000</u>
7	Total.....		\$	5,012,657

8 Pursuant to the requirements of 42 U.S.C. 1103, Section 903
9 of the Social Security Act, as amended, and the provisions of
10 W.Va. Code §21A-9-9, the above appropriation to Unclassified
11 and Current Expenses shall be used by WorkForce West Virginia
12 for the specific purpose of administration of the state’s
13 unemployment insurance program or job service activities,
14 subject to each and every restriction, limitation or obligation
15 imposed on the use of the funds by those federal and state
16 statutes.

*327 - Office of the Secretary –
Office of Economic Opportunity*

(WV Code Chapter 5)

Fund 8780 FY 2017 Org 0327

1	Personal Services and Employee			
2	Benefits.....	00100	\$	497,289
3	Unclassified.....	09900		106,795
4	Current Expenses.....	13000		10,068,916

2016]	HOUSE OF DELEGATES	3971
5	Repairs and Alterations. 06400	500
6	Equipment. 07000	<u>6,000</u>
7	Total.	\$ 10,679,500

328 - Division of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2017 Org 0328

1	Personal Services and Employee	
2	Benefits. 00100	\$ 411,574
3	Unclassified. 09900	7,350
4	Current Expenses. 13000	<u>316,076</u>
5	Total.	\$ 735,000

DEPARTMENT OF EDUCATION

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

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2017 Org 0402

1	Personal Services and Employee	
2	Benefits. 00100	\$ 7,078,855
3	Unclassified. 09900	2,000,000
4	Current Expenses. 13000	210,917,820
5	Repairs and Alterations. 06400	10,000
6	Equipment. 07000	10,000
7	Other Assets. 69000	<u>10,000</u>
8	Total.	\$ 220,026,675

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

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,992,648
3	Unclassified.	09900	1,150,500
4	Current Expenses.	13000	128,101,265
5	Repairs and Alterations.	06400	20,000
6	Equipment.	07000	100,000
7	Other Assets.	69000	<u>25,000</u>
8	Total.		\$ 131,389,413

*331 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,519,972
3	Unclassified.	09900	155,000
4	Current Expenses.	13000	14,320,081
5	Repairs and Alterations.	06400	10,000
6	Equipment.	07000	10,000
7	Other Assets.	69000	<u>10,000</u>
8	Total.		\$ 16,025,053

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

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2017 Org 0402

1	Personal Services and Employee		
2	Benefits.	00100	\$ 4,044,940
3	Unclassified.	09900	1,000,000
4	Current Expenses.	13000	107,646,390

2016]	HOUSE OF DELEGATES	3973
5	Repairs and Alterations. 06400	10,000
6	Equipment. 07000	10,000
7	Other Assets. 69000	<u>10,000</u>
8	Total.	\$ 112,721,330

DEPARTMENT OF EDUCATION AND THE ARTS

*333 - Department of Education and the Arts –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 8841 FY 2017 Org 0431

1	Personal Services and Employee	
2	Benefits. 00100	\$ 414,424
3	Current Expenses. 13000	5,589,576
4	Repairs and Alterations. 06400	<u>1,000</u>
5	Total.	\$ 6,005,000

334 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2017 Org 0432

1	Personal Services and Employee	
2	Benefits. 00100	\$ 743,046
3	Current Expenses. 13000	1,947,372
4	Repairs and Alterations. 06400	1,000
5	Equipment. 07000	1,000
6	Buildings. 25800	1,000
7	Other Assets. 69000	1,000
8	Land. 73000	<u>360</u>
9	Total.	\$ 2,694,778

335 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2017 Org 0433

1	Personal Services and Employee		
2	Benefits.	00100	\$ 333,648
3	Current Expenses.	13000	1,076,162
4	Equipment.	07000	<u>543,406</u>
5	Total.		\$ 1,953,216

336 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2017 Org 0439

1	Equipment.	07000	\$ 750,000
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*337 - State Board of Rehabilitation –
Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 8734 FY 2017 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 11,248,930
3	Current Expenses.	13000	54,485,940
4	Repairs and Alterations.	06400	350,400
5	Equipment.	07000	<u>1,275,870</u>
6	Total.		\$ 67,361,140

*338 - State Board of Rehabilitation –
Division of Rehabilitation Services –
Disability Determination Services*

(WV Code Chapter 18)

Fund 8890 FY 2017 Org 0932

1	Personal Services and Employee		
2	Benefits.	00100	\$ 13,730,634

2016]	HOUSE OF DELEGATES	3975
3	Current Expenses.	13000 11,383,206
4	Repairs and Alterations.	06400 1,100
5	Equipment.	07000 <u>83,350</u>
6	Total.	\$ 25,198,290

DEPARTMENT OF ENVIRONMENTAL PROTECTION

339 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2017 Org 0313

1	Personal Services and Employee	
2	Benefits.	00100 \$ 28,402,177
3	Current Expenses.	13000 164,785,225
4	Repairs and Alterations.	06400 230,783
5	Equipment.	07000 725,238
6	Unclassified.	09900 1,900,000
7	Other Assets.	69000 154,416
8	Land.	73000 <u>100,000</u>
9	Total.	\$ 196,297,839

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

340 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2017 Org 0506

1	Personal Services and Employee	
2	Benefits.	00100 \$ 750,876
3	Unclassified.	09900 73,307
4	Current Expenses.	13000 <u>6,630,103</u>
5	Total.	\$ 7,454,286

*341 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 8802 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits.	00100	\$ 13,744,404
3	Unclassified.	09900	947,948
4	Current Expenses.	13000	79,110,551
5	Equipment.	07000	456,972
6	Buildings.	25800	155,000
7	Other Assets.	69000	<u>380,000</u>
8	Total.		\$ 94,794,875

*342 - Division of Health –
West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2017 Org 0506

1	West Virginia Drinking Water Treatment		
2	Revolving Fund – Transfer.	68900	\$ 16,000,000

343 - West Virginia Health Care Authority

(WV Code Chapter 16)

Fund 8851 FY 2017 Org 0507

1	Unclassified.	09900	\$ 9,966
2	Current Expenses.	13000	<u>986,649</u>
3	Total.		\$ 996,615

344 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2017 Org 0510

1	Personal Services and Employee		
2	Benefits.	00100	\$ 625,349
3	Unclassified.	09900	5,482
4	Current Expenses.	13000	<u>140,389</u>
5	Total.		\$ 771,220

345 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 8722 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits.	00100	\$ 68,841,330
3	Unclassified.	09900	22,855,833
4	Current Expenses.	13000	72,056,205
5	Medical Services.	18900	2,884,265,405
6	Medical Services Administrative		
7	Costs.	78900	132,045,119
8	CHIP Administrative Costs.	85601	3,333,752
9	CHIP Services.	85602	47,422,974
10	Federal Economic Stimulus.	89100	<u>45,693,209</u>
11	Total.		\$ 3,276,513,827

**DEPARTMENT OF MILITARY AFFAIRS AND
PUBLIC SAFETY**

346 - Office of the Secretary

(WV Code Chapter 5F)

Fund 8876 FY 2017 Org 0601

1	Personal Services and Employee		
2	Benefits.	00100	\$ 439,636
3	Unclassified.	09900	250,000

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4	Current Expenses.....	13000		24,307,690
5	Repairs and Alterations.....	06400		3,000
6	Other Assets.....	69000		<u>5,000</u>
7	Total.....		\$	25,005,326

*347 - Adjutant General –
State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2017 Org 0603

1	Unclassified.....	09900	\$	982,705
2	Mountaineer ChalleNGe Academy.....	70900		3,375,000
3	Martinsburg Starbase.....	74200		410,000
4	Charleston Starbase.....	74300		400,000
5	Military Authority.....	74800		<u>93,102,900</u>
6	Total.....		\$	98,270,605

7 The adjutant general shall have the authority to transfer
8 between appropriations.

*348 - Adjutant General –
West Virginia National Guard Counterdrug Forfeiture Fund*

(WV Code Chapter 15)

Fund 8785 FY 2017 Org 0603

1	Personal Services and Employee			
2	Benefits.....	00100	\$	1,350,000
3	Current Expenses.....	13000		300,000
4	Equipment.....	07000		<u>350,000</u>
5	Total.....		\$	2,000,000

*349 - Division of Homeland Security and
Emergency Management*

(WV Code Chapter 15)

Fund 8727 FY 2017 Org 0606

1	Personal Services and Employee		
2	Benefits.	00100	\$ 721,650
3	Current Expenses.	13000	20,429,281
4	Repairs and Alterations.	06400	5,000
5	Equipment.	07000	<u>100,000</u>
6	Total.		\$ 21,255,931

350 - Division of Corrections

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

Fund 8836 FY 2017 Org 0608

1	Unclassified.	09900	\$ 1,100
2	Current Expenses.	13000	<u>108,900</u>
3	Total.		\$ 110,000

351 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2017 Org 0612

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,325,349
3	Current Expenses.	13000	2,125,971
4	Repairs and Alterations.	06400	42,000
5	Equipment.	07000	2,502,285
6	Buildings.	25800	750,500
7	Other Assets.	69000	144,500
8	Land.	73000	<u>500</u>
9	Total.		\$ 7,891,105

352 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2017 Org 0619

1	Current Expenses.....	13000	\$	80,000
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353 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 8803 FY 2017 Org 0620

1	Personal Services and Employee			
2	Benefits.....	00100	\$	1,056,170
3	Unclassified.....	09900		25,185
4	Current Expenses.....	13000		18,774,373
5	Repairs and Alterations.....	06400		<u>1,750</u>
6	Total.....		\$	19,857,478

DEPARTMENT OF REVENUE*354 - Insurance Commissioner*

(WV Code Chapter 33)

Fund 8883 FY 2017 Org 0704

1	Current Expenses.....	13000	\$	3,000,000
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DEPARTMENT OF TRANSPORTATION*355 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2017 Org 0802

1	Personal Services and Employee			
2	Benefits.....	00100	\$	501,394
3	Current Expenses.....	13000		15,671,640
4	Repairs and Alterations.....	06400		<u>500</u>
5	Total.....		\$	16,173,534

356 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2017 Org 0805

1	Personal Services and Employee		
2	Benefits.	00100	\$ 702,637
3	Current Expenses.	13000	9,161,605
4	Repairs and Alterations.	06400	2,500
5	Equipment.	07000	5,486,432
6	Buildings.	25800	205,526
7	Other Assets.	69000	<u>35,000</u>
8	Total.		\$ 15,593,700

357 - Public Port Authority

(WV Code Chapter 17)

Fund 8830 FY 2017 Org 0806

1	Current Expenses.	13000	\$ 626,250
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DEPARTMENT OF VETERANS' ASSISTANCE*358 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 8858 FY 2017 Org 0613

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,751,100
3	Current Expenses.	13000	3,925,900
4	Repairs and Alterations.	06400	50,000
5	Equipment.	07000	200,000
6	Buildings.	25800	600,000
7	Other Assets.	69000	100,000
8	Land.	73000	<u>100,000</u>
9	Total.		\$ 7,727,000

*359 - Department of Veterans' Assistance –
Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2017 Org 0618

1	Personal Services and Employee		
2	Benefits.	00100	\$ 877,915
3	Current Expenses.	13000	844,092
4	Repairs and Alterations.	06400	220,000
5	Equipment.	07000	198,000
6	Buildings.	25800	296,000
7	Other Assets.	69000	20,000
8	Land.	73000	10,000
9	Total.		\$ 2,466,007

BUREAU OF SENIOR SERVICES

360 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 8724 FY 2017 Org 0508

1	Personal Services and Employee		
2	Benefits.	00100	\$ 721,393
3	Current Expenses.	13000	13,811,853
4	Repairs and Alterations.	06400	3,000
5	Total.		\$ 14,536,246

MISCELLANEOUS BOARDS AND COMMISSIONS

*361 - Public Service Commission –
Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 1,286,913
3	Current Expenses.	13000	843,953
4	Repairs and Alterations.	06400	40,000
5	Equipment.	07000	<u>1,862,000</u>
6	Total.		\$ 4,032,866

*362 - Public Service Commission –
Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2017 Org 0926

1	Personal Services and Employee		
2	Benefits.	00100	\$ 596,600
3	Current Expenses.	13000	124,628
4	Equipment.	07000	3,000
5	Unclassified.	09900	<u>4,072</u>
6	Total.		\$ 728,300

363 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2017 Org 0941

1	Personal Services and Employee		
2	Benefits.	00100	\$ 159,235
3	Current Expenses.	13000	631,365
4	Repairs and Alterations.	06400	5,000
5	Equipment.	07000	3,000
6	Other Assets.	69000	<u>2,000</u>
7	Total.		\$ 800,600

8 Total TITLE II, Section 6 –

9	Federal Funds.		<u>\$4,499,497,279</u>
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- 1 **Sec. 7. Appropriations from federal block grants.** – The
 2 following items are hereby appropriated from federal block
 3 grants to be available for expenditure during the fiscal year 2017.

*364 - West Virginia Development Office –
 Community Development*

Fund 8746 FY 2017 Org 0307

1	Personal Services and Employee		
2	Benefits.	00100	\$ 648,117
3	Unclassified.	09900	375,000
4	Current Expenses.	13000	<u>36,476,883</u>
5	Total.		\$ 37,500,000

*365 - WorkForce West Virginia –
 Workforce Investment Act*

Fund 8749 FY 2017 Org 0323

1	Personal Services and Employee		
2	Benefits.	00100	\$ 2,862,606
3	Unclassified.	09900	23,023
4	Current Expenses.	13000	28,513,511
5	Repairs and Alterations.	06400	1,600
6	Equipment.	07000	500
7	Buildings.	25800	<u>1,100</u>
8	Total.		\$ 31,402,340

*366 - Department of Commerce
 Office of the Secretary –
 Office of Economic Opportunity –
 Community Services*

Fund 8781 FY 2017 Org 0327

1	Personal Services and Employee		
2	Benefits.	00100	\$ 362,389

2016]	HOUSE OF DELEGATES	3985
3	Unclassified. 09900	84,000
4	Current Expenses. 13000	12,043,111
5	Repairs and Alterations. 06400	1,500
6	Equipment. 07000	<u>9,000</u>
7	Total.	\$ 12,500,000

*367 - Division of Health –
Maternal and Child Health*

Fund 8750 FY 2017 Org 0506

1	Personal Services and Employee	
2	Benefits. 00100	\$ 2,124,294
3	Unclassified. 09900	110,017
4	Current Expenses. 13000	<u>8,767,420</u>
5	Total.	\$ 11,001,731

*368 - Division of Health –
Preventive Health*

Fund 8753 FY 2017 Org 0506

1	Personal Services and Employee	
2	Benefits. 00100	\$ 162,320
3	Unclassified. 09900	22,457
4	Current Expenses. 13000	1,895,366
5	Equipment. 07000	<u>165,642</u>
6	Total.	\$ 2,245,785

*369 - Division of Health –
Substance Abuse Prevention and Treatment*

Fund 8793 FY 2017 Org 0506

1	Personal Services and Employee	
2	Benefits. 00100	\$ 822,766
3	Unclassified. 09900	115,924
4	Current Expenses. 13000	<u>10,653,740</u>
5	Total.	\$ 11,592,430

*370 - Division of Health –
Community Mental Health Services*

Fund 8794 FY 2017 Org 0506

1	Personal Services and Employee		
2	Benefits. 00100	\$	936,557
3	Unclassified. 09900		33,533
4	Current Expenses. 13000		<u>2,383,307</u>
5	Total.	\$	3,353,397

*371- Division of Human Services –
Energy Assistance*

Fund 8755 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits. 00100	\$	1,514,312
3	Unclassified. 09900		350,000
4	Current Expenses. 13000		<u>33,181,300</u>
5	Total.	\$	35,045,612

*372 - Division of Human Services –
Social Services*

Fund 8757 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits. 00100	\$	14,231,684
3	Unclassified. 09900		171,982
4	Current Expenses. 13000		<u>2,870,508</u>
5	Total.	\$	17,274,174

*373 - Division of Human Services –
Temporary Assistance for Needy Families*

Fund 8816 FY 2017 Org 0511

1	Personal Services and Employee		
2	Benefits. 00100	\$	18,297,327

3	Unclassified.	09900		1,250,000
4	Current Expenses.	13000		<u>105,847,136</u>
5	Total.		\$	125,394,463

*374 - Division of Human Services –
Child Care and Development*

Fund 8817 FY 2017 Org 0511

1	Personal Services and Employee			
2	Benefits.	00100	\$	4,676,841
3	Unclassified.	09900		350,000
4	Current Expenses.	13000		31,999,456
5	Total.		\$	37,026,297

*375 - Division of Justice and Community Services –
Juvenile Accountability Incentive*

Fund 8829 FY 2017 Org 0620

1	Personal Services and Employee			
2	Benefits.	00100	\$	14,246
3	Current Expenses.	13000		85,729
4	Repairs and Alterations.	06400		<u>25</u>
5	Total.		\$	100,000

6	Total TITLE II, Section 7 —			
7	Federal Block Grants.		\$	<u><u>324,436,229</u></u>

1 **Sec. 8. Awards for claims against the state.** — There are
2 hereby appropriated for fiscal year 2017, from the fund as
3 designated, in the amounts as specified, general revenue funds
4 in the amount of \$447,066, special revenue funds in the amount
5 of \$89,910, and state road funds in the amount of \$983,485 for
6 payment of claims against the state.

1 **Sec. 9. Appropriations from general revenue surplus**
2 **accrued.** — The following items are hereby appropriated from

3 the state fund, general revenue, and are to be available for
 4 expenditure during the fiscal year 2017 out of surplus funds
 5 only, accrued from the fiscal year ending June 30, 2016, subject
 6 to the terms and conditions set forth in this section.

7 It is the intent and mandate of the Legislature that the
 8 following appropriations be payable only from surplus accrued
 9 as of July 31, 2016 from the fiscal year ending June 30, 2016,
 10 only after first meeting the requirements of W.Va. Code
 11 §11B-2-20(b).

12 In the event that surplus revenues available on July 31, 2016,
 13 are not sufficient to meet all the appropriations made pursuant to
 14 this section, then the appropriations shall be made to the extent
 15 that surplus funds are available as of the date mandated and shall
 16 be allocated first to provide the necessary funds to meet the first
 17 appropriation of this section and each subsequent appropriation
 18 in the order listed in this section.

376 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2017 Org 0511

1 Medical Services — Surplus. 63300 \$ 6,236,618

377 -Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2017 Org 0211

1 Capital Outlay, Repairs and
 2 Equipment – Surplus. 67700 \$ 5,000,000

*378 - Department of Revenue -
 Tax Division*

(WV Code Chapter 11)

Fund 0470 FY 2017 Org 0702

1	Tax Technology Upgrade –		
2	Surplus.....	45000	\$ <u>2,700,000</u>

3	Total TITLE II, Section 9 –		
4	Surplus Accrued.		\$ <u>13,936,618</u>

1 **Sec. 10. Appropriations from lottery net profits surplus**
2 **accrued.** — The following item is hereby appropriated from the
3 lottery net profits, and is to be available for expenditure during
4 the fiscal year 2017 out of surplus funds only, as determined by
5 the director of lottery, accrued from the fiscal year ending June
6 30, 2016, subject to the terms and conditions set forth in this
7 section.

8 It is the intent and mandate of the Legislature that the
9 following appropriation be payable only from surplus accrued
10 from the fiscal year ending June 30, 2016.

11 In the event that surplus revenues available from the fiscal
12 year ending June 30, 2016, are not sufficient to meet the
13 appropriation made pursuant to this section, then the
14 appropriation shall be made to the extent that surplus funds are
15 available.

*379 - Bureau of Senior Services –
Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2017 Org 0508

1	Senior Services Medicaid Transfer –		
2	Lottery Surplus.	68199	\$ <u>17,000,000</u>

3	Total TITLE II, Section 10 –		
4	Surplus Accrued.		\$ <u>17,000,000</u>

1 **Sec. 11. Appropriations from state excess lottery revenue**
 2 **surplus accrued.** — The following item is hereby appropriated
 3 from the state excess lottery revenue fund, and is to be available
 4 for expenditure during the fiscal year 2017 out of surplus funds
 5 only, as determined by the director of lottery, accrued from the
 6 fiscal year ending June 30, 2016, subject to the terms and
 7 conditions set forth in this section.

8 It is the intent and mandate of the Legislature that the
 9 following appropriation be payable only from surplus accrued
 10 from the fiscal year ending June 30, 2016.

11 In the event that surplus revenues available from the fiscal
 12 year ending June 30, 2016, are not sufficient to meet the
 13 appropriation made pursuant to this section, then the
 14 appropriation shall be made to the extent that surplus funds are
 15 available.

380 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2017 Org 0511

1	Medical Services – Lottery		
2	Surplus.....	68100	\$ <u>30,000,000</u>
3	Total TITLE II, Section 11 –		
4	Surplus Accrued.		\$ <u>30,000,000</u>

1 **Sec. 12. Special revenue appropriations.** — There are
 2 hereby appropriated for expenditure during the fiscal year 2017
 3 appropriations made by general law from special revenues which
 4 are not paid into the state fund as general revenue under the
 5 provisions of W.Va. Code §12-2-2: *Provided*, That none of the
 6 money so appropriated by this section shall be available for
 7 expenditure except in compliance with the provisions of W.Va.
 8 Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending

9 unit has filed with the director of the budget and the legislative
10 auditor prior to the beginning of each fiscal year:

11 (a) An estimate of the amount and sources of all revenues
12 accruing to such fund; and

13 (b) A detailed expenditure schedule showing for what
14 purposes the fund is to be expended.

15 In addition to the foregoing provisions, the following items
16 are hereby appropriated for expenditure.

EXECUTIVE

*381 - Treasurer's Office
Flood Insurance Tax Fund*

(WV Code Chapter 33)

Fund 1343 FY 2017 Org 1300

1 Directed Transfer. 70000 \$ 474,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

*382 - Treasurer's Office
Treasurer's Financial Electronic Commerce Fund*

(WV Code Chapter 12)

Fund 1345 FY 2017 Org 1300

1 Directed Transfer. 70000 \$ 500,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

*383 - Secretary of State
Marriage Celebrants Registration Fee Administration Fund*

(WV Code Chapter 48)

Fund 1613 FY 2017 Org 1600

1 Directed Transfer..... 70000 \$ 100,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

*384 - State Election Commission
Supreme Court of Appeals Public Campaign Financing Fund*

(WV Code Chapter 3)

Fund 1690 FY 2017 Org 1601

1 Directed Transfer..... 70000 \$ 500,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

DEPARTMENT OF ADMINISTRATION

*385 - Surplus Property Division
Sale of State Surplus Property Fund*

(WV Code Chapter 5A)

Fund 2281 FY 2017 Org 0214

1 Directed Transfer..... 70000 \$ 500,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

DEPARTMENT OF COMMERCE

*386 - Division of Forestry
Outdoor Heritage Conservation Fund*

(WV Code Chapter 5B)

Fund 3091 FY 2017 Org 0305

1 Directed Transfer..... 70000 \$ 1,000,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

*387 - West Virginia Development Office
Development Office Promotion Fund*

(WV Code Chapter 5B)

Fund 3171 FY 2017 Org 0307

1 Directed Transfer..... 70000 \$ 1,000,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

DEPARTMENT OF EDUCATION AND THE ARTS

*388- Division of Culture and History
Veterans' Memorial*

(WV Code Chapter 29)

Fund 3532 FY 2017 Org 0432

1 Directed Transfer..... 70000 \$ 128,001.10

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

*389 - Department of Environmental Protection
Dam Safety Rehabilitation Revolving Fund*

(WV Code Chapter 3)

Fund 3025 FY 2017 Org 0313

1 Directed Transfer..... 70000 \$ 1,083,800

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

*390 - Department of Environmental Protection
Underground Tank Insurance Fund*

(WV Code Chapter 22)

Fund 3218 FY 2017 Org 0313

1 Directed Transfer..... 70000 \$ 1,000,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

*391 - Department of Environmental Protection
Water Quality Management Fund*

(WV Code Chapter 22)

Fund 3327 FY 2017 Org 0313

1 Directed Transfer..... 70000 \$ 1,000,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

*392 - Department of Environmental Protection
Closure Cost Assistance Fund*

(WV Code Chapter 22)

Fund 3328 FY 2017 Org 0313

1 Directed Transfer..... 70000 \$ 2,000,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

**DEPARTMENT OF HEALTH AND HUMAN
RESOURCES**

*393 - Division of Human Services
Medicaid Fraud Control Fund*

(WV Code Chapter 9)

Fund 5141 FY 2017 Org 0511

1 Directed Transfer..... 70000 \$ 500,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

*394 - Division of Health
Central Office Lottery Fund*

(WV Code Chapter 16)

Fund 5219 FY 2017 Org 0506

1 Directed Transfer..... 70000 \$ 450,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

*395 - Division of Health
DHHR Safety and Treatment Fund*

(WV Code Chapter 17C)

Fund 5228 FY 2017 Org 0506

1 Directed Transfer..... 70000 \$ 500,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY**

*396 - Division of Corrections
Prison Industries Fund*

Fund 6303 FY 2017 Org 0608

1 Directed Transfer..... 70000 \$ 500,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

DEPARTMENT OF REVENUE

*397 - Insurance Commissioner
Unfair Claims Settlement Practice Trust Fund*

(WV Code Chapter 33)

Fund 7168 FY 2017 Org 0704

1 Directed Transfer..... 70000 \$ 1,000,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

MISCELLANEOUS BOARDS AND COMMISSIONS

*398 - Board of Pharmacy
Pharmacy Operating Fund*

(WV Code Chapter 30)

Fund 8537 FY 2017 Org 0913

1 Directed Transfer..... 70000 \$ 500,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

*399 - West Virginia Economic Development Authority
WVEDA Credit Insurance Fund*

(WV Code Chapter 31)

Fund 9063 FY 2017 Org 0944

1 Directed Transfer..... 70000 \$ 3,500,000

2 The above appropriation for Directed Transfer, appropriation
3 70000, shall be transferred to the Medical Services Trust Fund
4 (fund 5185, org 0511) for expenditure.

5 Total TITLE II, Section 12 –

6 Special Revenue Appropriations..... \$ 16,235,801

1 **Sec. 13. Appropriations from revenues available**
2 **pursuant to executive order.** — The following item is hereby
3 appropriated from the state fund, general revenue, and is to be
4 available for expenditure during the fiscal year 2017 out of funds
5 made available pursuant to any executive order authorized by the
6 amendments made in Enrolled Senate Bill No. 419, enacted in
7 2016, to the provisions of §29-22A-10d or §29-22A-10e of the
8 Code, payable only after first meeting the requirements of W.Va.
9 Code §11B-2-20(b).

- *Division of Human Services*

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2017 Org 0511

1 Medical Services –
 2 Senate Bill 419 Executive Order. . . . \$ 25,500,000
 3 Total TITLE II, Section 13 –
 4 Appropriations from executive order. \$ 25,500,000

1 **Sec. 14. State improvement fund appropriations.** —
 2 Bequests or donations of nonpublic funds, received by the
 3 Governor on behalf of the state during the fiscal year 2017, for
 4 the purpose of making studies and recommendations relative to
 5 improvements of the administration and management of
 6 spending units in the executive branch of state government, shall
 7 be deposited in the state treasury in a separate account therein
 8 designated state improvement fund.

9 There are hereby appropriated all moneys so deposited
 10 during the fiscal year 2017 to be expended as authorized by the
 11 Governor, for such studies and recommendations which may
 12 encompass any problems of organization, procedures, systems,
 13 functions, powers or duties of a state spending unit in the
 14 executive branch, or the betterment of the economic, social,
 15 educational, health and general welfare of the state or its
 16 citizens.

1 **Sec. 15. Specific funds and collection accounts.** — A fund
 2 or collection account which by law is dedicated to a specific use
 3 is hereby appropriated in sufficient amount to meet all lawful
 4 demands upon the fund or collection account and shall be
 5 expended according to the provisions of Article 3, Chapter 12 of
 6 the Code.

1 **Sec. 16. Appropriations for refunding erroneous**
2 **payment.** — Money that has been erroneously paid into the state
3 treasury is hereby appropriated out of the fund into which it was
4 paid, for refund to the proper person.

5 When the officer authorized by law to collect money for the
6 state finds that a sum has been erroneously paid, he or she shall
7 issue his or her requisition upon the Auditor for the refunding of
8 the proper amount. The Auditor shall issue his or her warrant to
9 the Treasurer and the Treasurer shall pay the warrant out of the
10 fund into which the amount was originally paid.

1 **Sec. 17. Sinking fund deficiencies.** — There is hereby
2 appropriated to the Governor a sufficient amount to meet any
3 deficiencies that may arise in the mortgage finance bond
4 insurance fund of the West Virginia housing development fund
5 which is under the supervision and control of the municipal bond
6 commission as provided by W.Va. Code §31-18-20b, or in the
7 funds of the municipal bond commission because of the failure
8 of any state agency for either general obligation or revenue
9 bonds or any local taxing district for general obligation bonds to
10 remit funds necessary for the payment of interest and sinking
11 fund requirements. The Governor is authorized to transfer from
12 time to time such amounts to the municipal bond commission as
13 may be necessary for these purposes.

14 The municipal bond commission shall reimburse the state of
15 West Virginia through the Governor from the first remittance
16 collected from the West Virginia housing development fund or
17 from any state agency or local taxing district for which the
18 Governor advanced funds, with interest at the rate carried by the
19 bonds for security or payment of which the advance was made.

1 **Sec. 18. Appropriations for local governments.** — There
2 are hereby appropriated for payment to counties, districts and
3 municipal corporations such amounts as will be necessary to pay

4 taxes due counties, districts and municipal corporations and
5 which have been paid into the treasury:

6 (a) For redemption of lands;

7 (b) By public service corporations;

8 (c) For tax forfeitures.

1 **Sec. 19. Total appropriations.** — Where only a total sum
2 is appropriated to a spending unit, the total sum shall include
3 personal services and employee benefits, annual increment,
4 current expenses, repairs and alterations, buildings, equipment,
5 other assets, land, and capital outlay, where not otherwise
6 specifically provided and except as otherwise provided in TITLE
7 I – GENERAL PROVISIONS, Sec. 3.

1 **Sec. 20. General school fund.** — The balance of the
2 proceeds of the general school fund remaining after the payment
3 of the appropriations made by this act is appropriated for
4 expenditure in accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION.

1 **Sec. 1. Appropriations conditional.** — The expenditure of
2 the appropriations made by this act, except those appropriations
3 made to the legislative and judicial branches of the state
4 government, are conditioned upon the compliance by the
5 spending unit with the requirements of Article 2, Chapter 11B of
6 the Code.

7 Where spending units or parts of spending units have been
8 absorbed by or combined with other spending units, it is the
9 intent of this act that appropriations and reappropriations shall be
10 to the succeeding or later spending unit created, unless otherwise
11 indicated.

1 **Sec. 2. Constitutionality.** — If any part of this act is
2 declared unconstitutional by a court of competent jurisdiction, its

3 decision shall not affect any portion of this act which remains,
4 but the remaining portion shall be in full force and effect as if
5 the portion declared unconstitutional had never been a part of the
6 act.”

Delegates Walters and Canterbury moved to amend the amendment on page 80, Item 108, line 1, by striking out “15,277,769”, and inserting in lieu thereof “77,769”.

And,

By adjusting the section total accordingly.

Delegate Morgan asked unanimous consent to address the House, which consent was not given, objection being heard.

Delegate Morgan then moved to address the House.

During debate on the amendment, Delegate J. Nelson moved pursuant to Rule 38 that debate on all amendments to Com. Sub. for H.B. 101 be limited to 5 minutes.

After inquiry regarding the motion, the Speaker noted that because the question before the House was the amendment by Delegates Walters and Canterbury, the motion to limit debate would only apply to this amendment and additional motions would need to be made to limit debate on other amendments.

Delegate Perry moved to postpone indefinitely the amendment. The Speaker noted that the question before the House is the motion to limit debate on the amendment. Delegate Perry subsequently withdrew his motion.

Delegate Folk arose to a point of order regarding whether the motion to limit debate was in order pursuant to House Rule 53. Delegate J. Nelson subsequently asked and obtained unanimous consent to withdraw his motion to limit debate on the amendment.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, asked and obtained unanimous consent to address the House.

Mr. Speaker, Mr. Armstead, in the Chair

Whereupon,

Delegate Walters asked and obtained unanimous consent that the amendments and all amendments not yet reported by the Clerk to which he was a sponsor be withdrawn.

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

At the request of Delegate Sponaugle and by unanimous consent, the amendment was placed at the foot of amendments.

Delegates Campbell, Hartman, P. Smith and Lynch moved to amend the amendment on page 30, Item 34, line 28, Hardwood Alliance Zone, following the appropriation number “99200” by striking out the dollar amount of “0” and inserting in lieu thereof “34,500”,

On page 30, Item 34, line 29, by reconciling the fund total accordingly,

On page 52, Item 64, line 6, Medical Services, following the appropriation number “18900” by reducing the line item amount by \$34,500,

On page 53, Item 64, line 36, by reconciling the fund total accordingly,

On page 80, line 5, by reconciling the Total TITLE II, Section 3 – Other Funds (Including claims against the state) accordingly,

And,

On page 119, Item 231, Fund 7005, by adding \$34,500 to the line item “Medical Services Trust Fund – Transfer” appropriation number “51200”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 680**), and there were—yeas 33, nays 57, absent and not voting 10, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Longstreth, Lynch, Manchin, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, R. Smith, Sponaugle, Wagner and P. White.

Absent and Not Voting: Azinger, Cowles, Deem, Hicks, Hornbuckle, Lane, Marcum, Phillips, Trecost and Westfall.

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

Delegates Campbell, Hartman, Moye and Perry moved to amend the amendment on page 30, Item 34, by striking out line 17, and inserting in lieu thereof the following:

“Highway Authorities. 43100 702,795”;

On page 30, Item 34, line 29, by reconciling the fund total accordingly,

On page 31, Item 34, line 45, following the period, by inserting the following:

“From the above appropriation for Highway Authorities (fund 0256, appropriation 43100), \$102,286 is for King Coal Highway Authority; \$102,286 is for Coal Field Expressway Authority; \$163,659

is for Coal Heritage Area Authority; \$40,915 is for Little Kanawha River Parkway; \$73,646 is for Midland Trail Scenic Highway Association; \$46,642 is for Shawnee Parkway Authority; \$81,829 is for Corridor G Regional Development Authority; \$50,616 is for Corridor H Authority; and \$40,916 is for Route 2 I68 Highway Authority.”

On page 52, Item 64, line 6, Medical Services, following the appropriation number “18900”, by reducing the line item amount by \$702,795,

On page 53, Item 64, line 36, by reconciling the fund total accordingly,

On page 119, Item 231, Fund 7005, by adding \$702,795 to the line item “Medical Services Trust Fund – Transfer” appropriation number “51200”,

And,

On page 80, line 5, by reconciling the Total TITLE II, Section 3 – Other Funds (Including claims against the state) accordingly.

Delegate Hartman requested to be excused from voting on the amendment under the provisions of House Rule 49. The Speaker replied that any impact on the Delegate would be as a member of a class of persons possibly to be affected by the passage of the bill, and refused to excuse the Member from voting.

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

The yeas and nays having been ordered, they were taken (**Roll No. 681**), and there were—yeas 31, nays 59, absent and not voting 10, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Longstreth, Lynch, Manchin, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel,

Pushkin, Reynolds, Rodighiero, Shaffer, Skinner, P. Smith, Sponaugle, Wagner and P. White.

Absent and Not Voting: Azinger, Cowles, Deem, Hicks, Hornbuckle, Lane, Marcum, Phillips, Trecoast and Westfall.

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

Delegate Boggs moved to amend the amendment on page 38, Item 46, line 5, by striking out “15,574,235”, and inserting in lieu thereof “17,574,235”,

On page 80, line 5, by reconciling the Total TITLE II, Section 3 – Other Funds (Including claims against the state) accordingly,

On page 119, Item 231, Fund 7005, by adding \$2,000,000 to the line item “Medical Services Trust Fund – Transfer” appropriation number “51200”.

And,

On page 80, line 5, by reconciling the Total TITLE II, Section 3 – Other Funds (Including claims against the state) accordingly.

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

The yeas and nays having been ordered, they were taken (**Roll No. 682**), and there were—yeas 31, nays 58, absent and not voting 11, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Longstreth, Lynch, Manchin, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle and P. White.

Absent and Not Voting: Azinger, Cowles, Deem, Flanigan, Hicks, Hornbuckle, Lane, Marcum, Phillips, Trecost and Westfall.

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

Delegate Canterbury moved to amend the amendment on page 151, after line 12, through page 158, line 201, by striking out all of Item 289 - Division of Culture and History - Lottery Education Fund (WV Code Chapter 29) Fund 3534 FY 2017 Org 0432 , and inserting in lieu thereof the following:

*“289 Division of Culture and History –
Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2017 Org 0432

Huntington Symphony.....	02700	\$	0
Preservation West Virginia (R).....	09200		587,519
Fairs and Festivals (R).....	12200		1,196,597
Archeological Curation/ Capital Improvements (R).....	24600		37,593
Historic Preservation Grants (R)	31100		331,585
West Virginia Public Theater.	31200		150,024
George Tyler Moore Center for the Study of the Civil War.	39700		46,739
Greenbrier Valley Theater.....	42300		124,429
Theater Arts of West Virginia.....	46400		0
Marshall Artists Series.....	51800		0

2016]	HOUSE OF DELEGATES	4007
Grants for Competitive Arts		
Program (R)	62400	657,900
West Virginia State Fair.	65700	39,052
Save the Music.	68000	27,000
Contemporary American		
Theater Festival.	81100	71,602
Independence Hall.	81200	34,097
Mountain State Forest Festival.	86400	47,734
WV Symphony.	90700	73,823
Wheeling Symphony.	90800	73,823
Appalachian Children's Chorus.	91600	<u>68,193</u>
Total.		\$ 3,567,708

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), 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 2016 are hereby reappropriated for expenditure during the fiscal year 2017.

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to A Princeton 4th (Mercer) \$2,250, African-American Cultural Heritage Festival (Jefferson) \$3,700, Alderson 4th of July Celebration (Greenbrier) \$3,700, Allegheny Echo (Pocahontas) \$5,550, Alpine Festival/Leaf Peepers Festival (Tucker) \$8,350, American Civil War (Grant) \$3,900, American Legion Post 8 Veterans Day Parade (McDowell) \$1,550,

Angus Beef and Cattle Show (Lewis) \$1,100, Annual Birch River Days (Nicholas) \$1,600, Annual Don Redman Heritage Concert & Awards (Jefferson) \$1,150, Annual Ruddle Park Jamboree (Pendleton) \$0, Antique Market Fair (Lewis) \$1,500, Apollo Theater-Summer Program (Berkeley) \$1,500, Apple Butter Festival (Morgan) \$4,450, Arkansaw Homemaker's Heritage Weekend (Hardy) \$2,600, Armed Forces Day-South Charleston (Kanawha) \$2,200, Arthur Dale Heritage New Deal Festival (Preston) \$3,700, Athens Town Fair (Mercer) \$1,500, Augusta Fair (Randolph) \$0, Autumn Harvest Fest (Monroe) \$3,050, Barbour County Fair \$18,550, Barboursville Octoberfest (Cabell) \$3,700, Bass Festival (Pleasants) \$1,350, Battelle District Fair (Monongalia) \$3,700, Battle of Dry Creek (Greenbrier) \$1,100, Battle of Point Pleasant Memorial Committee (Mason) \$0, Belle Town Fair (Kanawha) \$3,350, Belleville Homecoming (Wood) \$14,850, Bergoo Down Home Days (Webster) \$0, Berkeley County Youth Fair \$13,750, Black Bear 4K Mountain Bike Race (Kanawha) \$900, Black Heritage Festival (Harrison) \$4,450, Black Walnut Festival (Roane) \$7,450, Blast from the Past (Upshur) \$1,800, Blue-Gray Reunion (Barbour) \$2,600, Boone County Fair \$0, Boone County Labor Day Celebration \$3,000, Bradshaw Fall Festival (McDowell) \$0, Brandonville Heritage Day (Preston) \$1,300, Braxton County Fair \$0, Braxton County Monster Fest / West Virginia Autumn Festival \$0, Brooke County Fair \$2,600, Bruceton Mills Good Neighbor Days (Preston) \$1,500, Buckwheat Festival (Preston) \$6,300, Buffalo 4th of July Celebration (Putnam) \$0, Buffalo October Fest (Putnam) \$0, Burlington Apple Harvest Festival (Mineral) \$22,300, Burlington Pumpkin Harvest Festival (Raleigh) \$0, Burnsville Harvest Festival (Braxton) \$1,750, Cabell County Fair \$0, Calhoun County Wood Festival \$1,500, Campbell's Creek Community Fair (Kanawha) \$1,850, Cape Coalwood Festival Association (McDowell) \$0, Capon Bridge Founders Day Festival (Hampshire) \$1,500, Capon Springs Ruritan 4th of July (Hampshire) \$900, Cass Homecoming (Pocahontas) \$1,500, Cedarville Town Festival (Gilmer) \$900, Celebration in the Park (Wood) \$3,000, Celebration of America (Monongalia) \$4,450, Ceredo Freedom Festival (Wayne) \$950, Chapmanville Apple Butter

Festival (Logan) \$0, Chapmanville Fire Department 4th of July (Logan) \$2,250, Charles Town Christmas Festival (Jefferson) \$0, Charles Town Heritage Festival (Jefferson) \$0, Cherry River Festival (Nicholas) \$0, Chester Fireworks (Hancock) \$1,100, Chester 4th of July Festivities (Hancock) \$3,700, Chief Logan State Park-Civil War Celebration (Logan) \$0, Chilifest West Virginia State Chili Championship (Cabell) \$1,950, Christmas In Our Town (Marion) \$0, Christmas in Shepherdstown (Jefferson) \$2,950, Christmas in the Park (Brooke) \$3,700, Christmas in the Park (Logan) \$0, City of Dunbar Critter Dinner (Kanawha) \$7,450, City of Logan Polar Express (Logan) \$0, City of New Martinsville Festival of Memories (Wetzel) \$0, Clay County Golden Delicious Apple Festival \$5,200, Clay District Fair (Monongalia) \$1,350, Coal Field Jamboree (Logan) \$0, Coalton Days Fair (Randolph) \$0, Country Roads Festival (Fayette) \$1,500, Cowen Railroad Festival (Webster) \$0, Craigsville Fall Festival (Nicholas) \$0, Cruise into Princeton (Mercer) \$2,700, Culturefest World Music & Arts Festival (Mercer) \$5,850, Delbarton Homecoming (Mingo) \$0, Doddridge County Fair \$5,200, Dorcas Ice Cream Social (Grant) \$4,450, Durbin Days (Pocahontas) \$0, Elbert/Filbert Reunion Festival (McDowell) \$0, Elkins Randolph County 4th of July Car Show (Randolph) \$0, Fairview 4th of July Celebration (Marion) \$0, Farm Safety Day (Preston) \$1,500, Farmer's Day Festival (Monroe) \$2,900, Farmers' Day Parade (Wyoming) \$900, Fenwick Mountain Old Time Community Festival (Nicholas) \$0, FestivALL Charleston (Kanawha) \$14,850, Flatwoods Days (Braxton) \$0, Flemington Day Fair and Festival (Taylor) \$2,600, Follansbee Community Days (Brooke) \$6,150, Fort Gay Mountain Heritage Days (Wayne) \$0, Fort Henry Days (Ohio) \$3,950, Fort Henry Living History (Ohio) \$1,950, Fort New Salem Spirit of Christmas Festival (Harrison) \$3,050, Frankford Autumnfest (Greenbrier) \$3,700, Franklin Fishing Derby (Pendleton) \$0, Freshwater Folk Festival (Greenbrier) \$3,700, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$0, Frontier Days (Harrison) \$2,250, Frontier Fest/Canaan Valley (Taylor) \$3,700, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,850, Gassaway Days Celebration (Braxton) \$0, Gilbert Elementary Fall Blast (Mingo) \$0,

Gilbert Kiwanis Harvest Festival (Mingo) \$0, Gilbert Spring Fling (Mingo) \$0, Gilmer County Farm Show \$3,000, Grant County Arts Council \$1,500, Grape Stomping Wine Festival (Nicholas) \$0, Great Greenbrier River Race (Pocahontas) \$7,450, Greater Quinwood Days (Greenbrier) \$1,000, Guyandotte Civil War Days (Cabell) \$7,450, Hamlin 4th of July Celebration (Lincoln) \$0, Hampshire Civil War Celebration Days (Hampshire) \$900, Hampshire County 4th of July Celebration \$14,850, Hampshire County Fair \$6,250, Hampshire Heritage Days (Hampshire) \$2,950, Hancock County Oldtime Fair \$3,700, Hardy County Commission - 4th of July \$7,450, Hatfield McCoy Matewan Reunion Festival (Mingo) \$0, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$0, Heat'n the Hills Chilifest (Lincoln) \$0, Heritage Craft Festival (Monroe) \$1,300, Heritage Days Festival (Roane) \$1,100, Hilltop Festival (Cabell) \$900, Hilltop Festival of Lights (McDowell) \$0, Hinton Railroad Days (Summers) \$5,450, Holly River Festival (Webster) \$0, Hometown Mountain Heritage Festival (Fayette) \$3,050, Hundred 4th of July (Wetzel) \$0, Hundred American Legion Earl Kiger Post Bluegrass Festival (Wetzel) \$1,500, Hurricane 4th of July Celebration (Putnam) \$0, Jaeger Town Fair (McDowell) \$0, Irish Heritage Festival of West Virginia (Raleigh) \$0, Irish Spring Festival (Lewis) \$0, Italian Heritage Festival-Clarksburg (Harrison) \$0, Jackson County Fair \$0, Jamboree (Pocahontas) \$3,700, Jane Lew Arts and Crafts Fair (Lewis) \$0, Jefferson County Fair Association \$0, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$900, John Henry Days Festival (Monroe) \$5,850, Johnnie Johnson Blues and Jazz Festival (Marion) \$3,700, Johnstown Community Fair (Harrison) \$1,850, Junior Heifer Preview Show (Lewis) \$0, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) \$3,700, Keeper of the Mountains-Kayford (Kanawha) \$1,850, Kenova Autumn Festival (Wayne) \$0, Kermit Fall Festival (Mingo) \$0, Keystone Reunion Gala (McDowell) \$0, King Coal Festival (Mingo) \$0, Kingwood Downtown Street Fair and Heritage Days (Preston) \$1,500, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) \$3,700, Lady of Agriculture (Preston) \$900, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo)

\$0, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$0, Last Blast of Summer (McDowell) \$0, Lewis County Fair Association \$0, Lewisburg Shanghai (Greenbrier) \$1,500, Lincoln County Fall Festival \$0, Lincoln County Winterfest \$0, Lindsie Veterans' Day Parade \$900, Little Levels Heritage Festival (Pocahontas) \$1,500, Lost Creek Community Festival (Harrison) \$5,200, Main Street Arts Festival (Upshur) \$3,900, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$3,500, Mannington District Fair (Marion) \$0, Maple Syrup Festival (Randolph) \$900, Marion County FFA Farm Fest \$1,850, Marmet Labor Day Celebration (Kanawha) \$3,850, Marshall County Antique Power Show \$1,850, Marshall County Fair \$5,550, Mason County Fair \$0, Mason Dixon Festival (Monongalia) \$5,200, Matewan Massacre Reenactment (Mingo) \$0, Matewan-Magnolia Fair (Mingo) \$0, McARTS-McDowell County \$0, McDowell County Fair \$0, McGrew House History Day (Preston) \$1,500, McNeill's Rangers (Mineral) \$5,950, Meadow Bridge Hometown Festival (Fayette) \$900, Meadow River Days Festival (Greenbrier) \$2,200, Mercer Bluestone Valley Fair (Mercer) \$1,500, Mercer County Fair \$1,500, Mercer County Heritage Festival \$4,350, Mid Ohio Valley Antique Engine Festival (Wood) \$2,250, Milton Christmas in the Park (Cabell) \$1,850, Milton 4th of July Celebration (Cabell) \$1,850, Mineral County Fair \$1,300, Mineral County Veterans Day Parade \$1,100, Molasses Festival (Calhoun) \$1,500, Monongahfest (Marion) \$0, Moon Over Mountwood Fishing Festival (Wood) \$2,250, Morgan County Fair-History Wagon \$1,100, Moundsville Bass Festival (Marshall) \$2,950, Moundsville July 4th Celebration (Marshall) \$3,700, Mount Liberty Fall Festival (Barbour) \$1,850, Mountain Fest (Monongalia) \$14,850, Mountain Festival (Mercer) \$3,450, Mountain Heritage Arts and Crafts Festival (Jefferson) \$0, Mountain Music Festival (McDowell) \$0, Mountain State Apple Harvest Festival (Berkeley) \$5,550, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$33,400, Mountaineer Hot Air Balloon Festival (Monongalia) \$2,950, Mullens Dogwood Festival (Wyoming) \$0, Multi-Cultural Festival of West Virginia (Kanawha) \$0, Music and Barbecue - Banks District

VFD (Upshur) \$1,600, New Cumberland Christmas Parade (Hancock) \$0, New Cumberland 4th of July (Hancock) \$0, New River Bridge Day Festival (Fayette) \$29,700, Newburg Volunteer Fireman's Field Day (Preston) \$900, Nicholas County Fair \$0, Nicholas County Potato Festival \$0, Oak Leaf Festival (Fayette) \$7,800, Oceana Heritage Festival (Wyoming) \$0, Oglebay City Park - Festival of Lights (Ohio) \$59,400, Oglebay Festival (Ohio) \$7,450, Ohio County Country Fair \$6,700, Ohio River Fest (Jackson) \$5,400, Ohio Valley Beef Association (Wood) \$1,850, Ohio Valley Black Heritage Festival (Ohio) \$4,100, Old Central City Fair (Cabell) \$3,700, Old Century City Fair (Barbour) \$1,550, Old Tyme Christmas (Jefferson) \$1,800, Paden City Labor Day Festival (Wetzel) \$4,850, Parkersburg Homecoming (Wood) \$11,000, Patty Fest (Monongalia) \$1,500, Paw Paw District Fair (Marion) \$0, Pax Reunion Committee (Fayette) \$3,700, Pendleton County 4-H Weekend \$1,500, Pendleton County Committee for Arts \$0, Pendleton County Fair \$0, Pennsboro Country Road Festival (Ritchie) \$1,500, Petersburg 4th of July Celebration (Grant) \$14,850, Petersburg HS Celebration (Grant) \$7,450, Piedmont-Annual Back Street Festival (Mineral) \$2,950, Pinch Reunion (Kanawha) \$1,100, Pine Bluff Fall Festival (Harrison) \$0, Pine Grove 4th of July Festival (Wetzel) \$0, Pineville Festival (Wyoming) \$0, Pleasants County Agriculture Youth Fair \$3,700, Poca Heritage Days (Putnam) \$0, Pocahontas County Pioneer Days \$5,200, Point Pleasant Stern Wheel Regatta (Mason) \$0, Pratt Fall Festival (Kanawha) \$1,850, Princeton Autumnfest (Mercer) \$1,950, Princeton Street Fair (Mercer) \$3,700, Putnam County Fair \$0, Quartets on Parade (Hardy) \$2,950, Rainelle Fall Festival (Greenbrier) \$3,900, Rand Community Center Festival (Kanawha) \$1,850, Randolph County Community Arts Council \$0, Randolph County Fair \$0, Randolph County Ramp and Rails \$0, Ranson Christmas Festival (Jefferson) \$3,700, Ranson Festival (Jefferson) \$3,700, Renick Liberty Festival (Greenbrier) \$900, Ripley 4th of July (Jackson) \$11,150, Ritchie County Fair and Exposition \$3,700, Ritchie County Pioneer Days \$900, River City Festival (Preston) \$900, Roane County Agriculture Field Day \$2,250, Rock the Park (Kanawha) \$4,050, Rocket Boys Festival (Raleigh) \$2,150,

Romney Heritage Days (Hampshire) \$2,350, Ronceverte River Festival (Greenbrier) \$3,700, Rowlesburg Labor Day Festival (Preston) \$900, Rupert Country Fling (Greenbrier) \$2,250, Saint Spyridon Greek Festival (Harrison) \$1,850, Salem Apple Butter Festival (Harrison) \$2,950, Sistersville 4th of July (Tyler) \$4,100, Skirmish on the River (Mingo) \$0, Smoke on the Water (Wetzel) \$0, South Charleston Summerfest (Kanawha) \$7,450, Southern Wayne County Fall Festival \$900, Spirit of Grafton Celebration (Taylor) \$7,450, Springfield Peach Festival (Hampshire) \$900, St. Albans City of Lights - December (Kanawha) \$3,700, Sternwheel Festival (Wood) \$2,250, Stoco Reunion (Raleigh) \$1,850, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$0, Stonewall Jackson's Roundhouse Raid (Berkeley) \$9,000, Storytelling Festival (Lewis) \$0, Strawberry Festival (Upshur) \$22,300, Sylvester Big Coal River Festival \$2,450, Tacy Fair (Barbour) \$900, Taste of Parkersburg (Wood) \$3,700, Taylor County Fair \$4,100, Terra Alta VFD 4th of July Celebration (Preston) \$900, The Gathering at Sweet Creek (Wood) \$2,250, Three Rivers Coal Festival (Marion) \$0, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$11,150, Town of Delbarton 4th of July Celebration (Mingo) \$0, Town of Fayetteville Heritage Festival (Fayette) \$5,550, Town of Matoaka Hog Roast (Mercer) \$900, Town of Rivesville 4th of July Festival (Marion) \$0, Town of Winfield - Putnam County Homecoming \$4,050, St. Albans Train Fest (Kanawha) \$7,650, Treasure Mountain Festival (Pendleton) \$0, Tri-County Fair (Grant) \$28,200, Tucker County Arts Festival and Celebration \$13,350, Tucker County Fair \$3,550, Tucker County Health Fair \$1,500, Tunnelton Depot Days (Preston) \$900, Tunnelton Volunteer Fire Department Festival (Preston) \$900, Turkey Festival (Hardy) \$2,250, Tyler County Fair \$3,850, Tyler County 4th of July \$500, Tyler County OctoberFest \$900, Union Community Irish Festival (Barbour) \$900, Uniquely West Virginia Festival (Morgan) \$1,500, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,850, Upper Ohio Valley Italian Festival (Ohio) \$8,900, Upshur County Youth Livestock Show \$1,800, Valley District Fair (Preston) \$2,600, Veterans Welcome Home Celebration (Cabell) \$1,200, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$900,

Volcano Days at Mountwood Park (Wood) \$3,700, War Homecoming Fall Festival (McDowell) \$0, Wardensville Fall Festival (Hardy) \$3,700, Wayne County Fair \$0, Wayne County Fall Festival \$0, Webster County Fair \$0, Webster County Wood Chopping Festival \$0, Webster Wild Water Weekend \$0, Weirton July 4th Celebration (Hancock) \$0, Welcome Home Family Day (Wayne) \$0, Wellsburg 4th of July Celebration (Brooke) \$5,550, Wellsburg Apple Festival of Brooke County \$3,700, West Virginia Blackberry Festival (Harrison) \$0, West Virginia Chestnut Festival (Preston) \$900, West Virginia Coal Festival (Boone) \$0, West Virginia Coal Show (Mercer) \$1,950, West Virginia Dairy Cattle Show (Lewis) \$0, West Virginia Dandelion Festival (Greenbrier) \$3,700, West Virginia Day at the Railroad Museum (Mercer) \$2,250, West Virginia Fair and Exposition (Wood) \$6,000, West Virginia Fireman's Rodeo (Fayette) \$1,850, West Virginia Oil and Gas Festival (Tyler) \$8,150, West Virginia Peach Festival (Hampshire) \$4,050, West Virginia Polled Hereford Association (Braxton) \$1,100, West Virginia Poultry Festival (Hardy) \$3,700, West Virginia Pumpkin Festival (Cabell) \$7,450, West Virginia State Folk Festival (Gilmer) \$3,700, West Virginia Water Festival - City of Hinton (Summers) \$11,450, Weston VFD 4th of July Firemen Festival (Lewis) \$0, Wetzel County Autumnfest \$0, Wetzel County Town and Country Days \$0, Wheeling Celtic Festival (Ohio) \$1,500, Wheeling City of Lights (Ohio) \$5,950, Wheeling Sternwheel Regatta (Ohio) \$7,450, Wheeling Vintage Raceboat Regatta (Ohio) \$14,850, Whipple Community Action (Fayette) \$1,850, Wileyville Homecoming (Wetzel) \$0, Wine Festival and Mountain Music Event (Harrison) \$3,700, Winter Festival of the Waters (Berkeley) \$3,700, Wirt County Fair \$1,850, Wirt County Pioneer Days \$1,500, Wyoming County Civil War Days \$0, Youth Stockman Beef Expo (Lewis) \$0.

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.”

And,

By adjusting the section total accordingly.

Delegate Canterbury subsequently asked and obtained unanimous consent to withdraw the amendment.

Delegate Campbell moved to amend the amendment on page 88, Item 126, line 4, by striking out “500,000” and inserting in lieu thereof “0”,

On page 128, Item 231, Fund 7005, by adding \$1,000,000 to the line item “Medical Services Trust Fund – Transfer” appropriation number “51200”,

On page 88, Item 126, by striking out lines 6 and 7 in their entirety,

On page 121, Item 210, Fund 5454, line 4, by striking out “1,000,000” and inserting in lieu thereof “500,000”,

On page 121, Item 210, Fund 5454, by reconciling the total on line 5 accordingly.

And,

On page 129, line 1, by reconciling the Total TITLE II, Section 3 – Other Funds (Including claims against the state) accordingly.

At the request of Delegate Campbell and by unanimous consent, the amendment was placed at the foot of amendments.

Delegates Longstreth, Caputo and Manchin moved to amend the amendment on page 30, Item 34, by striking out line 15, and inserting in lieu thereof the following:

“WV High Tech Consortium... 39100 \$ 140,950”,

On page 30, Item 34, line 29, by reconciling the fund total accordingly,

On page 52, Item 64, line 6, Medical Services, following the appropriation number “18900”, by reducing the line item amount by \$140,950,

On page 53, Item 64, line 36, by reconciling the fund total accordingly.

On page 119, Item 231, Fund 7005, by adding \$140,950 to the line item “Medical Services Trust Fund – Transfer” appropriation number “51200”,

And,

On page 80, line 5 by reconciling the Total TITLE II, Section 3 – Other Funds (Including claims against the state) accordingly.

Speaker Pro Tempore Anderson in the Chair

Mr. Speaker, Mr. Armstead, arose from his seat and requested to be excused from voting on the amendment to Com. Sub. for H. B. 101 under the provisions of House Rule 49. The Speaker Pro Tempore replied the Member displayed no direct pecuniary interest and refused to excuse him from voting.

Mr. Speaker, Mr. Armstead, in the Chair

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

The yeas and nays having been ordered, they were taken (**Roll No. 683**), and there were—yeas 33, nays 56, absent and not voting 11, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Frich, Guthrie, Hartman, Kurcaba, Longstreth, Lynch, Manchin, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Pushkin, Reynolds, Rodighiero, Shaffer, Skinner, P. Smith, Sponaugle, Statler and P. White.

Absent and Not Voting: Azinger, Cowles, Deem, Flanigan, Hicks, Hornbuckle, Lane, Marcum, Phillips, Trecost and Westfall.

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

The Clerk then reported the following amendment which had earlier been moved to the foot of amendments.

Delegate Sponaugle moved to amend the amendment on page 9, Item 2, line 4, by striking out the number “1,929,031” and inserting in lieu thereof, the number “1,454,505”,

On page 9, Item 2, following line 6, by adding thereto a new line 7 to read as follows:

Direct Transfer. 474,526

On page 9, Item 2, line 13, following the period, by inserting the following:

“The above directed transaction shall be deposited into Fund 3534 FY 2017 Org 0432.”

On page 151, Item 288, following the words and numbers “Fund 3534 FY 2017 Org 0432” by striking out everything from line 1 on page 151 through line 199 on page 158 and inserting in lieu thereof the following:

Huntington Symphony.....	02700	\$	82,025
Preservation West Virginia (R).....	09200		09200
Fairs and Festivals (R).....	12200		1,853,663
Archeological Curation/ Capital Improvements (R).....	24600		41,770

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Historic Preservation Grants (R)	31100	368,428
West Virginia Public Theater.	31200	166,693
George Tyler Moore Center for the Study of the Civil War.	39700	51,932
Greenbrier Valley Theater.	42300	138,254
Theater Arts of West Virginia.	46400	125,000
Marshall Artists Series.	51800	50,008
Grants for Competitive Arts Program (R).	62400	726,000
West Virginia State Fair.	65700	43,391
Save the Music.	68000	35,000
Contemporary American Theater Festival.	81100	79,558
Independence Hall.	81200	37,885
Mountain State Forest Festival.	86400	53,038
WV Symphony.	90700	82,025
Wheeling Symphony.	90800	82,025
Appalachian Children's Chorus.	91600	<u>75,770</u>
Total.		\$ 4,745,264

Any unexpended balances remaining in the appropriations for Preservation West Virginia (fund 3534, appropriation 09200), Fairs and Festivals (fund 3534, appropriation 12200), 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 2016 are hereby reappropriated for expenditure during the fiscal year 2017.

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) \$3,713, Aracoma Story (Logan) \$41,254, Arts Monongahela (Monongalia) \$16,502, Barbour County Arts and Humanities Council \$1,238, Beckley Main Street (Raleigh) \$4,125, Buffalo Creek Memorial (Logan) \$4,125, Carnegie Hall (Greenbrier) \$65,138, Ceredo Historical Society (Wayne) \$1,650, Ceredo Kenova Railroad Museum (Wayne) \$1,650, Ceredo Museum (Wayne) \$1,000, Children's Theatre of Charleston (Kanawha) \$4,343, Chuck Mathena Center (Mercer) \$86,850, Collis P. Huntington Railroad Historical Society (Cabell) \$8,251, Country Music Hall of Fame and Museum (Marion) \$5,776, First Stage Children's Theater Company \$1,650, Flannigan Murrell House (Summers) \$5,251, Fort Ashby Fort (Mineral) \$1,238, Fort New Salem (Harrison) \$3,053, Fort Randolph (Mason) \$4,125, General Adam Stephen Memorial Foundation (Berkeley) \$15,286, Grafton Mother's Day Shrine Committee (Taylor) \$7,013, Hardy County Tour and Crafts Association \$16,502, Heartwood in the Hills (Calhoun) \$7,000, Heritage Farm Museum & Village (Cabell) \$41,254, Historic Fayette Theater (Fayette) \$4,538, Historic Middleway Conservancy (Jefferson) \$825, Jefferson County Black History Preservation Society \$4,125, Jefferson County Historical Landmark Commission \$6,601, Maddie Carroll House (Cabell) \$6,188, Marshall County Historical Society \$7,013, McCoy Theater (Hardy) \$16,502, Morgantown Theater Company (Monongalia) \$16,502, Mountaineer Boys' State (Lewis) \$8,251, Nicholas Old Main Foundation (Nicholas) \$1,650, Norman Dillon Farm Museum (Berkeley) \$8,251, Old Opera House Theater Company (Jefferson) \$12,376, Parkersburg Arts Center (Wood) \$16,502, Pocahontas Historic Opera House \$4,950, Raleigh County All Wars Museum \$8,251, Rhododendron Girl's State (Ohio) \$8,251, Roane County 4-H and FFA Youth Livestock Program \$4,125, Scottish

Heritage Society/N. Central WV (Harrison) \$4,125, Society for the Preservation of McGrew House (Preston) \$2,888, Southern West Virginia Veterans' Museum \$4,713, Summers County Historic Landmark Commission \$4,125, Those Who Served War Museum (Mercer) \$3,300, Three Rivers Avian Center (Summers) \$7,376, Tug Valley Arts Council (Mingo) \$4,125, Tug Valley Chamber of Commerce Coal House (Mingo) \$1,650, Tunnelton Historical Society (Preston) \$1,650, Veterans Committee for Civic Improvement of Huntington (Wayne) \$4,125, West Virginia Museum of Glass (Lewis) \$4,125, West Virginia Music Hall of Fame (Kanawha) \$28,878, YMCA Camp Horseshoe (Tucker) \$82,508, Youth Museum of Southern West Virginia (Raleigh) \$9,901, Z.D. Ramsdell House (Wayne) \$1,000.

From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding shall be provided to A Princeton 4th (Mercer) \$2,500, African-American Cultural Heritage Festival (Jefferson) \$4,125, Alderson 4th of July Celebration (Greenbrier) \$4,125, Allegheny Echo (Pocahontas) \$6,189, Alpine Festival/Leaf Peepers Festival (Tucker) \$9,282, American Civil War (Grant) \$4,343, American Legion Post 8 Veterans Day Parade (McDowell) \$1,737, Angus Beef and Cattle Show (Lewis) \$1,238, Annual Birch River Days (Nicholas) \$1,800, Annual Don Redman Heritage Concert & Awards (Jefferson) \$1,303, Annual Ruddle Park Jamboree (Pendleton) \$6,514, Antique Market Fair (Lewis) \$1,650, Apollo Theater-Summer Program (Berkeley) \$1,650, Apple Butter Festival (Morgan) \$4,950, Arkansas Homemaker's Heritage Weekend (Hardy) \$2,888, Armed Forces Day-South Charleston (Kanawha) \$2,475, Arthurdale Heritage New Deal Festival (Preston) \$4,125, Athens Town Fair (Mercer) \$1,650, Augusta Fair (Randolph) \$4,125, Autumn Harvest Fest (Monroe) \$3,400, Barbour County Fair \$20,627, Barboursville Octoberfest (Cabell) \$4,125, Bass Festival (Pleasants) \$1,527, Battelle District Fair (Monongalia) \$4,125, Battle of Dry Creek (Greenbrier) \$1,238, Battle of Point Pleasant Memorial Committee (Mason) \$4,125, Belle Town Fair (Kanawha) \$3,713, Belleville Homecoming (Wood) \$16,502, Bergoo Down Home Days (Webster) \$2,063, Berkeley County Youth

Fair \$15,264, Black Bear 4K Mountain Bike Race (Kanawha) \$1,025, Black Heritage Festival (Harrison) \$4,950, Black Walnut Festival (Roane) \$8,251, Blast from the Past (Upshur) \$2,000, Blue-Gray Reunion (Barbour) \$2,888, Boone County Fair \$8,251, Boone County Labor Day Celebration \$3,300, Bradshaw Fall Festival (McDowell) \$1,650, Brandonville Heritage Day (Preston) \$1,455, Braxton County Fair \$9,489, Braxton County Monster Fest / West Virginia Autumn Festival \$2,063, Brooke County Fair \$2,888, Bruceton Mills Good Neighbor Days (Preston) \$1,650, Buckwheat Festival (Preston) \$7,014, Buffalo 4th of July Celebration (Putnam) \$550, Buffalo October Fest (Putnam) \$4,500, Burlington Apple Harvest Festival (Mineral) \$24,752, Burlington Pumpkin Harvest Festival (Raleigh) \$4,125, Burnsville Harvest Festival (Braxton) \$1,954, Cabell County Fair \$8,251, Calhoun County Wood Festival \$1,650, Campbell's Creek Community Fair (Kanawha) \$2,063, Cape Coalwood Festival Association (McDowell) \$2,063, Capon Bridge Founders Day Festival (Hampshire) \$1,650, Capon Springs Ruritan 4th of July (Hampshire) \$1,025, Cass Homecoming (Pocahontas) \$1,650, Cedarville Town Festival (Gilmer) \$1,025, Celebration in the Park (Wood) \$3,300, Celebration of America (Monongalia) \$4,950, Ceredo Freedom Festival (Wayne) \$1,048, Chapmanville Apple Butter Festival (Logan) \$1,025, Chapmanville Fire Department 4th of July (Logan) \$2,475, Charles Town Christmas Festival (Jefferson) \$4,125, Charles Town Heritage Festival (Jefferson) \$4,125, Cherry River Festival (Nicholas) \$5,363, Chester Fireworks (Hancock) \$1,238, Chester 4th of July Festivities (Hancock) \$4,125, Chief Logan State Park-Civil War Celebration (Logan) \$6,601, Chilifest West Virginia State Chili Championship (Cabell) \$2,171, Christmas In Our Town (Marion) \$4,343, Christmas in Shepherdstown (Jefferson) \$3,300, Christmas in the Park (Brooke) \$4,125, Christmas in the Park (Logan) \$20,627, City of Dunbar Critter Dinner (Kanawha) \$8,251, City of Logan Polar Express (Logan) \$6,189, City of New Martinsville Festival of Memories (Wetzel) \$9,076, Clay County Golden Delicious Apple Festival \$5,776, Clay District Fair (Monongalia) \$1,500, Coal Field Jamboree (Logan) \$28,878, Coalton Days Fair (Randolph) \$5,776, Country Roads Festival (Fayette) \$1,650, Cowen Railroad Festival

(Webster) \$2,888, Craigsville Fall Festival (Nicholas) \$2,888, Cruise into Princeton (Mercer) \$3,000, Culturefest World Music & Arts Festival (Mercer) \$6,514, Delbarton Homecoming (Mingo) \$2,888, Doddridge County Fair \$5,776, Dorcas Ice Cream Social (Grant) \$4,950, Durbin Days (Pocahontas) \$4,125, Elbert/Filbert Reunion Festival (McDowell) \$1,238, Elkins Randolph County 4th of July Car Show (Randolph) \$1,650, Fairview 4th of July Celebration (Marion) \$1,025, Farm Safety Day (Preston) \$1,650, Farmer's Day Festival (Monroe) \$3,237, Farmers' Day Parade (Wyoming) \$1,000, Fenwick Mountain Old Time Community Festival (Nicholas) \$4,000, FestivALL Charleston (Kanawha) \$16,502, Flatwoods Days (Braxton) \$1,048, Flemington Day Fair and Festival (Taylor) \$2,888, Follansbee Community Days (Brooke) \$6,807, Fort Gay Mountain Heritage Days (Wayne) \$4,125, Fort Henry Days (Ohio) \$4,373, Fort Henry Living History (Ohio) \$2,171, Fort New Salem Spirit of Christmas Festival (Harrison) \$3,378, Frankford Autumnfest (Greenbrier) \$4,125, Franklin Fishing Derby (Pendleton) \$6,189, Freshwater Folk Festival (Greenbrier) \$4,125, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$4,125, Frontier Days (Harrison) \$2,475, Frontier Fest/Canaan Valley (Taylor) \$4,125, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) \$2,063, Gassaway Days Celebration (Braxton) \$4,125, Gilbert Elementary Fall Blast (Mingo) \$3,039, Gilbert Kiwanis Harvest Festival (Mingo) \$3,300, Gilbert Spring Fling (Mingo) \$4,993, Gilmer County Farm Show \$3,300, Grant County Arts Council \$1,650, Grape Stomping Wine Festival (Nicholas) \$1,650, Great Greenbrier River Race (Pocahontas) \$8,251, Greater Quinwood Days (Greenbrier) \$1,086, Guyandotte Civil War Days (Cabell) \$8,251, Hamlin 4th of July Celebration (Lincoln) \$4,125, Hampshire Civil War Celebration Days (Hampshire) \$1,025, Hampshire County 4th of July Celebration \$16,502, Hampshire County Fair \$6,948, Hampshire Heritage Days (Hampshire) \$3,300, Hancock County Oldtime Fair \$4,125, Hardy County Commission - 4th of July \$8,251, Hatfield McCoy Matewan Reunion Festival (Mingo) \$17,125, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) \$4,125, Heat'n the Hills Chilifest (Lincoln) \$3,474, Heritage Craft Festival (Monroe) \$1,450, Heritage Days Festival (Roane) \$1,238, Hilltop

Festival (Cabell) \$1,025, Hilltop Festival of Lights (McDowell) \$1,650, Hinton Railroad Days (Summers) \$6,038, Holly River Festival (Webster) \$1,238, Hometown Mountain Heritage Festival (Fayette) \$3,378, Hundred 4th of July (Wetzel) \$5,982, Hundred American Legion Earl Kiger Post Bluegrass Festival (Wetzel) \$1,650, Hurricane 4th of July Celebration (Putnam) \$4,125, Jaeger Town Fair (McDowell) \$1,238, Irish Heritage Festival of West Virginia (Raleigh) \$4,125, Irish Spring Festival (Lewis) \$1,025, Italian Heritage Festival-Clarksburg (Harrison) \$24,752, Jackson County Fair , Jamboree (Pocahontas) \$4,125, Jane Lew Arts and Crafts Fair (Lewis) \$1,025, Jefferson County Fair Association \$20,627, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$1,025, John Henry Days Festival (Monroe) \$6,525, Johnnie Johnson Blues and Jazz Festival (Marion) \$4,125, Johnstown Community Fair (Harrison) \$2,063, Junior Heifer Preview Show (Lewis) \$1,650, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) \$4,125, Keeper of the Mountains-Kayford (Kanawha) \$2,063, Kenova Autumn Festival (Wayne) \$6,080, Kermit Fall Festival (Mingo) \$2,475, Keystone Reunion Gala (McDowell) \$2,171, King Coal Festival (Mingo) \$4,125, Kingwood Downtown Street Fair and Heritage Days (Preston) \$1,650, L.Z. Rainelle West Virginia Veterans Reunion (Greenbrier) \$4,125, Lady of Agriculture (Preston) \$1,025, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo) \$8,251, Larry Joe Harless Community Center Spring Middle School Event (Mingo) \$4,125, Last Blast of Summer (McDowell) \$4,125, Lewis County Fair Association \$2,888, Lewisburg Shanghai (Greenbrier) \$1,650, Lincoln County Fall Festival \$6,601, Lincoln County Winterfest \$4,125, Lindsie Veterans' Day Parade \$1,000, Little Levels Heritage Festival (Pocahontas) \$1,650, Lost Creek Community Festival (Harrison) \$5,776, Main Street Arts Festival (Upshur) \$4,343, Main Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$3,908, Mannington District Fair (Marion) \$4,950, Maple Syrup Festival (Randolph) \$1,025, Marion County FFA Farm Fest \$2,063, Marmet Labor Day Celebration (Kanawha) \$4,275, Marshall County Antique Power Show \$2,063, Marshall County Fair \$6,189, Mason County Fair \$4,125, Mason Dixon Festival (Monongalia) \$5,776, Matewan Massacre Reenactment (Mingo)

\$6,950, Matewan-Magnolia Fair (Mingo) \$22,128, McARTS-McDowell County \$16,502, McDowell County Fair \$2,063, McGrew House History Day (Preston) \$1,650, McNeill's Rangers (Mineral) \$6,601, Meadow Bridge Hometown Festival (Fayette) \$1,032, Meadow River Days Festival (Greenbrier) \$2,475, Mercer Bluestone Valley Fair (Mercer) \$1,650, Mercer County Fair \$1,650, Mercer County Heritage Festival \$4,825, Mid Ohio Valley Antique Engine Festival (Wood) \$2,475, Milton Christmas in the Park (Cabell) \$2,063, Milton 4th of July Celebration (Cabell) \$2,063, Mineral County Fair \$1,444, Mineral County Veterans Day Parade \$1,238, Molasses Festival (Calhoun) \$1,650, Monongahfest (Marion) \$5,211, Moon Over Mountwood Fishing Festival (Wood) \$2,475, Morgan County Fair-History Wagon \$1,238, Moundsville Bass Festival (Marshall) \$3,300, Moundsville July 4th Celebration (Marshall) \$4,125, Mount Liberty Fall Festival (Barbour) \$2,063, Mountain Fest (Monongalia) \$16,502, Mountain Festival (Mercer) \$3,816, Mountain Heritage Arts and Crafts Festival (Jefferson) \$4,125, Mountain Music Festival (McDowell) \$2,063, Mountain State Apple Harvest Festival (Berkeley) \$6,189, Mountain State Arts & Crafts Fair Cedar Lakes (Jackson) \$37,128, Mountaineer Hot Air Balloon Festival (Monongalia) \$3,300, Mullens Dogwood Festival (Wyoming) \$5,776, Multi-Cultural Festival of West Virginia (Kanawha) \$16,502, Music and Barbecue - Banks District VFD (Upshur) \$1,776, New Cumberland Christmas Parade (Hancock) \$2,475, New Cumberland 4th of July (Hancock) \$4,125, New River Bridge Day Festival (Fayette) \$33,003, Newburg Volunteer Fireman's Field Day (Preston) \$1,025, Nicholas County Fair \$4,125, Nicholas County Potato Festival \$2,888, Oak Leaf Festival (Fayette) \$8,685, Oceana Heritage Festival (Wyoming) \$4,950, Oglebay City Park - Festival of Lights (Ohio) \$66,006, Oglebay Festival (Ohio) \$8,251, Ohio County Country Fair \$7,426, Ohio River Fest (Jackson) \$6,000, Ohio Valley Beef Association (Wood) \$2,063, Ohio Valley Black Heritage Festival (Ohio) \$4,538, Old Central City Fair (Cabell) \$4,125, Old Century City Fair (Barbour) \$1,737, Old Tyme Christmas (Jefferson) \$1,980, Paden City Labor Day Festival (Wetzel) \$5,363, Parkersburg Homecoming (Wood) \$12,159, Patty Fest (Monongalia) \$1,650, Paw Paw District Fair (Marion)

\$2,888, Pax Reunion Committee (Fayette) \$4,125, Pendleton County 4-H Weekend \$1,650, Pendleton County Committee for Arts \$12,376, Pendleton County Fair \$8,685, Pennsboro Country Road Festival (Ritchie) \$1,650, Petersburg 4th of July Celebration (Grant) \$16,502, Petersburg HS Celebration (Grant) \$8,251, Piedmont-Annual Back Street Festival (Mineral) \$3,300, Pinch Reunion (Kanawha) \$1,238, Pine Bluff Fall Festival (Harrison) \$3,300, Pine Grove 4th of July Festival (Wetzel) \$5,776, Pineville Festival (Wyoming) \$4,950, Pleasants County Agriculture Youth Fair \$4,125, Poca Heritage Days (Putnam) \$2,475, Pocahontas County Pioneer Days \$5,776, Point Pleasant Stern Wheel Regatta (Mason) \$4,125, Pratt Fall Festival (Kanawha) \$2,063, Princeton Autumnfest (Mercer) \$2,171, Princeton Street Fair (Mercer) \$4,125, Putnam County Fair \$4,125, Quartets on Parade (Hardy) \$3,300, Rainelle Fall Festival (Greenbrier) \$4,343, Rand Community Center Festival (Kanawha) \$2,063, Randolph County Community Arts Council \$2,475, Randolph County Fair \$5,776, Randolph County Ramp and Rails \$1,650, Ranson Christmas Festival (Jefferson) \$4,125, Ranson Festival (Jefferson) \$4,125, Renick Liberty Festival (Greenbrier) \$1,025, Ripley 4th of July (Jackson) \$12,376, Ritchie County Fair and Exposition \$4,125, Ritchie County Pioneer Days \$1,025, River City Festival (Preston) \$1,025, Roane County Agriculture Field Day \$2,475, Rock the Park (Kanawha) \$4,500, Rocket Boys Festival (Raleigh) \$2,375, Romney Heritage Days (Hampshire) \$2,606, Ronceverte River Festival (Greenbrier) \$4,125, Rowlesburg Labor Day Festival (Preston) \$1,025, Rupert Country Fling (Greenbrier) \$2,475, Saint Spyridon Greek Festival (Harrison) \$2,063, Salem Apple Butter Festival (Harrison) \$3,300, Sistersville 4th of July (Tyler) \$4,538, Skirmish on the River (Mingo) \$1,737, Smoke on the Water (Wetzel) \$2,475, South Charleston Summerfest (Kanawha) \$8,251, Southern Wayne County Fall Festival \$1,025, Spirit of Grafton Celebration (Taylor) \$8,251, Springfield Peach Festival (Hampshire) \$1,026, St. Albans City of Lights - December (Kanawha) \$4,125, Sternwheel Festival (Wood) \$2,475, Stoco Reunion (Raleigh) \$2,063, Stonewall Jackson Heritage Arts & Crafts Jubilee (Lewis) \$9,076, Stonewall Jackson's Roundhouse Raid (Berkeley) \$10,000, Storytelling Festival (Lewis) \$550, Strawberry Festival

(Upshur) \$24,752, Sylvester Big Coal River Festival \$2,700, Tacy Fair (Barbour) \$1,025, Taste of Parkersburg (Wood) \$4,125, Taylor County Fair \$4,538, Terra Alta VFD 4th of July Celebration (Preston) \$1,025, The Gathering at Sweet Creek (Wood) \$2,475, Three Rivers Coal Festival (Marion) \$6,394, Thunder on the Tygart - Mothers' Day Celebration (Taylor) \$12,376, Town of Delbarton 4th of July Celebration (Mingo) \$2,475, Town of Fayetteville Heritage Festival (Fayette) \$6,189, Town of Matoaka Hog Roast (Mercer) \$1,025, Town of Rivesville 4th of July Festival (Marion) \$4,343, Town of Winfield - Putnam County Homecoming \$4,500, St. Albans Train Fest (Kanawha) \$8,500, Treasure Mountain Festival (Pendleton) \$20,627, Tri-County Fair (Grant) \$31,318, Tucker County Arts Festival and Celebration \$14,851, Tucker County Fair \$3,919, Tucker County Health Fair \$1,650, Tunnelton Depot Days (Preston) \$1,025, Tunnelton Volunteer Fire Department Festival (Preston) \$1,025, Turkey Festival (Hardy) \$2,475, Tyler County Fair \$4,290, Tyler County 4th of July \$550, Tyler County OctoberFest \$1,000, Union Community Irish Festival (Barbour) \$975, Uniquely West Virginia Festival (Morgan) \$1,650, Upper Kanawha Valley Oktoberfest (Kanawha) \$2,063, Upper Ohio Valley Italian Festival (Ohio) \$9,901, Upshur County Youth Livestock Show \$2,000, Valley District Fair (Preston) \$2,888, Veterans Welcome Home Celebration (Cabell) \$1,303, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$1,025, Volcano Days at Mountwood Park (Wood) \$4,125, War Homecoming Fall Festival (McDowell) \$1,238, Wardensville Fall Festival (Hardy) \$4,125, Wayne County Fair \$4,125, Wayne County Fall Festival \$4,125, Webster County Fair \$5,000, Webster County Wood Chopping Festival \$12,376, Webster Wild Water Weekend \$1,650, Weirton July 4th Celebration (Hancock) \$16,502, Welcome Home Family Day (Wayne) \$2,640, Wellsburg 4th of July Celebration (Brooke) \$6,189, Wellsburg Apple Festival of Brooke County \$4,125, West Virginia Blackberry Festival (Harrison) \$4,125, West Virginia Chestnut Festival (Preston) \$1,025, West Virginia Coal Festival (Boone) \$8,251, West Virginia Coal Show (Mercer) \$2,171, West Virginia Dairy Cattle Show (Lewis) \$8,251, West Virginia Dandelion Festival (Greenbrier) \$4,125, West Virginia Day at the Railroad Museum (Mercer) \$2,500, West Virginia

Fair and Exposition (Wood) \$6,684, West Virginia Fireman's Rodeo (Fayette) \$2,063, West Virginia Oil and Gas Festival (Tyler) \$9,076, West Virginia Peach Festival (Hampshire) \$4,500, West Virginia Polled Hereford Association (Braxton) \$1,238, West Virginia Poultry Festival (Hardy) \$4,125, West Virginia Pumpkin Festival (Cabell) \$8,251, West Virginia State Folk Festival (Gilmer) \$4,125, West Virginia Water Festival - City of Hinton (Summers) \$12,701, Weston VFD 4th of July Firemen Festival (Lewis) \$1,650, Wetzel County Autumnfest \$4,538, Wetzel County Town and Country Days \$14,026, Wheeling Celtic Festival (Ohio) \$1,650, Wheeling City of Lights (Ohio) \$6,601, Wheeling Sternwheel Regatta (Ohio) \$8,251, Wheeling Vintage Raceboat Regatta (Ohio) \$16,502, Whipple Community Action (Fayette) \$2,063, Wileyville Homecoming (Wetzel) \$3,300, Wine Festival and Mountain Music Event (Harrison) \$4,125, Winter Festival of the Waters (Berkeley) \$4,125, Wirt County Fair \$2,063, Wirt County Pioneer Days \$1,650, Wyoming County Civil War Days \$1,800, Youth Stockman Beef Expo (Lewis) \$1,650.

On page 80, line 5 by reconciling the Total TITLE II, Section 3 – Other Funds (including claims against the state) accordingly.

And,

On page 151, Item 288, line 20, by reconciling the fund total accordingly;

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

The yeas and nays having been ordered, they were taken (**Roll No. 684**), and there were—yeas 31, nays 58, absent and not voting 11, with the yeas and absent and not voting being as follows:

Yeas: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Guthrie, Hartman, Longstreth, Lynch, Manchin, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle and P. White.

Absent and Not Voting: Azinger, Cowles, Deem, Flanigan, Hicks, Hornbuckle, Lane, Marcum, Phillips, Trecost and Westfall.

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

The House then returned to consideration of Delegate Campbell's amendment, which had earlier been moved to the foot of amendments.

Delegate Campbell asked and obtained unanimous consent that the amendment previously reported be withdrawn.

On motion of Delegate Campbell, the strike and insert amendment was amended on page 88, Item 126, by striking out line 4 in its entirety,

On page 88, Item 126, line 5, by reconciling the account total accordingly,

On page 88, Item 126, by striking out lines 6 and 7 in their entirety,

On page 129, Item 231, Fund 7005, by adding \$500,000 to the line item "Medical Services Trust Fund – Transfer" appropriation number "51200",

And,

By reconciling the section total accordingly.

There being no further amendments, the strike and insert amendment offered by Delegate E. Nelson, as amended, was then adopted.

The bill was then ordered to engrossment and third reading.

At 7:57 p.m., on motion of Delegate Miller, the House of Delegates recessed for ten minutes.

Upon reconvening, Delegate Miller moved that the constitutional rule requiring the bill to be fully and distinctly read on three different days be dispensed with.

On this question, the yeas and nays were taken (**Roll No. 685**), and there were—yeas 52, nays 32, absent and not voting 16, with the nays and absent and not voting being as follows:

Nays: Bates, Blackwell, Boggs, Byrd, Campbell, Caputo, Eldridge, Faircloth, Ferro, Fluharty, Folk, Guthrie, Hartman, Longstreth, Lynch, Manchin, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethtel, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer, Skinner, P. Smith, Sponaugle and P. White.

Absent and Not Voting: Azinger, Cowles, Deem, A. Evans, Flanigan, Fleischauer, Hamilton, Hicks, Hornbuckle, Kelly, Lane, Marcum, Phillips, Trecost, Walters and Westfall.

So, four fifths of the members present not having voted in the affirmative, the motion to dispense with the constitutional rule was rejected.

Leaves of Absence

At the request of Delegate Miller, and by unanimous consent, leaves of absence for the day were granted Delegates Cowles, Hicks and Trecost.

Miscellaneous Business

Delegate Perry asked and obtained unanimous consent that the remarks of Delegate Campbell regarding the amendments to Com. Sub. for H. B. 101 be printed in the Appendix to the Journal.

Delegate Ireland asked and obtained unanimous consent that the remarks of Mr. Speaker, Delegate Armstead, regarding this session be printed in the Appendix to the Journal.

Delegate Canterbury asked and obtained unanimous consent that the remarks of Delegate Walters regarding his amendment to Com. Sub. for H. B. 101 be printed in the Appendix to the Journal.

Delegate Hornbuckle filed a form with the Clerk's Office per House Rule 94b to be added as a cosponsor of H. B. 114.

At 8:19 p.m., the House of Delegates adjourned until 10:00 a.m., Friday, May 27, 2016.

FRIDAY, MAY 27, 2016

TENTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 10:00 a.m., and was called to order by the Honorable Tim Armstead, 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, May 26, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

House Calendar

Third Reading

Com. Sub. for H. B. 101, 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, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 686**), and there were, including 12 paired—yeas 61, nays 37, absent and not voting 2, with the paired, nays, absent and not voting being as follows:

Pursuant to House Rule 43, the following pairings were filed and announced by the Clerk:

Paired:

Yea: Flanigan Nay: Longstreth

Yea:	Hill	Nay:	Ihle
Yea:	Moffatt	Nay:	Marcum
Yea:	Reynolds	Nay:	Bates
Yea:	Sobonya	Nay:	Byrd
Yea:	Westfall	Nay:	Rodighiero

Nays: Blackwell, Boggs, Campbell, Caputo, Eldridge, Ferro, Fleischauer, Fluharty, Folk, Guthrie, Hartman, Hicks, Hornbuckle, Lynch, Manchin, McGeehan, Miley, Moore, Morgan, Moye, Perdue, Perry, Pethel, Phillips, Pushkin, Rowe, Shaffer, Skinner, P. Smith, Sponaugle, P. White.

Absent and Not Voting: Kurcaba and Trecost.

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. 101) passed.

Delegate Cowles moved that the bill take effect July 1, 2016.

On this question, the yeas and nays were taken (**Roll No. 687**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Bates, Byrd, Flanigan, Hill, Kurcaba, Marcum, Sobonya, Trecost 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. 101) takes effect July 1, 2016.

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

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Byrd, Flanigan, Hill, Kurcaba, Marcum, Sobonya, Trecost and Westfall.

Miscellaneous Business

Delegate Bates was present for part of the session.

Delegate Hornbuckle noted to the Clerk that he was absent on yesterday when the votes were taken on Roll Nos. 680 through 684, and that had he been present, he would have voted “Yea” thereon and he was also absent for the vote on Roll No. 685, and that had he been present, he would have voted “Nay” thereon.

Delegate R. Smith asked and obtained unanimous consent that all remarks regarding Com. Sub. for H. B. 101 be printed in the Appendix to the Journal.

Delegate Walters asked and obtained unanimous consent that the remarks of yesterday by Delegate Canterbury regarding his amendment to Com. Sub. for H. B. 101 be printed in the Appendix to the Journal.

At 12:52 p.m., the House of Delegates adjourned until 1:00 p.m., Tuesday, May 31, 2016.

TUESDAY, MAY 31, 2016

ELEVENTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

The House of Delegates met at 1:00 p.m., and was called to order by the Honorable Tim Armstead, Speaker.

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

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 688**), and 78 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Bates, Ellington, Fast, Flanigan, Folk, Gearheart, Hicks, Hill, Hornbuckle, Ireland, Kurcaba, Manchin, Marcum, Miley, Moffatt, Moore, Reynolds, Rohrbach, Sponaugle, Trecost, Upson and B. White.

The Clerk proceeded to read the Journal of Friday, May 27, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

S. B. 1002, Expiring funds from various accounts to unappropriated balance in State Fund, General Revenue.

Bills Introduced

A bill was introduced, pursuant to House Rule 92, and referred as follows:

By Mr. Speaker (Mr. Armstead)

[By Request of the Executive]:

H. B. 116 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §5-1-30, relating to authorizing the Governor to issue executive orders to furlough state employees and pay certain obligations in the event of a fiscal emergency”; to the Committee on the Judiciary then Finance.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Bates, Ellington, Flanigan, Folk, Gearheart, Hill, Hornbuckle, Ireland, Kurcaba, Manchin, Marcum, Miley, Moore, Reynolds, Rohrbach, Sponaugle, Trecoast and Upson.

Miscellaneous Business

Delegate P. White asked and obtained unanimous consent that the remarks of Delegate Eldridge last week, regarding Com. Sub. for S. B. 1005 be printed in the Appendix to the Journal.

Delegates B. White, Fast, Hicks and Moffatt were also present for part of the session.

At 1:17 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, June 1, 2016.

WEDNESDAY, JUNE 1, 2016

TWELFTH DAY

[MR. SPEAKER, MR. ARMSTEAD, IN THE CHAIR]

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

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

Delegate Cowles arose to suggest the absence of a quorum, the Clerk opened the machine for the roll to be taken (**Roll No. 689**), and 84 members being present, the Speaker declared the presence of a quorum. The absent being as follows:

Absent: Bates, Boggs, Hanshaw, Hicks, Hill, Kurcaba, Manchin, Marcum, Miley, J. Nelson, Perdue, Phillips, Sponaugle, Storch, Trecost and Westfall.

The Clerk proceeded to read the Journal of Tuesday, May 31, 2016, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Messages from the Executive

The Speaker laid before the House of Delegates the Proclamation of His Excellency, the Governor, as amended, convening the Legislature in extraordinary session, which was read by the Clerk as follows:

A P R O C L A M A T I O N

By the Governor

I, EARL RAY TOMBLIN, by virtue of the authority vested in the Governor by Section 7, Article VII, of the Constitution of West

Virginia, do hereby **AMEND** the Proclamation dated the twelfth day of May, Two Thousand Sixteen, calling the Legislature of West Virginia to convene in Extraordinary Session at twelve o'clock noon on the sixteenth day of May, Two Thousand Sixteen, by adding items eighth and ninth, as follows:

EIGHTH: A bill authorizing the Department of Environmental Protection to promulgate legislative rules;

NINTH: A bill appropriating \$2,174,591 to fund 0313, fiscal year 2016, organization 0402 of the Department of Education account.

IN WITNESS WHEREOF, I have unto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, this first day of June, in the year of our Lord, Two Thousand Sixteen, and in the One Hundred Fifty-third year of the State.

By the Governor:

NATALIE E. TENNANT,
Secretary of State.

Motions

Delegate Eldridge filed a written motion pursuant to House Rule 82, that H. B. 114, be discharged from committee.

Delegate Cowles then moved to table the motion.

The question being on the motion to table Delegate Eldridge's motion to discharge H. B. 114 from committee, the yeas and nays were demanded, which demand was sustained.

Delegate McCuskey arose to a point of inquiry as to whether the bill was within the purview of the Governor's Proclamation for the Extraordinary Session. Delegate McCuskey subsequently withdrew his inquiry.

The yeas and nays having been ordered, they were taken (**Roll No. 690**), and there were—yeas 61, nays 23, absent and not voting 16, with the nays and absent and not voting being as follows:

Nays: Byrd, Caputo, Eldridge, Faircloth, Ferro, Flanigan, Fleischauer, Fluharty, Folk, Guthrie, Hornbuckle, Ihle, Longstreth, Lynch, McGeehan, Moore, Morgan, Pushkin, Reynolds, Rodighiero, Rowe, Shaffer and Skinner.

Absent and Not Voting: Bates, Boggs, Hanshaw, Hicks, Hill, Kurcaba, Manchin, Marcum, Miley, J. Nelson, Perdue, Phillips, Sponaugle, Storch, Trecost and Westfall.

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

Bills Introduced

A bill was introduced, pursuant to House Rule 92, and referred as follows:

By Mr. Speaker (Mr. Armstead) and Delegate Miley
[By Request of the Executive]:

H. B. 117 – “A Bill to amend and reenact article three, chapter sixty-four of the Code of West Virginia, 1931, as amended, relating generally to administrative rules of the Department of Environmental Protection; legislatively mandating or authorizing for the promulgation of certain legislative rules by various executive or administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain

legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; repealing certain legislative, procedural or interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete; repealing certain legislative, procedural and interpretive rules promulgated by certain agencies and boards under the Department of Environmental Protection; repealing the Department of Environmental Protection legislative rule relating to requiring the submission of emission statements for volatile organic compound emissions and oxides; repealing the Department of Environmental Protection legislative rule relating to bona fide future use; repealing the Department of Environmental Protection legislative rule relating to abandoned wells; repealing the Department of Environmental Protection legislative rule relating to the Environmental Excellence Program; repealing the Department of Environmental Protection legislative rule relating to oil and gas operations – solid waste; repealing the Department of Environmental Protection legislative rule relating to the Recycling Assistance Fund Grant Program; repealing the Department of Environmental Protection legislative rule relating to commercial hazardous waste management facility siting fees; repealing the Department of Environmental Protection legislative rule relating to groundwater protection standards; repealing the Department of Environmental Protection legislative rule relating to Underground Storage Tank Insurance Trust Fund; repealing the Department of Environmental Protection legislative rule relating to hazardous waste management; repealing the Department of Environmental Protection legislative rule relating to solid waste management; repealing the Department of Environmental Protection legislative rule relating to waste tire management; repealing the Department of Environmental Protection legislative rule relating to sewage sludge management; repealing the Department of Environmental Protection legislative rule relating to Hazardous Waste Emergency Response Fund regulations; repealing the Department of Environmental Protection interpretive rule relating to initial inspection, certification and spill prevention response plan requirements; repealing the Department of Environmental Protection legislative rule relating to

the Office of the Environmental Advocate; repealing the Department of Environmental Protection legislative rule relating to coal refuse; repealing the Department of Environmental Protection procedural rule relating to administrative procedures and civil administrative penalty assessment – Water Resources Protection Act; repealing the Department of Environmental Protection procedural rule relating to procedures and practice before the Department of Energy; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of annual nitrogen oxide emissions; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to standards of performance for new stationary sources; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from combustion of solid waste; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of ozone season nitrogen oxides emissions; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of annual sulfur dioxide emissions; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to surface mining reclamation; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to administrative proceedings and civil penalty assessment; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tank fee assessments; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tank administrative proceedings and civil penalty assessment; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tanks,

authorizing the Department of Environmental Protection to promulgate a legislative rule relating to horizontal well development; repealing the Commercial Hazardous Waste Management Facility Siting Board legislative rule relating to certification requirements; repealing the Environmental Quality Board legislative rule relating to requirements governing water quality standards; repealing the Environmental Quality Board procedural rule relating to requests for information; repealing the Environmental Quality Board procedural rule relating to rules governing the notice of open meetings under the Open Governmental Proceedings Act; repealing the Miner Training, Education and Certification Board legislative rule relating to certification of blasters for surface coal mines and surface areas of underground mines; repealing the Miner Training, Education and Certification Board legislative rule relating to standards for certification of blasters for surface coal mines and surface areas of underground mines; repealing the Miner Training, Education and Certification Board procedural rule relating to temporary suspension of certificates issued to persons pending full hearing before the board of appeals; repealing the Water Resources Board legislative rule relating to the State National Pollutant Discharge Elimination System Program; repealing the Water Resources Board legislative rule relating to requirements governing the State National Pollutant Discharge Elimination System; repealing the Air Quality Board procedural rule relating to requests for information; and repealing the Oil and Gas Inspectors Examining Board procedural rule relating to matters pertaining to the rules and regulations dealing with the Oil and Gas Inspectors Examining Board"; to the Committee on the Judiciary.

Miscellaneous Business

Delegate Caputo asked and obtained unanimous consent that the remarks of Delegate Flanigan regarding H. B. 114 be printed in the Appendix to the Journal.

At 11:52 a.m., on motion of Delegate Cowles, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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At the request of Delegate Cowles 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 McCuskey, 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 June, 2016, 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:

(S. B. 1002), Expiring funds from various accounts to unappropriated balance in State Fund, General Revenue.

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

Your Committee on the Judiciary has had under consideration:

H. B. 117, Relating generally to the promulgation of administrative rules by the Department of Environmental Protection,

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

Com. Sub for H. B. 117 – “A Bill to amend and reenact article three, chapter sixty-four of the Code of West Virginia, 1931, as amended, relating generally to administrative rules of the Department of Environmental Protection; legislatively mandating or authorizing for the promulgation of certain legislative rules by various executive or

administrative agencies of the state; authorizing certain of the agencies to promulgate certain legislative rules in the form that the rules were filed in the State Register; authorizing certain of the agencies to promulgate certain legislative rules with various modifications presented to and recommended by the Legislative Rule-Making Review Committee; repealing certain legislative, procedural or interpretive rules promulgated by certain agencies, boards and commissions which are no longer authorized or are obsolete; repealing certain legislative, procedural and interpretive rules promulgated by certain agencies and boards under the Department of Environmental Protection; repealing the Department of Environmental Protection legislative rule relating to requiring the submission of emission statements for volatile organic compound emissions and oxides; repealing the Department of Environmental Protection legislative rule relating to bona fide future use; repealing the Department of Environmental Protection legislative rule relating to abandoned wells; repealing the Department of Environmental Protection legislative rule relating to the Environmental Excellence Program; repealing the Department of Environmental Protection legislative rule relating to oil and gas operations – solid waste; repealing the Department of Environmental Protection legislative rule relating to the Recycling Assistance Fund Grant Program; repealing the Department of Environmental Protection legislative rule relating to commercial hazardous waste management facility siting fees; repealing the Department of Environmental Protection legislative rule relating to groundwater protection standards; repealing the Department of Environmental Protection legislative rule relating to Underground Storage Tank Insurance Trust Fund; repealing the Department of Environmental Protection legislative rule relating to hazardous waste management; repealing the Department of Environmental Protection legislative rule relating to solid waste management; repealing the Department of Environmental Protection legislative rule relating to waste tire management; repealing the Department of Environmental Protection legislative rule relating to sewage sludge management; repealing the Department of Environmental Protection legislative rule

relating to Hazardous Waste Emergency Response Fund regulations; repealing the Department of Environmental Protection interpretive rule relating to initial inspection, certification and spill prevention response plan requirements; repealing the Department of Environmental Protection legislative rule relating to the Office of the Environmental Advocate; repealing the Department of Environmental Protection legislative rule relating to coal refuse; repealing the Department of Environmental Protection procedural rule relating to administrative procedures and civil administrative penalty assessment – Water Resources Protection Act; repealing the Department of Environmental Protection procedural rule relating to procedures and practice before the Department of Energy; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of annual nitrogen oxide emissions; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from combustion of solid waste; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to the control of air pollution from hazardous waste treatment, storage and disposal facilities; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to emission standards for hazardous air pollutants; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of ozone season nitrogen oxides emissions; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to control of annual sulfur dioxide emissions; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to surface mining reclamation; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to administrative proceedings and civil penalty assessment; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tank fee assessments; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tank administrative proceedings and civil penalty assessment; authorizing the Department

of Environmental Protection to promulgate a legislative rule relating to requirements governing water quality standards; authorizing the Department of Environmental Protection to promulgate a legislative rule relating to above ground storage tanks, authorizing the Department of Environmental Protection to promulgate a legislative rule relating to horizontal well development; repealing the Commercial Hazardous Waste Management Facility Siting Board legislative rule relating to certification requirements; repealing the Environmental Quality Board legislative rule relating to requirements governing water quality standards; repealing the Environmental Quality Board procedural rule relating to requests for information; repealing the Environmental Quality Board procedural rule relating to rules governing the notice of open meetings under the Open Governmental Proceedings Act; repealing the Miner Training, Education and Certification Board legislative rule relating to certification of blasters for surface coal mines and surface areas of underground mines; repealing the Miner Training, Education and Certification Board legislative rule relating to standards for certification of blasters for surface coal mines and surface areas of underground mines; repealing the Miner Training, Education and Certification Board procedural rule relating to temporary suspension of certificates issued to persons pending full hearing before the board of appeals; repealing the Water Resources Board legislative rule relating to the State National Pollutant Discharge Elimination System Program; repealing the Water Resources Board legislative rule relating to requirements governing the State National Pollutant Discharge Elimination System; repealing the Air Quality Board procedural rule relating to requests for information; and repealing the Oil and Gas Inspectors Examining Board procedural rule relating to matters pertaining to the rules and regulations dealing with the Oil and Gas Inspectors Examining Board,”

With the recommendation that the committee substitute do pass.

At the respective requests of Delegate Cowles, and by unanimous consent, the bill (H. B. 117) was taken up for immediate consideration, read a first time and ordered to second reading.

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

Your Committee on the Judiciary has had under consideration:

H. B. 116, Authorizing the Governor to issue executive orders to furlough state employees and pay certain obligations,

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 (H. B. 116) was referred to the Committee on Finance.

Leaves of Absence

At the request of Delegate Cowles, and by unanimous consent, leaves of absence for the day were granted Delegates Bates, Boggs, Hanshaw, Hicks, Hill, Kurcaba, Marcum, Miley, Perdue, Phillips, Sponaugle, Storch, Trecost and Westfall.

Miscellaneous Business

Delegates Manchin and J. Nelson were present in the evening session.

At 5:15 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, June 2, 2016.

