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FIFTY-NINTH DAY

Friday, March 8, 2019

FIFTY-NINTH DAY

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

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

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

The Clerk proceeded to read the Journal of Thursday, March 7, 2019, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Delegate Summers announced that the Committee on Rules had transferred H. C. R. 33 and H. C. R. 61, on Unfinished Business, to the foot of the Calendar; H. R. 20, on Unfinished Business, to the foot of resolutions; Com. Sub. for S. B. 90, on Third Reading, Special Calendar, to the foot of bills on Third Reading; and Com. Sub. for S. B. 392, on Third Reading, Special Calendar, to the House Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

S. C. R. 39, Requesting creation of Joint Select Committee on Requirements Governing Water Quality Standards,

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

In accordance with the former direction of the Speaker, the resolution (S. C. R. 39) was referred to the Committee on Rules.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 7th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates.

Com. Sub. for H. B. 2854, Exempting sales from the consumers sales and service tax and use tax by not for profit volunteer school support groups raising funds for schools.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 7th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates.

H. B. 3140, Relating to the Division of Natural Resources Infrastructure.

Messages from the Executive

Delegate Hanshaw (Mr. Speaker) presented a communication from His Excellency, the Governor, advising that on March 7, 2019, he approved **Com. Sub. for S. B. 13, Com. Sub. for S. B. 26, Com. Sub. for S. B. 270, Com. Sub. for S. B. 356, S. B. 358, Com. Sub. for S. B. 387, S. B. 442, S. B. 443, S. B. 444 and S. B. 452.**

Resolutions Introduced

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

H. R. 19 - "Expressing support for the President of the United States, Donald J. Trump, to sign the Appalachian Sky Executive Order."

Whereas, During the 20th century, the coal industry provided direct and indirect jobs to thousands upon thousands of southern West Virginians, creating a robust local economy; and

Whereas, During the mid-2000s, the coal industry began to decline due to many factors, including, but not limited to inexpensive natural gas, burdensome environmental regulations, and weakening international demand, disproportionately affecting central Appalachia, generally, and southern West Virginia, specifically; and

Whereas, Jackson, Mason, Cabell, and Wayne Counties have been selected as part of a 19-county, multistate AEROREady Certified region known as the Appalachian Sky corridor with an ultimate goal to attract the aerospace and defense industries to the region; and

Whereas, A proposed Appalachian Sky Executive Order is currently under review with the United States Department of Commerce and the National Economic Council, and would align varying interests in the region with the common goal of attracting manufacturers so that, one day, every aircraft and spacecraft will have a part designed, manufactured, or routinely maintained at a facility in the Appalachian Sky corridor; and

Whereas, Experts estimate that the Appalachian Sky initiative will create 15,000 aerospace-related jobs in the region and create over 18,000 indirect and induced jobs, employing thousands of West Virginians from those areas hardest hit by the decline in the coal industry, and encouraging thousands to move to West Virginia and surrounding states, revitalizing local economies; therefore, be it

Resolved by the House of Delegates:

That the House of Delegates hereby respectfully encourages the Honorable Donald J. Trump, President of the United States, to sign the Appalachian Sky Executive Order and bring much needed economic opportunity to regions of West Virginia and neighboring states whose workforce provided the coal and other materials that made America great and secure and make Central Appalachia and West Virginia great again; and, be it

Further Resolved, That the Clerk is hereby directed to forward a copy of this resolution be sent to the Honorable Donald J. Trump, President of the United States of America; to the Honorable Wilbur L. Ross, Jr., Secretary of the United States Department of Commerce; and to the Honorable Lawrence A. Kudlow, Director of the National Economic Council.

Delegates Anderson, Atkinson, Azinger, Butler, Dean, Ellington, Graves, Harshbarger Higginbotham, Hill, Hollen, Hott, D. Jeffries, Jennings, D. Kelly, J. Kelly, Linville, Mandt, Phillips, Queen, Rowan, Shott, Storch, Toney, Westfall, Wilson and Worrell offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 96 - "Requesting the Centers for Medicare & Medicaid Services (CMS) in Baltimore, MD adopt hospital outpatient payment methodologies that encourage the use of non-opioid pain management therapies in the Hospital Outpatient Department Setting (HOPD)."

Whereas, In 2016, West Virginia had the highest rate of opioid-related overdose deaths in the United States— 43.4 deaths per 100,000—up from a low of 1.8 deaths per 100,000 in 1999; and

Whereas, The operating room is an unintentional gateway to opioid misuse, such that 3 million patients prescribed opioids after surgery each year transition to persistent opioid use; and

Whereas, In 2017 alone, 909 West Virginians died of opioid-related overdose deaths; and

Whereas, Current federal rules for Medicare, which provides health care for older West Virginians, limit patient access to non-opioid postsurgical pain management therapies; and

Whereas, Medicare reimburses for outpatient surgeries performed in a hospital with a single payment, which includes payment for non-opioid therapies, while opioids may be paid separately through the pharmacy benefit; and

Whereas, CMS amended its payment rules to pay separately for non-opioid pain management therapies in the Ambulatory Surgical Center setting, but not in the Hospital Outpatient Department Setting; and

Whereas, Due to Certificate of Need restrictions in West Virginia, a large number of outpatient surgeries are performed in the outpatient department of a hospital in lieu of an Ambulatory Surgical Center setting; and

Whereas, The use of opioids to manage post-surgical pain can be significantly reduced when a non-opioid therapy is utilized, be it:

Resolved by the Legislature of West Virginia:

That the Legislature hereby requests the federal government and the Centers for Medicare & Medicaid Services (CMS) amend their payment methodologies to exclude non-opioid pain management therapies from the payment bundle in the Hospital Outpatient Department Setting, similar to recent changes enacted for surgeries performed in Ambulatory Surgical Centers, and provide separate reimbursement for the use of non-opioid pain treatments; and be it

Further Resolved, That the Clerk of the Senate is hereby directed to forward a copy of this resolution to the United States Secretary of Health and Human Services, the Administrator of the Centers for Medicare & Medicaid Services, and to the members of the West Virginia congressional delegation.

Special Calendar**Unfinished Business**

On motion of Delegate Summers, Com. Sub. for S. C. R. 4 and Com. Sub. for S. C. R. 40, on Unfinished Business, were postponed one day.

Delegate J. Jeffries asked and obtained unanimous consent to be added as a cosponsor of H. C. R. 61 and H. R. 21.

The following resolutions, coming up in regular order, as unfinished business, were reported by the Clerk and adopted:

S. C. R. 9, US Army PFC Winten L. Wayts Memorial Bridge,

S. C. R. 12, US Army CPL Lee Roy Young Memorial Bridge,

S. C. R. 20, US Air Force SSGT Ryan David Hammond Memorial Bridge,

Com. Sub. for H. C. R. 5, U. S. Army T/5 Maurice V. Mann Memorial Bridge,

Com. Sub. for H. C. R. 6, U. S. Army PFC Earl Russell Cobb, SPC4 Carl Bradford Goodson, and SSGT George T. Saunders Jr. Memorial Bridge,

Com. Sub. for H. C. R. 37, SSGT Thomas Gavin Hess Memorial Bridge,

Com. Sub. for H. C. R. 49, U. S. Marine Corps PFC Danny Marshall Memorial Bridge,

Com. Sub. for H. C. R. 52, Dr. H. Luke Eye Memorial Bridge,

Com. Sub. for H. C. R. 55, U. S. Navy Seaman 1st Class Brady William Milam Memorial Bridge,

Com. Sub. for H. C. R. 70, Danny Wayne Marks Memorial Bridge,

Com. Sub. for H. C. R. 79, U. S. Army PFC Homer Jacob Day Memorial Bridge,

H. C. R. 83, The creation of the West Virginia Distressed Water and Wastewater Utility Systems Viability Study Committee,

H. C. R. 93, Requesting the Joint Committee on Energy study legislation relating to the deregulation of natural gas,

And,

Com. Sub. for H. C. R. 40, U. S. Army CAPT William H. Denney, Jr. Memorial Bridge.

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

H. R. 21, Expelling Delegate Mike Caputo from membership in the West Virginia House of Delegates; coming up in regular order, as unfinished business, was reported by the Clerk.

Delegate Miley moved that the resolution be tabled.

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. 576**), and there were—yeas 65, nays 35, absent and not voting none, with the nays being as follows:

Nays: Anderson, Azinger, Bibby, Butler, Cadle, Ellington, Espinosa, Fast, Foster, Graves, Hanna, Hardy, Harshbarger, Hill, Hollen, Hott, Howell, D. Jeffries, J. Jeffries, Jennings, J. Kelly, Kessinger, Kump, Linville, Malcolm, C. Martin, P. Martin, Phillips, Porterfield, Rowan, Summers, Sypolt, Waxman, Wilson and Hanshaw (Mr. Speaker).

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

H. R. 20, Censuring Delegate Mike Caputo of the West Virginia House of Delegates; coming up in regular order, as unfinished business, was reported by the Clerk.

Delegate Malcolm was addressing the House when Delegate Pushkin arose to a point of order, regarding the Member's remarks not being directed to the Chair, to which point the Speaker replied that the point was well taken.

Subsequently,

Delegate Westfall moved that the resolution be tabled.

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. 577**), and there were—yeas 62, nays 38, absent and not voting none, with the nays being as follows:

Nays: Anderson, Bibby, Butler, Cadle, Ellington, Espinosa, Fast, Foster, Graves, Hanna, Hardy, Harshbarger, Higginbotham, Hill, Hollen, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, J. Kelly, Kessinger, Kump, Linville, Malcolm, C.R. Martin, P. Martin, Pack, Phillips, Porterfield, Rowan, Summers, Sypolt, Toney, Waxman, Wilson and Hanshaw (Mr. Speaker).

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

Third Reading

S. B. 16, Authorizing expenditure of surplus funds by Wyoming County Commission; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 578**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 16) passed.

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

Com. Sub. for S. B. 30, Eliminating tax on annuity considerations collected by life insurer; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 579**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 30) passed.

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

S. B. 36, Allowing adjustment of gross income for calculating personal income liability for certain retirees; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 580**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 36) passed.

Delegate Summers moved that the bill take effect July 1, 2019.

On this question, the yeas and nays were taken (**Roll No. 581**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 36) takes effect July 1, 2019.

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. 40, Establishing Military Service Members Court program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 582**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Jennings.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 40) 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. 40 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §62-16-1, §62-16-2, §62-16-3, §62-16-4, §62-16-5, §62-16-6, §62-16-7, §62-16-8, §62-16-9, §62-16-10, §62-16-11, §62-16-12, §62-16-13 and §62-16-14, all relating to establishing a Military Service Members Court program within Supreme Court of Appeals; providing legislative findings; defining terms; granting authority to oversee court to Administrator of Supreme Court of Appeals; setting forth structure of court; providing for written agreement to participate in court; setting forth incentives for successful participation; providing for sanctions for violation of provisions of court; setting out disposition on successful completion; providing for teams to function within court; setting forth eligibility requirements for participation; setting forth procedure to participate in court; allowing for mental health and drug treatment services for participants;

providing for governance of court by Supreme Court of Appeals; setting forth information to be maintained on participants; providing for funding mechanisms which may include court fees; and providing for limitation of liability.”

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. 103, Relating generally to Public Defender Services; on third reading, coming up in regular order, was read a third time.

Delegates Fast, Hicks and Steele requested to be excused from voting on Com. Sub. for S. B. 103 under the provisions of House Rule 49.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 583**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Cadle and Jennings.

Absent and Not Voting: Hartman.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 103) 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. 103 - “A Bill to amend and reenact §29-21-6 and §29-21-13a of the Code of West Virginia, 1931, as amended, all relating generally to Public Defender Services; requiring Public Defender Services to establish and operate a division within the agency for the purpose of prosecuting writs of habeas corpus on behalf of eligible clients in the circuit courts of the state and before the Supreme Court of Appeals upon appointment by a court; transferring initial authority to review, approve, modify, or refuse panel attorney vouchers from circuit courts to Public Defender Services; providing for resubmission or reconsideration of vouchers previously modified or refused; establishing procedures for handling of modified or refused vouchers; maintaining final authority over payment of vouchers with circuit courts; authorizing the Executive Director of Public Defender Services, with approval of the Indigent Defense Commission, to contract for noncriminal legal services; providing for payment of contracts; authorizing agency to reduce or reject vouchers or requests for payment; requiring panel attorneys to maintain time-keeping records to enable the attorney to determine time expended on a daily basis; setting record-keeping standards; requiring prompt processing and payment of vouchers; increasing the rates of compensation for panel attorneys; authorizing payment for in-court paralegal services with prior approval of the circuit court and subject to agency rule regarding maximum reimbursement; authorizing the executive director to promulgate emergency rules; and setting an effective date.”

Delegate Summers moved that the bill take effect July 1, 2019.

On this question, the yeas and nays were taken (**Roll No. 584**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 103) takes effect July 1, 2019.

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. 147, Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 585**), and there were—yeas 95, nays 5, absent and not voting none, with the nays being as follows:

Nays: J. Jeffries, J. Kelly, Longstreth, Maynard and Pushkin.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 147) 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. 147 - “A Bill to repeal §61-11B-1, §61-11B-2, §61-11B-3, §61-11B-4, and §61-11B-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §61-11-26 of said code; and to amend said code by adding thereto a new section, designated §61-11-26a, all relating generally to expungement of certain convictions; eliminating statutory authority to reduce certain felonies to misdemeanor status; authorizing those who have used statutory authority to reduce certain felonies to misdemeanors to seek expungement; defining terms; eliminating age limitations for petitioners seeking to expunge certain misdemeanors; expanding eligibility for criminal expungement to persons convicted of certain nonviolent felonies or multiple misdemeanors; providing exclusions from eligibility; establishing time limitations for filing a petition for expungement; creating petition requirements and court procedure for evaluating petitions for orders of expungement for expungable offenses; clarifying disclosure requirements with respect to the information sealed pursuant to an order of expungement, including exemptions; providing standard for inspection of sealed records; establishing fees, including when fees are waived; clarifying that an order of expungement does not reinstate eligibility for certain benefits lost due to expunged conviction; providing time limitations for filing petitions of expungement after completion of certain drug treatment or job training; and making technical changes.”

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

Com. Sub. for S. B. 152, Relating generally to criminal offense expungement; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 586**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Malcolm, C. Martin and P. Martin.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 152) 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. 152 - “A Bill to repeal §61-11B-1, §61-11B-2, §61-11B-3, §61-11B-4, and §61-11B-5 of the Code of West Virginia, 1931, as amended; to amend and reenact §61-11-26 of said code; and to amend said code by adding thereto a new section, designated §61-11-26a, all relating generally to expungement of certain convictions; eliminating statutory authority to reduce certain felonies to misdemeanor status; authorizing those who have used statutory authority to reduce certain felonies to misdemeanors to seek expungement; defining terms; eliminating age limitations for petitioners seeking to expunge certain misdemeanors; expanding eligibility for criminal expungement to persons convicted of certain nonviolent felonies or multiple misdemeanors; providing exclusions from eligibility; establishing time limitations for filing a petition for expungement; creating petition requirements and court procedure for evaluating petitions for orders of expungement for expungable offenses; clarifying disclosure requirements with respect to the information sealed pursuant to an order of expungement, including exemptions; providing standard for inspection of sealed records; establishing fees, including when fees are waived; clarifying that an order of expungement does not reinstate eligibility for certain benefits lost due to expunged conviction; providing time limitations for filing petitions of expungement after completion of certain drug treatment or job training; and making technical changes.”

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

Com. Sub. for S. B. 264, Requiring courts to order restitution to crime victims where economically practicable; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 587**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: C. Martin.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 264) 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, Relating generally to survivor benefits for emergency response providers; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 588**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly and Worrell.

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

Delegate Summers moved that the bill take effect July 1, 2019.

On this question, the yeas and nays were taken (**Roll No. 589**), 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: J. Kelly and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 291) takes effect July 1, 2019.

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. 329, Relating to agricultural education in high schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 590**), 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: J. Kelly and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 329) passed.

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

Com. Sub. for S. B. 340, Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 591**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly and Robinson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 340) passed.

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

Com. Sub. for S. B. 345, Relating to fire service equipment and training funds for VFDs; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 592**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 345) 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. 345 - "A Bill to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; to amend and reenact §12-4-14 of said code; to amend said code by adding

thereto a new section, designated §12-4-14b; and to amend and reenact §29-3-5f and §29-3-8 of said code, all relating to accounting and reporting relating state grants, distributions and studies generally; authorizing commingling of certain funds; imposing authority, duties and consequences relating to volunteer and part-volunteer fire companies and departments as to state grants and distributions; imposing authority, duties and consequences relating to other recipients of state grants; modifying liability for criminal penalties; imposing authority and duties on Legislative Auditor, State Auditor and State Fire Marshal; clarifying the responsibility for proposing legislative rules; removing requirement for report by State Fire Marshal; and updating outdated language.”

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

Com. Sub. for S. B. 352, Relating to Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 593**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Pyles, Rowe and Skaff.

Absent and Not Voting: J. Kelly.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 352) passed.

Delegate Summers moved that the bill take effect from passage.

On this question, the yeas and nays were taken (**Roll No. 594**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 352) takes effect from 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. 369, Relating to generic drug products; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 595**), and there were—yeas 71, nays 28, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, S. Brown, Campbell, Canestraro, Caputo, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Lavender-Bowe, Longstreth, Lovejoy, Malcolm, Miley, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Staggers, R. Thompson, Walker, Williams and Zukoff.

Absent and Not Voting: Hicks.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 369) passed.

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

Com. Sub. for S. B. 396, Waiving occupational licensing fees for low-income individuals and military families; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 596**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 396) passed.

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

Com. Sub. for S. B. 398, Relating to compensation for senior judges; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 597**), and there were—yeas 77, nays 23, absent and not voting none, with the nays being as follows:

Nays: Barrett, Bates, S. Brown, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Fluharty, Hansen, Hornbuckle, Lavender-Bowe, Lovejoy, Miley, Miller, Pushkin, Robinson, Rowe, Sponaule, C. Thompson, Walker and Zukoff.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 398) 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. 398 - "A Bill to amend and reenact §5-10-48 of the Code of West Virginia, 1931, as amended; to amend and reenact §50-1-6a of said code; and to amend and reenact §51-9-10 of said code, all relating to compensation for senior judicial officers; providing that senior judges, justices, and magistrates may receive per diem compensation for temporary assignments while receiving retirement benefits, subject to certain limitations; setting forth legislative findings; limiting the per diem rate of compensation that may be paid to senior judges and justices for each day served; providing that the combined total of per diem compensation and retirement benefits paid to a senior judge or justice during a single calendar year may not exceed the annual salary of a sitting circuit judge; limiting the per diem rate of compensation that may be paid to senior magistrates for each day served; providing that the combined total of per diem compensation and retirement benefits paid to a senior magistrate during a single calendar year may not exceed the annual salary of a sitting magistrate; providing an exception to the limitation on the combined total of per diem compensation and retirement benefits paid to a senior magistrate, judge or justice in a calendar year, if the Chief Justice of the Supreme Court of Appeals enters an administrative order certifying that certain circumstances necessitate extended assignment of such judge or justice; requiring that administrative orders regarding extended assignment of a senior judge or justice be submitted to the State Auditor and the State Treasurer; providing that senior judges and justices may be reimbursed for actual and necessary expenses incurred in the performance of their duties; and requiring the State Treasurer to petition the West Virginia Supreme Court of Appeals for a writ of prohibition prohibiting the State

Auditor from issuing warrants to authorize payment of compensation to senior judges and justices above statutory limitations.”

Delegate Summers moved that the bill take effect from passage.

On this question, the yeas and nays were taken (**Roll No. 598**), and there were—yeas 91, nays 9, absent and not voting none, with the nays being as follows:

Nays: Barrett, Bates, S. Brown, Canestraro, Caputo, Fluharty, Sponaugle, C. Thompson and Walker.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 398) takes effect from passage.

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

S. B. 461, Providing for personal income tax withholding on certain lottery winnings; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 599**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and absent and not voting being as follows:

Nays: Porterfield.

Absent and Not Voting: N. Brown, Queen, Shott, Wilson and Worrell.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 461) passed.

Delegate Summers moved that the bill take effect from passage.

On this question, the yeas and nays were taken (**Roll No. 600**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: N. Brown, Higginbotham and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 461) takes effect from passage.

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

S. B. 499, Amending WV tax laws to conform to changes in partnerships for federal income tax purposes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 601**), 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: Higginbotham and Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 499) 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. 499 - "A Bill to amend and reenact §11-10-3, §11-10-4, §11-10-7, §11-10-14, §11-10-15, and §11-10-16 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-10-18c; to amend and reenact §11-21-3, §11-21-51a, §11-21-59, and §11-21-71a of said code; to amend said code by adding thereto four new sections, designated §11-21-37a, §11-21-37b, §11-21-37c, and §11-21-59a; to amend said code by adding thereto a new article, designated §11-21A-1, §11-21A-2, §11-21A-3, §11-21A-4, §11-21A-5, §11-21A-6, §11-21A-7, §11-21A-8, §11-21A-9, §11-21A-10, §11-21A-11, and §11-21A-12; and to amend and reenact §11-24-20 of said code, all relating generally to amending West Virginia tax laws to conform to changes in how partnerships and their partners and other pass-through entities and their equity owners are treated for federal income tax purposes for tax years beginning after December 31, 2017; amending West Virginia Tax Procedures and Administration Act, Personal Income Tax Act, and Corporation Net Income Tax Act to provide for administration, collection, and enforcement of income tax on certain partnerships and other pass-through entities treated as partnerships for federal income tax purposes and their partners and equity owners in conformity with changes made by United States Congress in how these entities and their equity owners are treated for federal income tax purposes for taxable years beginning after December 31, 2017; providing for application of West Virginia Tax Procedure and Administration Act to apply to imputed income taxes imposed on partnerships and other pass-through entities; imposing addition to tax for failure of partnership and other pass-through entity to file partnership's returns and reports; imposing imputed personal income tax on certain partnerships and other pass-through entities treated like partnerships for federal income tax purposes based on federal audit adjustments; providing general rules and special rules for allocation and apportionment of business income; providing for filing of amended composite personal income tax returns by pass-through entities on behalf of nonresident equity owners; providing additional rules for reporting of federal changes to federal taxable incomes; providing amended rules for reporting of federal adjustments by Internal Revenue Service or other competent authority; providing rules for reporting adjustments by other states' resident claims credit for tax paid to another state; providing for pass-through entity withholding on nonresidents when partnership or other pass-through entity pushes federal audit adjustments out to equity owners; adding a new article providing for administration, collection, and enforcement of additional West Virginia income taxes from certain partnerships and other pass-through entities treated like partnerships for federal income tax purposes, or their equity owners, that are attributable to federal audit adjustments; defining certain terms; providing for reporting of adjustments to federal taxable income; providing for reporting of federal audit adjustments resulting from federal audit of pass-through entity or from administrative adjustment requests; providing for assessment of additional West Virginia income taxes, interest, and additions to tax arising from federal adjustments to federal taxable income within applicable statute of limitations; allowing payment of estimated West Virginia income tax payments during course of federal audit of certain partnerships and other pass-through entities treated as partnerships for federal income tax purposes; providing for refund or credit of West Virginia income taxes attributable to finalized federal audit adjustments; providing rules for scope of audit adjustments and extensions of time; specifying effective dates; providing for legislative, interpretive, and procedural rules; providing for Tax Procedures and Administration Act and Tax Crimes and Penalties Act to apply to imputed income tax imposed on certain partnerships and other pass-through entities treated as partnerships for federal income tax purposes; providing additional rules for reporting of changes in federal taxable income of corporations; making technical corrections in existing code sections being amended; and specifying effective dates."

Delegate Summers moved that the bill take effect July 1, 2019.

On this question, the yeas and nays were taken (**Roll No. 602**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Linville and Steele.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 499) takes effect July 1, 2019.

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

Com. Sub. for S. B. 502, Exempting sales of investment metal bullion and coins; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 603**), and there were—yeas 90, nays 9, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: S. Brown, Byrd, Doyle, Estep-Burton, Hansen, Pushkin, Robinson, C. Thompson and Walker.

Absent and Not Voting: Linville.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 502) passed.

Delegate Summers moved that the bill take effect July 1, 2019.

On this question, the yeas and nays were taken (**Roll No. 604**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Byrd, Howell and C. Thompson.

Absent and Not Voting: Cadle and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 502) takes effect July 1, 2019.

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

Com. Sub. for S. B. 522, Creating Special Road Repair Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 605**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 522) passed.

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

Com. Sub. for S. B. 522 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2A-6b; to amend said code by adding thereto a new section, designated §17-3-11; and to amend said code by adding thereto a new article, designated §17-30-1, §17-30-2, §17-30-3, §17-30-4, and §17-30-5, all relating to enhancing maintenance and repair of the state’s roads and highways generally; establishing roads accountability and transparency; directing the State Auditor to develop and maintain a searchable website of funding actions and expenditures relating state and public roads; setting forth the minimum content to be contained in the website; directing the Commissioner of Highways to provide information and data to the State Auditor; requiring an annual update to the Joint Committee on Government and Finance; creating the Special Road Repair Fund as a sub-account of the State Road Fund; creating the Enhanced Road Repair and Maintenance Program; stating legislative finding and purpose of program; requiring Division of Highways county supervisors consult with county commissions and legislators to submit project requests to the Division of Highways; setting forth a funding formula; setting forth requirements concerning bidding, vendors, and contracts with private vendors; specifying uses of Special Road Repair Fund; defining terms; providing requirements for Commissioner of Highways and districts; requiring for rulemaking; and requiring reporting by Division of Highways and Legislative Auditor.”

Delegate Summers moved that the bill take effect July 1, 2019.

On this question, the yeas and nays were taken (**Roll No. 606**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 522) takes effect July 1, 2019.

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. 538, Relating to WV Highway Design-Build Pilot Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 607**), 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: Steele.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 538) passed.

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

Com. Sub. for S. B. 538 - “A Bill to amend and reenact §17-2D-2 of the Code of West Virginia, 1931, as amended, relating generally to the West Virginia Highway Design-Build Pilot Program; modifying and defining monetary project limits of the program and changing terminology; allowing exceptions for declared states of emergency; and allowing use of the program with limits for projects financed with and without bonds.”

Delegate Summers moved that the bill take effect from passage.

On this question, the yeas and nays were taken (**Roll No. 608**), 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: Steele.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 538) takes effect from 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. 539, Relating to accrued benefit of retirees in WV State Police Retirement System Plan B; on third reading, coming up in regular order, was read a third time.

Delegate Hott requested to be excused from voting on Com. Sub. for S. B. 539 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 609**), 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: Fluharty, Hansen, Hicks, D. Kelly and Steele.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 539) 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. 539 - "A Bill to amend and reenact §5-101D-1 of the Code of West Virginia, 1931, as amended; and to amend and reenact §15-2A-6 of said code, all relating to the West Virginia State Police Retirement System; increasing accrued benefit of retirees in the West Virginia State Police Retirement System on a certain date; and adding a member to the Consolidated Public Retirement Board who is a member, annuitant or retirant of the West Virginia State Police Retirement System."

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

Com. Sub. for S. B. 543, Relating generally to automobile warranties and inspections; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 610**), and there were—yeas 78, nays 21, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, S. Brown, Byrd, Caputo, Diserio, Doyle, Estep-Burton, Hansen, Lavender-Bowe, Miley, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Staggers, C. Thompson and Walker.

Absent and Not Voting: Azinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 543) 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. 543 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §46A-6-107a, relating to warranties as to sales of motor vehicles; providing that a used motor vehicle may be sold "as is" under certain circumstances; providing certain disclosure requirements for "as is" sales of used motor vehicles; allowing cancellation of an "as is" sale by the end of the dealer's third business day following the sale if the vehicle has mechanical issues; providing that a consumer shall sign and date the disclosure for an "as is" sale in order for the disclosure to be effective; providing that a merchant disclose in writing certain defects or malfunctions when selling a used motor vehicle "as is"; providing that the merchant provide the consumer a copy of a nationally recognized vehicle history report for the used motor vehicle; and providing that an "as is" sale of a used motor vehicle waives implied warranties but does not waive any express warranties."

Delegate Summers moved that the bill take effect July 1, 2019.

On this question, the yeas and nays were taken (**Roll No. 611**), and there were—yeas 87, nays 13, absent and not voting none, with the nays being as follows:

Nays: S. Brown, Byrd, Caputo, Diserio, Estep-Burton, Fleischauer, Hansen, Lavender-Bowe, Pyles, Robinson, Rowe, C. Thompson and Walker.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 543) takes effect July 1, 2019.

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

S. B. 544, Increasing salaries for members of WV State Police over three-year period; on third reading, coming up in regular order, was read a third time.

Delegate Hott requested to be excused from voting on S. B. 544 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 612**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 544) 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. 544 - "A Bill to amend and reenact §15-2-5 of the Code of West Virginia, 1931, as amended, relating to increasing salaries of members of the West Virginia State Police."

Delegate Summers moved that the bill take effect July 1, 2019.

On this question, the yeas and nays were taken (**Roll No. 613**), 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: Jennings.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 544) takes effect July 1, 2019.

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

S. B. 550, Declaring certain claims to be moral obligations of state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 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: Jennings.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 550) passed.

Delegate Summers moved that the bill take effect from passage.

On this question, 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: Jennings.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 550) takes effect from passage.

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

S. B. 554, Removing salary caps for director of State Rail Authority; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 616**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan and Paynter.

Absent and Not Voting: Jennings.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 554) 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. 554 - "A Bill to amend and reenact §29-18-4a of the Code of West Virginia, 1931, as amended, relating to supervision of the West Virginia State Rail Authority by Secretary of the Department of Transportation pursuant to law; and removing range of amounts from which salary is set for Executive Director of Authority."

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

Com. Sub. for S. B. 561, Permitting Alcohol Beverage Control Administration request assistance of local law enforcement; on third reading, coming up in regular order, was reported by the Clerk.

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

On motion of Delegate Shott, bill was amended on page 1, section 3ss, line 4, immediately following the word "provided", by inserting the word "in".

And,

On page 17, section 12, line 13, after the word "regulations", by striking out the following proviso:

"Provided, That a holder of a license issued pursuant to §29-22A-7 of this code may sell, give, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any licensed premises or in any rooms directly connected therewith, during the licensee's hours of operation" and inserting in lieu thereof the following:

"Provided, That a private resort hotel holding a license issued pursuant to §60-7-1 *et seq.* of this code, may sell, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises licensed under §29-22A-1 *et seq.*, and §29-22C-1 *et seq.*, or §29-25-1 *et seq.* of this code, during hours of operation authorized by §29-22A-1 *et seq.*, and §29-22C-1 *et seq.*, or §29-25-1 *et seq.*, of this code."

The bill was then read a third time.

In response to an inquiry by Delegate C. Martin, the Speaker indicated that the ruling, pursuant to House Rule 49, on yesterday, that he was a member of a class of persons possibly to be affected by the passage of the bill and directed to vote, still applied.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 617**), and there were—yeas 71, nays 28, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Anderson, Azinger, Bibby, Butler, Cadle, Cooper, Fast, Graves, Hanna, Hollen, Hott, D. Jeffries, D. Kelly, Kump, Malcolm, P. Martin, Maynard, McGeehan, Pack, Paynter, Porterfield, Rohrbach, Rowan, Summers, Toney, Waxman, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Kessinger.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 561) passed.

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

Com. Sub. for S. B. 561 - "A Bill to amend and reenact §7-1-3ss of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §60-2-17a and §60-2-17b; to amend and reenact §60-6-7, §60-6-8, and §60-6-9 of said code; to amend and reenact §60-7-2, §60-7-3, §60-7-4, §60-7-5, §60-7-6, and §60-7-12 of said code; to amend said code by adding thereto two new sections, designated §60-7-6a and §60-7-8a; and to amend and reenact §61-8-27 of said code, all relating to alcoholic beverages generally; creating a county option election on forbidding nonintoxicating beer, wine or alcoholic liquors to be sold, given or dispensed after 10:00 a.m. on Sundays in lieu of an county option election to permit such sales; permitting the Alcohol Beverage Control Administration to request the assistance of law enforcement; limiting the jurisdiction of such requested law enforcement assistance; implementing a \$100 operations fee and establishing special revenue account and fund; clarifying that consumption of alcoholic liquors in public is unlawful; clarifying that West Virginia licensees can only sell liquor by the drink with certain exceptions; clarifying prohibition on liquor bottle sales in Class A licenses; providing for a bottle service fee and establishing requirements for bottle service; clarifying certain licensing requirements for licensure; providing guidance on certain lawful conduct such as wine bottle sales and frozen drink machines; forbidding the operation of certain bring your own bottle establishments; creating a private fair and festival license; definitions; license requirements; license fee; creating the private hotel license and license fee; creating a private nine-hole golf course license and fee; removing the need for golf carts to be offered at licensed golf courses; definitions; license requirements; license fee; permitting a private resort hotel to have inner-connection with a resident brewer who has a brewpub; providing a 30-day requirement to issue or deny a completed license application; creating a reactivation fee for licensees who fail to timely file their renewal application and pay their annual license fees; permitting a license privilege for certain licensees to operate a connected but separately operated Class A on-premises license and a Class B off-premises license; clarifying that certain state-licensed gaming is permissible in a private club; clarifying permitted hours of operation for certain licensees; and permitting minors to attend a private hotel, private nine-hole golf course, and a private fair or festival under certain conditions."

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. 564, Expanding comprehensive coverage for pregnant women through Medicaid; on third reading, coming up in regular order, was read a third time.

Delegate Ellington requested to be excused from voting on Com. Sub. for S. B. 564 under the provisions of House Rule 49.

The Speaker replied that the Delegate was a member of a class of persons possibly to be affected by the passage of the bill and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 618**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Fast, McGeehan and Wilson.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 564) passed.

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

Com. Sub. for S. B. 564 - “A Bill to amend and reenact §5-16B-6d of the Code of West Virginia, 1931, as amended; and to amend and reenact §9-5-12 of said code, all relating to expanding certain insurance coverages for pregnant women; expanding who is eligible to receive certain Medicaid services; expanding who is eligible to receive certain services through the Children’s Health Insurance Program; providing the minimum services are to be covered; and providing an effective date.”

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

Com. Sub. for S. B. 601, Relating to mandatory supervision of adult inmates; on third reading, coming up in regular order, was read a third time.

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: Staggers.

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 Summers moved that the bill take effect from passage.

On this question, the yeas and nays were taken (**Roll No. 620**), 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: Staggers.

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 passage.

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

Com. Sub. for S. B. 603, Exempting certain activities from licensing requirements for engaging in business of currency exchange; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 621**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Byrd, Kump, Pushkin and Skaff.

Absent and Not Voting: Cowles.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 603) passed.

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

S. B. 605, Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 622**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 605) passed.

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

Com. Sub. for S. B. 613, Requiring DNR include election of organ donation on hunting licenses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 623**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 613) passed.

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

Com. Sub. for S. B. 613 - “A Bill to amend and reenact §16-19-3, §16-19-5, and §16-19-19 of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2-31 of said code, all relating to permitting individuals to make an anatomical gift by authorizing a statement or symbol to be imprinted on his or her hunting or fishing license; amending definition of document of gift to include a statement or symbol on a hunting or fishing license; adding definition; requiring the Division of Natural Resources to provide information regarding a donor’s making, amendment to, or revocation of an anatomical gift to a donor registry; requiring the Director of the Division of Natural Resources to provide information regarding the anatomical organ donation program; providing for the reimbursement of costs to the Division of Natural Resources for costs relating to the creation and administration of an anatomical gift record by the Center for Organ Recovery and Education; and absolving the Division of Natural Resources of responsibility to collect and provide records if it is not reimbursed for costs.”

Delegate Summers moved that the bill take effect from passage.

On this question, the yeas and nays were taken (**Roll No. 624**), 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: Harshbarger.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 613) takes effect from passage.

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

Delegate Fast asked unanimous consent that all remarks regarding H. R. 20 and H. R. 21 be printed in the Appendix to the Journal, objection being heard.

Delegate Fast then so moved.

On this question, the yeas and nays were taken (**Roll No. 625**), and there were—yeas 41, nays 56, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Atkinson, Azinger, Bibby, Butler, Cadle, Cooper, Ellington, Espinosa, Fast, Foster, Hanna, Hill, Hollen, Hott, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Linville, Malcolm, C.R. Martin, P. Martin, McGeehan, Nelson, Pack, Phillips, Porterfield, Rowan, Steele, Storch, Summers, Sypolt, Toney, Waxman, Wilson and Worrell.

Absent and Not Voting: Harshbarger, Kump, Queen and Hanshaw (Mr. Speaker).

So, two thirds of the members present and voting not having voted in the affirmative, the motion was rejected.

At 12:58 p.m., on motion of Delegate Summers, the House of Delegates recessed until 5:00 p.m.

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Evening Session

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

Special Calendar

Third Reading

-continued-

Com. Sub. for S. B. 622, Relating generally to regulation and control of financing elections; on third reading, coming up in regular order, with amendments pending and the right to amend, was reported by the Clerk.

The first pending amendment was reported by the Clerk.

In the absence of objection, consideration of **Com. Sub. for S. B. 622**, was then postponed until the end of bills on third reading.

S. B. 627, Relating generally to Rural Rehabilitation Loan Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 626**), 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: Angelucci, Dean, Hicks and Malcolm.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 627) passed.

Delegate Summers moved that the bill take effect from passage.

On this question, the yeas and nays were taken (**Roll No. 627**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Dean and Malcolm.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 627) takes effect from passage.

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

Com. Sub. for S. B. 632, Improving student safety; on third reading, coming up in regular order, was read a third time.

Delegate Kump demanded the previous question, which demand was sustained.

On this question, the yeas and nays were taken (**Roll No. 628**), and there were—yeas 55, nays 41, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Anderson, Angelucci, Barrett, Boggs, S. Brown, Byrd, Campbell, Canestraro, Caputo, Cowles, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hardy, Hartman, Hornbuckle, J. Kelly, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethel, Pyles, Queen, Robinson, Rowe, Skaff, Sponaule, Staggers, Summers, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Bates, Dean, Malcolm and Toney.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 629**), and there were—yeas 87, nays 9, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Angelucci, Caputo, Hansen, Pushkin, Pyles, Staggers, C. Thompson, R. Thompson and Walker.

Absent and Not Voting: Bates, Dean, Malcolm and Toney.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 632) passed.

On motion of Delegate Hamrick, the title of the bill was amended to read as follows: **Com. Sub. for S. B. 632** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-48; to amend said code by adding thereto a new section, designated §18-20-11; to amend and reenact §18A-2-8 of said code; and to amend and reenact §18A-3-6 of said code, all relating to improving student safety; requiring safety and security measures of each school facility be upgraded when necessary to ensure, to the best of the county board's ability, the safety of

students; creating Safe Schools Fund and providing for distribution of funds subject to appropriation; requiring video cameras capable of audio recording in certain public special education classrooms upon appropriation of funds; prohibited monitoring in certain areas; providing for notice of placement; setting requirements video retention and access; immunity from liability not waived and liability not created; limitations on use of video; protection of confidentiality and identity of students not involved in incident; allowing appeals to state board; permitting funding from Safe School Fund and gifts, grants or donations; authorizing state board rule; adding to justifications for which a school employee may be suspended or dismissed; providing duty and authority to provide safe and secure environment; requiring reports on suspensions and dismissals of employees and database maintained by state superintendent of individuals suspended or dismissed for certain reasons; and adding to justifications for which a teacher's certificate shall be automatically and reinstated should conviction be overturned."

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. 640, Regulating sudden cardiac arrest prevention; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 630**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Malcolm and Toney.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 640) passed.

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

S. B. 656, Relating to electronic filing of tax returns; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 631**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Steele.

Absent and Not Voting: Dean and Malcolm.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 656) 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. 656 - "A Bill to amend and reenact §11-10-5t and §11-10-5z of the Code of West Virginia, 1931, as amended, all relating to electronic filing of tax returns and electronic funds transfers in payment of taxes; and raising to \$50,000 the tax liability threshold amount at which taxpayers must file returns electronically or pay by electronic funds transfers."

Delegate Summers moved that the bill take effect July 1, 2019.

On this question, the yeas and nays were taken (**Roll No. 632**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Dean, Malcolm and Summers.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 656) takes effect July 1, 2019.

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

S. B. 665, Allowing for expedited oil and gas well permitting; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 633**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Zukoff.

Absent and Not Voting: Dean and Malcolm.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 665) passed.

Delegate Summers moved that the bill take effect from passage.

On this question, the yeas and nays were taken (**Roll No. 634**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Dean and Malcolm.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 665) takes effect from passage.

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

S. B. 669, Allowing appointment of commissioners to acknowledge signatures; on third reading, coming up in regular order, was reported by the Clerk.

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

On motion of Delegate Shott, the bill was amended on page 5, section 5, line 6, by striking out the words “notary publics” and inserting the words “notaries public” in lieu thereof.

The bill was then read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 635**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Dean and Malcolm.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 669) passed.

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

S. B. 669 - “A Bill to amend the Code of West Virginia, 1931, by adding thereto a new article, designated §39-4A-1, §39-4A-2, §39-4A-3, §39-4A-4, and §39-4A-5, all relating to the appointment of commissioners to acknowledge signatures by persons residing in or out of the State of West Virginia covering deeds, leases, and other writings pertaining to West Virginia property for recordation in the State of West Virginia; authorizing the Secretary of State to appoint a qualified person as a commissioner; setting forth qualifications for appointment; establishing application requirements and procedures; authorizing the Secretary of State to deny, refuse to renew, revoke, suspend, or impose a condition on a commission; establishing application fee; establishing term of office; establishing powers and duties of commissioners; setting forth prohibited acts; authorizing rulemaking by the Secretary of State; incorporating requirements, duties, prohibitions, penalties, and procedures set forth in the Revised Uniform Law on Notarial Acts; and requiring inclusion of active commissioners in online database of notaries public.”

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

S. B. 670, Relating to WV College Prepaid Tuition and Savings Program; on third reading, coming up in regular order, was read a third time.

Delegates Cowles, Pack and D. Jeffries requested to be excused from voting on S. B. 670 under the provisions of House Rule 49.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 636**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Doyle.

Absent and Not Voting: Dean and Malcolm.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 670) passed.

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

Com. Sub. for S. B. 90, Transferring Safety and Treatment Program from DHHR to DMV; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 637**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Canestraro, Fluharty and McGeehan.

Absent and Not Voting: Dean, Linville and Malcolm.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 90) passed.

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

Com. Sub. for S. B. 90 - "A Bill to amend and reenact §17C-3-3c, §17C-5A-3 and §17C-5A-3a of the Code of West Virginia, 1931, as amended, relating to transferring the Safety and Treatment Program, which treats and educates people whose licenses were revoked due to concerns of alcohol and/or drug use while operating a motor vehicle, from the Department of Health and Human Resources to the Division of Motor Vehicles; requiring the Division of Motor Vehicles to stay or supersede imposition of suspension of under §17C-3-3a of this code if a person successfully participates in an approved treatment and job program as prescribed in §61-11-26a of this code; requiring the Division of Motor Vehicles to waive reinstatement fees established by §17B-3-9 of this code when provided proof of successful completion of an approved treatment and job program prescribed in §61-11-26a of this code, and proof of compliance from judicial authorities; providing that any stay or supersedeas shall be removed by the Division of Motor Vehicles if the participant fails to complete or comply with the approved treatment and job program established under §61-11-26a of this code; providing that successful compliance with the substance abuse and counselling program prescribed in §61-11-26a of this code is sufficient to meet the requirements of the safety and treatment program administered under §17C-5A-3 of this code; creating a special revenue account known as the Division of Motor Vehicles Safety and Treatment Fund to be administered by the Commissioner of the Division of Motor Vehicles; providing that as of July 1, 2019, all moneys held in the Department of Health and Human Resources Safety and Treatment Fund shall be transferred to the Division of Motor Vehicles Safety and Treatment Fund; establishing that program providers shall remit a portion of the collected fee to be deposited by the Commissioner of the Division of Motor Vehicles into the Division of Motor Vehicles Safety and Treatment Fund; requiring the Division of Motor Vehicles to reimburse enrollment fees for each eligible indigent offender; requiring the Commissioner of the Division of Motor Vehicles to report to the legislature on specific matters on or before January 15 of each year; providing the Division of Motor Vehicles shall provide an educational program for each person whose license has been suspended pursuant to §17C-5A-2(n) of this code; providing under certain circumstances that the Division of Motor Vehicles shall propose and implement a plan for victim impact panels; requiring the Division of Motor Vehicles to ensure meetings between victims and offenders is nonconfrontational and safe; requiring the Commissioner of the Division of Motor Vehicles to promulgate a legislative rule for approval to establish a fee for enrollment in the safety and treatment program, a reimbursement program, and program standards; establishing that the Legislature finds an emergency exists requiring the Commissioner to file an emergency rule to implement §17C-5A-3 of this code by July 1, 2019; requiring that the fees related to ignition interlock devices shall be waived for the indigent as determined by the Division of Motor Vehicles; providing that the Department of Motor Vehicles may reduce a license revocation period for second or subsequent offense for driving under the influence of drugs to a one year minimum; providing the Department of Motor Vehicles may issue a restricted license on conditions an individual participates in the treatment and job program as prescribed in §61-11-26a of this code, satisfactorily performs in the treatment program, and submits to two years of monthly drug testing; providing that if a person is required to participate in an alcohol test and lock program for another offense, they may

do so while meeting certain described conditions; establishing that if a person fails to submit to drug tests or fails to pass the drug test the full period of revocation is reinstated; establishes that a person whose revocation period is reinstated is only credited for revocation time served prior to receipt of restricted privileges; and authorizing the Commissioner of the Department of Motor Vehicles to promulgate emergency rules.”

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

Com. Sub. for S. B. 622, Relating generally to regulation and control of financing elections; on third reading, with amendments pending and the right to amend, having been postponed in earlier proceedings, was reported by the Clerk.

Delegate Shott moved to amend the bill, on page one, immediately following the enacting section, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-1a. Definitions.

As used in this article, the following terms have the following definitions:

(1) “Ballot issue” means a constitutional amendment, special levy, bond issue, local option referendum, municipal charter or revision, an increase or decrease of corporate limits, or any other question that is placed before the voters for a binding decision.

(2) “Billboard advertisement” means a commercially available outdoor advertisement, sign, or similar display regularly available for lease or rental to advertise a person, place, or product.

(3) “Broadcast, cable, or satellite communication” means a communication that is publicly distributed by a television station, radio station, cable television system, or satellite system.

(4) “Candidate” means an individual who:

(A) Has filed a certificate of announcement under §3-5-7 of this code or a municipal charter;

(B) Has filed a declaration of candidacy under §3-5-23 of this code;

(C) Has been named to fill a vacancy on a ballot; or

(D) Has declared a write-in candidacy or otherwise publicly declared his or her intention to seek nomination or election for any state, district, county, or municipal, office or party office to be filled at any primary, general, or special election.

(5) “Candidate’s committee” means a political committee established with the approval of or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking a particular office or to support or aid his or her nomination or election to an office in an election cycle. If a candidate directs or influences the activities of more than one active committee in a current campaign, those committees shall be considered one committee for the purpose of contribution limits.

(6) “Caucus campaign committee” means a West Virginia House of Delegates or Senate political party caucus campaign committee that receives contributions and makes expenditures to support or

oppose one or more specific candidates or slates of candidates for nomination, election, or committee membership.

~~(6)~~ (7) “Clearly identified” means that the name, nickname, photograph, drawing, or other depiction of the candidate appears or the identity of the candidate is otherwise apparent through an unambiguous reference, such as “the Governor”, “your Senator”, or “the incumbent”, or through an unambiguous reference to his or her status as a candidate, such as “the Democratic candidate for Governor” or “the Republican candidate for Supreme Court of Appeals”.

~~(7)~~ (8) “Contribution” means a gift, subscription, loan, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance, or promise of money, or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election, or defeat of a candidate.

(A) A coordinated expenditure is a contribution for the purposes of this article.

(B) An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without compensation: *Provided*, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

(9) “Coordinated expenditure” is an expenditure made in concert with, in cooperation with, or at the request or suggestion of a candidate or candidate’s committee and meeting the criteria provided in §3-8-9a of this code.

~~(8)~~ (10) “Corporate political action committee” means a political action committee that is a separate segregated fund of a corporation that may only accept contributions from its restricted group as outlined by the rules of the State Election Commission.

~~(9)~~ (11) “Direct costs of purchasing, producing, or disseminating electioneering communications” means:

(A) Costs charged by a vendor, including, but not limited to, studio rental time, compensation of staff and employees, costs of video or audio recording media and talent, material and printing costs, and postage; or

(B) The cost of air time on broadcast, cable, or satellite radio and television stations, the costs of disseminating printed materials, studio time, use of facilities, and the charges for a broker to purchase air time.

~~(10)~~ (12) “Disclosure date” means either of the following:

(A) The first date during any calendar year on which any electioneering communication is disseminated after the person paying for the communication has spent a total of \$5,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications; or

(B) Any other date during that calendar year after any previous disclosure date on which the person has made additional expenditures totaling \$5,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications.

~~(11)~~ (13) “Election” means any primary, general, or special election conducted under the provisions of this code or under the charter of any municipality at which the voters nominate or elect

candidates for public office. For purposes of this article, each primary, general, special, or local election constitutes a separate election. This definition is not intended to modify or abrogate the definition of the term "nomination" as used in this article.

~~(12)~~ (14) (A) "Electioneering communication" means any paid communication made by broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement, or ~~published publication~~ in any newspaper, magazine, or other periodical that:

(i) Refers to a clearly identified candidate for Governor, Secretary of State, Attorney General, Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals, or the Legislature;

(ii) Is publicly disseminated within:

(I) Thirty days before a primary election at in which the nomination for office sought by the candidate is to be determined; or

(II) Sixty days before a general or special election at in which the office sought by the candidate is to be filled; and

(iii) Is targeted to the relevant electorate. ~~Provided, That for purposes of the general election of 2008 the amendments to this article are effective October 1, 2008.~~

(B) "Electioneering communication" does not include:

(i) A news story, commentary, or editorial disseminated through the facilities of any broadcast, cable or satellite television, ~~or~~ radio station, newspaper, magazine, or other periodical publication not owned or controlled by a political party, political committee, or candidate: *Provided*, That a news story disseminated through a medium owned or controlled by a political party, political committee, or candidate is nevertheless exempt if the news is:

(I) A bona fide news account communicated in a publication of general circulation or through a licensed broadcasting facility; and

(II) Is part of a general pattern of campaign-related news that gives reasonably equal coverage to all opposing candidates in the circulation, viewing, or listening area;

(ii) Activity by a candidate committee, party executive committee, ~~or~~ a caucus campaign committee, or a political action committee that is required to be reported to the State Election Commission or the Secretary of State as an expenditure pursuant to §3-8-5 of this code or the rules of the State Election Commission or the Secretary of State promulgated pursuant to such provision: *Provided*, That independent expenditures by a party executive committee, ~~or~~ caucus committee, or a political action committee required to be reported pursuant to ~~§3-8-2(b)~~ §3-8-2 of this code are not exempt from the reporting requirements of this section;

(iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election Commission or the Secretary of State or a communication promoting that debate or forum made by or on behalf of its sponsor;

(iv) A communication paid for by any organization operating under Section 501(c)(3) of the Internal Revenue Code of 1986;

(v) A communication made while the Legislature is in session which, incidental to promoting or opposing a specific piece of legislation pending before the Legislature, urges the audience to communicate with a member or members of the Legislature concerning that piece of legislation;

(vi) A statement or depiction by a membership organization in existence prior to the date on which the individual named or depicted became a candidate, made in a newsletter or other communication distributed only to bona fide members of that organization;

(vii) A communication made solely for the purpose of attracting public attention to a product or service offered for sale by a candidate or by a business owned or operated by a candidate which does not mention an election, the office sought by the candidate, or his or her status as a candidate; or

(viii) A communication, such as a voter's guide, which refers to all of the candidates for one or more offices, which contains no appearance of endorsement for or opposition to the nomination or election of any candidate and which is intended as nonpartisan public education focused on issues and voting history.

~~(13)~~ (15) "Expressly advocating" means any communication that:

(A) Uses phrases such as "vote for the Governor", "re-elect your Senator", "support the ~~Democratic incumbent~~ nominee for Supreme Court", "cast your ballot for the Republican challenger for House of Delegates", "Smith for House", "Bob Smith in '04", "vote Pro-Life", or "vote Pro-Choice" accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, "vote against Old Hickory", "defeat" accompanied by a picture of one or more candidates, "reject the incumbent";

(B) ~~Communications of~~ Communicates campaign slogans or individual words that can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, advertisements, etc., which say "Smith's the One", "Jones '06", "Baker", etc; or

(C) Is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

~~(14)~~ (16) "Financial agent" means any individual acting for and by himself or herself, or any two or more individuals acting together or cooperating in a financial way to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party at any election.

(17) "Financial transactions" means all contributions or loans received and all repayments of loans or expenditures made to promote the candidacy of any person by any candidate or any organization advocating or opposing the nomination, election, or defeat of any candidate to be voted on.

(18) "Firewall" means a policy designed and implemented to prohibit the flow of information between employees or consultants providing services for the person paying for a communication and those employees or consultants currently or previously providing services to a candidate, or to a committee supporting or opposing a candidate, clearly identified in the communication.

(19) "Foreign national" means the following:

(A) A foreign principal, as such term is defined in 22 U.S.C. §611(b), which includes:

(i) A government of a foreign country;

(ii) A foreign political party;

(iii) A person outside of the United States, unless it is established that such person:

(I) Is an individual and a citizen of the United States; or

(II) That such person is not an individual and is organized under or created by the laws of the United States or of any state or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(iv) A partnership, association, corporation, organization, or other combination of persons organized under the laws of, or having its principal place of business in, a foreign country.

(B) An individual who is not a citizen of the United States or a national of the United States, as defined in 8 U.S.C. §1101(a)(22), and who is not lawfully admitted for permanent residence, as defined by 8 U.S.C. §1101(a)(20).

~~(15) (20) “Fund-raising event” or “fundraiser” means an event such as a dinner, reception, testimonial, cocktail party, auction, or similar affair through which contributions are solicited or received. by such means as the purchase of a ticket, payment of an attendance fee, or by the purchase of goods or services.~~

(21) “In concert or cooperation with or at the request or suggestion of” means that a candidate or his or her agent consulted with:

(A) The sender regarding the content, timing, place, nature, or volume of a particular communication or communication to be made; or

(B) A person making an expenditure that would otherwise offset the necessity for an expenditure of the candidate or candidate’s committee.

~~(16) (22) “Independent expenditure” means an expenditure by a person:~~

(A) Expressly advocating the election or defeat of a clearly identified candidate, including supporting or opposing the candidates of a political party; and

(B) That is not made in concert or cooperation with or at the request or suggestion of such candidate, his or her agents, the candidate’s authorized political committee, or a political party committee or its agents.

~~Supporting or opposing the election of a clearly identified candidate includes supporting or opposing the candidates of a political party. An expenditure which does not meet the criteria for an independent expenditure is considered a contribution.~~

(23) “Local” refers to the election of candidates to a city, county, or municipal office and any issue to be voted on by only the residents of a particular political subdivision.

~~(17) (24) “Mass mailing” means a mailing by United States mail, facsimile, or electronic mail of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30 day period. For purposes of this subdivision, “substantially similar” includes communications that contain~~

substantially the same template or language, but vary in nonmaterial respects such as communications customized by the recipient's name, occupation, or geographic location.

~~(18)~~ (25) "Membership organization" means a group that grants bona fide rights and privileges, such as the right to vote, to elect officers or directors, and the ability to hold office to its members and which uses a majority of its membership dues for purposes other than political purposes. "Membership organization" does not include organizations that grant membership upon receiving a contribution.

~~(19)~~ (26) "Name" means the full first name, middle name, or initial, if any, and full legal last name of an individual and the full name of any association, corporation, committee, or other organization of individuals, making the identity of any person who makes a contribution apparent by unambiguous reference.

~~(20)~~ (27) "Person" means an individual, corporation, partnership, committee, association, and any other organization or group of individuals.

~~(21)~~ (28) "Political action committee" means a committee organized by one or more persons, ~~for the purpose of supporting or opposing~~ the primary purpose of which is to support or oppose the nomination or election of one or more candidates. The following are types of political action committees:

(A) A corporate political action committee, as that term is defined ~~by subdivision (8) of~~ in this section;

(B) A membership organization, as that term is defined ~~by subdivision (18) of~~ in this section; and

(C) An unaffiliated political action committee, as that term is defined ~~by subdivision (29) of~~ in this section.

~~(22)~~ (29) "Political committee" means any candidate committee, political action committee, or political party committee.

~~(23)~~ (30) "Political party" means a political party as that term is defined by §3-1-8 of this code or any committee established, financed, maintained, or controlled by the party, including any subsidiary, branch, or local unit thereof and including national or regional affiliates of the party.

~~(24)~~ (31) "Political party committee" means a committee established by a political party or political party caucus for the purposes of engaging in the influencing of the election, nomination, or defeat of a candidate in any election.

~~(25)~~ (32) "Political purposes" means supporting or opposing the nomination, election, or defeat of one or more candidates or the passage or defeat of a ballot issue, supporting the retirement of the debt of a candidate or political committee or the administration or activities of an established political party or an organization which has declared itself a political party, and determining the advisability of becoming a candidate under the precandidacy financing provisions of this chapter.

~~(26)~~ (33) "Targeted to the relevant electorate" means a communication which refers to a clearly identified candidate for statewide office or the Legislature and which can be received by 140,000 or more individuals in the state in the case of a candidacy for statewide office, 8,220 or more individuals in the district in the case of a candidacy for the State Senate, and 2,410 or more individuals in the district in the case of a candidacy for the House of Delegates.

~~(27)~~ (34) "Telephone bank" means telephone calls that are targeted to the relevant electorate, other than telephone calls made by volunteer workers, regardless of whether paid professionals designed the telephone bank system, developed calling instructions, or trained volunteers.

~~(28)~~ "Two-year election cycle" means the twenty-four month period that begins the day after a general election and ends on the day of the subsequent general election.

~~(29)~~ (35) "Unaffiliated political action committee" means a political action committee that is not affiliated with a corporation or a membership organization.

~~§3-8-2. Accounts for receipts and expenditures in elections; Requirements for reporting independent expenditures.~~

~~(a)~~ Except for: (1) Candidates for party committeeman and committeewoman; and (2) federal committees required to file under the provisions of 2 U.S.C. §434, all candidates for nomination or election and all persons supporting, aiding or opposing the nomination, election or defeat of any candidate shall keep for a period of six months records of receipts and expenditures which are made for political purposes. All of the receipts and expenditures are subject to regulation by the provisions of this article. Verified financial statements of the records and expenditures shall be made and filed as public records by all candidates and by their financial agents, representatives or any person acting for and on behalf of any candidate and by the treasurers of all political party committees.

~~(b)(1)~~ (a) In addition to any other reporting required by the provisions of this chapter, any person who makes independent expenditures in an aggregate amount or value in excess of \$1,000 during a calendar year shall file a disclosure statement, according to the requirements of §3-8-5 of this code, on a form prescribed by the Secretary of State, that contains all of the following information:

(1) The name of ~~(i)~~ the person making the expenditure;

~~(ii)~~ (2) The name of any person sharing or exercising direction or control over the activities of the person making the expenditure; and

~~(iii)~~ (3) The name of the custodian of the books and accounts of the person making the expenditure;

~~(B)~~ (4) If the person making the expenditure is ~~not an individual~~ an entity, the principal place of business of the partnership, corporation, committee, association, organization, or group which made the expenditure;

~~(C)~~ (5) The amount of each independent expenditure of ~~more than \$1,000~~ made during the period covered by the statement and the name of the person to whom the expenditure was made;

~~(D)~~ (6) The elections to which the independent expenditure pertain, the names, if known, of the candidates referred to or to be referred to therein, whether the expenditure is intended to support or oppose the identified candidates, and the amount of the total expenditure reported pursuant to ~~paragraph (C)~~ subdivision (5) of this subsection spent to support or oppose each of the identified candidates;

~~(E)~~ (7) The name and address of any person who contributed a total of more than \$250 between the first day of the preceding calendar year, and the disclosure date, and whose contributions were made for the purpose of furthering the expenditure;

~~(F)~~ (8) With regard to the contributors required to be listed pursuant to ~~paragraph (E)~~ subsection (7) of this subdivision the statement shall also include:

~~(i)~~ (A) The month, day, and year that the contributions of any single contributor exceeded \$250;

~~(ii)~~ (B) If the contributor is a political action committee, the name and address the political action committee registered with the Secretary of State, county clerk, or municipal clerk;

~~(iii)~~ (C) If the contributor is an individual, the name and address of the individual, his or her occupation, the name and address of the individual's current employer, if any, or, if the individual is self-employed, the name and address of the individual's business, if any;

~~(iv)~~ (D) A description of the contribution, if other than money; and

~~(v)~~ (E) The value in dollars and cents of the contribution; and

~~(G)(1)~~ (9) A certification that such independent expenditure was not made in cooperation, consultation, or concert, with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

~~(2)~~ (b) Any person who makes a contribution for the purpose of funding an independent expenditure under this subsection shall, at the time the contribution is made, provide his or her name, address, occupation, his or her current employer, if any, or, if the individual is self-employed, the name of his or her business, if any, to the recipient of the contribution.

~~(3)~~ (c) The Secretary of State shall expeditiously prepare indices setting forth, on a candidate-by-candidate basis, all independent expenditures separately, made by, ~~or~~ on behalf of, ~~or~~ for, or against each candidate, as reported under this subsection, and ~~for~~ shall periodically ~~publishing~~ publish such indices on a timely pre-election basis.

~~(e)~~ (d)(1) ~~A person, including a political committee, who~~ Any person or political committee that makes or contracts to make independent expenditures aggregating ~~\$1,000~~ \$5,000 or more for any statewide, legislative, or multicounty judicial candidate or \$500 or more for any county office candidate, single-county judicial candidate, committee supporting or opposing a candidate on the ballot in more than one county, or any municipal candidate on a municipal election ballot, after the 15th day, but more than 12 hours, before the date of an election, shall file a report on a form prescribed by the Secretary of State, describing the expenditures within 24 hours: *Provided*, That a person making expenditures ~~in the amount of \$1,000 or more~~ for any statewide or legislative candidate on or after the 15th day but more than 12 hours before the day of any election meeting the criteria of this section, but which are subject to the disclosure requirements of §3-8-2b of this code, shall report such expenditures in accordance with the requirements of §3-8-2b of this code and shall ~~may not file an additional report as provided herein~~ the report otherwise required by this subsection.

(2) Any person who files a report under subdivision (1) of this subsection, shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating ~~\$1,000~~ an additional \$5,000 or more for any statewide, legislative, or multicounty judicial candidate or ~~an additional~~ \$500 with respect to the same election, for any county office, single-county judicial candidate, committee supporting or opposing a candidate on the ballot in more than one county, or any municipal candidate on a municipal election ballot, as that to which the initial report relates.

~~(d)~~ (e) (1) A person, including a political committee, who makes or contracts to make independent expenditures aggregating \$10,000 or more at any time, up to and including the 15th day before the

date of an election, shall file a report on a form prescribed by the Secretary of State, describing the expenditures within 48 hours.

(2) A Any person who files a report under subdivision (1) of this subsection ~~the person~~ shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$10,000 with respect to the same election as that to which the initial report relates.

~~(e)~~ (f) Any communication paid for by an independent expenditure must include a clear and conspicuous public notice that:

(1) Clearly states that the communication is not authorized by the candidate or the candidate's committee; and

(2) Clearly identifies the person making the expenditure: *Provided*, That if the communication appears on or is disseminated by broadcast, cable or satellite transmission, the statement required by this subsection must be both spoken clearly and appear in clearly readable writing at the end of the communication.

~~(f)~~ (g) Any person who has spent a total of \$5,000 or more for the direct costs of purchasing, producing, or disseminating electioneering communications during any calendar year shall maintain all financial records and receipts related to such expenditure for a period of ~~six months~~ five years following the filing of a disclosure pursuant to ~~subsection (a) of this section~~ §3-8-2b of this code and, upon request, shall make such records and receipts available to the Secretary of State or county clerk for the purpose of an audit as provided in §3-8-7 of this code.

~~(g)~~ (h) Any person who willfully fails to comply with this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500, or confined in jail for not more than one year, or both fined and confined.

~~(h)~~ (i)(1) Any person or political committee who is required to file a statement under this section ~~may~~ shall file the statement ~~by facsimile device or electronic mail~~ electronically in accordance with such rules as the Secretary of State may promulgate.

(2) The Secretary of State shall make any document filed electronically, pursuant to this subsection, accessible to the public on the Internet not later than 24 hours after the document is received by the secretary.

(3) In promulgating a rule under this subsection, the secretary shall provide methods, other than requiring a signature on the document being filed, for verifying the documents covered by the rule. Any document verified under any of the methods shall be treated for all purposes, including penalties for perjury, in the same manner as a document verified by signature.

~~(i)~~ (j) This section does not apply to candidates for federal office.

~~(j)~~ (k) The Secretary of State may promulgate emergency and legislative rules, in accordance with the provisions of chapter 29A of this code, to establish guidelines for the administration of this section.

§3-8-4. Treasurers and financial agents; written designation requirements.

(a) No person may act as the treasurer of any political action committee or political party committee supporting, aiding or opposing the nomination, election, or defeat of any candidate for an office encompassing an election district larger than a county unless a written statement of

organization, on a form to be prescribed by the Secretary of State, is filed with the Secretary of State. ~~at least twenty-eight days before the election at which that person is to act as a treasurer and is received by the Secretary of State before midnight, eastern standard time, of that day or, if mailed, is postmarked before that hour. The form shall include the name of the political committee; the name of the treasurer; the mailing address, telephone number and e-mail address, if applicable, of the committee and of the treasurer if different from the committee information; the chairman of the committee; the affiliate organization, if any; type of committee affiliation, as defined in subdivisions (21) and (24), section one-a of this article, if any; and whether the committee will participate in statewide, county or municipal elections. The form shall be certified as accurate and true and signed by the chairman and the treasurer of the committee~~ *Provided, That* A change of treasurer or financial agent may be made at any time by filing a written statement with the Secretary of State.

(b) No person may act as the treasurer for any candidate committee ~~for a candidate for nomination or election to any statewide office, or to any office encompassing an election district larger than a county, or to any legislative office, or any circuit judgeship,~~ unless a written statement of organization designating that person as the treasurer or financial agent is filed with the Secretary of State. ~~at least twenty-eight days before the election at which that person is to act as a treasurer and is received by the Secretary of State before midnight, eastern standard time, of that day or if mailed, is postmarked before that hour~~ *Provided, That* A change of treasurer or financial agent may be made at any time by filing a written statement with the Secretary of State.

(c) No person may act as treasurer of any political committee ~~or as financial agent for any candidate advocating for candidates to be nominated or elected by the voters of a county or a district therein, except legislative and circuit judge candidates, or as the financial agent for a candidate for the nomination or election to any other office,~~ unless a written statement of organization designating him or her as the treasurer ~~or financial agent~~ is filed with the clerk of the county commission or the Secretary of State. ~~at least twenty-eight days before the election at which he or she is to act and is received before midnight, eastern standard time, of that day or if mailed, is postmarked before that hour~~ *Provided, That* A change of treasurer may be made at any time by filing a written statement with the clerk of the county commission.

(d) Prior to engaging in any activity, a political committee shall file a statement of organization required by subsection (a) of this section. A statement of organization form required by this section shall be certified as accurate and true and signed by the treasurer and the chairman of the committee, and shall include the following information:

(1) The name of the political committee;

(2) The name of the treasurer;

(3) The mailing address, telephone number, and e-mail address of the committee;

(4) The mailing address, telephone number, and e-mail address of the treasurer, if different from the committee information;

(5) The name of the chairman of the committee;

(6) The affiliate organization, if any;

(7) The type of political committee, as determined by the description of types of committees included in the definitions of "political committee" and "political action committee" in §3-8-1a of this code; and

(8) Whether the committee will participate in statewide or local elections.

~~(d)~~ (e) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, a filing designating a treasurer for a state, ~~or county,~~ or municipal political ~~executive~~ committee may be made any time before the committee either accepts or spends funds. Once a designation is made by a state, ~~or county,~~ or municipal political ~~executive~~ committee, no additional designations are required under this section until a successor treasurer is designated.

(f) A state, ~~or county,~~ or municipal political ~~executive~~ committee may terminate a designation made pursuant to this section by making a written request to terminate the designation on a form prescribed by the Secretary of State and by stating in the request filing a report of financial information required in §3-8-5 of this code, indicating that the political committee has no funds or debts remaining in the committee's account. This written request shall be filed with either the Secretary of State or the clerk of the county commission as provided by subsections (a), (b), and (c) of this section.

§3-8-5. Detailed accounts and verified financial statements required.

(a) Record-keeping requirements. —

(1) Except for candidates for party committeeman and committeewoman, all candidates for nomination or election to state or local offices and all persons supporting, aiding, or opposing the nomination, election, or defeat of any such candidate shall keep, for a period of five years, records of receipts and expenditures which are made for political purposes.

~~(2) Every candidate, or treasurer, person and association of persons, organization of any kind, including every corporation, directly, or by an independent expenditure, supporting a political committee established pursuant to paragraph (C), subdivision (1), subsection (b), section eight of this article or engaging in other activities permitted by this section and also including the treasurer or equivalent officer of the association or organization, expressly advocating the election or defeat of a clearly identified candidate for state, district, county or municipal office, and the treasurer of every political committee shall keep detailed accounts of every sum of money or other thing of value received by him or her, including all loans of money or things of value and of all expenditures and disbursements made, or liabilities incurred, by the candidate, financial agent, person, association or organization or political committee, for political purposes, or by any of the officers or members of the committee, or any person acting under its authority or on its behalf.~~

(3) A person that is not a political committee and makes independent expenditures or electioneering communications must keep detailed accounts of every sum of money or other thing of value received by him or her for the purpose of furthering any independent expenditure or electioneering communication and of all disbursements made for independent expenditures or electioneering communications.

(b) Financial reporting requirements. —

~~(1) Every person or association of persons required to keep detailed accounts under this section shall file with the officers hereinafter prescribed a detailed itemized sworn statement:~~

~~(1) Of all financial transactions, whenever the total exceeds \$500, which have taken place before the last Saturday in March, to be filed within six days thereafter and annually whenever the total of all financial transactions relating to an election exceeds \$500;~~

~~(2) Of all financial transactions which have taken place before the fifteenth day preceding each primary or other election and subsequent to the previous statement, if any, to be filed within four business days after the fifteenth day;~~

~~(3) Of all financial transactions which have taken place before the thirteenth day after each primary or other election and subsequent to the previous statement, if any, to be filed within twenty business days after the thirteenth day; and~~

~~(4) Of all financial transactions, whenever the total exceeds \$500 or whenever any loans are outstanding, which have taken place before the forty-third day preceding the general election day, to be filed within four business days after the forty-third day. required to keep detailed accounts under subsection (a) of this section shall file a detailed, itemized sworn statement, as prescribed in §3-8-5a and §3-8-5b of this code, according to the following schedule:~~

~~(A) On April 1 of each year, the person shall file a statement of all financial transactions dating from January 1 to March 31 of the same year, to be filed within six days thereafter;~~

~~(B) On July 1 of each year, the person shall file a statement of all financial transactions dating from April 1 to June 30 of the same year, to be filed within six days thereafter;~~

~~(C) On October 1 of each year, the person shall file a statement of all financial transactions dating from July 1 to September 30 of the same year, to be filed within six days thereafter; and~~

~~(D) On January 1 of each year, the person shall file a statement of all financial transactions dating from October 1 to December 31 of the previous year, to be filed within six days thereafter.~~

~~(2) In addition to the statements required in subdivision (1) of this section, a candidate or candidate's committee shall file detailed itemized sworn statements, as prescribed in §3-8-5a and §3-8-5b of this code, according to the following schedule:~~

~~(A) On the 15th day preceding the primary election in which a candidate is on the ballot, the candidate or committee shall file a statement of all financial transactions subsequent to the previous statement, if any, to be filed within four business days after the 15th day; and~~

~~(B) On the 15th day preceding the general election in which a candidate, including an official write-in candidate, is on the ballot, the candidate or committee shall file a statement of all financial transactions subsequent to the previous statement, if any, to be filed within four business days after the 15th day.~~

~~(c) A person required to file reports pursuant to 52 U.S.C. §30104 is exempt from the requirements of subsection (b) of this section but is not exempt from the state-level electioneering communication reports requirements in §3-8-2b of this code or the independent expenditure reporting requirements in §3-8-2 of this code.~~

~~(d) Every person who announces as a is qualified as an official write-in candidate for any elective office and his or her financial agent or election organization of any kind shall individually, or by candidate committee, comply with all of the applicable requirements of this section after public announcement of the person's candidacy has been made.~~

~~(d) For purposes of this section, the term "financial transactions" includes all contributions or loans received and all repayments of loans or expenditures made to promote the candidacy of any person by any candidate or any organization advocating or opposing the nomination, election or defeat of any candidate to be voted on.~~

(e) Candidates for the office of conservation district supervisor elected pursuant to the provisions of ~~article twenty-one-a, chapter nineteen~~ §19-21A-1 et seq. of this code are required to file only the reports required by ~~subdivisions (2) and (3), paragraph (A), subdivision (2),~~ subsection (b) of this section ~~immediately prior to and after the primary election: *Provided*, That during the election in the year 2008, the statements required by this subsection shall be filed immediately prior to and after the applicable general election that is held concurrently with the state's primary election.~~

§3-8-5b. Where financial statements and reports shall be filed; filing date prescribed.

(a) The financial statements provided for in this article shall be filed, by or on behalf of candidates, with:

(1) The Secretary of State for legislative offices, circuit judge, and family court judge, and for statewide and other offices to be nominated or elected by the voters of a political division greater than a county;

(2) The clerk of the county commission by candidates for offices to be nominated or elected by the voters of a single county or a political division within a single county, except circuit judge and family court judge; or

(3) The proper municipal officer by candidates for office to be nominated or elected to municipal office.

~~(b) The statements may be filed by mail, in person, or by facsimile or other electronic means of transmission: *Provided*, That the financial statements filed by or on behalf of candidates for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of Agriculture, and Supreme Court of Appeals, shall be filed electronically by the means of an Internet program that has been established by the Secretary of State on forms or in a format prescribed by the Secretary of State: *Provided*, That after January 1, 2018, unless a committee has been granted an exemption in case of hardship pursuant to subsection (c) of this section, all such statements required to be filed with the Secretary of State, on or behalf of a candidate for any elective office, shall be filed electronically by means of the internet program that has been established by the Secretary of State.~~

(1) The following statements or reports shall be filed electronically, in a manner prescribed by the Secretary of State:

(A) Financial statements filed by or on behalf of candidates for Governor, Secretary of State, Attorney General, Auditor, Treasurer, Commissioner of Agriculture, State Senate, House of Delegates, Supreme Court of Appeals, circuit judge, or family court judge;

(B) Financial statements filed by political committees;

(C) Electioneering communication reports; and

(D) Independent expenditure reports.

(2) If through or by no fault of the candidate, the candidate is unable to file the campaign financial statement, the candidate shall then file said statement in person, via facsimile or other electronic means of transmission, or by certified mail postmarked at the first reasonable opportunity.

~~(e)~~ (3) Committees required to report electronically may apply to the State Election Commission for an exemption from mandatory electronic filing in the case of hardship. An exemption may be granted at the discretion of the State Election Commission.

(c) Candidates for all offices not identified in subsection (b) of this section, may file financial statements by mail, in person, by facsimile, or by other electronic means of transmission. For purposes of this article, the filing date of a financial statement shall, in the case of mailing, be the date of the postmark of the United States Postal Service, and in the case of hand delivery or delivery by facsimile or other electronic means of transmission, the date delivered to the office of the Secretary of State, or to the office of the clerk of the county commission, in accordance with the provisions of subsection (a) of this section, during regular business hours of that office.

~~(e)~~ (d) The sworn financial statements required to be filed by this section with the Secretary of State shall be posted on the Internet by the Secretary of State within 10 business days from the date the financial statement is filed.

§3-8-5c. Contribution limitations.

(a)(1) A person, political party, or political action committee may not, in an election cycle:

(A) Contribute more than \$2,800, directly or indirectly, to a candidate's committee for a candidate seeking nomination, including by making contributions to the candidate's committee; or

(B) Contribute more than \$2,800, directly or indirectly, to a candidate's committee for a candidate seeking election, including by making contributions to the candidate's committee: *Provided*, That a candidate may receive contributions for the general election prior to nomination, however, such funds may not be expended until after the date of the nomination is declared.

(2) The contribution limits of this section apply only to elections to be held after the effective date of this section, and do not apply to candidate committees that were created for elections held prior to the effective date of this section.

(b) A person may not, directly or indirectly, make contributions to a state party executive committee, or any subsidiary, branch, or local unit thereof, or a caucus campaign committee which, in the aggregate, exceed \$10,000 in any calendar year: *Provided*, That a person may not earmark or otherwise designate any portion of a contribution made pursuant to this subsection to be used to support or oppose the election of a particular candidate: *Provided, however*, That any such designation or earmark that accompanies a contribution made pursuant to this subsection may not be binding on the entity that receives the contribution.

(c) A person may not, directly or indirectly, make contributions to a political action committee, related to a particular election, which, in the aggregate, exceed \$5,000.

§3-8-5e. Precandidacy financing and expenditures.

(a) Notwithstanding any other provisions of this code, it is lawful for a person, otherwise qualified to be a candidate for any public office or position to be determined by public election, to receive contributions or make expenditures, or both personally or by another individual acting as a treasurer, to determine the advisability of becoming such a candidate or preparing to be such a candidate: *Provided*, That such contributions may be received and such expenditures made only during the four years immediately preceding the term for which such person may be a candidate or during the term of office immediately preceding the term for which such person may be a candidate, whichever is less: *Provided, however*, That no person is disqualified from receiving contributions or making expenditures as permitted under the provisions of this section solely because such person then holds a public office or position.

(b) Any person undertaking to determine the advisability of becoming or preparing to be a candidate, who desires to receive contributions before filing a certificate of candidacy, ~~shall name~~ shall designate himself or another individual to act as a treasurer and shall file a designation of treasurer in the manner provided in §3-8-4 of this code before receiving any contributions permitted by this section. Any expenditures made before the filing of a designation of treasurer shall be reported in accordance with the provisions of ~~this section~~ §3-8-5 of this code, regardless of the source of funds used for such expenditures.

(c) A person who receives a contribution who is acting for and by himself or herself or as treasurer or agent for another pursuant to the provisions of this section shall keep detailed accounts of every sum of money or other thing of value received by him or her, and of all expenditures and disbursements made, and liabilities incurred, in the same manner as such accounts are required by §3-8-5 of this code. ~~for the period prior to the date of filing for candidacy for the office he is considering seeking. Any person who has received contributions or made expenditures subject to the provisions of this section shall file annually on the last Saturday in March or within six days thereafter preceding the election at which the names of candidates would appear on the ballot for the public office or position which the person originally considered seeking, a detailed itemized statement setting forth all contributions received and expenditures made pursuant to the provisions of this section concerning the candidacy of that person. If the person on whose behalf such contributions are received or expenditures are made becomes a candidate for any office or position to be decided at such election then the itemized statement shall be included within the first statement required to be filed by the provisions of section five of this article. If such person does not become a candidate for any office or position to be decided at such election, then the detailed itemized statements required by this subsection shall be the only statements required to be filed by such person.~~

(d) Regardless of whether such person becomes a candidate as originally intended, ~~or~~ becomes a candidate for some office other than the office or position originally intended, or does not become a candidate, all limits on campaign contributions and campaign expenditures applicable to the candidacy of or advocacy of the candidacy of such person for the office he or she actually seeks, shall be applicable to and inclusive of the receipts had and expenditures made during such precandidacy period as well as after the person becomes a candidate.

§3-8-5g. Prohibition on political contributions and expenditures by foreign nationals.

(a) A foreign national may not, directly or indirectly, make:

(1) A contribution or donation, or an express or implied promise to make a contribution or donation, to a candidate's committee, a political committee, or a political party; or

(2) An independent expenditure or any disbursement for an electioneering communication related to a state or local election.

(b) A person may not solicit, accept, or receive a contribution or donation described in subsection (a) of this section.

§3-8-7. Failure to file statement; delinquent or incomplete filing; criminal and civil penalties.

(a) Any person, candidate, financial agent, or treasurer of a political party committee who fails to file a sworn, itemized statement required by this article within the time limitations specified in this article or who willfully files a grossly incomplete or grossly inaccurate statement is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 or confined in jail for not more than one year, or both fined and confined. Sixty days after any primary or other election, the Secretary of State, county clerk, or municipal recorder, as the case may be, shall give notice of any

failure to file a sworn statement or the filing of any grossly incomplete or grossly inaccurate statement by any person, candidate, financial agent, or treasurer of a political party committee and forward copies of any grossly incomplete or grossly inaccurate statement to the prosecuting attorney of the county where the person, candidate, financial agent, or treasurer resides, is located or has its principal place of business.

(b) (1) Any person, candidate, financial agent, or treasurer of a political party committee who fails to file a sworn, itemized statement as required in this article or who files a grossly incomplete or grossly inaccurate statement ~~may~~ shall be assessed a civil penalty by the Secretary of State of ~~\$25~~ \$10 a day for each day after the due date the statement is delinquent, grossly incomplete, or grossly inaccurate. Sixty days after any primary or other election, the county clerk shall give notice to the Secretary of State of any failure to file a sworn statement or the filing of any grossly incomplete, or grossly inaccurate statement by any person, candidate, financial agent, or treasurer of a political party committee and forward copies of such delinquent, incomplete, or inaccurate statements to the Secretary of State.

(2) A civil penalty assessed pursuant to this section shall be payable to the State of West Virginia and is collectable as authorized by law for the collection of debts.

(3) The Secretary of State may negotiate and enter into settlement agreements for the payment of civil penalties assessed as a result of the filing of a delinquent, grossly incomplete, or inaccurate statement.

(4) The Secretary of State shall publish online, a list of all persons required to file statements with the Secretary of State who file statements after the deadline in an election cycle. This list shall be maintained and be publicly available online to include late activity for, at a minimum, the previous five years up to the current year.

~~(4)~~ (5) The Secretary of State and county clerk may review and audit any sworn statement required to be filed pursuant to this article. The State Election Commission shall propose legislative rules for promulgation, in accordance with §29A-3-1 *et seq.* of this code, to establish procedures for the assessment of civil penalties as provided in this section.

(c) (1) Any candidate, whether nominated by primary election or appointed by executive committee or executive committee chair, who has failed to file any sworn statement as required by this article, relating to the immediately preceding primary election for any office by the 84th day before the general election, is disqualified and may not have his or her name appear on the general election ballot. The provisions of §3-8-5b(d) of this code notwithstanding, any sworn statement filed after the deadline required by §3-8-5 of this code must be received in the office indicated by §3-8-5b(a) of this code by the close of business on the 84th day before the general election.

(2) It is unlawful to issue a commission or certificate of election, or to administer the oath of office, to any person elected to any public office who has failed to file any sworn statement required by this article and no person may enter upon the duties of his or her office until he or she has filed such statement, nor may he or she receive any salary or emolument for any period prior to the filing of the statement.

(3) The vacancy on the ballot created by the disqualification in this subsection is subject to §3-5-19 of this code.

(d) As used in this section, "grossly" means substantive and material, and specifically includes false or misleading representations and acts of omissions.

(e) The Secretary of State shall provide by rule protocols for written notice via certified mail, return receipt requested, to the person, candidate, financial agent, or treasurer of a political party committee that is not in compliance with the requirements of this section. With respect to a violation of subsection (c) of this section, the notice shall be provided 60 days after any primary or other election.

§3-8-8. Corporation contributions forbidden; exceptions; penalties; promulgation of rules; additional powers of State Election Commission.

(a) An officer, agent, or person acting on behalf of any membership organization or any corporation, whether incorporated under the laws of this or any other state or of a foreign country, may not pay, give, lend, or authorize to be paid, any money, or other thing of value belonging to the corporation to any candidate or candidate's campaign committee for nomination or election to any statewide office or any other elective office in the state or any of its subdivisions.

(b) A person may not solicit or receive any payment, contribution, or other thing from any membership organization or any corporation or from any officer, agent, or other person acting on behalf of the membership organization or corporation to any candidate or candidate's campaign committee for nomination or election to any statewide office or any other elective office in the state or any of its subdivisions.

(c)(1) The provisions of this section do not prohibit a membership organization or corporation from soliciting, through any officer, agent, or person acting on behalf of the membership organization or corporation, contributions to a separate segregated fund to be used for political purposes. Any separate segregated fund is considered a political action committee for the purpose of this article and is subject to all reporting requirements applicable to political action committees.

(2) It is unlawful for:

(A) A membership organization, corporation, or separate segregated fund to make a primary or other election contribution or expenditure by using money or anything of value secured: (i) By physical force, job discrimination, or financial reprisal; (ii) by the threat of force, job discrimination, or financial reprisal; or (iii) as a condition of employment;

(B) Any person soliciting a membership organization member, stockholder, or executive, or administrative personnel member and members of their families or their family members for a contribution to a membership organization, corporation, or separate segregated fund to fail to inform the person solicited of the political purposes of the separate segregated fund at the time of the solicitation;

(C) Any person soliciting any other person for a contribution to a membership organization, corporation, or separate segregated fund to fail to inform the person solicited at the time of the solicitation of his or her right to refuse to contribute without any reprisal;

(D) A separate segregated fund established by a membership organization or a corporation: (i) To solicit contributions to the fund from any person other than the membership organization's members or the corporation's stockholders and their families, and or its executive or administrative personnel and their families; or (ii) to contribute any membership organization or corporate funds;

(E) A separate segregated fund established by a membership organization or corporation to receive contributions to the fund from any person other than the membership organization's members or corporation's stockholders and their immediate families and its their executive or administrative personnel and their immediate families;

(F) A membership organization or corporation to engage in job discrimination or to discriminate in job promotion or transfer because of a member's or an employee's failure to make a contribution to the membership organization or corporation or a separate segregated fund;

(G) A separate segregated fund to make any contribution, directly or indirectly, in excess of \$1,000 the amounts permitted in §3-8-5c of this code in connection with or on behalf of any campaign for nomination or election to any elective office in the state or any of its subdivisions, or in connection with or on behalf of any committee or other organization or person engaged in furthering, advancing, supporting, or aiding the nomination or election of any candidate for any such office; or

(H) A membership organization or corporation to pay, give, or lend, or to authorize payment, giving, or lending of any moneys or other things of value belonging to the membership organization or corporation to a separate segregated fund for the purpose of making a contribution to a candidate or a candidate's committee. This provision does not prohibit a separate segregated fund from using the property, real or personal, facilities, and equipment of a membership organization or corporation solely to establish, administer, and solicit contributions to the fund, subject to the rules of the State Election Commission as provided in subsection ~~(d)~~ (e) of this section: *Provided*, That any such membership organization or corporation shall also permit any group of its employees represented by a bona fide political action committee to use the real property of the membership organization or corporation solely to establish, administer, and solicit contributions to the fund of the political action committee, subject to the rules of the State Election Commission promulgated in accordance with said subsection.

(3) For the purposes of this section, the term "executive or administrative personnel" means individuals employed by a membership organization or corporation who are paid on a salary rather than hourly basis and who have policy-making, managerial, professional, or supervisory responsibilities.

(d) Any person, membership organization, or corporation violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000. A membership organization or corporation may not reimburse any person the amount of any fine imposed pursuant to this section.

(e) To ensure uniform administration and application of the provisions of this section and of those of the Federal Election Campaign Act Amendments of 1976 relating to membership organization and corporate contributions, the State Election Commission shall propose rules for legislative approval in accordance with ~~the provisions of §29A-3-1 et seq.~~ of this code, to implement the provisions of this section consistent, insofar as practicable, with the rules and regulations promulgated by the Federal Election Commission to carry out similar or identical provisions of ~~2 U.S.C. §441b~~ 52 U.S.C. §30118.

(f) In addition to the powers and duties set forth in §3-1A-1 et seq. of this code, the State Election Commission has the following powers and duties:

(1) To investigate, upon complaint or on its own initiative, any alleged violations or irregularities of this article.

(2) To administer oaths and affirmations, issue subpoenas for the attendance of witnesses, issue subpoenas duces tecum to compel the production of books, papers, records, and all other evidence necessary to any investigation.

(3) To involve the aid of any circuit court in the execution of its subpoena power.

(4) To report any alleged violations of this article to the appropriate prosecuting attorney having jurisdiction, which prosecuting attorney shall, upon determining that a reason to believe that a violation has occurred, present to the grand jury such alleged violations, together with all evidence relating thereto, no later than the next term of court after receiving the report.

(g) The Attorney General shall, when requested, provide legal and investigative assistance to the State Election Commission.

(h) Any investigation, either upon complaint or initiative, shall be conducted in an executive session of the State Election Commission and shall remain undisclosed except upon an indictment by a grand jury.

(i) Any person who discloses the fact of any complaint, investigation or report or any part thereof, or any proceedings thereon, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000, nor more than \$5,000, and shall be confined in jail not less than six months nor more than one year.

(j) The amendments to this section enacted during the second extraordinary session of the Legislature, 2008, are intended to conform to the existing proscription to constitutionally permissible limits and not to create a new offense or offenses.

~~(k) The effective date of the amendments to this section enacted during the second extraordinary legislative session of 2008 is October 1, 2008.~~

§3-8-9. Lawful and unlawful election expenses; public opinion polls and limiting their purposes; limitation upon expenses; use of advertising agencies and reporting requirements; delegation of expenditures.

(a) No financial agent or treasurer of a political committee shall pay, give, or lend, either directly or indirectly, any money or other thing of value for any election expenses, except for the following purposes:

(1) For rent, maintenance, office equipment, and other furnishing of offices to be used as political headquarters and for the payment of necessary ~~clerks, stenographers, typists, janitors and messengers actually employed therein~~ employees;

(2) In the case of a candidate who does not maintain a headquarters, for reasonable office expenses, including, but not limited to, filing cabinets and other office equipment, and furnishings, computers, computer hardware and software, scanners, typewriters, calculators, audio visual equipment, the rental of the use of the same, or for the payment for the shared use of same with the candidate's business and for the payment of necessary ~~clerks, stenographers and typists actually employed~~ employees;

(3) For printing and distributing books, pamphlets, circulars, and other printed matter, ~~and~~ radio and television broadcasting, and painting, printing and posting signs, banners and other advertisements, including contributions to charitable, educational or cultural events, for the promotion of the candidate or the candidate's name; or an issue on the ballot;

(4) For renting and decorating halls for public meetings and political conventions, for advertising public meetings, and for the payment of traveling expenses of speakers and musicians at such meetings;

(5) For the necessary traveling and hotel expenses of candidates, political agents, and committees and for stationery, postage, telegrams, telephone, express, freight, and public messenger service;

(6) For preparing, circulating, and filing petitions for nomination of candidates;

(7) For examining the lists of registered voters, securing copies thereof, investigating the right to vote of the persons listed therein, and conducting proceedings to prevent unlawful registration or voting;

(8) For conveying voters to and from the polls;

(9) For securing publication in newspapers and by radio and television broadcasting of documents, articles, speeches, arguments, and any information relating to any political issue, candidate, or question or proposition submitted to a vote;

(10) For conducting public opinion poll or polls. For the purpose of this section, the phrase "conducting of public opinion poll or polls" shall mean and be limited to the gathering, collection, collation and evaluation of information reflecting public opinion, needs, and preferences as to any candidate, group of candidates, party, issue, or issues. No such poll shall may be deceptively designed or intentionally conducted in a manner calculated to advocate the election or defeat of any candidate or group of candidates or calculated to influence any person or persons so polled to vote for or against any candidate, group of candidates, proposition, or other matter to be voted on by the public at any election: *Provided*, That nothing herein shall may prevent the use of the results of any such poll or polls to further, promote or enhance the election of any candidate or group of candidates or the approval or defeat of any proposition or other matter to be voted on by the public at any election;

(11) For legitimate advertising agency services, including commissions, in connection with any campaign activity for which payment is authorized by subdivisions (3), (4), (5), (6), (7), (9), and (10) of this subsection;

(12) For the purchase of memorials, flowers, or citations by political party executive committees or political action committees representing a political party;

(13) For the purchase of nominal noncash expressions of appreciation following the close of the polls of an election or within 30 days thereafter;

(14) For the payment of dues or subscriptions to any national, state, or local committee of any political party;

(15) For contributions to a county party executive committee, state party executive committee, or a ~~state party legislative caucus political committee~~ caucus campaign committee; and

(16) For transfers to any national, state, or local committee of any political party when that committee is acting in the role of a vendor: *Provided*, That no such transfer may involve any coordination between the candidate and the political party committee without being considered as a contribution;

(17) For payment for legal and accounting services rendered to a candidate or candidate committee if the services are solely related to the candidacy or campaign;

(18) For payment for food and drink for campaign-related purposes;

(19) For the payment of any required filing fees associated with the campaign, except that a candidate may not pay any fines assessed against the candidate or the candidate's committee pursuant to this article; and

~~(16)~~ (20) For contributions to a candidate committee: *Provided*, That a candidate committee may not contribute to another candidate committee except as otherwise provided by §3-8-10 of this code.

(b) A political action committee may not contribute to another political action committee or receive contributions from another political action committee: *Provided*, That a political action committee may receive contributions from its national affiliate, if any.

(c) Every liability incurred and payment made shall be for the fair market value of the services rendered.

(d) Every advertising agency subject to the provisions of this article shall file, in the manner and form required by §3-8-5a of this code, the financial statements required by §3-8-5 of this code at the times required therein and include therein, in itemized detail, all receipts from and expenditures made on behalf of a candidate, financial agent, or treasurer of a political party committee.

(e) Any candidate may designate a financial agent by a writing duly subscribed by him ~~the candidate~~ which shall be in such form and filed in accordance with ~~the provisions of~~ §3-8-4 of this code.

§3-8-9a. Coordinated expenditures.

(a) Except as provided in §3-8-9b of this code, a coordinated expenditure is considered to be a contribution and is subject to all requirements for contributions contained in this article.

(b) An expenditure made in concert with, in cooperation with, or at the request or suggestion of a candidate or candidate's committee is a coordinated expenditure if the communication resulting from the expenditure is paid for, in whole or in part, by a person other than the candidate, candidate committee, or party committee, and one of the following circumstances exists:

(1) The communication is created, produced, distributed, or undertaken at the request or suggestion of a candidate, candidate committee, or party committee.

(2) The candidate, candidate committee, or party committee is involved in the creation, production, or distribution of the communication, or has had discussions about the communication with any person or the agents of a person who has paid for or played a role in the creation, production, or distribution of the communication: *Provided*, That this paragraph does not apply if the information or materials used in the creation, production, distribution, or undertaking of the communication was obtained from a publicly available source.

(3) Any person involved in the creation, production, or distribution of the communication has, in the four months preceding the date on which the expenditure is made, been an employee or vendor of campaign services for the candidate, candidate committee, or party committee.

(c) An expenditure is not a coordinated expenditure, based solely on any of the following circumstances:

(1) A candidate committee or a political party committee responds to an inquiry about the candidate's or political party committee's positions on legislative or policy issues, including substantive discussion of the legislative or policy issues, but not including a discussion of campaign plans, projects, activities, or needs;

(2) A candidate endorses another candidate;

(3) A candidate solicits funds for another candidate, a political committee, a party committee, or organizations eligible to receive tax-deductible donations under 26 U. S. C. §170 (or any successor provision) and regulations of the U. S. Department of Treasury; or

(4) A candidate is clearly identified only in his or her capacity as the owner or operator of a business that existed prior to the candidacy, if the communication does not refer to an election or another candidate who seeks the same office as that candidate.

(d)(1) An expenditure otherwise meeting the description of a coordinated expenditure contained in subdivision (3), subsection (b) of this section, is not a coordinated expenditure if the commercial vendor, former employee, or political committee at issue has established and implemented a firewall that meets the following requirements:

(A) The firewall is designed and implemented to prohibit the flow of information between employees or consultants providing services for the person paying for the communication and those employees or consultants currently or previously providing services to a candidate, or a committee supporting or opposing a candidate, clearly identified in the communication; and

(B) The firewall is described in a written policy that is distributed to all relevant employees, consultants, and clients affected by the policy.

(2) A communication does not qualify for the exemption contained in this subsection if, despite the firewall, information subject to the firewall concerning a candidate, candidate's committees, or a party committee's campaign plans, projects, activities, or needs that are material to the creation, production, or distribution of the communication is used or conveyed to the person paying for the communication.

(e) Any communication that results from a coordinated expenditure must contain a disclaimer that clearly identifies that the expenditure is coordinated with the candidate, the candidate committee, or the party committee with which it was coordinated.

§3-8-9b. Coordinated expenditures by political party committees and political party caucuses in connection with certain statewide candidates.

(a) Notwithstanding the provisions of §3-8-9a of this code, the state committee of a political party and caucus campaign committee may make coordinated expenditures in an amount not to exceed \$5,000 in connection with the general election campaign of the candidate for each of the following offices: Governor, Attorney General, Auditor, Commissioner of Agriculture, Secretary of State, Treasurer, State Senate, and House of Delegates.

(b) Any communication that results from a political expenditure and is made in coordination with a state committee of a political party and caucus campaign committee must contain a disclaimer that clearly identifies that the expenditure is coordinated with the candidate or candidate's committee with whom it was coordinated.

§3-8-9c. Joint fundraising.

(a) Political committees may engage in joint fundraising efforts with other political committees or with committees registered with the Federal Election Commission pursuant to a written joint fundraising agreement.

(b) A written joint fundraising agreement must be filed with the Secretary of State and must provide terms for the allocation of fundraising proceeds between or among political committees

engaging in the joint fundraising effort. The Secretary of State shall post all joint fundraising agreements on the Internet within 10 business days from the date the agreement is filed.

(c) Any person soliciting funds for a joint fundraising effort shall disclose, in making or publishing solicitations, the name of all political committees involved in the joint fundraising effort and how any proceeds, including any contributions, will be allocated between or among such committees.

(d) A person, not otherwise prohibited by this article from making contributions, may make a contribution to a joint fundraising effort subject to the contribution limits in §3-8-5c of this code.

(e) The State Election Commission shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code, to provide requirements for written joint fundraising agreements and to implement the provisions of this section consistently, insofar as practicable, with the rules and regulations promulgated by the Federal Election Commission in 11 C.F.R. §102.17.

§3-8-12. Additional acts forbidden; circulation of written matter; newspaper advertising; solicitation of contributions; intimidation and coercion of employees; promise of employment or other benefits; limitations on contributions; public contractors; penalty.

(a) A person may not publish, issue, or circulate, or cause to be published, issued, or circulated, any anonymous letter, circular, placard, radio or television advertisement, or other publication supporting or aiding the election or defeat of a clearly identified candidate.

(b) An owner, publisher, editor, or employee of a newspaper or other periodical may not insert, either in its advertising or reading columns, any matter, paid for or to be paid for, which tends to influence the voting at any election, unless directly designating it as a paid advertisement and stating the name of the person authorizing its publication and the candidate in whose behalf it is published.

(c) A person may not, in any room or building occupied for the discharge of official duties by any officer or employee of the state or a political subdivision of the state, solicit orally or by written communication delivered within the room or building, or in any other manner, any contribution of money or other thing of value for any party or political purpose, from any postmaster or any other officer or employee of the federal government, or officer or employee of the state, or a political subdivision of the state. An officer, agent, clerk or employee of the federal government, or of this state, or any political subdivision of the state, who may have charge or control of any building, office or room, occupied for any official purpose, may not knowingly permit any person to enter any building, office, or room, occupied for any official purpose for the purpose of soliciting or receiving any political assessments from, or delivering or giving written solicitations for, or any notice of, any political assessments to, any officer or employee of the state, or a political subdivision of the state.

(d) Except as provided in §3-8-8 of this code, a person entering into any contract with the state or its subdivisions, or any department or agency of the state, either for rendition of personal services or furnishing any material, supplies or equipment or selling any land or building to the state, or its subdivisions, or any department or agency of the state, if payment for the performance of the contract or payment for the material, supplies, equipment, land, or building is to be made, in whole or in part, from public funds may not, during the period of negotiation for or performance under the contract or furnishing of materials, supplies, equipment, land, or buildings, directly or indirectly, make any contribution to any political party, committee, or candidate for public office, or to any person for political purposes or use nor may any person or firm solicit any contributions for any purpose during any period.

(e) A person may not, directly or indirectly, promise any employment, position, work, compensation, or other benefit provided for, or made possible, in whole or in part, by act of the

Legislature, to any person as consideration, favor or reward for any political activity for the support of or opposition to any candidate, or any political party in any election.

(f) ~~Except as provided in §3-8-8 of this code,~~ A person may not, directly or indirectly, make any contribution in excess of the value of \$1,000 amounts permitted by §3-8-5c of this code, in connection with any campaign for nomination or election to or on behalf of any statewide office, in connection with any other campaign for nomination or election to or on behalf of any other elective office in the state or any of its subdivisions, or in connection with or on behalf of any person engaged in furthering, advancing, supporting, or aiding the nomination or election of any candidate for any of the offices.

~~(g) A political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) may not solicit or accept contributions until it has notified the Secretary of State of its existence and of the purposes for which it was formed. During the two-year election cycle, a political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) may not accept contributions totaling more than \$1,000 from any one person prior to the primary election and contributions totaling more than \$1,000 from any one person after the primary and before the general election.~~

~~(h) (g) It is unlawful for any person to create, establish, or organize more than one political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986) committee with the intent to avoid or evade the contribution limitations contained in subsection (g) of this section this article.~~

~~(i) (h) Notwithstanding the provisions of subsection (f) of this section to the contrary, A person may not, directly or indirectly, make contributions to a state party executive committee or state party legislative caucus campaign committee which, in the aggregate, exceed the value of \$1,000 in any calendar year are in excess of the amounts permitted by §3-8-5c of this code in any calendar year.~~

~~(j) (i) The limitations on contributions contained in this section do not apply to transfers ~~between and among~~ a state party executive committee, ~~or a state party's legislative a~~ caucus political campaign committee, ~~from and a~~ national committees of the same political party: *Provided*, That transfers permitted by this subsection may not exceed \$50,000 in the aggregate in any calendar year to any state party executive committee or state party legislative caucus political committee: *Provided, however*, That the moneys transferred may only be used for voter registration and get-out-the-vote activities of the state committees.~~

~~(k) (j) A person may not solicit any contribution, other than contributions to a campaign for or against a county or local government ballot issue, from any nonelective salaried employee of the state government or of any of its subdivisions: *Provided*, That in no event may any person acting in a supervisory role solicit a person who is a subordinate employee for any contribution. A person may not coerce or intimidate any nonelective salaried employee into making a contribution. A person may not coerce or intimidate any nonsalaried employee of the state government or any of its subdivisions into engaging in or refraining from any form of political activity. The provisions of this subsection may not be construed to prevent any employee from making a contribution or from engaging in political activity voluntarily without coercion, intimidation or solicitation.~~

~~(l) (k) A person may not solicit a contribution from any other person without informing the other person at the time of the solicitation of the amount of any commission, remuneration or other compensation that the solicitor or any other person will receive or expect to receive as a direct result of the contribution being successfully collected. Nothing in this subsection may be construed to apply to solicitations of contributions made by any person serving as an unpaid volunteer.~~

~~(m)~~ (l) A person may not place any letter, circular, flyer, advertisement, election paraphernalia, solicitation material or other printed or published item tending to influence voting at any election in a roadside receptacle unless it is: (1) Approved for placement into a roadside receptacle by the business or entity owning the receptacle; and (2) contains a written acknowledgment of the approval. This subdivision does not apply to any printed material contained in a newspaper or periodical published or distributed by the owner of the receptacle. The term "roadside receptacle" means any container placed by a newspaper or periodical business or entity to facilitate home or personal delivery of a designated newspaper or periodical to its customers.

~~(n)~~ (m) Any person violating any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or confined in jail for not more than one year, or, both fined and confined.

~~(o)~~ The provisions of subsection (k) of this section, permitting contributions to a campaign for or against a county or local government ballot issue shall become operable on and after January 1, 2005.

~~(p)~~ The limitations on contributions established by subsection (g) of this section do not apply to contributions made for the purpose of supporting or opposing a ballot issue, including a constitutional amendment."

In anticipation of requests pursuant to House Rule 49, the Speaker informed the Delegates that all one hundred members of the House of Delegates were members of a class of persons possibly to be affected by the passage of the bill and were directed to vote.

Delegates Byrd, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Robinson, Rowe, Skaff, Staggers, Swartzmiller, C. Thompson, R. Thompson, Walker, Williams and Zukoff moved to amend the amendment on page 22, Section 5c, line 2, by striking out the number "2,800" and inserting in lieu thereof the number "1,000";

And,

On page 22, Section 5c, line 5, by striking out the number "2,800" and inserting in lieu thereof the number "1,000";

And,

On page 23, Section 5c, line 14, by striking out the number "10,000" and inserting in lieu thereof the number "2,000";

And,

On page 23 Section 5c, line 20 by striking out the number "5,000" and inserting in lieu thereof the number "1,000".

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

The yeas and nays having been ordered, they were taken (**Roll No. 638**), and there were—yeas 42, nays 55, absent and not voting 3, with the yeas and absent and not voting being as follows:

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

Absent and Not Voting: Cooper, Dean and Malcolm.

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

An amendment, offered by Delegates Robinson, Byrd, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pushkin, Pyles, Rowe, Rodighiero, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff, was reported by the Clerk, on page 18, Section 5, line 3, by following the words "or local offices" by inserting a comma and the words "caucus campaign committees" and the comma.

Whereupon,

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

Delegates Robinson, Byrd, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pushkin, Pyles, Rowe, Rodighiero, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moved to amend the amendment on page 20, section 5, line 47, following the period, by inserting the following language:

"(f) In addition to other reporting required under this article, any caucus campaign committee shall disclose the receipt of all contributions, including the source and amounts, within five days of receipt of the contribution. 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 forty-eight hours of the Secretary of State receiving the completed form: *Provided*, That as an alternative, The Secretary of State is authorized to establish a means for electronic filing and disclosure. The Secretary of State may propose legislative and emergency rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, relating to implementing the procedures and policies consistent with this section."

Delegate Robinson asked unanimous consent to reform the amendment, which consent was not given, objection being heard.

Delegate Robinson then moved to reform the amendment.

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

Having been ordered, the yeas and nays were taken (**Roll No. 639**), and there were—yeas 48, nays 49, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Graves, Hansen, Hartman, Hicks, Hornbuckle, Jennings, Kessinger, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Paynter, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers,

Swartzmiller, Sypolt, C. Thompson, R. Thompson, Tomblin, Walker, Williams, Zukoff and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cooper, Dean and Malcolm.

So, a majority of the members present and voting not having voted in the affirmative, the motion to reform the amendment did not prevail.

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

The yeas and nays having been ordered, they were taken (**Roll No. 640**), and there were—yeas 41, nays 56, absent and not voting 3, with the yeas and absent and not voting being as follows:

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

Absent and Not Voting: Cooper, Dean and Malcolm.

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

Delegates Lovejoy, Byrd, Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Campbell, Canestraro, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pushkin, Pyles, Robinson, Rowe, Rodighiero, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff moves to amend the bill on page 13, Section 2, lines 30, 31 and 32, by striking out paragraph (7) and inserting in lieu thereof, the following:

~~“(E) (7) The name and address of any person who contributed a total of more than \$250 to the entity making the expenditure between the first day of the preceding calendar year, and the disclosure date: and whose contributions were made for the purpose of furthering the expenditure *Provided*. That any contribution placed into a separate segregated account that is not used for campaign-related expenditures, any money received in the ordinary course of any trade or business or any contribution that is explicitly made for a nonpolitical purpose is not required to be reported.”~~

On page 13, Section 2, after the semi-colon on line 41, by inserting a new subsection (D) to read as follows:

“(D) If the contributor is an entity other than a registered political action committee subject to the requirements of this article or an individual, the information required by subsection (e), section eight-a of this article;” and re-letter subsequent subsections accordingly;

On page 31, after line 100, by inserting a new section, designated 3-8-8a, to read as follows:

“§3-8-8a. Disclosure requirements for covered transfers.

(a) The Legislature finds that:

(1) An informed public is critical for the government of this state to function successfully as a true democracy;

(2) There has been a dramatic influx of “dark money” political advertising in recent election cycles that make it difficult or sometimes impossible for the public to determine who is funding campaign-related disbursements for or against certain candidates;

(3) The United States Supreme Court has found that campaign-related disbursements are protected speech under the First Amendment and, therefore, states have a limited ability to restrict campaign-related disbursements;

(4) The United States Supreme Court has found, on the other hand, that requiring reasonable disclosures does not violate the First Amendment because the disclosure requirements do not restrict the speech, but rather help inform the public about the speech;

(5) It is now common practice for the money used to fund campaign-related disbursements to be transferred through multiple entities in an effort to sidestep state and federal campaign finance disclosure laws, thereby creating the so-called dark money;

(6) The prevalence of dark money funding political advertising, combined with the increase in dubious and misleading names for these organizations, serves to potentially mislead the voting public by eliminating the public’s ability to know who funded the communication and, therefore, who is exercising their First Amendment protected speech; and

(7) Requiring greater disclosures of covered transfers, as defined in this section, will serve the state’s interest and the public’s interest in shining light on dark money and ensuring that the voters of this state will know who pays for campaign-related disbursements made by these currently unknown organizations.

(b) For the purposes of this section:

(1) “Affiliate” means two or more persons where:

(A) The governing instrument of one person is required to be bound by decisions of the other person;

(B) The governing board of one person includes individuals who are specifically designated representatives of the other person or are members of the governing board, officers or paid executive staff members of the other person, or whose service on the governing board is contingent upon the approval of the other person; or

(C) The person is chartered by the other person;

(2) “Campaign-related disbursement” means an independent expenditure consisting of a public communication or an electioneering communication, as those terms are defined in this article;

(3) “Covered transfer” means any transfer or payment of funds by a person to another person if:

(A) The person making the transfer designates, requests or suggests that the amounts be used for one or more campaign-related disbursements or for making a transfer to another person for the purpose of making or paying for one or more campaign-related disbursements;

(B) The person made the transfer or payment in response to a solicitation or other request for donation or payment for the making of or paying for one or more campaign-related disbursements or for making a transfer to another person for the purpose of making or paying for one or more campaign-related disbursements; or

(C) The person engaged in discussions with the recipient of the transfer or payment regarding the making of or paying for campaign-related disbursements or donating or transferring any amount of that transfer or payment to another person for the purpose of making or paying for one or more campaign-related disbursements;

(4) "Covered transfer" does not include:

(A) A disbursement made by a person in the ordinary course of any trade or business or in the form of investment; or

(B) A disbursement made by a person if the person prohibited, in writing, the use of that disbursement for campaign-related disbursements and the recipient of the funds agreed to follow the prohibition and deposited the disbursement in an account which is segregated from any account used to make campaign-related disbursements; and

(5) "Person" means an individual, corporation, partnership, committee, association and any other legal entity, organization or group of individuals, including, but not limited to, an organization described in section 501(c) of the Internal Revenue Code of 1986 and any political organization under section 527 of the Internal Revenue Code of 1986, other than a political committee with an account established under this article that complies with the contribution limits and source prohibitions of this article with respect to accounts established for that purpose.

(c) When a person receives a covered transfer of \$10,000 or more, the recipient shall notify the contributor that the contributor must submit the information required in subsection (d) of this section within forty-eight hours of the transfer: *Provided*, That if the contributor and the recipient of the covered transfer are affiliates then this subsection only applies to transfers of \$50,000 or more. The recipient of the covered transfer may not make a covered transfer of funds or a campaign-related disbursement until it receives the information required by subsection (d) of this section from the contributor. If the contributor of the covered transfer fails to send the information required by subsection (d) of this section, then the recipient shall return the covered transfer funds to the contributor or immediately transfer the funds into another account that is not used to campaign-related expenditures in this state.

(d) All persons making covered transfers that meet the thresholds set forth in subsection (c) of this section, shall submit within forty-eight hours of the covered transfer the following information to the recipient:

(1) The name and address of any person who contributed a total of more than the maximum contribution amount that an individual may make to a political candidate, as stated in section 5c of this article, to the person making the covered transfer within the previous twelve months;

(2) The month, day, and year that the contributions of any single contributor exceeded the maximum contribution amount that an individual may make to a political candidate, as stated in section 5c of this article;

(3) If the person is a political action committee, the name and address the political action committee registered with the Secretary of State, county clerk or municipal clerk;

(4) If the person is an individual, the person's name, occupation, employer name, if any, and if the individual is self-employed, the name of the individual's business and address of the business; and

(5) A description of the contribution, if other than money, and the value in dollars and cents of the contribution.

(e) If a person makes a campaign-related disbursement that is an independent expenditure regulated by section two of this article, then it shall disclose in the filing required by section two of this article, all of the information required by section two of this article and all of the information received pursuant to subsections (c) and (d) of this section from any covered transfer received in the twenty-four months prior to the campaign-related disbursement. If a person makes a campaign-related disbursement that is an electioneering communication regulated by section two-b of this article, then it shall disclose in the filing required by section two-b of this article, all of the information required by section two of this article and all of the information received pursuant to subsections (c) and (d) of this section from any covered transfer received in the twenty-four months prior to the campaign-related disbursement.

(f) Any person who willfully fails to comply with this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 and not more than \$100,000, or confined in jail for not more than one year, or both fined and confined.

(g) The Secretary of State may promulgate emergency rules and propose legislative rules, in accordance with the provisions of chapter twenty-nine-a of this code, to implement the provisions of this section, and re-letter subsequent sections accordingly."

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

The yeas and nays having been ordered, they were taken (**Roll No. 641**), and there were—yeas 41, nays 56, absent and not voting 3, with the yeas and absent and not voting being as follows:

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

Absent and Not Voting: Cooper, Dean and Malcolm.

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

On motion of Delegate Capito, the amendment was amended, on page 17, section 5, line 4, immediately following the words "period of" by striking out the word "five" and inserting in lieu thereof the word "two".

Delegate Byrd moved to amend the amendment on page 14, section 2, line 57, following the word "statewide" by striking out the comma and the words "legislative, or multicounty judicial";

On page 14, Section 2, line 58, following the words "judicial candidate," by inserting the words "or multicounty judicial candidate, or legislative candidate, or";

On page 14, Section 2, lines 70 and 71, following the word “statewide” by striking out the comma and the words “legislative, or multicounty judicial”;

On page 14, Section 2, line 72, following the words “judicial candidate,” by inserting the words “or multicounty judicial candidate, or legislative candidate, or”;

On page 22, Section 5c, line 2, following the words “or indirectly” by striking out the comma and inserting the following: “for any statewide election and \$1,000 directly or indirectly for all other elections,”;

And,

On page 22, Section 5c, line 5, following the words “or indirectly” by striking out the comma and inserting the following: “for any statewide election and \$1,000 directly or indirectly for all other elections,”.

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

The yeas and nays having been ordered, they were taken (**Roll No. 642**), and there were—yeas 41, nays 56, absent and not voting 3, with the yeas and absent and not voting being as follows:

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

Absent and Not Voting: Cooper, Dean and Malcolm.

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

The question before the House being the amendment offered by Delegate Shott, as amended, 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 56, nays 41, absent and not voting 3, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Cooper, Dean and Malcolm.

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

There being no further amendments, the bill was read a third time.

Speaker Pro Tempore Cowles in the Chair

Delegate Hanna demanded the previous question which demand was sustained.

Mr. Speaker, Mr. Hanshaw, in the Chair

On this question, the yeas and nays were taken (**Roll No. 644**), and there were—yeas 57, nays 40, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Anderson, Angelucci, Barrett, Bates, Boggs, S. Brown, Byrd, Campbell, Canestraro, Caputo, Cowles, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, J. Kelly, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rowe, Skaff, Sponaugle, Staggers, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Cooper, Dean and Malcolm.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 645**), and there were—yeas 53, nays 44, absent and not voting 3, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Cooper, Dean and Malcolm.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 622) passed.

Delegate Sponaugle moved to amend the title of the bill to read as follows:

Com. Sub. for S. B. 622 - "A Bill to amend and reenact §3-8-1a, §3-8-2, §3-8-4, §3-8-5, §3-8-5b, §3-8-5e, §3-8-7, §3-8-8, §3-8-9, and §3-8-12 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto five new sections, designated §3-8-5c, 3-8-5g, §3-8-9a, §3-8-9b, and §3-8-9c, all relating generally to the regulation and control of elections; modifying and adding definitions; modifying requirements for information to be included in independent expenditure reports; providing that persons or committees required to file federal expenditure reports are not exempt from requirement to file state-level expenditure and electioneering disclosure reports; raising the threshold amounts for required disclosure of independent expenditures occurring within a certain time frame preceding elections; requiring electronic filing of certain financial disclosure statements; removing the deadline before an election for a political action committee or political party committee to file a statement of organization; modifying record-keeping requirements for certain receipts and expenditures made for political purposes and requiring that records be maintained for a period of five years; modifying deadlines for financial disclosure reports; providing that candidates for certain offices may file financial disclosure statements by mail, facsimile, or electronic means; modifying limits on contributions to candidates and candidate committees; modifying limits on contributions to state party executive committees and legislative caucus campaign committees; modifying limits on contributions to political action committees; providing that precandidates may accept contributions for a general election campaign prior to nomination, but may not expend such funds until after nomination is declared; providing that persons receiving precandidacy contributions are subject to certain expenditure reporting requirements; prohibiting foreign nationals from making contributions or

donations to candidates, committees, and parties, and prohibiting receipt of a contribution or donation by a foreign national; modifying daily rate of civil penalty for persons filing late, inaccurate, or incomplete financial statements; requiring the Secretary of State to publish an online list of persons filing late financial statements; providing that membership organizations are subject to certain limitations applying to corporate contributions and solicitation of contributions by corporations; adding certain expenses to the list of permissible expenses of political committees; providing that coordinated expenditures are treated as contributions and providing exceptions thereto; permitting political party committees and legislative caucus campaign committees to make coordinated expenditures up to certain limits in connection with certain state-level candidates; permitting political committees to engage in joint fundraising efforts pursuant to a written agreement filed with the Secretary of State subject to certain requirements; requiring the Secretary of State to promulgate legislative rules pertaining to joint fundraising efforts; permitting unlimited transfers of money between and among state party executive committees, legislative caucus campaign committees, and national committees of the same political party for voter registration and get-out-the-vote initiatives; providing that prohibition against intimidating or coercing certain government employees into engaging in political activity also extends to intimidating or coercing employees into refraining from political activity; eliminating prohibition on a political organization organized under Section 527 of the Internal Revenue Code from soliciting or accepting donations before registering with the Secretary of State; providing that it is unlawful for any person to establish more than one political committee with the intent to evade contribution limitations; and deleting obsolete language.

PREAMBLE: This Act shall be known as the 'BOUGHT AND PAID FOR ACT OF 2019'

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. 646**), and there were—yeas 38, nays 59, absent and not voting 3, with the yeas and absent and not voting being as follows:

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

Absent and Not Voting: Cooper, Dean and Malcolm.

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

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

Second Reading

Com. Sub. for S. J. R. 5, Clarification of the Judiciary's Role in Impeachment Proceedings Amendment; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one, by striking everything after the resolved clause and inserting in lieu thereof the following:

“That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2020, which proposed amendment is that section nine, article IV thereof, be amended to read as follows:

ARTICLE IV.

§9. Impeachment of officials.

Any officer of the state may be impeached for maladministration, corruption, incompetency, gross immorality, neglect of duty, or any high crime or misdemeanor. The House of Delegates shall have the sole power of impeachment. The Senate shall have the sole power to try impeachments and no person shall be convicted without the concurrence of two thirds of the members elected thereto. When sitting as a court of impeachment, the ~~president~~ Chief Justice of the Supreme Court of Appeals, or, if from any cause it be improper for him or her to act, then any other ~~judge~~ justice of that court, to be designated by it, shall preside; and the senators shall be on oath or affirmation, to do justice according to law and evidence. Judgment in cases of impeachment shall not extend further than removal from office and, if a conviction is had, and disqualification of the person convicted to hold any office of honor, trust, or profit, under the state by a concurrence of two thirds of the members elected to the Senate; but the party convicted shall be liable to indictment, trial, judgment, and punishment according to law. The Senate may sit during the recess of the Legislature for the trial of impeachments.

No court of this state shall have any jurisdiction or authority to stay or enjoin an impeachment proceeding or a trial of impeachment. No rule of practice or procedure adopted by the House of Delegates or the Senate for impeachment proceedings or by the Senate for a trial on articles of impeachment shall be subject to any judicial review or judicial interpretation.

Resolved further, That in accordance with the provisions of article eleven, chapter three of the Code of West Virginia, 1931, as amended, such amendment is hereby designated as the “Clarification of the Judiciary’s Role in Impeachment Proceedings Amendment”, and the purpose of the proposed amendment is summarized as follows: “Declaring that rules of practice or procedure of the House of Delegates and Senate relating to impeachment and trials of impeachment are not subject to judicial review or interpretation and that courts of this state have no jurisdiction or authority to stay or enjoin impeachment proceedings of the House of Delegates or impeachment trials in the Senate; and clarifying that a separate vote of two thirds of the members of the Senate is required to disqualify a person from any office of honor, trust, or profit.”

The bill was then ordered to third reading.

S. B. 677, Supplemental appropriation to Division of Health and Division of Human Services; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Householder, the bill was amended on page one, following line eleven, by the inserting the following;

“WHEREAS, The Governor submitted to the Legislature a statement of the State Fund, General Revenue and Executive Message dated March 6, 2019, which included a revised estimate of revenues for the fiscal year 2019; and”.

The bill was then ordered to third reading.

S. B. 678, Supplemental appropriation from State Excess Lottery Revenue Fund to Office of Technology; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 679, Supplemental appropriation to Division of Finance; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Householder, the bill was amended on page one, line eight, following the words "fiscal year 2019; and" by the inserting the following;

"WHEREAS, The Governor submitted to the Legislature a statement of the State Fund, General Revenue and Executive Message dated March 6, 2019, which included a revised estimate of revenues for the fiscal year 2019; and".

The bill was then ordered to third reading.

S. B. 680, Supplemental appropriations to various divisions in DMAPS; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Householder, the bill was amended on page one, line eleven, following the words "fiscal year 2019; and" by the inserting the following:

"WHEREAS, The Governor submitted to the Legislature a statement of the State Fund, General Revenue and Executive Message dated March 6, 2019, which included a revised estimate of revenues for the fiscal year 2019; and";

And,

On page 2, line 21, by striking out "0570" and inserting in lieu thereof "0446".

The bill was then ordered to third reading.

S. B. 681, Supplemental appropriation from Lottery Net Profits to Educational Broadcasting Authority; on second reading, coming up in regular order, was read a second time and ordered to third reading.

H. C. R. 33, Applying to the Congress of the United States to call a convention for proposing amendments pursuant to Article V; on unfinished business, was reported by the Clerk.

Delegate Robinson moved to table the resolution,

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. 647**), and there were—yeas 44, nays 51, absent and not voting 5, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Atkinson, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Cowles, Criss, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, J. Kelly, Kump, Lavender-Bowe, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Cooper, Dean, Longstreth, Malcolm and Skaff.

So, a majority of the members present and voting not having voted in the affirmative, the motion to table the resolution was rejected.

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

On this question, the yeas and nays were taken (**Roll No. 648**), and there were—yeas 53, nays 43, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Anderson, Atkinson, Bibby, S. Brown, Butler, Byrd, Cadle, Canestraro, Cowles, Doyle, Espinosa, Fast, Foster, Graves, Hamrick, Hardy, Hicks, Hollen, Hornbuckle, Howell, D. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Linville, Lovejoy, Mandt, C. Martin, Miley, Pack, Pethtel, Phillips, Porterfield, Queen, Rowan, Rowe, Sponaugle, C. Thompson, Williams, Wilson, Zukoff and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cooper, Dean, Malcolm and Skaff.

So, a majority of the members present and voting having voted in the affirmative, the motion prevailed.

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

Having been ordered, the yeas and nays were taken (**Roll No. 649**), and there were—yeas 40, nays 56, absent and not voting 4, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Azinger, Bibby, Butler, Cadle, Capito, Ellington, Fast, Foster, Graves, Hamrick, Hanna, Harshbarger, Higginbotham, Hill, Hott, Householder, Howell, D. Jeffries, J. Jeffries, Jennings, Kessinger, Linville, Mandt, C. Martin, P. Martin, Maynard, McGeehan, Pack, Paynter, Phillips, Queen, Rohrbach, Steele, Summers, Sypolt, Toney, Waxman, Wilson and Worrell.

Absent and Not Voting: Cooper, Dean, Malcolm and Skaff.

So, a majority of the members present and voting not having voted in the affirmative, the Speaker declared the resolution (H. C. R. 33) rejected

H. C. R. 61, Applying to and urging Congress to call a convention of the states to limit the terms of office; on unfinished business, was reported by the Clerk.

Delegate Byrd moved that action on the resolution be postponed until West Virginia implements term limits for legislators.

Delegate Foster moved to table the motion.

Subsequently,

Delegate Foster then withdrew his motion.

On the question to postpone to a date certain, the yeas and nays were demanded, which demand was sustained.

Having been ordered, the yeas and nays were taken (**Roll No. 650**), and there were—yeas 41, nays 56, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Angelucci, Barrett, Bates, Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Caputo, Cowles, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman,

Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Cooper, Dean and Malcolm.

So, a majority of the members present and voting not having voted in the affirmative, the motion to postpone to a date certain 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. 651**), and there were—yeas 55, nays 42, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Atkinson, Barrett, Bates, Boggs, S. Brown, Byrd, Campbell, Canestraro, Caputo, Cowles, Diserio, Doyle, Espinosa, Estep-Burton, Evans, Fleischauer, Fluharty, Graves, Hansen, Hartman, Hicks, Hornbuckle, J. Kelly, Kump, Lavender-Bowe, Longstreth, Lovejoy, Miley, Miller, Pethtel, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Staggers, Swartzmiller, C. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Cooper, Dean and Malcolm.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the resolution (H. C. R. 61) adopted.

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

Delegate Porterfield moved to reconsider the vote on the adoption of H. C. R. 33.

On this question, the yeas and nays were taken (**Roll No. 652**), and there were—yeas 34, nays 63, absent and not voting 3, with the yeas and absent and not voting being as follows:

Yeas: Bibby, Butler, Cadle, Fast, Foster, Graves, Hamrick, Hanna, Hardy, Harshbarger, Hill, Hollen, Hott, Howell, D. Jeffries, J. Jeffries, Jennings, Kessinger, Linville, Mandt, C. Martin, P. Martin, Maynard, Pack, Paynter, Phillips, Porterfield, Rowan, Steele, Summers, Toney, Waxman, Wilson and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cooper, Dean and Malcolm.

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

At 8:56 p.m., the House of Delegates recessed for ten minutes.

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Evening Session

* * * * *

-continued-

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

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 2004, Providing for a program of instruction in workforce preparedness.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On pages one and two, by striking out all of section seven-d and inserting in lieu thereof a new section, designated section seven-d, to read as follows:

§18-2-7d. Program in workforce preparedness.

(a) The Legislature finds that, in addition to specialized skills relating to specific professions and trades, students will be better prepared to enter the workforce and succeed in their chosen fields of employment or education by having the opportunity to participate in training related to general workforce preparedness, productive workplace skills and processes, time management and efficiency, and teamwork and leadership competencies in the workplace. The Legislature further finds that employers in the state are the best source for articulating the general skills and attributes they, in common, seek in future employees and that employers may collaborate in the development of a graduate profile incorporating these skills and attributes.

(b) The state board shall promulgate a rule pursuant to 29A-3B-1 *et seq.* of this code that adopts a program of instruction in general workforce and career preparedness for all students. The program of instruction shall include guidelines for schools working through their local school improvement councils and business partners to communicate to students the common skills and attributes sought by employers in prospective employees."

On page two, section forty, by striking out the section caption and substituting therefor a new section caption, to read as follows:

§18-2-42. Providing career and technical education program information to students and parents; transcript of post-secondary credit; career technical education student participation in graduation ceremony.;

On page three, section forty, line two, by striking out the words "the State Fire Commission and State Fire Marshal";

On page three, section forty, line eighteen, by striking out the word "to";

On page three, section forty, after line twenty-five, by adding a new subsection, designated subsection (d), to read as follows:

(d) Any career technical education student who fulfills the high school graduation requirements required of other students in the district in which he or she is enrolled shall be eligible to participate in the graduation ceremony in the same manner as all other students in the district.;

On page five, section four, line twenty-eight, by striking out the words "Collaborative Degree Completion Program" and inserting in lieu thereof the words "any program that allows students to earn college credit while they are still in high school";

On page seven, section four, lines seventy-four through seventy-six, after the word “competency.” by striking out the remainder of the subdivision;

On page seven, section four, lines eighty-one and eighty-two, by striking out the words “Work Force Investment Act” and inserting in lieu thereof the words “Workforce Innovation and Opportunity Act”;

On page nine, section four, line one hundred twenty-eight, by striking out the words “Bridgemont Community and Technical College and Kanawha Valley” and inserting in lieu thereof the word “BridgeValley”;

On page nine, section four, line one hundred thirty-one, by striking out the words “Bridgemont Community and Technical College; Kanawha Valley” and inserting in lieu thereof the word “BridgeValley”;

On page nine, section four, line one hundred forty-eight, by striking out the word “Bridgemont” and inserting in lieu thereof the word “BridgeValley”;

On page ten, section four, lines one hundred sixty-seven through one hundred seventy-four, by striking out all of subdivision (4) and inserting in lieu thereof a new subdivision, designated subdivision (4), to read as follows:

(4) Submits annually the Carl D. Perkins local planning guide to the council and the state board.;

And,

On page eleven, section four, lines one hundred ninety-one through two hundred, by striking out all of subsection (f) and inserting in lieu thereof a new subsection, designated subsection (f), to read as follows:

(f) The State Superintendent of Schools and the Chancellor for the Council for Community and Technical College Education are responsible for annually evaluating the progress made in meeting the goals for each consortium through the development and collection of performance indicator data.”

And,

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

Com. Sub. for H. B. 2004 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §18-2-7d and §18-2-42; to amend and reenact section §18B-3C-4 of said code; to amend said code by adding thereto a new article, designated §21-1E-1, §21-1E-2, §21-1E-3 and §21-1E-4; to amend and reenact section §29-3-9 of said code; and to amend said code by adding thereto a new article, designated §30-1E-1, §30-1E-2, §30-1E-3 and §30-1E-4, all relating to requiring a state board rule that adopts a program of instruction in general workforce and career preparedness; providing career and technical education program information to students and parents; requiring transcript of certain post-secondary credits earned by public school students to be provided to them; ensuring that certain career technical education students are eligible to participate in the graduation ceremony in the same manner as all other students in the district; elevating priority on program integration to meet region and state labor market needs by community and technical college/career and technical education consortia; requiring the facilitating institution to annually submit the Carl D. Perkins local planning guide to the Council for Community and Technical College Education and State Board of Education; providing for joint State Board and Council for Community and Technical College Education guidelines on administration of the code section

requiring the formation of community and technical college/career and technical education consortia; providing joint responsibility of State Superintendent and Chancellor for certain activities and reporting; requiring standards and procedures for recognizing career technical training acquired in public schools, apprenticeships and training programs toward occupational testing, certification and/or licensure; establishing purpose and intent; providing definitions; requiring rules providing standards and procedures be proposed by Commissioner of Labor, State Fire Commission, State Fire Marshal and the professions and occupations licensing boards and commissions.”

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. 653**), 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: Cooper, Dean, Malcolm and Skaff.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2004) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2010, Relating to foster care.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

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

“ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-27. Transitioning foster care into managed care.

(a) “Eligible services” means acute care, including medical, pharmacy, dental, and behavioral health services.

(b) The secretary shall transition to a capitated Medicaid program for a child classified as a foster child and a child placed in foster care under Title IV-E of the Social Security Act who is living in the state by January 1, 2020. The program shall be statewide, fully integrated, and risk based; shall integrate Medicaid-reimbursed eligible services; and shall align incentives to ensure the appropriate care is delivered in the most appropriate place and time.

(c) The secretary shall make payments for the eligible services, including home and community-based services, using a managed care model.

(d) The secretary shall submit, if necessary, applications to the United States Department of Health and Human Services for waivers of federal Medicaid requirements that would otherwise be violated in the implementation of the program, and shall consolidate any additional waivers where

appropriate: *Provided*, That this subsection does not apply to the Aged and Disabled Waiver, the Intellectual/Developmental Disabilities Waiver, and the Traumatic Brain Injury Waiver.

(e) If a selected managed care organization ceases to contract with the Department of Health and Human Services to provide Medicaid managed care services, it must provide all patient records, including medical records, to the next selected managed care organization to ensure the Eligible Medicaid Beneficiaries do not experience an interruption in care.

(f) In designing the program, the secretary shall ensure that the program:

(1) Reduces fragmentation and offers a seamless approach to meeting participants' needs;

(2) Delivers needed supports and services in the most integrated, appropriate, and cost-effective way possible;

(3) Offers a continuum of acute care services, which includes an array of home and community-based options;

(4) Includes a comprehensive quality approach across the entire continuum of care services; and

(5) Consult stakeholders in the program development process, and the managed care organization that is awarded the contract shall create a voluntary advisory group of foster, adoptive, and kinship parents, which shall meet every quarter for the first year following the effective date of the changes made to this section during the 2019 Regular Session of the Legislature and then every six months thereafter, to discuss issues they are encountering with the managed care organization and recommend solutions. The managed care organization shall report on the recommendations of the advisory group and address how and why procedures have or have not changed based on those recommendations. This report shall be submitted to the secretary and the Legislative Oversight Commission on Health and Human Resources Accountability as set forth in §16-29E-1 *et seq.* of this code, and the public in a timely fashion and shall be available on the managed care organization's webpage.

(g) The department shall evaluate the transition to managed care and shall collect and annually report on the following items: the number of claims submitted, the number of claims approved, the number of claims denied, the number of claims appealed, the resolution of appealed claims, the average time of an appeal, the average length of stay in a child residential care center, and health outcomes. The initial report will be filed by July 1, 2021, with the Legislative Oversight Commission on Health and Human Resources Accountability and the Foster Care Ombudsman with a final report submitted July 1, 2023.

(h) The transition of foster care to managed care shall terminate on June 30, 2024, unless cancelled by the secretary at an earlier date.

(i) (1) The Office of the Inspector General shall employ an independent foster care ombudsman, with experience as a former foster parent or experience in the area of child welfare;

(2) The duties of the ombudsman shall include, but are not limited to, the following:

(A) Advocating for the rights of foster children and foster parents;

(B) Participating in any procedure to investigate, and resolve complaints filed on behalf of a foster child or foster parent, relating to action, inaction or decisions of providers of managed care services.

or the representatives of such providers, of public agencies, or of social service agencies, which may adversely affect the health, safety, welfare and rights of the foster child or foster parent;

(C) Monitoring the development and implementation of federal, state and local legislation, regulations and policies with respect to foster care services; and

(D) Establishing and maintaining a statewide uniform reporting system to collect and analyze data relating to complaints for the purpose of identifying and resolving significant problems faced by foster children and foster parents as a class. The data shall be submitted to the Bureau of Children and Families within the Department of Health and Human Resources and the Legislative Oversight Commission on Health and Human Resources Accountability on a quarterly basis;

(3) The ombudsman shall participate in ongoing training programs related to his or her duties or responsibilities.

(j) An employee of the department who, as a function of that employment, has engaged in the development of any contract developed pursuant to the requirements of this section may not for a period of two years thereafter be employed by any agency or company that has benefitted or stands to benefit directly from a contract between the department and that agency or company.

(k) Any managed care company selected as the managed care contractor pursuant to the provisions of this article shall have at least 80 percent of the total full-time equivalent positions allocated to manage care of foster children in West Virginia according to the contract must have a primary work place in the state of West Virginia.

CHAPTER 49. CHILD WELFARE.

Article 1. General Provisions and Definitions.

§49-1-206. Definitions related, but not limited to, child advocacy, care, residential, and treatment programs.

When used in this chapter, terms defined in this section have the meanings ascribed to them that relate to, but are not limited to, child advocacy, care, residential, and treatment programs, except in those instances where a different meaning is provided or the context in which the word used clearly indicates that a different meaning is intended.

“Child Advocacy Center (CAC)” means a community-based organization that is a member in good standing with the West Virginia Child Abuse Network, Inc., as set forth in §49-3-101 of this code.

“Child care” means responsibilities assumed and services performed in relation to a child’s physical, emotional, psychological, social, and personal needs and the consideration of the child’s rights and entitlements, but does not include secure detention or incarceration under the jurisdiction of the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation pursuant to §49-2-901 *et seq.* of this code. It includes the provision of child care services or residential services.

“Child care center” means a facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private for the care of 13 or more children for child care services in any setting, if the facility is open for more than 30 days per year per child.

“Child care services” means direct care and protection of children during a portion of a 24- hour day outside of the child’s own home which provides experiences to children that foster their healthy development and education.

“Child placing agency” means a child welfare agency organized for the purpose of placing children in private family homes for foster care or for adoption. The function of a child placing agency may include the investigation and certification of foster family homes and foster family group homes as provided in this chapter. The function of a child placing agency may also include the supervision of children who are 16 or 17 years old and living in unlicensed residences.

“Child welfare agency” means any agency or facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, to receive children for care and maintenance or for placement in residential care facilities, including, without limitation, private homes or any facility that provides care for unmarried mothers and their children. A child welfare agency does not include juvenile detention facilities or juvenile correctional facilities operated by or under contract with the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, pursuant to §49-2-901 *et seq.* of this code, nor any other facility operated by that division for the secure housing or holding of juveniles committed to its custody.

“Community based” means a facility, program, or service located near the child’s home or family and involving community participation in planning, operation, and evaluation and which may include, but is not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, substance abuse, and any other treatment or rehabilitation services.

“Community-based juvenile probation sanctions” means any of a continuum of nonresidential accountability measures, programs, and sanctions in response to a technical violation of probation, as part of a system of community-based juvenile probation sanctions and incentives, that may include, but are not limited to:

(A) Electronic monitoring;

(B) Drug and alcohol screening, testing, or monitoring;

(C) Youth reporting centers;

(D) Reporting and supervision requirements;

(E) Community service; and

(F) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment.

“Community services” means nonresidential prevention or intervention services or programs that are intended to reduce delinquency and future court involvement.

“Evidence-based practices” means policies, procedures, programs, and practices demonstrated by research to reliably produce reductions in the likelihood of reoffending.

“Facility” means a place or residence, including personnel, structures, grounds, and equipment used for the care of a child or children on a residential or other basis for any number of hours a day in any shelter or structure maintained for that purpose. Facility does not include any juvenile detention facility or juvenile correctional facility operated by or under contract with the ~~Division of Juvenile~~

~~Services~~ Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody.

“Family child care facility” means any facility which is used to provide nonresidential child care services for compensation for seven to 12 children, including children who are living in the household, who are under six years of age. A facility may be in a provider’s residence or a separate building.

“Family child care home” means a facility which is used to provide nonresidential child care services for compensation in a provider’s residence. The provider may care for four to six children at one time, including children who are living in the household, who are under six years of age.

“Family resource network” means:

(A) A local community organization charged with service coordination, needs and resource assessment, planning, community mobilization, and evaluation, and which has met the following criteria:

(i) Agreeing to a single governing entity;

(ii) Agreeing to engage in activities to improve service systems for children and families within the community;

(iii) Addressing a geographic area of a county or two or more contiguous counties;

(iv) Having nonproviders, which include family representatives and other members who are not employees of publicly funded agencies, as the majority of the members of the governing body, and having family representatives as the majority of the nonproviders;

(v) Having representatives of local service agencies, including, but not limited to, the public health department, the behavioral health center, the local health and human resources agency, and the county school district, on the governing body; and

(vi) Accepting principles consistent with the cabinet’s mission as part of its philosophy.

(B) A family resource network may not provide direct services, which means to provide programs or services directly to children and families.

“Family support”, for the purposes of §49-2-601 *et seq.* of this code, means goods and services needed by families to care for their family members with developmental disabilities and to enjoy a quality of life comparable to other community members.

“Family support program” means a coordinated system of family support services administered by the Department of Health and Human Resources through contracts with behavioral health agencies throughout the state.

“Foster family home” means a private residence which is used for the care on a residential basis of no more than five children who are unrelated by blood, marriage, or adoption to any adult member of the household.

“Health care and treatment” means:

(A) Developmental screening;

(B) Mental health screening;

(C) Mental health treatment;

(D) Ordinary and necessary medical and dental examination and treatment;

(E) Preventive care including ordinary immunizations, tuberculin testing, and well-child care; and

(F) Nonemergency diagnosis and treatment. However, nonemergency diagnosis and treatment does not include an abortion.

“Home-based family preservation services” means services dispensed by the Department of Health and Human Resources or by another person, association, or group who has contracted with that division to dispense services when those services are intended to stabilize and maintain the natural or surrogate family in order to prevent the placement of children in substitute care. There are two types of home-based family preservation services and they are as follows:

(A) Intensive, short-term intervention of four to six weeks; and

(B) Home-based, longer-term after care following intensive intervention.

“Informal family child care” means a home that is used to provide nonresidential child care services for compensation for three or fewer children, including children who are living in the household who are under six years of age. Care is given in the provider’s own home to at least one child who is not related to the caregiver.

“Needs Assessment” means an evidence-informed assessment which identifies the needs a child or family has, which, if left unaddressed, will likely increase the chance of reoccurring.

“Nonsecure facility” means any public or private residential facility not characterized by construction fixtures designed to physically restrict the movements and activities of individuals held in lawful custody in that facility and which provides its residents access to the surrounding community with supervision.

“Nonviolent misdemeanor offense” means a misdemeanor offense that does not include any of the following:

(A) An act resulting in bodily injury or death;

(B) The use of a weapon in the commission of the offense;

(C) A domestic abuse offense involving a significant or likely risk of harm to a family member or household member;

(D) A criminal sexual conduct offense; or

(E) Any offense for driving under the influence of alcohol or drugs.

“Out-of-home placement” means a post-adjudication placement in a foster family home, group home, nonsecure facility, emergency shelter, hospital, psychiatric residential treatment facility, staff secure facility, hardware secure facility, detention facility, or other residential placement other than placement in the home of a parent, custodian, or guardian.

“Out-of-school time” means a child care service which offers activities to children before and after school, on school holidays, when school is closed due to emergencies, and on school calendar days set aside for teacher activities.

“Placement” means any temporary or permanent placement of a child who is in the custody of the state in any foster home, group home, or other facility or residence.

“Pre-adjudicatory community supervision” means supervision provided to a youth prior to adjudication, for a period of supervision up to one year for an alleged status or delinquency offense.

“Regional family support council” means the council established by the regional family support agency to carry out the responsibilities specified in §49-2-601 *et seq.* of this code.

“Relative family child care” means a home that provides nonresidential child care services only to children related to the caregiver. The caregiver is a grandparent, great grandparent, aunt, uncle, great-aunt, great-uncle, or adult sibling of the child or children receiving care. Care is given in the provider’s home.

“Residential services” means child care which includes the provision of nighttime shelter and the personal discipline and supervision of a child by guardians, custodians, or other persons or entities on a continuing or temporary basis. It may include care or treatment, or both, for transitioning adults. Residential services does not include or apply to any juvenile detention facility or juvenile correctional facility operated by the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, created pursuant to this chapter, for the secure housing or holding of juveniles committed to its custody.

“Risk and needs assessment” means a validated, standardized actuarial tool which identifies specific risk factors that increase the likelihood of reoffending and the factors that, when properly addressed, can reduce the likelihood of reoffending.

“Secure facility” means any public or private residential facility which includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.

“Staff secure facility” means any public or private residential facility characterized by staff restrictions of the movements and activities of individuals held in lawful custody in such facility, and which limits its residents’ access to the surrounding community, but is not characterized by construction fixtures designed to physically restrict the movements and activities of residents.

“Standardized screener” means a brief, validated nondiagnostic inventory or questionnaire designed to identify juveniles in need of further assessment for medical, substance abuse, emotional, psychological, behavioral, or educational issues, or other conditions.

“State family support council” means the council established by the Department of Health and Human Resources pursuant to §49-2-601 *et seq.* of this code to carry out the responsibilities specified in §49-2-101 *et seq.* of this code.

“Time-limited reunification services” means individual, group, and family counseling, inpatient, residential, or outpatient substance abuse treatment services, mental health services, assistance to address domestic violence, services designed to provide temporary child care, and therapeutic services for families, including crisis nurseries and transportation to or from those services, provided during 15 of the most recent 22 months a child or juvenile has been in foster care, as determined by

the earlier date of the first judicial finding that the child is subjected to abuse or neglect, or the date which is 60 days after the child or juvenile is removed from home.

“Technical violation” means an act that violates the terms or conditions of probation or a court order that does not constitute a new delinquent offense.

“Truancy diversion specialist” means a school-based probation officer or truancy social worker within a school or schools who, among other responsibilities, identifies truants and the causes of the truant behavior, and assists in developing a plan to reduce the truant behavior prior to court involvement.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-107. Foster-home care; minimum standards; certificate of operation; inspection.

(a) The department shall establish minimum standards for foster-home care to which all certified foster homes must conform by legislative rule. Any home that conforms to the standards of care set by the department shall receive a certificate of operation.

(b) The certificate of operation shall be in force for ~~one~~ three years from the date of issuance and may be renewed unless revoked because of willful violation of this chapter.

(c) The certificate shall show the name of the person or persons authorized to conduct the home, its exact location and the number of children that may be received and cared for at one time and other information as set forth in legislative rule. No certified foster home shall provide care for more children than are specified in the certificate.

(d) No unsupervised foster home shall be certified until an investigation of the home and its standards of care has been made by the department or by a licensed child welfare agency serving as a representative of the department.

§49-2-111a. Performance based contracting for child placing agencies.

(a) For purposes of this section:

(1) “Child” means:

(A) A person less than 18 years of age; or

(B) A person age 18 to 21 years who is eligible to receive the extended foster care services.

(2) “Child-placing agency” means an agency licensed by the department to place a child in a foster care home.

(3) “Department” means the Department of Health and Human Resources.

(4) “Evidence-based” means a program or practice that is cost-effective and includes at least two randomized or statistically controlled evaluations that have demonstrated improved outcomes for its intended population.

(5) “Performance-based contracting” means structuring all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract

requirements set forth in clear, specific, and objective terms with measurable outcomes and linking payment for services to contractor performance.

(6) "Promising practice" means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(7) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(b) No later than December 1, 2020, the department shall enter into performance-based contracts with child placing agencies.

(c) In conducting the procurement, the department shall actively consult with other state agencies and other entities with expertise in performance-based contracting with child placing agencies.

(d) The procurement process shall be developed and implemented in a manner that complies with applicable provisions of this code.

(e) The procurement and resulting contracts shall include, but are not limited to, the following:

(1) Adequate capacity to meet the anticipated service needs in the contracted service area of the child placing agency;

(2) The use of evidence-based, research-based, and promising practices, where appropriate, including fidelity and quality assurance provisions;

(3) Child placing agency data reporting, including data on performance and service outcomes; including but not limited to:

(A) Safety outcomes;

(B) Permanency outcomes;

(C) Well-being outcomes;

(D) Incentives earned; and

(E) Recruitment and retention of foster parents; and

(4) A hold harmless period to determine a baseline for evaluation.

(f) As part of the procurement process under this section, the department shall issue the request for proposals no later than July 1, 2020. The department shall notify the apparently successful bidders no later than September 1, 2020.

(g) Performance-based payment methodologies must be used in child placing agency contracting. Performance measures should relate to successful engagement by a child or parent in services included in their case plan, and resulting improvement in identified problem behaviors and interactions. For the first year of implementation of performance-based contracting, the department may transfer financial risk for the provision of services to the child placing agency only to the limited extent necessary to implement a performance-based payment methodology, such as phased payment for services. However, the department may develop a shared savings methodology through which the child placing agency will receive a defined share of any savings that result from improved

performance. If the department receives a Title IV-E waiver, the shared savings methodology must be consistent with the terms of the waiver. If a shared savings methodology is adopted, the child placing agency shall reinvest the savings in enhanced services to better meet the needs of the families and children they serve.

(h) The department shall actively monitor the child placing agency's compliance with the terms of contracts executed under this section.

(i) The use of performance-based contracts under this section shall be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare-related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

(j) The department shall report the performance of the child placing agency to the Legislative Oversight Commission on Health and Human Resources Accountability by December 31, annually.

§49-2-111b. Study of kinship foster care families.

(a) The department shall conduct a study and make recommendations for improving services provided for kinship foster care families. This study shall include at a minimum:

(1) A review of best practices in other states;

(2) A proposal for an alternate system of regulation for kinship foster care that includes the same reimbursement as other foster care families as well as a reasonable time period for obtaining certification;

(3) An evaluation of what training and supports are needed to ensure that kinship care homes are successful.

(b) The results of this shall be shared with all members of the Legislature by October 1, 2019.

§49-2-113. Residential child-care centers; licensure, certification, approval and registration; requirements.

(a) Any person, corporation or child welfare agency, other than a state agency, which operates a residential child-care center shall obtain a license from the department.

(b) Any residential child-care facility, day-care center or any child-placing agency operated by the state shall obtain approval of its operations from the secretary.

(c) Any family day-care facility which operates in this state, including family day-care facilities approved by the department for receipt of funding, shall obtain a statement of certification from the department.

(d) Every family day-care home which operates in this state, including family day-care homes approved by the department for receipt of funding, shall obtain a certificate of registration from the department. The facilities and placing agencies shall maintain the same standards of care applicable to licensed facilities, centers or placing agencies of the same category.

(e) This section does not apply to:

(1) A kindergarten, preschool or school education program which is operated by a public school or which is accredited by the state Department of Education or any other kindergarten, preschool or school programs which operate with sessions not exceeding four hours per day for any child;

(2) An individual or facility which offers occasional care of children for brief periods while parents are shopping, engaging in recreational activities, attending religious services or engaging in other business or personal affairs;

(3) Summer recreation camps operated for children attending sessions for periods not exceeding 30 days;

(4) Hospitals or other medical facilities which are primarily used for temporary residential care of children for treatment, convalescence or testing;

(5) Persons providing family day care solely for children related to them;

(6) Any juvenile detention facility or juvenile correctional facility operated by or under contract with the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody;

(7) Any out-of-school time program that has been awarded a grant by the West Virginia Department of Education to provide out-of-school time programs to kindergarten through 12th grade students when the program is monitored by the West Virginia Department of Education; or

(8) Any out-of-school time program serving children six years of age or older and meets all of the following requirements, or is an out-of-school time program that is affiliated and in good standing with a national congressionally chartered organization or is operated by a county parks and recreation commission, boards and municipalities and meets all of the following requirements:

(A) The program is located in a facility that meets all fire and health codes;

(B) The program performs state and federal background checks on all volunteers and staff;

(C) The programs' primary source of funding is not from fees for service except for programs operated by county parks and recreation commissions, boards and municipalities; and

(D) The program has a formalized monitoring system in place.

(f) The secretary is authorized to issue an emergency rule relating to conducting a survey of existing facilities in this state in which children reside on a temporary basis in order to ascertain whether they should be subject to licensing under this article or applicable licensing provisions relating to behavioral health treatment providers.

(g) Any informal family child-care home or relative family child-care home may voluntarily register and obtain a certificate of registration from the department.

(h) All facilities or programs that provide out-of-school time care shall register with the department upon commencement of operations and on an annual basis thereafter. The department shall obtain information, such as the name of the facility or program, the description of the services provided and any other information relevant to the determination by the department as to whether the facility or program meets the criteria for exemption under this section.

(i) Any child-care service that is licensed or receives a certificate of registration shall have a written plan for evacuation in the event of fire, natural disaster or other threatening situation that may pose a health or safety hazard to the children in the child-care service.

(1) The plan shall include, but not be limited to:

(A) A designated relocation site and evacuation;

(B) Procedures for notifying parents of the relocation and ensuring family reunification;

(C) Procedures to address the needs of individual children including children with special needs;

(D) Instructions relating to the training of staff or the reassignment of staff duties, as appropriate;

(E) Coordination with local emergency management officials; and

(F) A program to ensure that appropriate staff are familiar with the components of the plan.

(2) A child-care service shall update the evacuation plan by December 31 of each year. If a child-care service fails to update the plan, no action shall be taken against the child-care services license or registration until notice is provided and the child-care service is given 30 days after the receipt of notice to provide an updated plan.

(3) A child-care service shall retain an updated copy of the plan for evacuation and shall provide notice of the plan and notification that a copy of the plan will be provided upon request to any parent, custodian or guardian of each child at the time of the child's enrollment in the child-care service and when the plan is updated.

(4) All child-care centers and family child-care facilities shall provide the plan and each updated copy of the plan to the Director of the Office of Emergency Services in the county where the center or facility is located.

(j) A residential child care center which has entered into a contract with the department to provide services to a certain number of foster children, shall accept any foster child who meets the residential child care center's program criteria, if the residential child care center has not met its maximum capacity as provided for in the contract. Any residential child-care center who has entered into a contract with the department may not discharge any child in its program, except as provided in the contract, including that if the youth does not meet the residential treatment level and target population, the provider shall request a MDT and work toward an alternative placement.

§49-2-708. Rule-making authority.

(a) The Secretary of the Department of Health and Human Resources is authorized to propose rules for legislative approval necessary to implement this article for legislative approval in accordance with §29A-3-1 et seq. of this code.

(b) The rules:

(1) Shall create a three year certification period for a foster home, unless a substantial change occurs. A home safety assessment is performed at least annually. The department has sole authority to determine if a substantial change has occurred;

(2) Shall require that a criminal background check be conducted at the time of the recertification;

(3) May not prevent the placement or cause the removal of a foster child for cosmetic damage to a residence. "Cosmetic damages" means damage that does not affect the safety or wellbeing of a child;

(4) Shall permit the use of dedicated sleeping spaces as appropriate for the child's needs and age, and similar to the sleeping spaces for other household members; and

(5) Shall review and update the legislative rules while considering normalcy and the reasonable and prudent parent standard.

(c) Notwithstanding the time frames in §29A-3-1 et seq., of this code the department shall revise the foster care legislative rules and shall submit for review and approval to the Rule-making Review Committee by October 31, 2019.

ARTICLE 4. COURT ACTIONS.

§49-4-108. Payment of services.

(a) At any time during any proceedings brought pursuant to this ~~article~~ chapter, the court may upon its own motion, or upon a motion of any party, order the Department of Health and Human Resources to pay the Medicaid rates for professional services rendered by a ~~psychologist, psychiatrist, physician, therapist or other~~ health care professional to a child or other party to the proceedings. Professional services include, but are not limited to, treatment, therapy, counseling, evaluation, report preparation, consultation and preparation of expert testimony. ~~The Department of Health and Human Resources shall set the fee schedule for the services in accordance with the Medicaid rate, if any, or the customary rate and adjust the schedule as appropriate. Every psychologist, psychiatrist, physician, therapist or other~~ A health care professional shall be paid by the Department of Health and Human Resources upon completion of services and submission of a final report or other information and documentation as required by the policies and ~~procedures~~ implemented by the Department of Health and Human Resources: Provided, That if the service is covered by Medicaid and the service is not provided within 30 days, the court may order the service to be provided by a provider at a rate higher than the Medicaid rate. The department may object and request to be heard, after which the court shall issue findings of fact and conclusions of law supporting its decision.

(b) At any time during any proceeding brought pursuant to this chapter, the court may upon its own motion, or upon a motion of any party, order the Department of Health and Human Resources to pay for socially necessary services rendered by an entity who has agreed to comply with §9-2-6(21) of this code. The Department of Health and Human Resources shall set the reimbursement rates for the socially necessary services: Provided, That if services are not provided within 30 days, the court may order a service to be provided by a provider at a rate higher than the department established rate. The department may object and request to be heard, after which the court shall issue findings of fact and conclusions of law supporting its decision.

§49-4-406. Multidisciplinary treatment process for status offenders or delinquents; requirements; custody; procedure; reports; cooperation; inadmissibility of certain statements.

(a) When a juvenile is adjudicated as a status offender pursuant to §49-4-711 of this code, the Department of Health and Human Resources shall promptly convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform comprehensive assessment instrument or protocol, including a ~~risk and~~ needs assessment, to determine the juvenile's mental and physical condition, maturity and education level, home and family environment, rehabilitative needs and recommended service plan, which shall be provided in writing to the court and team members. Upon completion of the assessment, the treatment team shall prepare and implement a comprehensive, individualized service plan for the juvenile.

(b) When a juvenile is adjudicated as a delinquent or has been granted a pre-adjudicatory community supervision period pursuant to §49-4-708 of this code, the court, either upon its own motion or motion of a party, may require the Department of Health and Human Resources to convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform comprehensive assessment instrument or protocol, including a ~~risk and~~ needs assessment, to determine the juvenile's mental and physical condition, maturity and education level, home and family environment, rehabilitative needs and recommended service plan, which shall be provided in writing to the court and team members. A referral to the Department of Health and Human Resources to convene a multidisciplinary treatment team and to conduct such an assessment shall be made when the court is considering placing the juvenile in the department's custody or placing the juvenile out-of-home at the department's expense pursuant to §49-4-714 of this code. In any delinquency proceeding in which the court requires the Department of Health and Human Resources to convene a multidisciplinary treatment team, the probation officer shall notify the department at least 15 working days before the court proceeding in order to allow the department sufficient time to convene and develop an individualized service plan for the juvenile.

(c) When a juvenile has been adjudicated and committed to the custody of the Director of the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, including those cases in which the juvenile has been committed for examination and diagnosis, or the court considers commitment for examination and diagnosis, the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation shall promptly convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform comprehensive assessment instrument or protocol, including a ~~risk and~~ needs assessment, to determine the juvenile's mental and physical condition, maturity and education level, home and family environment, rehabilitative needs and recommended service plan. Upon completion of the assessment, the treatment team shall prepare and implement a comprehensive, individualized service plan for the juvenile, which shall be provided in writing to the court and team members. In cases where the juvenile is committed as a post-sentence disposition to the custody of the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, the plan shall be reviewed quarterly by the multidisciplinary treatment team. Where a juvenile has been detained in a facility operated by the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation without an active service plan for more than 60 days, the director of the facility may call a multidisciplinary team meeting to review the case and discuss the status of the service plan.

(d)(1) The rules of juvenile procedure shall govern the procedure for obtaining any assessment of a juvenile, preparing an individualized service plan and submitting the plan and any assessment to the court.

(2) In juvenile proceedings conducted pursuant to §49-4-701 *et seq.* of this code, the following representatives shall serve as members and attend each meeting of the multidisciplinary treatment team, so long as they receive notice at least seven days prior to the meeting:

(A) The juvenile;

(B) The juvenile's case manager in the Department of Health and Human Resources or the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation;

(C) The juvenile's parent, guardian or custodian;

(D) The juvenile's attorney;

(E) Any attorney representing a member of the multidisciplinary treatment team;

(F) The prosecuting attorney or his or her designee;

(G) The county school superintendent or the superintendent's designee;

(H) A treatment or service provider with training and clinical experience coordinating behavioral or mental health treatment; and

(I) Any other person or agency representative who may assist in providing recommendations for the particular needs of the juvenile and family, including domestic violence service providers. In delinquency proceedings, the probation officer shall be a member of a multidisciplinary treatment team. When appropriate, the juvenile case manager in the Department of Health and Human Resources and the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation shall cooperate in conducting multidisciplinary treatment team meetings when it is in the juvenile's best interest.

(3) Prior to disposition, in each case in which a treatment planning team has been convened, the team shall advise the court as to the types of services the team has determined are needed and type of placement, if any, which will best serve the needs of the child. If the team determines that an out-of-home placement will best serve the needs of the child, the team shall first consider placement at facilities or programs located within the state. The team may only recommend placement in an out-of-state facility if it concludes, after considering the best interests and overall needs of the child, that there are no available and suitable in-state facilities which can satisfactorily meet the specific needs of the child. The multidisciplinary treatment team shall also determine and advise the court as to the individual treatment and rehabilitation plan recommended for the child for either out-of-home placement or community supervision. The plan may focus on reducing the likelihood of reoffending, requirements for the child to take responsibility for his or her actions, completion of evidence-based services or programs or any other relevant goal for the child. The plan may also include opportunities to incorporate the family, custodian or guardian into the treatment and rehabilitation process.

(4) The multidisciplinary treatment team shall submit written reports to the court as required by applicable law or by the court, shall meet with the court at least every three months, as long as the juvenile remains in the legal or physical custody of the state, and shall be available for status conferences and hearings as required by the court. The multidisciplinary treatment team shall monitor progress of the plan identified in subdivision (3) of this subsection and review progress of the plan at the regular meetings held at least every three months pursuant to this section, or at shorter intervals, as ordered by the court, and shall report to the court on the progress of the plan or if additional modification is necessary.

(5) In any case in which a juvenile has been placed out of his or her home except for a temporary placement in a shelter or detention center, the multidisciplinary treatment team shall cooperate with the state agency in whose custody the juvenile is placed to develop an after-care plan. The rules of juvenile procedure and §49-4-409 of this code govern the development of an after-care plan for a juvenile, the submission of the plan to the court and any objection to the after-care plan.

(6) If a juvenile respondent admits the underlying allegations of the case initiated pursuant to §49-4-701 through §49-4-725 of this code, in the multidisciplinary treatment planning process, his or her statements may not be used in any juvenile or criminal proceedings against the juvenile, except for perjury or false swearing.

§49-4-413. Individualized case planning.

(a) For any juvenile ordered to probation supervision pursuant to §49-4-714 of this code, the probation officer assigned to the juvenile shall develop and implement an individualized case plan in consultation with the juvenile's parents, guardian or custodian, and other appropriate parties, and

based upon the results of a ~~risk and~~ needs assessment conducted within ~~the last six months~~ 90 days prior to the disposition to probation. The probation officer shall work with the juvenile and his or her family, guardian or custodian to implement the case plan following disposition. At a minimum, the case plan shall:

(1) Identify the actions to be taken by the juvenile and, if appropriate, the juvenile's parents, guardian or custodian to ensure future lawful conduct and compliance with the court's disposition order; and

(2) Identify the services to be offered and provided to the juvenile and, if appropriate, the juvenile's parents, guardian or custodian and may include services to address: Mental health and substance abuse issues; education; individual, group and family counseling services; community restoration; or other relevant concerns identified by the probation officer.

(b) For any juvenile disposed to an out-of-home placement with the department, the department shall ensure that the residential service provider develops and implements an individualized case plan based upon the recommendations of the multidisciplinary team pursuant to §49-4-406 of this code and the results of a ~~risk and~~ needs assessment. At a minimum, the case plan shall include:

(1) Specific treatment goals and the actions to be taken by the juvenile in order to demonstrate satisfactory attainment of each goal;

(2) The services to be offered and provided by the residential service providers; and

(3) A detailed plan designed to assure appropriate reintegration of the juvenile to his or her family, guardian, school and community following the satisfactory completion of the case plan treatment goals, including a protocol and timeline for engaging the parents, guardians or custodians prior to the release of the juvenile.

(c) For any juvenile committed to the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation shall develop and implement an individualized case plan based upon the recommendations made to the court by the multidisciplinary team pursuant to ~~section four hundred six, article four of this chapter~~ §49-4-406(c) of this code and the results of a risk and needs assessment. At a minimum, the case plan shall include:

(1) Specific correctional goals and the actions to be taken by the juvenile to demonstrate satisfactory attainment of each goal;

(2) The services to be offered and provided by the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation and any contracted service providers; and

(3) A detailed plan designed to assure appropriate reintegration of the juvenile to his or her family, guardian, school and community following the satisfactory completion of the case plan treatment goals, including a protocol and timeline for engaging the parents, guardians or custodians prior to the release of the juvenile.

§49-4-604. Disposition of neglected or abused children; case plans; dispositions; factors to be considered; reunification; orders; alternative dispositions.

(a) *Child and family case plans.* — Following a determination pursuant to §49-4-602 of this code wherein the court finds a child to be abused or neglected, the department shall file with the court a copy of the child's case plan, including the permanency plan for the child. The term "case plan" means

a written document that includes, where applicable, the requirements of the family case plan as provided in §49-4-408 of this code and that also includes, at a minimum, the following:

(1) A description of the type of home or institution in which the child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to assure that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions that made the child unsafe in the care of his or her parent(s), including any reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. § 12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services;

(2) A plan to facilitate the return of the child to his or her own home or the concurrent permanent placement of the child; and address the needs of the child while in relative or foster care, including a discussion of the appropriateness of the services that have been provided to the child.

The term “permanency plan” refers to that part of the case plan which is designed to achieve a permanent home for the child in the least restrictive setting available. The plan must document efforts to ensure that the child is returned home within approximate time lines for reunification as set out in the plan. Reasonable efforts to place a child for adoption or with a legal guardian should be made at the same time, or concurrent with, reasonable efforts to prevent removal or to make it possible for a child to return to the care of his or her parent(s) safely. If reunification is not the permanency plan for the child, the plan must state why reunification is not appropriate and detail the alternative, concurrent permanent placement plans for the child to include approximate time lines for when the placement is expected to become a permanent placement. This case plan shall serve as the family case plan for parents of abused or neglected children. Copies of the child’s case plan shall be sent to the child’s attorney and parent, guardian or custodian or their counsel at least five days prior to the dispositional hearing. The court shall forthwith proceed to disposition giving both the petitioner and respondents an opportunity to be heard.

(b) *Disposition decisions.* — The court shall give precedence to dispositions in the following sequence:

(1) Dismiss the petition;

(2) Refer the child, the abusing parent, the battered parent or other family members to a community agency for needed assistance and dismiss the petition;

(3) Return the child to his or her own home under supervision of the department;

(4) Order terms of supervision calculated to assist the child and any abusing parent or battered parent or parents or custodian which prescribe the manner of supervision and care of the child and which are within the ability of any parent or parents or custodian to perform;

(5) Upon a finding that the abusing parent or battered parent or parents are presently unwilling or unable to provide adequately for the child’s needs, commit the child temporarily to the care, custody, and control of the state department, a licensed private child welfare agency, or a suitable person who may be appointed guardian by the court. The court order shall state:

(A) That continuation in the home is contrary to the best interests of the child and why;

(B) Whether or not the department has made reasonable efforts, with the child’s health and safety being the paramount concern, to preserve the family, or some portion thereof, and to prevent or

eliminate the need for removing the child from the child's home and to make it possible for the child to safely return home;

(C) Whether the department has made reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. § 12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services;

(D) What efforts were made or that the emergency situation made those efforts unreasonable or impossible; and

(E) The specific circumstances of the situation which made those efforts unreasonable if services were not offered by the department. The court order shall also determine under what circumstances the child's commitment to the department are to continue. Considerations pertinent to the determination include whether the child should:

(i) Be considered for legal guardianship;

(ii) Be considered for permanent placement with a fit and willing relative; or

(iii) Be placed in another planned permanent living arrangement, but only in cases where the child has attained 16 years of age and the department has documented to the circuit court a compelling reason for determining that it would not be in the best interests of the child to follow one of the options set forth in subparagraphs (i) or (ii) of this paragraph. The court may order services to meet the special needs of the child. Whenever the court transfers custody of a youth to the department, an appropriate order of financial support by the parents or guardians shall be entered in accordance with §49-4-801 through §49-4-803 of this code;

(6) Upon a finding that there is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future and, when necessary for the welfare of the child, terminate the parental, custodial and guardianship rights and responsibilities of the abusing parent and commit the child to the permanent sole custody of the nonabusing parent, if there be one, or, if not, to either the permanent guardianship of the department or a licensed child welfare agency. The court may award sole custody of the child to a nonabusing battered parent. If the court shall so find, then in fixing its dispositional order the court shall consider the following factors:

(A) The child's need for continuity of care and caretakers;

(B) The amount of time required for the child to be integrated into a stable and permanent home environment; and

(C) Other factors as the court considers necessary and proper. Notwithstanding any other provision of this article, the court shall give consideration to the wishes of a child 14 years of age or older or otherwise of an age of discretion as determined by the court regarding the permanent termination of parental rights. No adoption of a child shall take place until all proceedings for termination of parental rights under this article and appeals thereof are final. In determining whether or not parental rights should be terminated, the court shall consider the efforts made by the department to provide remedial and reunification services to the parent. The court order shall state:

(i) That continuation in the home is not in the best interest of the child and why;

(ii) Why reunification is not in the best interests of the child;

(iii) Whether or not the department made reasonable efforts, with the child's health and safety being the paramount concern, to preserve the family, or some portion thereof, and to prevent the placement or to eliminate the need for removing the child from the child's home and to make it possible for the child to safely return home, or that the emergency situation made those efforts unreasonable or impossible; and

(iv) Whether or not the department made reasonable efforts to preserve and reunify the family, or some portion thereof, including a description of what efforts were made or that those efforts were unreasonable due to specific circumstances.

(7) For purposes of the court's consideration of the disposition custody of a child pursuant to this subsection, the department is not required to make reasonable efforts to preserve the family if the court determines:

(A) The parent has subjected the child, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent to aggravated circumstances which include, but are not limited to, abandonment, torture, chronic abuse, and sexual abuse;

(B) The parent has:

(i) Committed murder of the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(ii) Committed voluntary manslaughter of the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(iii) Attempted or conspired to commit murder or voluntary manslaughter, or been an accessory before or after the fact to either crime;

(iv) Committed a malicious assault that results in serious bodily injury to the child, the child's other parent, guardian or custodian, to another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent; or

(v) Committed sexual assault or sexual abuse of the child, the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent.

(C) The parental rights of the parent to another child have been terminated involuntarily;

(D) A parent has been required by state or federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted by a preservation of the family.

(c) As used in this section, "No reasonable likelihood that conditions of neglect or abuse can be substantially corrected" means that, based upon the evidence before the court, the abusing adult or adults have demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help. Those conditions exist in the following circumstances, which are not exclusive:

(1) The abusing parent or parents have habitually abused or are addicted to alcohol, controlled substances or drugs, to the extent that proper parenting skills have been seriously impaired and the person or persons have not responded to or followed through the recommended and appropriate treatment which could have improved the capacity for adequate parental functioning;

(2) The abusing parent or parents have willfully refused or are presently unwilling to cooperate in the development of a reasonable family case plan designed to lead to the child's return to their care, custody and control;

(3) The abusing parent or parents have not responded to or followed through with a reasonable family case plan or other rehabilitative efforts of social, medical, mental health, or other rehabilitative agencies designed to reduce or prevent the abuse or neglect of the child, as evidenced by the continuation or insubstantial diminution of conditions which threatened the health, welfare, or life of the child;

(4) The abusing parent or parents have abandoned the child;

(5) The abusing parent or parents have repeatedly or seriously injured the child physically or emotionally, or have sexually abused or sexually exploited the child, and the degree of family stress and the potential for further abuse and neglect are so great as to preclude the use of resources to mitigate or resolve family problems, or assist the abusing parent or parents in fulfilling their responsibilities to the child; and

(6) The battered parent's parenting skills have been seriously impaired and the person has willfully refused or is presently unwilling or unable to cooperate in the development of a reasonable treatment plan, or has not adequately responded to or followed through with the recommended and appropriate treatment plan.

(d) The court may, as an alternative disposition, allow the parents or custodians an improvement period not to exceed six months. During this period the court shall require the parent to rectify the conditions upon which the determination was based. The court may order the child to be placed with the parents, or any person found to be a fit and proper person, for the temporary care of the child during the period. At the end of the period, the court shall hold a hearing to determine whether the conditions have been adequately improved and at the conclusion of the hearing shall make a further dispositional order in accordance with this section.

(e) The court may not terminate the parental right of a parent on the sole basis that the parent is participating in a medication-assisted treatment program, as regulated in §16-5Y-1 et seq., for substance use disorder, as long as the parent is successfully fulfilling his or her treatment obligations in the medication-assisted treatment program.

§49-4-608. Permanency hearing; frequency; transitional planning; out-of-state placements; findings; notice; permanent placement review.

(a) *Permanency hearing when reasonable efforts are not required.* — If the court finds, pursuant to this article, that the department is not required to make reasonable efforts to preserve the family, then, notwithstanding any other provision, a permanency hearing must be held within 30 days following the entry of the court order so finding, and a permanent placement review hearing must be conducted at least once every 90 days thereafter until a permanent placement is achieved.

(b) *Permanency hearing every 12 months until permanency is achieved.* — If, 12 months after receipt by the department or its authorized agent of physical care, custody, and control of a child either by a court-ordered placement or by a voluntary agreement, the department has not placed a

child in an adoptive home, placed the child with a natural parent, placed the child in legal guardianship, or permanently placed the child with a fit and willing relative, the court shall hold a permanency hearing. The department shall file a progress report with the court detailing the efforts that have been made to place the child in a permanent home and copies of the child's case plan, including the permanency plan as defined in §49-1-201 and §49-4-604 of this code. Copies of the report shall be sent to the parties and all persons entitled to notice and the right to be heard. The court shall schedule a hearing, giving notice and the right to be present to the child's attorney; the child; the child's parents; the child's guardians; the child's foster parents; any preadoptive parent, or any relative providing care for the child; any person entitled to notice and the right to be heard; and other persons as the court may, in its discretion, direct. The child's presence may be waived by the child's attorney at the request of the child or if the child is younger than 12 years and would suffer emotional harm. The purpose of the hearing is to review the child's case, to determine whether and under what conditions the child's commitment to the department shall continue, to determine what efforts are necessary to provide the child with a permanent home, and to determine if the department has made reasonable efforts to finalize the permanency plan. The court shall conduct another permanency hearing within 12 months thereafter for each child who remains in the care, custody, and control of the department until the child is placed in an adoptive home, returned to his or her parents, placed in legal guardianship, or permanently placed with a fit and willing relative.

(c) *Transitional planning for older children.* — In the case of a child who has attained 16 years of age, the court shall determine the services needed to assist the child to make the transition from foster care to independent living. The child's case plan should specify services aimed at transitioning the child into adulthood. When a child turns 17, or as soon as a child aged 17 comes into a case, the department must immediately provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child. The plan must include specific options on housing, health insurance, education, local opportunities for mentors, continuing support services, work force support, and employment services, and the plan should be as detailed as the child may elect. In addition to these requirements, when a child with special needs turns 17, or as soon as a child aged 17 with special needs comes into a case, he or she is entitled to the appointment of a department adult services worker to the multidisciplinary treatment team, and coordination between the multidisciplinary treatment team and other transition planning teams, such as special education individualized education planning (IEP) teams.

(d) *Out-of-state placements.* — ~~In any case in which the court decides to order the child placed in an out-of-state facility or program it shall set forth in the order directing the placement the reasons why the child was not placed in an in-state facility or program.~~ A court may not order a child to be placed in an out-of-state facility unless the child is diagnosed with a health issue that no in-state facility or program serves, unless a placement out of state is in closer proximity to the child's family for the necessary care, or the services are able to be provided more timely. If the child is to be placed with a relative or other responsible person out of state, the court shall use judicial leadership to help expedite the process under the Interstate Compact for the Placement of Children provided in §49-7-101 and §49-7-102 and the Uniform Child Custody Jurisdiction and Enforcement Act provided in §48-20-101 *et seq.* of this code.

(e) *Findings in order.* — At the conclusion of the hearing the court shall, in accordance with the best interests of the child, enter an order containing all the appropriate findings. The court order shall state:

(1) Whether or not the department made reasonable efforts to preserve the family and to prevent out-of-home placement or that the specific situation made the effort unreasonable;

(2) Whether or not the department made reasonable efforts to finalize the permanency plan and concurrent plan for the child;

(3) The appropriateness of the child's current placement, including its distance from the child's home and whether or not it is the least restrictive one (most family-like one) available;

(4) The appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement;

(5) Services required to meet the child's needs and achieve permanency; and

(6) In addition, in the case of any child for whom another planned permanent living arrangement is the permanency plan, the court shall: (A) Inquire of the child about the desired permanency outcome for the child; (B) make a judicial determination explaining why, as of the date of the hearing, another planned permanent living arrangement is the best permanency plan for the child; and (C) provide in the court order compelling reasons why it continues to not be in the best interest of the child to (i) return home, (ii) be placed for adoption, (iii) be placed with a legal guardian, or (iv) be placed with a fit and willing relative.

(f) The department shall annually report to the court the current status of the placements of children in the care, custody and control of the state department who have not been adopted.

(g) The department shall file a report with the court in any case where any child in the custody of the state receives more than three placements in one year no later than 30 days after the third placement. This report shall be provided to all parties and persons entitled to notice and the right to be heard. Upon motion by any party, the court shall review these placements and determine what efforts are necessary to provide the child with a permanent home. No report may be provided to any parent or parent's attorney whose parental rights have been terminated pursuant to this article.

(h) The department shall give actual notice, in writing, to the court, the child, the child's attorney, the parents and the parents' attorney at least 48 hours prior to the move if this is a planned move, or within 48 hours of the next business day after the move if the child is in imminent danger in the child's current placement, except where the notification would endanger the child or the foster family. A multidisciplinary treatment team shall convene as soon as practicable after notice to explore placement options. This requirement is not waived by placement of the child in a home or other residence maintained by a private provider. No notice may be provided pursuant to this provision to any parent or parent's attorney whose parental rights have been terminated pursuant to this article.

(i) Nothing in this article precludes any party from petitioning the court for review of the child's case at any time. The court shall grant the petition upon a showing that there is a change in circumstance or needs of the child that warrants court review.

(j) Any foster parent, preadoptive parent or relative providing care for the child shall be given notice of and the right to be heard at the permanency hearing provided in this section.

§49-4-711. Adjudication for alleged status offenders and delinquents; mandatory initial disposition of status offenders.

At the outset of an adjudicatory hearing, the court shall inquire of the juvenile whether he or she wishes to admit or deny the allegations in the petition. The juvenile may elect to stand silent, in which event the court shall enter a general denial of all allegations in the petition.

(1) If the respondent juvenile admits the allegations of the petition, the court shall consider the admission to be proof of the allegations if the court finds: (A) The respondent fully understands all of his or her rights under this article; (B) the respondent voluntarily, intelligently and knowingly admits all facts requisite for an adjudication; and (C) the respondent in his or her admission has not set forth facts which constitute a defense to the allegations.

(2) If the respondent juvenile denies the allegations, the court shall dispose of all pretrial motions and the court or jury shall proceed to hear evidence.

(3) If the allegations in a petition alleging that the juvenile is delinquent are admitted or are sustained by proof beyond a reasonable doubt, the court shall schedule the matter for disposition pursuant to §49-4-704 of this code. The court shall receive and consider the results of the ~~risk and needs assessment, as defined in §49-1-206 of this code,~~ prior to or at the disposition. ~~pursuant to section seven hundred twenty-four, article four of this chapter~~

(4) If the allegations in a petition alleging that the juvenile is a status offender are admitted or sustained by clear and convincing evidence, the court shall consider the results of the ~~risk and needs assessment, as defined in §49-1-206 of this code,~~ prior to or at the disposition ~~pursuant to section seven hundred twenty-four, article four of this chapter~~ and refer the juvenile to the Department of Health and Human Resources for services, pursuant to §49-4-712 of this code, and order the department to report back to the court with regard to the juvenile's progress at least every 90 days or until the court, upon motion or sua sponte, orders further disposition under §49-4-712 of this code or dismisses the case from its docket: *Provided*, That in a judicial circuit operating a truancy program, a circuit judge may, in lieu of referring truant juveniles to the department, order that the juveniles be supervised by his or her probation office: *Provided, however*, That a circuit judge may also refer a truant juvenile to a truancy diversion specialist.

(5) If the allegations in a petition are not sustained by evidence as provided in §49-4-711(c) and §49-4-711(d) of this code, the petition shall be dismissed and the juvenile shall be discharged if he or she is in custody.

(6) Findings of fact and conclusions of law addressed to all allegations in the petition shall be stated on the record or reduced to writing and filed with the record or incorporated into the order of the court. The record shall include the treatment and rehabilitation plan the court has adopted after recommendation by the multidisciplinary team as provided for in §49-4-406 of this code.

§49-4-714. Disposition of juvenile delinquents; appeal.

(a) In aid of disposition of juvenile delinquents, the juvenile probation officer assigned to the juvenile shall, upon request of the court, make an investigation of the environment of the juvenile and the alternative dispositions possible. The court, upon its own motion, or upon request of counsel, may order the use of a standardized screener, as defined in §49-1-206 of this code or, if additional information is necessary, a psychological examination of the juvenile. The report of an examination and other investigative and social reports shall not be relied upon the court in making a determination of adjudication. Unless waived, copies of the report shall be provided to counsel for the petitioner and counsel for the juvenile no later than 72 hours prior to the dispositional hearing.

(b) Following the adjudication, the court shall receive and consider the results of a ~~risk and needs assessment, conducted pursuant to section seven hundred twenty-four, article four of this chapter~~ as defined in §49-1-206 of this code, and shall conduct the disposition, giving all parties an opportunity to be heard. The disposition may include reasonable and relevant orders to the parents, custodians or guardians of the juvenile as is necessary and proper to effectuate the disposition. At disposition

the court shall not be limited to the relief sought in the petition and shall, in electing from the following alternatives, consider the best interests of the juvenile and the welfare of the public:

(1) Dismiss the petition;

(2) Refer the juvenile and the juvenile's parent or custodian to a community agency for needed assistance and dismiss the petition;

(3) Upon a finding that the juvenile is in need of extra-parental supervision: (A) Place the juvenile under the supervision of a probation officer of the court or of the court of the county where the juvenile has his or her usual place of abode or other person while leaving the juvenile in custody of his or her parent or custodian; and (B) prescribe a program of treatment or therapy or limit the juvenile's activities under terms which are reasonable and within the child's ability to perform, including participation in the litter control program established pursuant to §22-15A-3 of this code or other appropriate programs of community service;

(4) Upon a finding that a parent or custodian is not willing or able to take custody of the juvenile, that a juvenile is not willing to reside in the custody of his or her parent or custodian or that a parent or custodian cannot provide the necessary supervision and care of the juvenile, the court may place the juvenile in temporary foster care or temporarily commit the juvenile to the department or a child welfare agency. The court order shall state that continuation in the home is contrary to the best interest of the juvenile and why; and whether or not the department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible. Whenever the court transfers custody of a youth to the department, an appropriate order of financial support by the parents or guardians shall be entered in accordance with §49-4-801 through §49-4-803 *et seq.* of this code and guidelines promulgated by the Supreme Court of Appeals;

(5) (A) Upon a finding that the best interests of the juvenile or the welfare of the public require it, and upon an adjudication of delinquency, the court may commit the juvenile to the custody of the ~~Director of the Division of Juvenile Services~~ Director of the Division of Corrections and Rehabilitation for placement in a juvenile services facility for the treatment, instruction and rehabilitation of juveniles. The court maintains discretion to consider alternative sentencing arrangements.

(B) Notwithstanding any provision of this code to the contrary, in the event that the court determines that it is in the juvenile's best interests or required by the public welfare to place the juvenile in the custody of the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation, the court shall provide the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation with access to all relevant court orders and records involving the underlying offense or offenses for which the juvenile was adjudicated delinquent, including sentencing and presentencing reports and evaluations, and provide the division with access to school records, psychological reports and evaluations, ~~risk and~~ needs assessment results, medical reports and evaluations or any other such records as may be in the court's possession as would enable the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation to better assess and determine the appropriate counseling, education and placement needs for the juvenile offender.

(C) Commitments may not exceed the maximum term for which an adult could have been sentenced for the same offense and any such maximum allowable term of confinement to be served in a juvenile correctional facility shall take into account any time served by the juvenile in a detention center pending adjudication, disposition or transfer. The order shall state that continuation in the home is contrary to the best interests of the juvenile and why; and whether or not the state department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible; or

(6) After a hearing conducted under the procedures set out in §27-5-4(c) and §27-5-4(d) of this code, commit the juvenile to a mental health facility in accordance with the juvenile's treatment plan; the director of the mental health facility may release a juvenile and return him or her to the court for further disposition. The order shall state that continuation in the home is contrary to the best interests of the juvenile and why; and whether or not the state department made a reasonable effort to prevent the placement or that the emergency situation made those efforts unreasonable or impossible.

The court shall make all reasonable efforts to place the juvenile in the least restrictive alternative appropriate to the needs of the juvenile and the community: *Provided*, That a juvenile adjudicated delinquent for a nonviolent misdemeanor offense may not be placed in an out-of-home placement within the ~~Division of Juvenile Services~~ Division of Corrections and Rehabilitation or the department if that juvenile has no prior adjudications as either a status offender or as a delinquent, or no prior dispositions to a pre-adjudicatory improvement period or probation for the current matter, excluding placements made for abuse or neglect: *Provided, however*, That if the court finds by clear and convincing evidence that there is a significant and likely risk of harm, as determined by a ~~risk and~~ needs assessment, to the juvenile, a family member or the public and that continued placement in the home is contrary to the best interest of the juvenile, such juvenile may be ordered to an out-of-home placement: *Provided further*, That the department has made all reasonable efforts to prevent removal of the juvenile from his or her home, or that reasonable efforts are not required due to an emergent situation.

(c) In any case in which the court decides to order the juvenile placed in an out-of-state facility or program, it shall set forth in the order directing the placement the reasons the juvenile was not placed in an in-state facility or program.

(d) The disposition of the juvenile shall not be affected by the fact that the juvenile demanded a trial by jury or made a plea of not guilty. Any disposition is subject to appeal to the Supreme Court of Appeals.

(e) Following disposition, the court shall inquire whether the juvenile wishes to appeal and the response shall be transcribed; a negative response shall not be construed as a waiver. The evidence shall be transcribed as soon as practicable and made available to the juvenile or his or her counsel, if the same is requested for purposes of further proceedings. A judge may grant a stay of execution pending further proceedings.

(f) Following a disposition under §49-4-714(b)(4), §49-4-714(b)(5), or §49-4-714(b)(6) of this code, the court shall include in the findings of fact the treatment and rehabilitation plan the court has adopted upon recommendation of the multidisciplinary team under §49-4-406 of this code.

(g) Notwithstanding any other provision of this code to the contrary, if a juvenile charged with delinquency under this chapter is transferred to adult jurisdiction and there tried and convicted, the court may make its disposition in accordance with this section in lieu of sentencing the person as an adult.

§49-4-724. Standardized ~~risk and needs assessment~~ assessments.

(a) The Supreme Court of Appeals is requested to adopt a risk and needs assessment to be used for ~~juvenile dispositions~~ adjudicated delinquents, detained and delivered to, or committed to the custody of the Commissioner of Corrections and Rehabilitation. A validation study of the risk and needs assessment may be conducted at least every three years to ensure that the risk and needs assessment is predictive of the risk of reoffending.

(b) Each juvenile adjudicated for a ~~status or~~ delinquency offense and committed or detained with the Division of Corrections and Rehabilitation in accordance with ~~this chapter~~ §49-4-714(b)(5)(A) of this code shall undergo a risk and needs assessment prior to disposition to identify specific factors that predict a juvenile's likelihood of reoffending and, when appropriately addressed, may reduce the likelihood of reoffending. The risk and needs assessment may be conducted by a ~~probation officer, other court official or the state department~~ division worker trained to conduct the risk and needs assessment.

(c) Each multidisciplinary team convened pursuant to ~~section four hundred six, article four of this chapter~~ §49-4-406(c) of this code shall receive and consider the results of the risk and needs assessment of the juvenile.

(d) The results of the risk and needs assessment shall be provided to the court prior to disposition or at the time of the dispositional hearing.”

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. 654**), and there were—yeas 66, nays 31, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Angelucci, Boggs, N. Brown, S. Brown, Byrd, Campbell, Caputo, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, Longstreth, Lovejoy, McGeehan, Miller, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Staggers, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Cooper, Dean and Malcolm.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2010) passed.

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

On this question, the yeas and nays were taken (**Roll No. 655**), and there were—yeas 77, nays 20, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Angelucci, S. Brown, Campbell, Caputo, Diserio, Doyle, Estep-Burton, Fleischauer, Fluharty, Hansen, Lavender-Bowe, Longstreth, Miller, Pyles, Rowe, Sponaugle, C. Thompson, R. Thompson, Walker and Williams.

Absent and Not Voting: Cooper, Dean and Malcolm.

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. 2010) takes effect from passage.

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

A message from the Senate, by

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

H. B. 2209, Allowing military veterans who meet certain qualifications to qualify for examination for license as an emergency medical technician.

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

Com. Sub. for H. B. 2378, Relating generally to grounds for revocation of a teaching certificate.

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. 2396, West Virginia Fresh Food Act.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

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

“ARTICLE 37. WEST VIRGINIA FRESH FOOD ACT.

§19-37-1. Legislative findings and purpose.

(a) According to the West Virginia Farm Bureau state schools alone currently purchase \$100 million of food from out-of-state sources.

(b) Locally grown food is healthier and more beneficial to the environment than food imported from other states and other countries.

(c) This article will:

(1) Stimulate the agricultural economy of the state, especially in its economically depressed areas, and allow small farmers to expand operations as well as act as an incentive to new people to begin farming;

(2) Encourage state-funded institutions to begin growing their own produce, thus enabling people to learn and practice agricultural techniques, as well as lowering operational costs of those institutions; and

(3) Spur self-sufficiency and economic independence of those who learn and engage in agricultural activities.

§19-37-2. State-funded institutions to purchase food from in-state sources; exception.

Beginning July 1, 2019, all state-funded institutions, such as schools, colleges, correctional facilities, governmental agencies and state parks, shall purchase a minimum of five percent of its fresh produce, meat and poultry products from in-state producers: *Provided*, That such produce, meat and poultry products can be grown or is available from in-state producers.

§19-37-3. Rule-making authority and enforcement.

The Commissioner of Agriculture shall be charged with the enforcement of this article and shall have authority to make and enforce rules and regulations for the administration of this article.”

And,

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

Com. Sub. for H. B. 2396 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-37-1, §19-37-2, and §19-37-3, all relating to requiring all state-funded institutions to purchase a minimum of five percent of fresh produce, meat and poultry products from in-state producers if available; providing legislative findings and purpose; and establishing rule-making authority and enforcement authority."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 656**), 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: Cooper, Dean and Malcolm.

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. 2396) 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. 2412, Relating to criminal acts concerning government procurement of commodities and services.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

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

"CHAPTER 5A. DEPARTMENT OF ADMINISTRATION.

ARTICLE 3. PURCHASING DIVISION.

§5A-3-28. Financial interest of secretary, etc.; receiving reward from interested party; penalty; application of bribery statute.

[Repealed.]

§5A-3-30. Statement of purpose; obtaining money and property under false pretenses or by fraud from the state; penalties; definition.

[Repealed.]

§5A-3-31. Corrupt actions, combinations, collusions or conspiracies prohibited; penalties.

[Repealed.]

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.**ARTICLE 5B. PROHIBITED ACTS IN GOVERNMENT PROCUREMENT.****§61-5B-1 Definitions.**

As used in this article, the terms listed in this section have the meaning assigned to them below.

(a) "Business entity" means any individual, legal person, firm, partnership, association, or similar organization with the capacity to contract under West Virginia law;

(b) "Commodities" means supplies, material, equipment, and any other articles or things used by, or furnished to, a governmental entity, including the use, extension, loan or grant of money, credit, or waivers of debt or liability;

(c) "Governmental entity" means any department, agency, commission, institution, board, or similar entity within any branch of government of the State of West Virginia;

(d) "Inferior commodities or services" means:

(1) Any commodity or service that materially fails to meet the specification or standard issued by the governmental entity;

(2) Any commodity or service that does not meet a specification or standard required by state or federal law; or (3) any commodity or service which is of a materially lesser quality, quantity, or measure of any kind set forth within the specification or standard issued by the procuring governmental entity.

(e) "Services" means the furnishing of labor, time, expertise, or effort, not involving the delivery of a specific end commodity or product other than one that may be incidental to the required performance.

§61-5B-2. Financial Interests of state purchasing agents; prohibitions; offenses; penalties.

(a) Except as authorized by the provisions of §6B-1-1 et seq. of this code:

(1) No person purchasing or contracting for the purchase of commodities or services for a governmental entity may have any interest, direct or indirect, in any business entity bidding, contracting with or selling commodities or services to the governmental entity for which the person is acting as an agent.

(2) No person purchasing or contracting for the purchase of commodities or services on behalf of a governmental entity may accept anything of value from a business entity offering to sell, providing, or contracting to sell or provide commodities or services to the governmental entity for which the person is acting as an agent.

(3) No business entity selling, offering to sell, or bidding on a contract to provide commodities or services to a governmental entity may offer to any person acting as an agent for a governmental entity in said purchase or contract anything of value without receiving fair value therefor.

(b) Any person or entity violating the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail for not more than one year, or both fined and confined.

§61-5B-3. Obtaining money and property under false pretenses or by fraud from the state; penalties; definition; application of change orders.

(a) It is unlawful for any business entity to obtain any money or other thing of value from a governmental entity by knowing delivery of inferior commodities or services to a governmental entity, with the intent to defraud the governmental entity.

(b) It is unlawful for any person to knowingly accept delivery of inferior commodities or services on behalf of a governmental entity with intent to defraud that governmental entity.

(c) Any person who violates the provisions of this section is guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000 or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(d) It shall not be a defense to a charge under this section that: (1) The commodities or services were accepted and used, or are being used, by the relevant governmental entity; or (2) the commodities or services are functional or suitable for the purpose for which the commodities or services were purchased by the governmental entity notwithstanding a deviation from the standard or specification issued by the governmental entity that makes the commodities inferior.

(e) Nothing in this section prohibits the negotiation, issuance, or approval of a change order to modify the initial specification or standard issued, provided that the intent of the modification is to serve the best interests of the governmental entity and not to defraud the governmental entity, circumvent competitive bidding requirements, or provide a beneficial personal interest to a procurement authority.”

And,

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

H. B. 2412 - “A Bill to repeal §5A-3-28, §5A-3-30, and §5A-3-31 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §61-5B-1, §61-5B-2, and §61-5B-3, all relating to state purchasing; moving and modifying certain criminal provisions relating to government procurement from chapter 5A of the code to chapter 61; defining terms; prohibiting persons purchasing commodities and services for a governmental entity from having an interest in entities selling or contracting to sell commodities or services to a governmental entity; prohibiting persons purchasing commodities or services for a governmental entity from accepting things of value from persons selling, attempting to sell, or contracting to sell commodities or services to a governmental entity; prohibiting persons or entities attempting to sell or selling commodities to a governmental entity from offering anything of value to the person acting as a governmental entity’s agent; prohibiting delivery and acceptance of inferior commodities or services, authorizing change orders made in good faith from prohibited conduct; creating exceptions to prohibited conduct consistent with state ethics law; and establishing criminal penalties.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 657**), 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: Cooper, Dean and Malcolm.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2412) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2422, Relating to the time for the observation of “Celebrate Freedom Week”.

A message from the Senate, by

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

H. B. 2480, Relating to the regulation of an internationally active insurance group.

On motion of Delegate Summers, the House of Delegates concurred in the following Senate title amendment by the Senate:

H. B. 2480 - “A Bill to amend and reenact §33-27-2 and §33-27-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §33-27-6b, all relating to the regulation of an internationally active insurance group; defining group-wide supervisor and internationally active insurance group; providing authority for the insurance commissioner to act as a group-wide supervisor for an internationally active insurance group; permitting the insurance commissioner to acknowledge another regulatory official as the group-wide supervisor for an internationally active insurance group under certain criteria; requiring insurance companies to submit information necessary for the insurance commissioner to determine whether he or she may act as the group-wide supervisor for an internationally active insurance group; authorizing specific regulatory actions when the insurance commissioner is acting as a group-wide supervisor for an internationally active insurance group; allowing the insurance commissioner to enter into agreements with insurers regarding his or her role as group-wide supervisor for an internationally active insurance group; making insurers liable for the reasonable expenses of the insurance commissioner’s participation as a group-wide supervisor for an internationally active insurance group; and rendering information provided by insurers to the insurance commissioner in connection with the commissioner’s role as a group-wide supervisor for an internationally active insurance group as confidential and privileged.”

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. 658**), 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: Cooper, Dean and Malcolm.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2480) 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. 2524, Permitting a pharmacist to convert prescriptions authorizing refills under certain circumstances.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section thirty-five, line eighteen, after the word “seq.,” by inserting the word “and”.

On page two, section thirty-five, line nineteen, by striking out all of subdivision (5);

And,

By renumbering the remaining subdivision.

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. 659**), 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: Cooper, Dean, Graves and Malcolm.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2524) 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. 2541, Requiring certain safety measures be taken at public schools.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page one, section ten, line eight, by striking out the word “teachers” and inserting in lieu thereof the words “all school personnel”.

On page one, section ten, line nine, by striking out the word “teachers” and inserting in lieu thereof the words “all school personnel”.

And,

On page one, section ten, line nine, after the word “at” by inserting the word “the”.

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. 660**), 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: Cooper, Dean and Malcolm.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2541) 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 H. B. 2600, Relating to publication of sample ballots.

On motion of Delegate Summers, the House concurred in the following amendment of the bill by the Senate:

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

“ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

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

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

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

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

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

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

(i) Justice of the Supreme Court of Appeals;

(ii) Judge of the circuit court;

(iii) Family court judge; and

(iv) Magistrate;

(B) Nonpartisan elections for board of education; and

(C) Any question to be voted upon.

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

~~(4)~~ (5) Both the face and the reverse side of the ballot may contain the names of candidates only if means to ensure the secrecy of the ballot are provided and lines for the signatures of the poll clerks on the ballot are printed on a portion of the ballot which is deposited in the ballot box and upon which marks do not interfere with the proper tabulation of the votes.

~~(5)~~ (6) The arrangement of candidates within each office is to be determined in the same manner as for other electronic voting systems, as prescribed in this chapter. On the general election ballot for all offices, and on the primary election ballot only for those offices to be filled by election, except delegate to national convention, lines for entering write-in votes are to be provided below the names of candidates for each office, and the number of lines provided for any office shall equal the number of persons to be elected, or three, whichever is fewer. The words "WRITE-IN, IF ANY" are to be printed, where applicable, directly under each line for write-ins. The lines are to be opposite a position to mark the vote.

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

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

§3-4A-15. Instructions and help to voters; vote-recording device models; facsimile diagrams; sample ballots; legal ballot advertisements.

(a) For the instruction of the voters on any election day in counties utilizing an electronic voting system that uses a screen upon which votes may be recorded by means of a stylus or by means of touch, the ballot commissioners shall provide for each polling place a sample ballot with each screen as it will appear on the devices, together with written instructions regarding the operation of the devices. Upon request, the election officers shall offer instruction to each voter, before voting, in the operation of the vote-recording device.

(b) The ballot commissioners shall also provide facsimile ballots, at least two of which, or complete sets of which, are to be posted on the walls of each polling place. The facsimile diagrams are exact diagrams of the ballots or screens so that the voter may become familiar with the location of the parties, offices, candidates, and questions as they appear on the ballot to be used in his or her precinct.

(c) The ballot commissioners may, with the consent of the county commission, or the county commission may, prepare and mail to each qualified voter at the address shown on the registration books a facsimile sample of the ballot or screens for his or her precinct.

(d) In counties where an electronic voting system has been adopted, the legal ballot advertisements required by §3-5-1 *et seq.* and §3-6-1 *et seq.*, which specify the publication of a facsimile sample ballot, are to consist of a facsimile of the absentee ballot, or a facsimile of each of the electronic voting system screens with the names of the candidates and the offices for which they are running shown in their proper positions: *Provided, That when the sample ballots for the precincts within the county contain different senatorial, delegate, magisterial, or executive committee districts or when the sample ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in order to accommodate the size of each ballot, the ballot or ballot pages must be divided between more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.*

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

§3-5-10. Publication of sample ballots and lists of candidates.

(a) The ballot commissioners of each county shall prepare a sample official primary ballot for each party and, as the case may be, for the nonpartisan candidates to be voted for at the primary election, according to the provisions of this article ~~§3-4-1 *et seq.*~~, and §3-4A-1 *et seq.* of this code, as appropriate to the voting system. If any ballot issue is to be voted on in the primary election, the ballot commissioners shall likewise prepare a sample official ballot for that issue according to the provisions of law authorizing the election.

(b) The facsimile sample ballot for each political party and for nonpartisan candidates or ballot issues shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, not more than 26 nor less than 20 days preceding the primary election, the ballot commissioners shall publish each sample official primary election ballot as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, not more than 26 nor less than 20 days preceding the primary election, the ballot commissioners shall publish the sample official primary election ballot as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code; and

(3) Each facsimile sample ballot shall be a photographic reproduction of the official sample ballot or ballot pages and shall be printed in a size no less than 65 percent of the actual size of the ballot, at the discretion of the ballot commissioners: *Provided, That in counties where an electronic voting system has been adopted, the facsimile sample ballot may be a photographic reproduction of the absentee ballot. Provided, however, That when the ballots for the precincts within the county contain different senatorial, delegate, magisterial or executive committee districts or when the ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in order to accommodate the size of each ballot, the ballot or ballot pages must be divided onto more than one page, the arrangement and order shall*

be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.

(c) The ballot commissioners of each county shall prepare, in the form and manner prescribed by the Secretary of State, an official list of offices and candidates for each office which will appear on the primary election ballot for each party and, as the case may be, for the nonpartisan candidates to be voted for at the primary election. All information which appears on the ballot, including instructions as to the number of candidates for whom votes may be cast for the office, any additional language which will appear on the ballot below the name of the office, any identifying information relating to the candidates, such as his or her residence and magisterial district or presidential preference, shall be included in the list in the same order in which it appears on the ballot. Following the names of all candidates, the list shall include the full title, text and voting positions of any issue to appear on the ballot.

(d) The official list of candidates and issues as provided in subsection (c) of this section shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, on the last day on which a newspaper is published immediately preceding the primary election, the ballot commissioners shall publish the official list of candidates and issues as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, on the last day on which a newspaper is published immediately preceding the primary election, the ballot commissioners shall publish the sample official list of nominees and issues as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(3) The publication of the official list of candidates for each party and for nonpartisan candidates shall be in single or double columns, as required to accommodate the type size requirements as follows: (A) The words "official list of candidates", the name of the county, the words "primary election", the date of the election, the name of the political party or the designation of nonpartisan candidates shall be printed in all capital letters and in bold type no smaller than fourteen point. The designation of the national, state, district or other tickets shall be printed in all capital letters in type no smaller than 14 point; (B) the title of the office shall be printed in bold type no smaller than 12 point and any voting instructions or other language printed below the title shall be printed in bold type no smaller than 10 point; and (C) the names of the candidates shall be printed in all capital letters in bold type no smaller than 10 point and the residence information shall be printed in type no smaller than 10 point; and

(4) When any ballot issue is to appear on the ballot, the title of that ballot shall be printed in all capital letters in bold type no smaller than 14 point. The text of the ballot issue shall appear in no smaller than eight point type. The ballot commissioners may require the publication of the ballot issue under this subsection in the facsimile sample ballot format in lieu of the alternate format.

(e) Notwithstanding the provisions of subsections (c) and (d) of this section, beginning with the primary election to be held in the year 2000, the ballot commissioners of any county may choose to publish a facsimile sample ballot for each political party and for nonpartisan candidates or ballot issues instead of the official list of offices and candidates for each office for purposes of the last publication required before any primary election.

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

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

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

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

(A) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all judicial officers shall commence with the words "Nonpartisan Ballot of Election of Judicial Officers" and each such office shall be listed in the following order:

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

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

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

(iv) The ballot title of any separate paper ballot or portion of any electronic or voting machine ballot for all magistrates in the respective circuits shall contain the words "Nonpartisan Ballot of Election of Magistrate(s)". The names of the candidates for the respective magistrate office shall be printed by division without references to political party affiliation or registration.

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

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

(3) (A) For paper ballots, the heading of the ballot is to be separated from the rest of the ballot by heavy lines and the offices shall be arranged in columns with the following headings, from left to right across the ballot: "National Ticket", "State Ticket", "Nonpartisan Judicial Ballot", "County Ticket", "Nonpartisan Ballot" and, in a presidential election year, "National Convention" or, in a nonpresidential election year, "District Ticket" or, in a presidential election year, "National Convention". The columns

are to be separated by heavy lines. Within the columns, the offices are to be arranged in the order prescribed in §3-5-13a of this code.

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

(C) The title of each office is to be separated from preceding offices or candidates by a line and is to be printed in bold type no smaller than eight point. Below the office is to be printed the number of the district, if any, the number of the division, if any, and the words "Vote for _____" with the number to be nominated or elected or "Vote For Not More Than _____" in multicandidate elections. For offices in which there are limitations relating to the number of candidates which may be nominated, elected or appointed to or hold office at one time from a political subdivision within the district or county in which they are elected, there is to be a clear explanation of the limitation, as prescribed by the Secretary of State, printed in bold type immediately preceding the names of the candidates for those offices on the ballot in every voting system. For counties in which the number of county commissioners exceeds three and the total number of members of the county commission is equal to the number of magisterial districts within the county, the office of county commission is to be listed separately for each district to be filled with the name of the magisterial district and the words "Vote for One" printed below the name of the office: *Provided*, That the office title and applicable instructions may span the width of the ballot so as it is centered among the respective columns.

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

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

(B) The city of residence of every candidate, the state of residence of every candidate residing outside the state, the county of residence of every candidate for an office on the ballot in more than one county and the magisterial district of residence of every candidate for an office subject to magisterial district limitations are to be printed in lower case letters beneath the names of the candidates.

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

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

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

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

(7) All paper ballots are to be printed in black ink on paper sufficiently thick so that the printing or marking cannot be discernible from the back: *Provided*, That no paper ballot voted pursuant to the provisions of 42 U. S. C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, or federal write-in absentee ballot may be rejected due to paper type, envelope type, or notarization requirement. Ballot cards and paper for printing ballots using electronically sensible ink are to meet minimum requirements of the tabulating systems and are to conform in size and weight to ensure ease in tabulation.

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

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

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

§3-5-13a. Order of offices and candidates on the ballot; uniform drawing date.

(a) The order of offices for state and county elections on all ballots within the state shall be as prescribed herein. When the office does not appear on the ballot in an election, then it shall be omitted from the sequence. When an unexpired term for an office appears on the ballot along with a full term, the unexpired term shall appear immediately below the full term.

NATIONAL TICKET: President (and Vice President in the general election), United States Senator, member of the United States House of Representatives.

STATE TICKET: Governor, Secretary of State, Auditor, Treasurer, Commissioner of Agriculture, Attorney General, State Senator, member of the House of Delegates, any other multicounty office, state executive committee.

NONPARTISAN JUDICIAL BALLOT: Justice of the Supreme Court of Appeals, judge of the circuit court, family judge, magistrate.

COUNTY TICKET: Clerk of the circuit court, county commissioner, clerk of the county commission, prosecuting attorney, sheriff, assessor, surveyor, congressional district executive committee, senatorial district executive committee in multicounty districts, delegate district executive committee in multicounty districts.

NONPARTISAN BALLOT: Nonpartisan elections for board of education, conservation district supervisor, any question to be voted upon.

~~NATIONAL CONVENTION: Delegate to the national convention — at-large, Delegate to the national convention — congressional district.~~

DISTRICT TICKET: County executive committee.

NATIONAL CONVENTION: Delegate to the national convention — congressional district, delegate to the national convention — at-large.

(b) Except for office divisions in which no more than one person has filed a certificate of announcement, the arrangement of names for all offices shall be determined by lot according to the following provisions:

(1) On the fourth Tuesday following the close of the candidate filing, beginning at 9:00 a.m., a drawing by lot shall be conducted in the office of the clerk of the county commission in each county. Notice of the drawing shall be given on the form for the certificate of announcement and no further notice shall be required. The clerk of the county commission shall superintend and conduct the drawing and the method of conducting the drawing shall be prescribed by the Secretary of State.

(2) Except as provided herein, the position of each candidate within each office division shall be determined by the position drawn for that candidate individually: *Provided*, That if fewer candidates file for an office division than the total number to be nominated or elected, the vacant positions shall appear following the names of all candidates for the office.

(3) Candidates for delegate to national convention who have filed a commitment to a candidate for president shall be listed alphabetically within the group of candidates committed to the same candidate for president and uncommitted candidates shall be listed alphabetically in an uncommitted category. The position of each group of committed candidates and uncommitted candidates shall be determined by lot by drawing the names of the presidential candidates and for an uncommitted category.

(4) A candidate or the candidate's representative may attend the drawings.

ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.

§3-6-3. Publication of sample ballots and lists of candidates.

(a) The ballot commissioners of each county shall prepare a sample official general election ballot for all political party or nominees with no party affiliation unless those persons have actually been nominated by an independent party, nonpartisan candidates for election, if any, and all ballot issues to be voted for at the general election, according to the provisions of §3-4A-1 *et seq.* of this code, and for any ballot issue, according to the provisions of law authorizing the election.

(b) The facsimile sample general election ballot shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, not more than 26 nor less than 20 days preceding the general election, the ballot commissioners shall publish the sample official general election ballot as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily newspaper, or having only one or more qualified newspapers which publish weekly, not more than 26 nor less than 20 days preceding the primary election, the ballot commissioners shall publish the sample official general election ballot as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code; and

(3) Each facsimile sample ballot shall be a photographic reproduction of the official sample ballot or ballot pages and shall be printed in a size no less than 65 percent of the actual size of the ballot, at the discretion of the ballot commissioners: Provided, That in counties where an electronic voting system has been adopted, the facsimile sample ballot may be a photographic reproduction of the absentee ballot: Provided, however, That when the ballots for the precincts within the county contain different senatorial, delegate, magisterial or executive committee districts or when the ballots for precincts within a city contain different municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order. If, in order to accommodate the size of each ballot, the ballot or ballot pages must be divided onto more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot. The publisher of the newspaper shall submit a proof of the ballot and the arrangement to the ballot commissioners for approval prior to publication.

(c) The ballot commissioners of each county shall prepare, in the form and manner prescribed by the Secretary of State, an official list of offices and nominees for each office which will appear on the general election ballot for each political party or as nominees with no party affiliation unless those persons have actually been nominated by an independent party and, as the case may be, for the nonpartisan candidates to be voted for at the general election:

(1) All information which appears on the ballot, including instructions as to the number of candidates for whom votes may be cast for the office, any additional language which will appear on the ballot below the name of the office, any identifying information relating to the candidates, such as his or her residence and magisterial district or presidential preference. Following the names of all candidates, the list shall include the full title, text and voting positions of any issue to appear on the ballot.

(2) The order of the offices and candidates for each office and the manner of designating the parties shall be as follows:

(A) The offices shall be listed in the same order in which they appear on the ballot;

(B) The candidates within each office for which one is to be elected shall be listed in the order they appear on the ballot, from left to right or from top to bottom, as the case may be, and the candidate's political party affiliation or independent status shall be indicated by the one- or two-letter initial specifying the affiliation, placed in parenthesis to the right of the candidate's name; and

(C) The candidates within each office for which more than one is to be elected shall be arranged by political party groups in the order they appear on the ballot and the candidate's affiliation shall be indicated as provided in paragraph (B) of this subdivision.

(d) The official list of candidates and issues as provided in subsection (c) of this section shall be published as follows:

(1) For counties in which two or more qualified newspapers publish a daily newspaper, on the last day on which a newspaper is published immediately preceding the general election, the ballot commissioners shall publish the official list of nominees and issues as a Class I-0 legal advertisement in the two qualified daily newspapers of different political parties within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(2) For counties having no more than one daily paper, or having only one or more qualified newspapers which publish weekly, on the last day on which a newspaper is published immediately preceding the general election, the ballot commissioners shall publish the sample official list of nominees and issues as a Class I legal advertisement in the qualified newspaper within the county having the largest circulation in compliance with the provisions of §59-3-1 *et seq.* of this code;

(3) The publication of the official list of nominees for each party and for nonpartisan candidates shall be in single or double columns, as required to accommodate the type size requirements as follows:

(A) The words “official list of nominees and issues”, the name of the county, the words “General Election” and the date of the election shall be printed in all capital letters and in bold type no smaller than 14 point; and

(B) The names of the candidates and the initial within parenthesis designating the candidate’s affiliation shall be printed in all capital letters in bold type no smaller than 10 point and the residence information shall be printed in type no smaller than 10 point; and

(4) When any ballot issue is to appear on the ballot, the title of that ballot shall be printed in all capital letters in bold type no smaller than 12 point. The text of the ballot issue shall appear in no smaller than eight point type. The ballot commissioners may require the publication of the ballot issue under this subsection in the facsimile sample ballot format in lieu of the alternate format.

(e) Notwithstanding the provisions of subsections (c) and (d) of this section, the ballot commissioners of any county may choose to publish a facsimile sample general election ballot, instead of the official list of candidates and issues, for purposes of the last publication required before any general election.”

And,

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

Com. Sub. for H. B. 2600- “A Bill to amend and reenact §3-4A-11a and §3-4A-15 of the Code West Virginia, 1931, as amended; to amend and reenact §3-5-10, §3-5-13, and §3-5-13a of said code; and to amend and reenact §3-6-3 of said code, all relating generally to the form of ballots; providing that sample ballots required to be printed as legal advertisements ahead of elections in counties where electronic voting has been adopted may consist of a facsimile of the absentee ballot; providing that when sample ballots for the precincts within a county contain different districts for certain offices or municipal wards, the facsimile shall be altered to include each of the various districts in the appropriate order; providing that if sample ballots must be divided onto more than one page, the arrangement and order shall be made to conform as nearly as possible to the arrangement of the ballot; providing that the publisher of the newspaper containing the sample ballot shall submit a proof and arrangement of the ballot to the ballot commissioners for approval prior to publication; providing that on primary election ballots, the nonpartisan ballot for judicial elections shall appear immediately

after the state ticket and immediately before the county ticket; providing that on primary election ballots, the non-judicial nonpartisan ballot shall appear immediately after the county ticket and immediately before the district ticket; and providing that on primary election ballots, the national convention ticket shall appear immediately after the district ticket, with the election for at-large delegate to the national convention appearing immediately after the election for congressional district delegate to the national convention.”

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. 661**), 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: Cooper, Dean and Malcolm.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2600) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2601, Relating to the review and approval of state property leases.

A message from the Senate, by

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

Com. Sub. for H. B. 2661, Relating to natural gas utilities.

A message from the Senate, by

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

Com. Sub. for H. B. 2662, Relating to certificates or employment of school personnel.

A message from the Senate, by

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

Com. Sub. for H. B. 2715, Relating to Class Q special hunting permit for disabled persons.

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. 2716, Relating to vessel lighting and equipment requirements.

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. 2739, Relating to contributions on behalf of employees to a retirement plan administered by the Consolidated Public Retirement Board.

A message from the Senate, by

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

Com. Sub. for H. B. 2809, Relating to prohibited acts and penalties in the Hatfield-McCoy Recreation Area.

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. 2813, Relating generally to collection of use tax.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page two, section one, line twenty-four, after the words “personal property,” by inserting the words “custom software,”;

On page four, section one, line eighty-six, by striking out the word “forum” and inserting in lieu thereof the word “platform,”;

On page eight, section six-b, lines one through three, by striking out all of subsection (a) and inserting in lieu thereof a new subsection, designated subsection (a), to read as follows:

(a) *Duty to collect tax.* — For purposes of §11-15A-1 *et seq.* of this code and for collection of use tax required under §11-15A-6 and §11-15A-6b of this code, the phrase retailer engaging in business in this state also means and includes a remote seller, marketplace facilitator, or referrer that meets the requirements of subsection (e) of this section. A marketplace facilitator or referrer is required to collect and remit the use tax on all taxable sales of tangible personal property, [custom software] or services: (i) Made by the marketplace facilitator or referrer; or (ii) facilitated for marketplace sellers, to purchasers in this state.;

On page nine, section six-b, lines twenty-three through twenty-eight, by striking out all of subsection (e) and inserting in lieu thereof a new subsection, designated subsection (e), to read as follows:

(e) *Economic nexus.* — A marketplace facilitator, referrer, or remote seller shall collect the tax imposed by §11-15A-2 of the code when:

(1) The marketplace facilitator, referrer, or remote seller makes or facilitates West Virginia sales on its own behalf or on behalf of one or more marketplace sellers equal to or exceeding \$100,000 in gross revenue for an immediately preceding calendar year, or a current calendar year; or

(2) The marketplace facilitator, referrer, or remote seller makes or facilitates West Virginia sales on its own behalf or on behalf of one or more marketplace sellers in 200 or more separate transactions for an immediately preceding calendar year or a current calendar year.

On page three, section one, after line forty-eight, by inserting the following:

(C) This term does not include a payment processor business appointed by a merchant to handle payment transactions from various channels, such as credit cards and debit cards, and whose sole activity with respect to marketplace sales is to handle payment transactions between two parties.

And,

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

Com. Sub. for H. B. 2813 - “A Bill to amend and reenact §11-15A-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §11-15A-6b, all relating generally to collection of use tax; defining terms, requiring collection of use tax by marketplace facilitators, remote sellers, and referrers satisfying certain economic nexus requirements; and specifying internal 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. 662**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Foster, Howell, J. Jeffries, McGeehan and Paynter.

Absent and Not Voting: Cooper, Dean and Malcolm.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2813) passed.

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

A message from the Senate, by

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

H. B. 2816, Removing the terms “hearing impaired,” “hearing impairment,” and “deaf mute” from the West Virginia Code and substituting terms.

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. 2831, Finding and declaring certain claims against the state and its agencies to be moral obligations of the state.

On motion of Delegate Summers, the House of Delegates concurred in the following amendment of the bill by the Senate:

On page five, section one, subsection (j), after item (45), by inserting a new item, designated item (46), to read as follows:

“(46) Wilson Restoration, Inc.\$29,000.00”;

And,

By renumbering the remaining items.

In accordance, with the previous direction of the Speaker, Delegates Byrd and Fast were excused from voting on Com. Sub. for H. B. 2831, pursuant to House Rule 49.

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. 663**), and there were—yeas 83, nays 11, absent and not voting 4, excused 2, with the nays and absent and not voting and excused being as follows:

Nays: Atkinson, Capito, Criss, C. Martin, P. Martin, McGeehan, Nelson, Paynter, Queen, Sponaugle and Toney.

Absent and Not Voting: Cooper, Dean, Kump and Malcolm.

Excused: Byrd and Fast.

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. 2831) passed.

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

Delegate Summers moved that the bill take effect its passage.

On this question, the yeas and nays were taken (**Roll No. 664**), and there were—yeas 91, nays 3, absent and not voting 4, excused 2, with the nays and absent and not voting and excused being as follows:

Nays: P. Martin, Nelson and Paynter.

Absent and Not Voting: Cooper, Dean, Kump and Malcolm.

Excused: Byrd and Fast.

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. 2831) takes effect from passage.

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

A message from the Senate, by

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

H. B. 2846, Designating a “Back the Blue” plate in support of law-enforcement personnel.

On motion of Delegate Kessinger, the House of Delegates concurred in the following amendment of the bill by the Senate:

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

“ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-14. Registration plates generally; description of plates; issuance of special numbers and plates; registration fees; special application fees; exemptions; commissioner to promulgate forms; suspension and nonrenewal.

(a) The division, upon registering a vehicle, shall issue to the owner one registration plate for a motorcycle, trailer, semitrailer, or other motor vehicle.

(b) Registration plates issued by the division shall meet the following requirements:

(1) Every registration plate shall be of reflectorized material and have displayed upon it the registration number assigned to the vehicle for which it is issued; the name of this state, which may be abbreviated; and the year number for which it is issued or the date of expiration of the plate.

(2) Every registration plate and the required letters and numerals on the plate shall be of sufficient size to be plainly readable from a distance of 100 feet during daylight: *Provided*, That the requirements of this subdivision shall not apply to the year number for which the plate is issued or the date of expiration.

(3) Registration numbering for registration plates shall begin with number two.

(c) The division may not issue, permit to be issued, or distribute any special registration plates except as follows:

(1) The Governor shall be issued two registration plates, on one of which shall be imprinted the numeral one and on the other the word one.

(2) State officials and judges may be issued special registration plates as follows:

(A) Upon appropriate application, the division shall issue to the Secretary of State, State Superintendent of Schools, Auditor, Treasurer, Commissioner of Agriculture, and the Attorney General, the members of both houses of the Legislature, including the elected officials of both houses of the Legislature, the justices of the Supreme Court of Appeals of West Virginia, the representatives and senators of the state in the Congress of the United States, the judges of the West Virginia circuit courts, active and retired on senior status, the judges of the United States district courts for the State of West Virginia and the judges of the United States Court of Appeals for the fourth circuit, if any of the judges are residents of West Virginia, a special registration plate for a Class A motor vehicle and a special registration plate for a Class G motorcycle owned by the official or his or her spouse: *Provided*, That the division may issue a Class A special registration plate for each vehicle titled to the official and a Class G special registration plate for each motorcycle titled to the official.

(B) Each plate issued pursuant to this subdivision shall bear any combination of letters and numbers not to exceed an amount determined by the commissioner and a designation of the office. Each plate shall supersede the regular numbered plate assigned to the official or his or her spouse during the official's term of office and while the motor vehicle is owned by the official or his or her spouse.

(C) The division shall charge an annual fee of \$15 for every registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.

(3) The division may issue members of the National Guard forces special registration plates as follows:

(A) Upon receipt of an application on a form prescribed by the division and receipt of written evidence from the chief executive officer of the Army National Guard or Air National Guard, as appropriate, or the commanding officer of any United States armed forces reserve unit that the applicant is a member thereof, the division shall issue to any member of the National Guard of this state or a member of any reserve unit of the United States armed forces a special registration plate designed by the commissioner for any number of Class A motor vehicles owned by the member. Upon presentation of written evidence of retirement status, retired members of this state's Army or Air National Guard, or retired members of any reserve unit of the United States armed forces, are eligible to purchase the special registration plate issued pursuant to this subdivision.

(B) The division shall charge an initial application fee of \$10 for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter. Except as otherwise provided herein, effective July 1, 2007, all fees currently held in the special revolving fund used in the administration of this section and all fees collected by the division shall be deposited in the State Road Fund.

(C) A surviving spouse may continue to use his or her deceased spouse's National Guard forces license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(4) Specially arranged registration plates may be issued as follows:

(A) Upon appropriate application, any owner of a motor vehicle subject to Class A registration, or a motorcycle subject to Class G registration, as defined by this article, may request that the division issue a registration plate bearing specially arranged letters or numbers with the maximum number of letters or numbers to be determined by the commissioner. The division shall attempt to comply with the request wherever possible.

(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-1-1 *et seq.* of this code regarding the orderly distribution of the plates: *Provided*, That for purposes of this subdivision, the registration plates requested and issued shall include all plates bearing the numbers two through 2,000.

(C) An annual fee of \$15 shall be charged for each special registration plate issued pursuant to this subdivision, which is in addition to all other fees required by this chapter.

(5) The division may issue honorably discharged veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee is to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration. All fees collected by the division shall be deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(6) The division may issue disabled veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any disabled veteran who is exempt from the payment of registration fees under the provisions of this chapter a registration plate for a

vehicle titled in the name of the qualified applicant which bears the letters "DV" in red and also the regular identification numerals in red.

(B) A surviving spouse may continue to use his or her deceased spouse's disabled veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(C) A qualified disabled veteran may obtain a second disabled veterans license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(7) The division may issue recipients of the distinguished Purple Heart medal special registration plates as follows:

(A) Upon appropriate application, there shall be issued to any armed service person holding the distinguished Purple Heart medal for persons wounded in combat a registration plate for a vehicle titled in the name of the qualified applicant bearing letters or numbers. The registration plate shall be designed by the Commissioner of the Division of Motor Vehicles and shall denote that those individuals who are granted this special registration plate are recipients of the Purple Heart. All letterings shall be in purple where practical.

(B) Registration plates issued pursuant to this subdivision are exempt from all registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's Purple Heart medal license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(D) A recipient of the Purple Heart medal may obtain a second Purple Heart medal license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(8) The division may issue survivors of the attack on Pearl Harbor special registration plates as follows:

(A) Upon appropriate application, the owner of a motor vehicle who was enlisted in any branch of the armed services that participated in and survived the attack on Pearl Harbor on December 7, 1941, the division shall issue a special registration plate for a vehicle titled in the name of the qualified applicant. The registration plate shall be designed by the Commissioner of the Division of Motor Vehicles.

(B) Registration plates issued pursuant to this subdivision are exempt from the payment of all registration fees otherwise required by the provisions of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's survivors of the attack on Pearl Harbor license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(D) A survivor of the attack on Pearl Harbor may obtain a second survivors of the attack on Pearl Harbor license plate as described in this section for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(9) The division may issue special registration plates to nonprofit charitable and educational organizations authorized under prior enactment of this subdivision as follows:

(A) Approved nonprofit charitable and educational organizations previously authorized under the prior enactment of this subdivision may accept and collect applications for special registration plates from owners of Class A motor vehicles together with a special annual fee of \$15, which is in addition to all other fees required by this chapter. The applications and fees shall be submitted to the Division of Motor Vehicles with the request that the division issue a registration plate bearing a combination of letters or numbers with the organization's logo or emblem, with the maximum number of letters or numbers to be determined by the commissioner.

(B) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code regarding the procedures for and approval of special registration plates issued pursuant to this subdivision.

(C) The commissioner shall set an appropriate fee to defray the administrative costs associated with designing and manufacturing special registration plates for a nonprofit charitable or educational organization. The nonprofit charitable or educational organization shall collect this fee and forward it to the division for deposit in the State Road Fund. The nonprofit charitable or educational organization may also collect a fee for marketing the special registration plates.

(10) The division may issue specified emergency or volunteer registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified paramedic or emergency medical technician, a member of a paid fire department, a member of the State Fire Commission, the State Fire Marshal, the State Fire Marshal's assistants, the State Fire Administrator, and voluntary rescue squad members may apply for a special license plate for any number of Class A vehicles titled in the name of the qualified applicant which bears the insignia of the profession, group, or commission. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subdivision shall bear the requested insignia in addition to the registration number issued to the applicant pursuant to the provisions of this article.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the fire chief or department head of the applicant stating that the applicant is justified in having a registration with the requested insignia; proof of compliance with all laws of this state regarding registration and licensure of motor vehicles; and payment of all required fees.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(11) The division may issue specified certified firefighter registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of the State of West Virginia and who is a certified firefighter may apply for a special license plate which bears the insignia of the profession, for any number of Class A vehicles titled in the name of the qualified applicant. Any insignia shall be designed by the commissioner. License plates issued pursuant to this subdivision shall bear the requested insignia pursuant to the provisions of this article. Upon presentation of written evidence of certification as a certified firefighter, certified firefighters are eligible to purchase the special registration plate issued pursuant to this subdivision.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit stating that the applicant is justified in having a registration with the requested insignia; proof of compliance with all laws of this state regarding registration and licensure of motor vehicles; and payment of all required fees. The firefighter certification department, section, or division of the West Virginia University fire service extension shall notify the commissioner in writing immediately when a firefighter loses his or her certification. If a firefighter loses his or her certification, the commissioner may not issue him or her a license plate under this subdivision.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(12) The division may issue special scenic registration plates as follows:

(A) Upon appropriate application, the commissioner shall issue a special registration plate displaying a scenic design of West Virginia which displays the words "Wild Wonderful" as a slogan.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund.

(13) The division may issue honorably discharged Marine Corps League members special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged Marine Corps League member a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) The division may charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. This special fee is to compensate the Division of Motor Vehicles for additional costs and services required in the issuing of the special registration and shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged Marine Corps League license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(14) The division may issue military organization registration plates as follows:

(A) The division may issue a special registration plate for the members of any military organization chartered by the United States Congress upon receipt of a guarantee from the organization of a minimum of 100 applicants. The insignia on the plate shall be designed by the commissioner.

(B) Upon appropriate application, the division may issue members of the chartered organization in good standing, as determined by the governing body of the chartered organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.

(C) The division shall charge a special one-time initial application fee of \$10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected

by the division shall be deposited into the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(D) A surviving spouse may continue to use his or her deceased spouse's military organization registration plate until the surviving spouse dies, remarries, or does not renew the special military organization registration plate.

(15) The division may issue special nongame wildlife registration plates and special wildlife registration plates as follows:

(A) Upon appropriate application, the division shall issue a special registration plate displaying a species of West Virginia wildlife which shall display a species of wildlife native to West Virginia as prescribed and designated by the commissioner and the Director of the Division of Natural Resources.

(B) The division shall charge an annual fee of \$15 for each special nongame wildlife registration plate and each special wildlife registration plate in addition to all other fees required by this chapter. All annual fees collected for nongame wildlife registration plates and wildlife registration plates shall be deposited in a special revenue account designated the Nongame Wildlife Fund and credited to the Division of Natural Resources.

(C) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited in the State Road Fund.

(16) The division may issue members of the Silver Haired Legislature special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any person who is a duly qualified member of the Silver Haired Legislature a specialized registration plate which bears recognition of the applicant as a member of the Silver Haired Legislature.

(B) A qualified member of the Silver Haired Legislature may obtain one registration plate described in this subdivision for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge an annual fee of \$15, in addition to all other fees required by this chapter, for the plate. All annual fees collected by the division shall be deposited in the State Road Fund.

(17) Upon appropriate application, the commissioner shall issue to a classic motor vehicle or classic motorcycle, as defined in §17A-10-3a of this code, a special registration plate designed by the commissioner. An annual fee of \$15, in addition to all other fees required by this chapter, shall be charged for each classic registration plate.

(18) Honorably discharged veterans may be issued special registration plates for motorcycles subject to Class G registration as follows:

(A) Upon appropriate application, there shall be issued to any honorably discharged veteran of any branch of the armed services of the United States a special registration plate for any number of motorcycles subject to Class G registration titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee is to be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(19) Racing theme special registration plates:

(A) The division may issue a series of special registration plates displaying National Association for Stock Car Auto Racing themes.

(B) An annual fee of \$25 shall be charged for each special racing theme registration plate in addition to all other fees required by this chapter. All annual fees collected for each special racing theme registration plate shall be deposited into the State Road Fund.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(20) The division may issue recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star, or Air Medal special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any recipient of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal, a registration plate for any number of vehicles titled in the name of the qualified applicant bearing letters or numbers. A separate registration plate shall be designed by the Commissioner of the Division of Motor Vehicles for each award that denotes that those individuals who are granted this special registration plate are recipients of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal as applicable.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section exempts the applicant for a special registration plate under this subdivision from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Silver Star, Bronze Star, or Air Medal special registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.

(21) The division may issue honorably discharged veterans special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any honorably discharged veteran of any branch of the armed services of the United States with verifiable service during World War II, the Korean War, the Vietnam War, the Persian Gulf War, or the War Against Terrorism a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the commissioner denoting service in the applicable conflict.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing contained in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's honorably discharged veterans' registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.

(22) The division may issue special volunteer firefighter registration plates as follows:

(A) Any owner of a motor vehicle who is a resident of West Virginia and who is a volunteer firefighter may apply for a special license plate for any Class A vehicle titled in the name of the qualified applicant which bears the insignia of the profession in white letters on a red background. The insignia shall be designed by the commissioner and shall contain a fireman's helmet insignia on the left side of the license plate.

(B) Each application submitted pursuant to this subdivision shall be accompanied by an affidavit signed by the applicant's fire chief, stating that the applicant is a volunteer firefighter and justified in having a registration plate with the requested insignia. The applicant must comply with all other laws of this state regarding registration and licensure of motor vehicles and must pay all required fees.

(C) Each application submitted pursuant to this subdivision shall be accompanied by payment of a special one-time initial application fee of \$10, which is in addition to any other registration or license fee required by this chapter. All application fees shall be deposited into the State Road Fund.

(23) The division may issue special registration plates which reflect patriotic themes, including the display of any United States symbol, icon, phrase, or expression which evokes patriotic pride or recognition. The division shall also issue registration plates with the words "In God We Trust":

(A) Upon appropriate application, the division shall issue to an applicant a registration plate of the applicant's choice, displaying a patriotic theme as provided in this subdivision, for a vehicle titled in the name of the applicant. A series of registration plates displaying patriotic themes shall be designed by the Commissioner of the Division of Motor Vehicles for distribution to applicants.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of the license plates designated by this subdivision.

(24) Special license plates bearing the American flag and the logo "9/11/01":

(A) Upon appropriate application, the division shall issue special registration plates which shall display the American flag and the logo "9/11/01".

(B) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(25) The division may issue a special registration plate celebrating the centennial of the 4-H youth development movement and honoring the Future Farmers of America organization as follows:

(A) Upon appropriate application, the division may issue a special registration plate depicting the symbol of the 4-H organization which represents the head, heart, hands, and health as well as the symbol of the Future Farmers of America organization which represents a cross section of an ear of corn for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special 4-H Future Farmers of America registration plate in addition to all other fees required by this chapter.

(26) The division may issue special registration plates to educators in the state's elementary and secondary schools and in the state's institutions of higher education as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special educator registration plate in addition to all other fees required by this chapter.

(27) The division may issue special registration plates to members of the Nemesis Shrine as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in Nemesis Shrine.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the Nemesis Shrine to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2005.

(28) The division may issue volunteers and employees of the American Red Cross special registration plates as follows:

(A) Upon appropriate application, the division shall issue to any person who is a duly qualified volunteer or employee of the American Red Cross a specialized registration plate which bears recognition of the applicant as a volunteer or employee of the American Red Cross for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(29) The division shall issue special registration plates to individuals who have received either the Combat Infantry Badge or the Combat Medic Badge as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof that they have received either the Combat Infantry Badge or the Combat Medic Badge.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(30) The division may issue special registration plates to members of the Knights of Columbus as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Columbus.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the Knights of Columbus to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2007.

(31) The division may issue special registration plates to former members of the Legislature as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of former service as an elected or appointed member of the West Virginia House of Delegates or the West Virginia Senate.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund. The design of the plate shall indicate total years of service in the Legislature.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(32) Democratic state or county executive committee member special registration plates:

(A) The division shall design and issue special registration plates for use by democratic state or county executive committee members. The design of the plates shall include an insignia of a donkey

and shall differentiate by wording on the plate between state and county executive committee members.

(B) An annual fee of \$25 shall be charged for each democratic state or county executive committee member registration plate in addition to all other fees required by this chapter. All annual fees collected for each special plate issued under this subdivision shall be deposited into the State Road Fund.

(C) A special application fee of \$10 shall be charged at the time of initial application as well as upon application for any duplicate or replacement registration plate, in addition to all other fees required by this chapter. All application fees shall be deposited into the State Road Fund.

(D) The division shall not begin production of a plate authorized under the provisions of this subdivision until the division receives at least 100 completed applications from the state or county executive committee members, including all fees required pursuant to this subdivision.

(E) Notwithstanding the provisions of §17A-3-14(d) of this code, the time period for the democratic executive committee to comply with the minimum 100 prepaid applications is hereby extended to January 15, 2005.

(33) The division may issue honorably discharged female veterans' special registration plates as follows:

(A) Upon appropriate application, there shall be issued to any female honorably discharged veteran, of any branch of the armed services of the United States, a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a woman veteran.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any veteran from any other provision of this chapter.

(C) A surviving spouse may continue to use his deceased spouse's honorably discharged veterans license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(34) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with West Liberty State College to any resident owner of a motor vehicle. Resident owners may apply for the special license plate for any number of Class A vehicles titled in the name of the applicant. The special registration plates shall be designed by the commissioner. Each application submitted pursuant to this subdivision shall be accompanied by payment of a special initial application fee of \$15, which is in addition to any other registration or license fee required by this chapter. The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter. All special fees shall be collected by the division and deposited into the State Road Fund.

(35) The division may issue special registration plates to members of the Harley Owners Group as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Harley Owners Group.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(36) The division may issue special registration plates for persons retired from any branch of the armed services of the United States as follows:

(A) Upon appropriate application, there shall be issued to any person who has retired after service in any branch of the armed services of the United States, a special registration plate for any number of vehicles titled in the name of the qualified applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as retired from the armed services of the United States.

(B) A special initial application fee of \$10 shall be charged in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund: *Provided*, That nothing in this section may be construed to exempt any registrants from any other provision of this chapter.

(C) A surviving spouse may continue to use his or her deceased spouse's retired military license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(37) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with or support for Fairmont State College as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(38) The division may issue special registration plates honoring the farmers of West Virginia, and the division may issue special beekeeper pollinator registration plates as follows:

~~(A) Any owner of a motor vehicle who is a resident of West Virginia may apply for a special license plate~~ Upon appropriate application, the division shall issue a special registration plate depicting a farming scene or other apt reference to farming, whether in pictures or words, at the discretion of the commissioner. Upon appropriate application, the division shall issue a special registration plate displaying a pollinator species or advocating its protection as prescribed and designated by the commissioner.

(B) The division shall charge a special initial application fee of \$10 for each plate in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(39) The division shall issue special registration plates promoting education as follows:

(A) Upon appropriate application, the division shall issue a special registration plate displaying a children's education-related theme as prescribed and designated by the commissioner and the State Superintendent of Schools.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(40) The division may issue members of the 82nd Airborne Division Association special registration plates as follows:

(A) The division may issue a special registration plate for members of the 82nd Airborne Division Association upon receipt of a guarantee from the organization of a minimum of 100 applicants. The insignia on the plate shall be designed by the commissioner.

(B) Upon appropriate application, the division may issue members of the 82nd Airborne Division Association in good standing, as determined by the governing body of the organization, a special registration plate for any number of vehicles titled in the name of the qualified applicant.

(C) The division shall charge a special one-time initial application fee of \$10 for each special license plate in addition to all other fees required by this chapter. All initial application fees collected by the division shall be deposited into the State Road Fund: *Provided*, That nothing in this section may be construed to exempt the applicant from any other provision of this chapter.

(D) A surviving spouse may continue to use his or her deceased spouse's special 82nd Airborne Division Association registration plate until the surviving spouse dies, remarries, or does not renew the special registration plate.

(41) The division may issue special registration plates supporting law-enforcement officers, and the division may issue special registration plates to survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency as follows:

(A) Upon appropriate application, the division shall issue a special registration plate designed by the commissioner which recognizes, supports, and honors the men and women of law-enforcement and includes the words "Back the Blue". Upon appropriate application, the division shall issue to any member of a municipal police department, sheriff's department, the State Police, or the law-enforcement division of the Division of Natural Resources who has been wounded in the line of duty and awarded a Purple Heart in recognition thereof by the West Virginia Chiefs of Police Association, the West Virginia Sheriffs' Association, the West Virginia Troopers Association, or the Division of Natural Resources a special registration plate for one vehicle titled in the name of the qualified applicant with an insignia appropriately designed by the commissioner.

(B) For special registration plates supporting law-enforcement officers, the division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund. An annual fee of \$15 shall be charged for each plate supporting law-enforcement officers in addition to all other fees required by this chapter.

(C) Registration plates issued pursuant to this subdivision to survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency are exempt from the registration fees otherwise required by the provisions of this chapter. ~~(C)~~ A surviving spouse may continue to use his or her deceased spouse's special registration plate until the surviving spouse dies, remarries, or does not renew the plate. ~~(D)~~ Survivors of wounds received in the line of duty as a member with a West Virginia law-enforcement agency may obtain a license plate as described in this subdivision for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second plate.

(42) The division may issue a special registration plate for persons who are Native-Americans and residents of this state:

(A) Upon appropriate application, the division shall issue to an applicant who is a Native-American resident of West Virginia a registration plate for a vehicle titled in the name of the applicant with an insignia designed by the Commissioner of the Division of Motor Vehicles to designate the recipient as a Native-American.

(B) The division shall charge a special one-time initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(43) The division may issue special registration plates commemorating the centennial anniversary of the creation of Davis and Elkins College as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to commemorate the centennial anniversary of Davis and Elkins College for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(44) The division may issue special registration plates recognizing and honoring breast cancer survivors. The division may also issue special registration plates to support a cure for childhood cancer:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and honor breast cancer survivors, such plate to incorporate somewhere in the design the "pink ribbon emblem", for any number of vehicles titled in the name of the applicant. Upon appropriate application, the division may also issue a special registration plate designed by the commissioner to support a cure for childhood cancer, such plate to incorporate somewhere in the design the gold ribbon emblem with "WV Kids Cancer Crusaders" below or next to the emblem and "Cure Childhood Cancer" at the bottom of the plate, for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(45) The division may issue special registration plates to members of the Knights of Pythias or Pythian Sisters as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Knights of Pythias or Pythian Sisters.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(46) The commissioner may issue special registration plates for whitewater rafting enthusiasts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(47) The division may issue special registration plates to members of Lions International as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with Lions International for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in Lions International.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(48) The division may issue special registration plates supporting organ donation as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner which recognizes, supports, and honors organ and tissue donors and includes the words "Donate Life".

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(49) The division may issue special registration plates to members of the West Virginia Bar Association as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the West Virginia Bar Association for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the West Virginia Bar Association.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(50) The division may issue special registration plates bearing an appropriate logo, symbol, or insignia combined with the words "SHARE THE ROAD" designed to promote bicycling in the state as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(51) The division may issue special registration plates honoring coal miners and the coal industry as follows:

(A) Upon appropriate application, the division shall issue a special registration plate depicting and displaying coal miners in mining activities as prescribed and designated by the commissioner and the board of the National Coal Heritage Area Authority. The division may also issue registration plates with the words "Friends of Coal".

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(D) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of the license plates designated by this subdivision.

(52) The division may issue special registration plates to present and former Boy Scouts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of present or past membership in the Boy Scouts as either a member or a leader.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(53) The division may issue special registration plates to present and former Boy Scouts who have achieved Eagle Scout status as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of achievement of Eagle Scout status.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(54) The division may issue special registration plates recognizing and memorializing victims of domestic violence:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner to recognize and memorialize victims of domestic violence, such plate to incorporate somewhere in the design the "purple ribbon emblem", for any number of vehicles titled in the name of the applicant.

(B) The division shall charge a special initial application fee of \$10. This special fee shall be deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(55) The division may issue special registration plates bearing the logo, symbol, insignia, letters, or words demonstrating association with or support for the University of Charleston as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(56) The division may issue special registration plates to members of the Sons of the American Revolution as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the Sons of the American Revolution for any number of vehicles titled in the name of the qualified applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the Sons of the American Revolution.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) An annual fee of \$15 shall be charged for each plate in addition to all other fees required by this chapter.

(57) The commissioner may issue special registration plates for horse enthusiasts as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(58) The commissioner may issue special registration plates to the next of kin of a member of any branch of the armed services of the United States killed in combat as follows:

(A) Upon appropriate application, the division shall issue a special registration plate for any number of vehicles titled in the name of a qualified applicant depicting the Gold Star awarded by the United States Department of Defense as prescribed and designated by the commissioner.

(B) The next of kin shall provide sufficient proof of receiving a Gold Star lapel button from the United States Department of Defense in accordance with Public Law 534, 89th Congress, and criteria established by the United States Department of Defense, including criteria to determine next of kin.

(C) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(D) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of the special license plates designated by this subdivision.

(59) The commissioner may issue special registration plates for retired or former justices of the Supreme Court of Appeals of West Virginia as follows:

(A) Upon appropriate application, the division may issue a special registration plate designed by the commissioner for any number of vehicles titled in the name of the qualified applicant.

(B) The division shall charge a special initial application fee of \$10 in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(C) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(D) The provisions of §17A-3-14(d) of this code are not applicable for the issuance of the special license plates designated by this subdivision.

(60) Upon approval by the commissioner of an appropriate application, and upon all requirements of this subdivision being satisfied, the division may issue special registration plates for Class A and Class G motor vehicles to members of an organization for which a special registration plate has not been issued pursuant to any other subdivision in this subsection prior to January 1, 2010, in accordance with the provisions of this subdivision:

(A) An organization desiring to create a special registration plate must comply with the following requirements to be eligible to apply for the creation and issuance of a special registration plate:

(i) The organization must be a nonprofit organization organized and existing under Section 501(c)(3) of Title 26 of the Internal Revenue Code and based, headquartered, or have a chapter in West Virginia;

(ii) The organization may be organized for, but may not be restricted to, social, civic, higher education, or entertainment purposes;

(iii) The organization may not be a political party and may not have been created or exist primarily to promote a specific political or social belief, as determined by the commissioner in his or her sole discretion;

(iv) The organization may not have as its primary purpose the promotion of any specific faith, religion, religious belief, or antireligion;

(v) The name of the organization may not be the name of a special product or brand name, and may not be construed, as determined by the commissioner, as promoting a product or brand name; and

(vi) The organization's lettering, logo, image, or message to be placed on the registration plate, if created, may not be obscene, offensive, or objectionable as determined by the commissioner in his or her sole discretion.

(B) Beginning July 1, 2010, an organization requesting the creation and issuance of a special registration plate may make application with the division. The application shall include sufficient information, as determined by the commissioner, to determine whether the special registration plate requested and the organization making the application meet all of the requirements set forth in this subdivision. The application shall also include a proposed design, including lettering, logo, image, or message to be placed on the registration plate. The commissioner shall notify the organization of the commissioner's approval or disapproval of the application.

(C)(i) The commissioner may not begin the design or production of any license plates authorized and approved pursuant to this subdivision until the organization which applied for the special registration plate has collected and submitted collectively to the division applications completed by at least 250 persons and collectively deposited with the division all fees necessary to cover the first

year's basic registration, one-time design and manufacturing costs, and to cover the first year additional annual fee for all of the applications submitted.

(ii) If the organization fails to submit the required number of applications and fees within six months of the effective date of the approval of the application for the plate by the commissioner, the plate will not be produced until a new application is submitted and is approved by the commissioner: *Provided*, That an organization that is unsuccessful in obtaining the minimum number of applications may not make a new application for a special plate until at least two years have passed since the approval of the previous application of the organization.

(D) The division shall charge a special initial application fee of \$25 for each special license plate in addition to all other fees required by law. This special fee shall be collected by the division and deposited in the State Road Fund.

(E) The division shall charge an annual fee of \$15 for each special registration plate in addition to all other fees required by this chapter.

(F) Upon appropriate application, the division may issue a special registration plate designed by the commissioner in consultation with the organization for any number of vehicles titled in the name of a qualified registration plate applicant. Persons desiring the special registration plate shall offer sufficient proof of membership in the organization.

(G) The commissioner shall discontinue the issuance or renewal of the registration of any special plate issued pursuant to this subdivision if:

(i) The number of valid registrations for the specialty plate falls below 250 plates for at least 12 consecutive months; or

(ii) The organization no longer exists or no longer meets the requirements of this subdivision.

(d) The minimum number of applications required prior to design and production of a special license plate shall be as follows:

(1) The commissioner may not begin the design or production of any license plates for which eligibility is based on membership or affiliation with a particular private organization until at least 100 persons complete an application and deposit with the organization a check to cover the first year's basic registration, one-time design and manufacturing costs, and to cover the first year additional annual fee. If the organization fails to submit the required number of applications with attached checks within six months of the effective date of the original authorizing legislation, the plate will not be produced and will require legislative reauthorization: *Provided*, That an organization or group that is unsuccessful in obtaining the minimum number of applications may not request reconsideration of a special plate until at least two years have passed since the effective date of the original authorization: *Provided, however*, That the provisions of this subdivision are not applicable to the issuance of plates authorized pursuant to §17A-3-14(c)(60) of this code.

(2) The commissioner may not begin the design or production of any license plates authorized by this section for which membership or affiliation with a particular organization is not required until at least 250 registrants complete an application and deposit a fee with the division to cover the first year's basic registration fee, one-time design and manufacturing fee, and additional annual fee if applicable. If the commissioner fails to receive the required number of applications within six months of the effective date of the original authorizing legislation, the plate will not be produced and will require legislative reauthorization: *Provided*, That if the minimum number of applications is not satisfied within the six months of the effective date of the original authorizing legislation, a person

may not request reconsideration of a special plate until at least two years have passed since the effective date of the original authorization.

(e)(1) Nothing in this section requires a charge for a free prisoner of war license plate or a free recipient of the Congressional Medal of Honor license plate for a vehicle titled in the name of the qualified applicant as authorized by other provisions of this code.

(2) A surviving spouse may continue to use his or her deceased spouse's prisoner of war license plate or Congressional Medal of Honor license plate until the surviving spouse dies, remarries, or does not renew the license plate.

(3) Qualified former prisoners of war and recipients of the Congressional Medal of Honor may obtain a second special registration plate for use on a passenger vehicle titled in the name of the qualified applicant. The division shall charge a one-time fee of \$10 to be deposited into the State Road Fund, in addition to all other fees required by this chapter, for the second special plate.

(f) The division may issue special 10-year registration plates as follows:

(1) The commissioner may issue or renew for a period of no more than 10 years any registration plate exempted from registration fees pursuant to any provision of this code or any restricted use antique motor vehicle license plate authorized by §17A-10-3a of this code: *Provided*, That the provisions of this subsection do not apply to any person who has had a special registration suspended for failure to maintain motor vehicle liability insurance as required by §17D-2A-3 of this code or failure to pay personal property taxes as required by §17A-3-3a of this code.

(2) An initial nonrefundable fee shall be charged for each special registration plate issued pursuant to this subsection, which is the total amount of fees required by §17A-3-3, §17A-10-3a, or §17A-10-15 of this code for the period requested.

(g) The provisions of this section may not be construed to exempt any registrant from maintaining motor vehicle liability insurance as required by §17D-2A-3 of this code or from paying personal property taxes on any motor vehicle as required by §17A-3-3a of this code.

(h) The commissioner may, in his or her discretion, issue a registration plate of reflectorized material suitable for permanent use on motor vehicles, trailers, and semitrailers, together with appropriate devices to be attached to the registration to indicate the year for which the vehicles have been properly registered or the date of expiration of the registration. The design and expiration of the plates shall be determined by the commissioner. The commissioner shall, whenever possible and cost effective, implement the latest technology in the design, production, and issuance of registration plates, indices of registration renewal and vehicle ownership documents, including, but not limited to, offering Internet renewal of vehicle registration and the use of bar codes for instant identification of vehicles by scanning equipment to promote the efficient and effective coordination and communication of data for improving highway safety, aiding law enforcement, and enhancing revenue collection.

(i) Any license plate issued or renewed pursuant to this chapter which is paid for by a check that is returned for nonsufficient funds is void without further notice to the applicant. The applicant may not reinstate the registration until the returned check is paid by the applicant in cash, money order, or certified check and all applicable fees assessed as a result thereof have been paid.

(j) The division shall, upon request of a qualifying applicant, exempt one nonexempt military special registration plate per qualifying applicant from all registration fees. For purposes of this subsection:

(1) “Exempt military special registration plate” means a special registration plate related to military service that is issued pursuant to this section for which registration fees are exempt pursuant to this section or §17A-10-8 of this code, including, but not limited to, a special registration plate issued to one of the following:

(A) A disabled veteran pursuant to §17A-3-14(c)(6), §17A-10-8(4), or §17A-10-8(5) of this code;

(B) A recipient of the Purple Heart medal pursuant to §17A-3-14(c)(7) of this code;

(C) A survivor of the attack on Pearl Harbor pursuant to §17A-3-14(c)(8) of this code;

(D) A former prisoner of war pursuant to §17A-10-8(6) of this code; or

(E) A recipient of the Congressional Medal of Honor pursuant to §17A-10-8(7) of this code.

(2) “Nonexempt military special registration plate” means a special registration plate related to military service that is issued pursuant to this section for which registration fees are not exempt pursuant to this section or §17A-10-8 of this code, including, but not limited to, special registration plate issued to one of the following:

(A) A member of the National Guard forces pursuant to §17A-3-14(c)(3) of this code;

(B) An honorably discharged veteran pursuant to §17A-3-14(c)(5) or §17A-3-14(c)(21) of this code;

(C) An honorably discharged Marine Corps League member pursuant to §17A-3-14(c)(13) of this code;

(D) A member of a military organization pursuant to §17A-3-14(c)(14) of this code;

(E) A recipient of the Navy Cross, Distinguished Service Cross, Distinguished Flying Cross, Air Force Cross, Bronze Star, Silver Star, or Air Medal pursuant to §17A-3-14(c)(20) of this code;

(F) A recipient of the Combat Infantry Badge or the Combat Medic Badge pursuant to §17A-3-14(c)(29) of this code;

(G) An honorably discharged female veteran pursuant to §17A-3-14(c)(33) of this code;

(H) A person retired from any branch of the armed services of the United States pursuant to §17A-3-14(c)(36) of this code; or

(I) A member of the 82nd Airborne Division Association pursuant to §17A-3-14(c)(40) of this code.

(3) “Qualifying applicant” means an applicant who qualifies for an exempt military special registration plate, and who also qualifies for a nonexempt military special registration plate, who requests that the division issue one such nonexempt military special registration plate instead of such exempt military special registration plate in order to have such nonexempt military special registration plate be exempt from the payment of registration fees.”

And,

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

H. B. 2846 - "A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended, relating to special vehicle registration plates; designating a "Back the Blue" plate in support of law-enforcement personnel; designating a special beekeeper pollinator plate; establishing fees related to plates; and permitting extension of registration fee exemption to military-related special registration plates."

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. 665**), and there were—yeas 93, nays 3, absent and not voting 4, with the yeas and absent and not voting being as follows:

Nays: Cadle, Hollen and Worrell.

Absent and Not Voting: Cooper, Dean, Kump and Malcolm.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2846) 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, to take effect from passage, of

Com. Sub. for S. B. 199, Authorizing certain miscellaneous agencies and boards promulgate legislative rules.

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. 241, Permitting county court clerks scan certain documents in electronic form.

On motion of Delegate Summers, 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 C. Martin, Worrell and Hicks.

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. 317, Authorizing three or more adjacent counties form multicounty trail network authority.

On motion of Delegate Summers, 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 Howell, Hott and Hansen.

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 amendment of the House of Delegates and the passage, as amended, of

Com. Sub. for S. B. 400, Allowing Board of Dentistry create specialty licenses.

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. 481 - Relating to Judicial Vacancy Advisory Commission.

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

Senators Weld, Rucker and Romano.

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. 496, Transferring authority to regulate milk from DHHR to Department of Agriculture.

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. 529, Clarifying provisions of Nonintoxicating Beer Act.

A message from the Senate, by

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

Com. Sub. for S. B. 537, Creating workgroup to review hospice need standards.

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. 566, Relating to compensation for State Athletic Commission members.

On motion of Delegate Summers, the House of Delegates receded from the following previously adopted amendment:

On page one, section one, line 10, by striking out the following:

“The members shall serve without pay except that each member shall receive \$100 for each day that he or she attends and participates in a public meeting in which the commission makes or deliberates towards an official act: Provided, That the total compensation a member may receive during each fiscal year may not exceed \$1,500.”

And,

Inserting in lieu thereof the following:

“Each member is entitled to receive compensation for attending official meetings or engaging in official duties not to exceed the amount paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law. A board member may not receive compensation for travel days that are not on the same day as the official meeting or official duties.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 666**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Dean, Kump and Malcolm.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 566) 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. 633, Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses.

Conference Committee Report Availability

At 9:41 p.m., the Clerk announced that the report of the Committee of Conference on **Com. Sub. for S. B. 295**, Relating to crimes against public justice, shall be available in the Clerk’s Office.

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 8th day of March, 2019, 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. 2204, Prohibiting state licensing boards from hiring lobbyists,

H. B. 2510, Relating to special funds of boards of examination or registration,

H. B. 2608, Repealing the requirement of printing the date a consumer deposit account was opened on paper checks,

Com. Sub. for H. B. 2737, Relating to training of State Tax Division employees,

H. B. 2743, Eliminating reference to municipal policemen's pension and relief funds and firemen's pension and relief funds in section restricting investment,

H. B. 2829, Relating to the termination of severance taxes on limestone and sandstone,

Com. Sub. for H. B. 2848, Relating to the West Virginia ABLE Act,

And,

H. B. 3093, Relating to standards for factory-built homes.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 8th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bill, signed by the President of the Senate and the Speaker of the House of Delegates.

Com. Sub. for H. B. 2703, Relating to refunds of excise taxes collected from dealers of petroleum products.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 8th day of March, 2019, 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. 157, Authorizing Department of Administration promulgate legislative rules,

S. B. 440, Relating to Antihazing Law,

And,

Com. Sub. for S. B. 510, Relating to medical professional liability.

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

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the 8th day of March, 2019, 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. 453, Relating to background checks of certain financial institutions,

Com. Sub. for S. B. 518, Restricting sale and trade of dextromethorphan,

S. B. 545, Relating to HIV testing,

And,

S. B. 593, Permitting critical access hospital become community outpatient medical center.

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

Your Committee on Rules has had under consideration:

Com. Sub. for H. C. R. 9, Kingmont Veterans Bridge PVT Jarrett Springer, U. S. Army WWII, PFC Benjamin "Benny" Hamrick, USMC Vietnam,

Com. Sub. for H. C. R. 17, U. S. Marine Corps CPL Larry Scott Kennedy Memorial Bridge,

H. C. R. 46, PVT Jack C. Evans Memorial Bridge,

H. C. R. 47, U. S. Army PFC Arnold Miller Memorial Bridge,

Com. Sub. for H. C. R. 53, Ray P. Reip Memorial Bridge,

Com. Sub. for H. C. R. 58, U.S. Army SGT Tommy Meadows Memorial Road,

H. C. R. 63, U. S. Army SSG Boggs G. Collins Memorial Road,

Com. Sub. for H. C. R. 78, U. S. Air Force Amn Kenneth Wayne Hammar Memorial Bridge,

And,

Com. Sub. for H. C. R. 82, U. S. Navy Veteran Samuel H. Slack, Jr. Memorial Bridge,

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

In the absence of objection, the resolutions (Com. Sub. for H. C. R. 9, Com. Sub. for H. C. R. 17, H. C. R. 46, H. C. R. 47, Com. Sub. for H. C. R. 53, Com. Sub. for H. C. R. 58, H. C. R. 63, Com. Sub. for H. C. R. 78 and Com. Sub. for H. C. R. 82) 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.

Miscellaneous Business

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

- Delegates Linville and Toney for H. R. 20

Delegate Hartman announced that he was absent on today when the vote was taken on Com. Sub. for S. B. 103, and that had he been present, he would have voted "Yea" thereon.

Delegate J. Kelly announced that he was absent on today when the votes were taken on Com. Sub. for S. B. 291, Com. Sub. for S. B. 329, Com. Sub. for S. B. 340, Com. Sub. for S. B. 345 and Com. Sub. for S. B. 352, and that had he been present, he would have voted "Yea" thereon.

Delegate Shott announced that he was absent on today when the vote was taken on S. B. 461, and that had he been present, he would have voted "Yea" thereon.

Delegate D. Kelly noted to the Clerk that he was absent on today when the vote was taken on Roll No. 609 and had he been present, he would have voted "Yea" thereon.

Delegate Graves noted to the Clerk that she was absent on today when the vote was taken on H. B. 2524 and had she been present, she would have voted "Yea" thereon.

Delegate Bates noted to the Clerk that he was absent on today when the vote was taken on S. B. 632 and had he been present he would have voted "Nay" thereon, and he was absent when the vote was taken on S. B. 682 and had he been present, he would have voted "Yea" thereon.

Delegate Cadle noted to the Clerk that he be recorded as having voted "Yea" on Com. Sub. for H. B. 502.

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the following in the Appendix to the Journal:

- The opening prayer offered today
- Delegate Worrell regarding Com. Sub. for S. B. 564
- All remarks regarding Com. Sub. for S. B. 152
- Delegate Kump regarding H. C. R. 33

At 9:46 p.m., the House of Delegates adjourned until 11:00 a.m., Saturday, March 9, 2019.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

SPECIAL CALENDAR

Saturday, March 9, 2019

60th Day

11:00 A. M.

UNFINISHED BUSINESS

- Com. Sub. for S. C. R. 4 - US Marine Corps Lt. Col. Dennis Ray Blankenship Memorial Road
- Com. Sub. for S. C. R. 40 - US Army CPL Roy E. Clark Memorial Bridge

THIRD READING

- Com. Sub. for S. J. R. 5 - Clarification of the Judiciary's Role in Impeachment Proceedings Amendment (SHOTT)
- S. B. 677 - Supplemental appropriation to Division of Health and Division of Human Services (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- S. B. 678 - Supplemental appropriation from State Excess Lottery Revenue Fund to Office of Technology (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- S. B. 679 - Supplemental appropriation to Division of Finance (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- S. B. 680 - Supplemental appropriations to various divisions in DMAPS (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- S. B. 681 - Supplemental appropriation from Lottery Net Profits to Educational Broadcasting Authority (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)

HOUSE CALENDAR

Saturday, March 9, 2019

60th Day

11:00 A. M.

THIRD READING

- S. B. 233 - Relating to age requirements for deputy sheriff (HOWELL) (REGULAR)
- Com. Sub. for S. B. 392 - Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract work (HOWELL) (EFFECTIVE FROM PASSAGE)
- H. B. 2729 - Recognition of Emergency Medical Services Personnel Licensure Interstate Compact (HOWELL) (REGULAR)
- Com. Sub. for H. B. 2931 - Clarifying that the State Lottery Commission has no authority over nonlottery games (SHOTT) (REGULAR)
- Com. Sub. for H. B. 3105 - Permitting the Alcohol Beverage Control Administration to request the assistance of law enforcement (HOWELL) (REGULAR)
- H. B. 3136 - Relating to the Centers for Medicare and Medicaid Services (HOUSEHOLDER) (REGULAR)
- H. B. 3137 - Relating to the personal income tax fund (HOWELL) (REGULAR)

SECOND READING

- S. B. 535 - Allowing City of Buckhannon begin collecting sales and service and use tax on July 1, 2019 (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2008 - Relating to nonpartisan election of justices of the Supreme Court of Appeals (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2433 - Modifying the school calendar to begin not earlier than Labor Day and end prior to Memorial Day (HAMRICK) (REGULAR)
- Com. Sub. for H. B. 2441 - Removing certain requirements related to wages for construction of public improvements (SHOTT) (REGULAR)

- Com. Sub. for H. B. 2597 - Creating a hunting permit to safely accommodate visually impaired hunters (SHOTT) (REGULAR)
- H. B. 2692 - Relating to primary elections and procedures (HOWELL) (REGULAR)
- H. B. 2732 - Defend the Guard Act (MCGEEHAN) (REGULAR)
- H. B. 2819 - Relating generally to contractors (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- H. B. 2953 - Permitting a critical access hospital to become a community outpatient medical center (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2976 - Economic Diversification Act of 2019 (CRISS) (REGULAR)
- Com. Sub. for H. B. 2980 - Mine Trespass Act (SHOTT) (REGULAR)
- Com. Sub. for H. B. 3100 - Clarifying certain provisions of the Nonintoxicating Beer Act (HOWELL) (REGULAR)
- Com. Sub. for H. B. 3103 - Authorizing operators of a distillery or mini-distillery to offer for purchase and consumption liquor on the premises (HOWELL) (REGULAR)
- Com. Sub. for H. B. 3116 - Removing current limitations on sales of nonintoxicating beer and nonintoxicating craft beer growlers (HOWELL) (REGULAR)
- H. B. 3147 - Requiring the Board of Insurance and Risk Management purchase life insurance products from state resident agents (HOWELL) (REGULAR)

FIRST READING

- Com. Sub. for S. B. 124 - Creating felony offense for actions of cruelty to animals which causes serious injury or death of animal (JUDICIARY COMMITTEE AMENDMENT PENDING) (SHOTT) (REGULAR)
- Com. Sub. for H. B. 2179 - Allowing nonmembers of a political party to request that party's partisan ballot at a primary election (SHOTT) (REGULAR)

WEST VIRGINIA HOUSE OF DELEGATES

SATURDAY, MARCH 9, 2019

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON RULES
10:45 A.M. – BEHIND CHAMBER**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470