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March 6, 2019
FIFTY-SEVENTH DAY

Wednesday, March 6, 2019

FIFTY-SEVENTH DAY

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

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

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

The Clerk proceeded to read the Journal of Tuesday, March 5, 2019, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Committee Reports

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 564, Expanding comprehensive coverage for pregnant women through Medicaid,

And,

S. B. 627, Relating generally to Rural Rehabilitation Loan Program,

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

In the absence of objection, the bills (Com. Sub. for S. B. 564 and S. B. 627) were taken up for immediate consideration, read a first time and ordered to second reading.

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

Com. Sub. for S. B. 345, Relating to fire service equipment and training funds for VFDs,

Com. Sub. for S. B. 352, Relating to Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities,

Com. Sub. for S. B. 522, Creating Special Road Repair Fund,

And,

S. B. 554, Removing salary caps for director of State Rail Authority,

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

In the absence of objection, the bills (Com. Sub. for S. B. 345, Com. Sub. for S. B. 352, Com. Sub. for S. B. 522 and S. B. 554) were taken up for immediate consideration, read a first time and ordered to second reading.

Reordering of the Calendar

Delegate Summers announced that the Committee on Rules had transferred Com. Sub. for S. B. 529, on second reading, House Calendar, to the Special Calendar; S. B. 535 and S. B. 605, on second reading, Special Calendar, to the House Calendar; and Com. Sub. for S. B. 124, on first reading, Special Calendar, to the House Calendar

Messages from the Senate

A message from the Senate, by

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

H. B. 2311, Exempting short-term license holders to submit information to the State Tax Commission once the term of the permit has expired.

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

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

“ARTICLE 1. SUPERVISION.

§11-1-9. Holders of short-term permits and licenses to sell; rulemaking.

(a) Notwithstanding any provision of this chapter to the contrary, holders of short-term permits or licenses to sell specific items, e.g., fireworks, beer, food, or wine at festivals, may not be required to submit any information to the Tax Commissioner after the term of the permit or license has expired: *Provided*, That the permit or license holder has filed with the Tax Commissioner all necessary information specific to the time period the permit or license was authorized and remitted to the Tax Commissioner and the permit or license holder has remitted all taxes and fees that are due under this code. This section does not prevent the Tax Commissioner from auditing the books and records of the license or permit holder for compliance with the provisions of this code.

(b) The Tax Commissioner shall propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code to implement this section.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 478**), 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: Boggs and Householder.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2311) 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. 2405, Imposing a healthcare related provider tax on certain health care organizations.

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

On pages two through four, by striking out all of section three and inserting in lieu thereof a new section, designated section three, to read as follows:

“§11-27-3. Definitions.

(a) *General*. — When used in this article, words defined in subsection (b) of this section have the meaning ascribed to them in this section, except in those instances where a different meaning is distinctly expressed or the context in which the word is used clearly indicates that a different meaning is intended.

(b) *Definitions*. — ‘Business’ includes all health care activities engaged in, or caused to be engaged in, with the object of gain or economic benefit, direct or indirect, and whether engaged in for profit, or not for profit, or by a governmental entity. ~~Provided that~~ ‘Business’ does not include services rendered by an employee within the scope of his or her contract of employment. Employee services, services by a partner on behalf of his or her partnership, and services by a member of any other business entity on behalf of that entity, are the business of the employer, or partnership, or other business entity, as the case may be, and reportable as such for purposes of the taxes imposed by this article.

‘Broad-based health care related tax’ means a broad-based health care related tax as defined in Section 1903 of the Social Security Act, including a health-care related tax for which a waiver from the broad-based or uniformity requirements has been granted and is in effect by the federal Centers for Medicare and Medicaid Services pursuant to the provisions of Section 1903 of the Social Security Act and implementing regulations.

‘Corporation’ includes associations, joint-stock companies and insurance companies. It also includes governmental entities when and to the extent such governmental entities engaged in activities taxable under this article.

‘Department’ means the West Virginia Department of Health and Human Resources.

‘Includes’ and ‘including’ when used in a definition contained in this article shall not be deemed to exclude other things otherwise within the meaning of the term being defined.

‘Partner’ includes a member in a ‘partnership’, as defined in this section.

'Partnership' includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any privilege taxable under this article is exercised, and which is not within the meaning of this article a trust or estate or corporation. It includes a limited liability company when such company is treated as a partnership for federal income tax purposes.

'Person' means any individual, partnership, association, company, corporation or other entity engaging in a privilege taxed under this article.

'Secretary' means the Secretary of West Virginia Department of Health and Human Resources.

'Social Security Act' means the Social Security Act of the United States, as amended by ~~Public Law 102-234~~ Public Law 109-171, and codified in Title 42, Section 1396b of the United States Code.

'Tax' means any tax imposed by this article and, for purposes of administration and collection of such tax, includes any interest, additions to tax or penalties imposed with respect thereto under article 10 of this chapter.

'Taxable year' means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the tax imposed by this article is computed. In the case of a return made under this article, or regulations of the Tax Commissioner, for a fractional part of a year, the term 'taxable year' means the period for which such return is made.

'Taxpayer' means any person subject to any tax imposed by this article.

'This code' means the Code of West Virginia, 1931, as amended.

'This state' means the State of West Virginia.;

And,

On pages four and five, section ten-a, lines five through twelve, by striking out all of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b), to read as follows:

(b) *Rate and measure of tax.* — The tax imposed by this section shall be based on the following rates applied to each taxable health plan's total Medicaid member months within tiers I, II and III, and to non-Medicaid member months within tiers IV and V:

- (1) Tier I — \$17.00 for each Medicaid member month under 250,000;
- (2) Tier II — \$15.00 for each Medicaid member month between 250,000 and 500,000;
- (3) Tier III — \$7.00 for each Medicaid member month greater than 500,000;
- (4) Tier IV — \$0.25 for each non-Medicaid member month under 150,000; and
- (5) Tier V — \$0.10 for each non-Medicaid member month of 150,000 or more."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 479**), and there were—yeas 90, nays 8, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bibby, Kessinger, C. Martin, P. Martin, McGeehan, Pack, Paynter and Wilson.

Absent and Not Voting: Boggs and Householder.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2405) 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. 2525, Tobacco Cessation Therapy Access Act.

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

On page two, section four, line one, by striking out the word “may” and inserting in lieu thereof the words “or designee shall”;

And,

On page three, section six, after line nineteen, by adding a new subsection, designated subsection (c), to read as follows:

(c) The Board of Pharmacy regulates a pharmacist who dispenses a tobacco cessation noncontrolled prescription medication, over-the-counter medication, or other professional service.”

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. 480**), 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: Boggs and Householder.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2525) 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 receded from its amendments, and passed, a bill of the House of Delegates as follows:

H. B. 2547, Relating to the election prohibition zone.

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. 2907, Requiring a form of a certified commitment order to the Division of Corrections and Rehabilitation.

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

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

“ARTICLE 7. EXECUTION OF SENTENCES; STAYS.

§62-7-10. Prison Commitment paper order.

The clerk of a circuit court in which a person is sentenced to serve a period of incarceration in a state ~~correctional facility~~ prison shall transmit to the Commissioner of the Division of Corrections and the ~~West Virginia Regional Jail Authority~~ Rehabilitation a certified commitment order in the same as, or similar to, the form provided for in this section. A person may not be committed to a prison unless the commitment order is signed by the circuit judge with jurisdiction over the matter. The amendments to this section enacted during the 2019 regular session of the Legislature are effective July 1, 2019. If a commitment order in a form other than the one provided in this section is issued, the commitment order is required, at a minimum, to contain the same information.

IN THE CIRCUIT COURT OF _____ COUNTY, WEST VIRGINIA

State of West Virginia

v. _____ circuit court Case No. _____

Defendant: _____

DOB: _____ SSN: XXX-XX-_____ Gender: _____ Male/_____ Female

WEST VIRGINIA DIVISION OF CORRECTIONS AND REHABILITATION CERTIFIED PRISON COMMITMENT ORDER

On the _____ day of _____, 20____, the State of West Virginia, by _____, and the defendant appeared in person and with counsel, _____.

The defendant has been convicted of the following offense(s):

The defendant is committed to the custody of the Commissioner of Corrections and Rehabilitation for a period of:

_____.

Conviction Date: _____ Sentence Date: _____

Effective Sentence Date: _____ Resentence Date: _____
Consecutive to: _____ Concurrent with:

Credit for Jail/Prison Time Served: _____ days Credit for Home Incarceration: _____ days

Credit for Home Incarceration Parole: _____ days Other NonPenal Credit: _____ days

Additionally, the court finds:

The defendant shall be transported to and held in a ~~West Virginia Regional Jail Authority~~ facility ~~until transfer into the physical custody of the Commissioner~~ under the control of the Commissioner of the Division of Corrections and Rehabilitation. The court further orders that the cost of incarceration in the ~~regional~~ jail pending transfer shall be paid by the Commissioner ~~from the date entry of this order forward~~ consistent with the provisions of §15A-3-16 of this code.

Special Instructions:

It is further ordered that the Circuit Clerk shall immediately transmit a certified copy of this commitment order to the ~~West Virginia Regional Jail Authority~~ and to the Central Office Inmate Records Manager of the Division of Corrections and Rehabilitation by facsimile at (fax number), by email at (email address) or other electronic transmission, or by mail at (street address).

Enter this _____ day of _____, 2_____.

Circuit Judge

§62-7-10a. Jail Commitment order.

The clerk of a circuit court or magistrate court in which a person is sentenced to serve a period of incarceration in a jail facility under the control of the Commissioner of Corrections and Rehabilitation shall transmit to the Commissioner of the Division of Corrections and Rehabilitation a certified commitment order in the form provided for in this section. A person may not be committed to a jail unless the commitment order is signed by the circuit court judge or magistrate with jurisdiction over the matter. The amendments to this section enacted during the 2019 regular session of the Legislature are effective on July 1, 2019.

IN THE CIRCUIT/MAGISTRATE COURT OF _____ COUNTY, WEST VIRGINIA

State of West Virginia

v. _____ circuit/magistrate court Case No. _____

Defendant: _____

DOB: _____ SSN: XXX-XX-_____ Gender: _____ Male/ _____ Female

WEST VIRGINIA DIVISION OF CORRECTIONS AND REHABILITATION CERTIFIED JAIL COMMITMENT ORDER

On the _____ day of _____, 20____, the State of West Virginia, by _____, and the defendant appeared in person and with counsel, _____.

The defendant has been convicted of the following offense(s):

The defendant is committed to the custody of the Commissioner of Corrections and Rehabilitation for a period of:

Conviction Date: _____ Sentence Date: _____

Effective Sentence Date: _____ Resentence Date: _____

Consecutive to: _____ Concurrent with: _____

Credit for Time Served: _____ days Credit for Home Incarceration: _____ days

Credit for Home Incarceration Parole: _____ days Other NonPenal Credit: _____ days

Additionally, the court finds:

The defendant shall be transported to and held in a jail facility for the prescribed period of confinement in accordance with law. The court further orders that the cost of incarceration of misdemeanants sentenced to confinement in a jail shall be paid in accordance with the provisions of §15A-3-16 of this code.

Special Instructions:

It is further ordered that the Circuit Clerk or Magistrate Court Clerk shall immediately transmit a certified copy of this commitment order to the Central Office Inmate Records Manager of the Division of Corrections and Rehabilitation by facsimile at (fax number), by email at (email address) or other electronic transmission, or by mail at (street address).

Enter this _____ day of _____, 2_____.

Circuit Judge/Magistrate

And,

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

Com. Sub. for H. B. 2907 - "A Bill to amend and reenact §62-7-10 of the Code of West Virginia, 1931, as amended; and to amend the Code of West Virginia, 1931, as amended, by adding thereto

a new section designated §62-7-10a, all relating to commitment order forms; providing forms for state correctional facility and jail commitments; requiring use of statutory forms after July 1, 2019; requiring magistrate court and circuit court clerks immediately provide judicially entered orders to the Division of Corrections and Rehabilitation; requiring that orders sent to prisons must be signed by the circuit judge with jurisdiction over the matter; requiring that orders sent to jails must be signed by the circuit court judge or magistrate with jurisdiction over the matter; acknowledging that the costs of incarceration in jail pending transfer to a state correctional facility shall be paid by the Commissioner from the calendar date following the date of the conviction forward as of July 1, 2019; clarifying the method of transmittal of commitment orders; and establishing an 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. 481**), 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: Boggs and Householder.

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. 2907) passed.

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

On this question, the yeas and nays were taken (**Roll No. 482**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Nelson.

Absent and Not Voting: Boggs and Householder.

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. 2907) takes effect from from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced that, upon reconsideration the Senate had amended and again passed, in an effort to meet the objections of the Governor, and requested the concurrence of the House of Delegates in the same, as to

Com. Sub. for S. B. 61, Adding certain crimes for which prosecutor may apply for wiretap.

Messages from the Executive

A communication from His Excellency, the Governor, setting forth his disapproval of a bill heretofore passed by both houses, was read by the Clerk:

STATE OF WEST VIRGINIA
OFFICE OF THE GOVERNOR
CHARLESTON

February 11, 2019

March 1, 2019

Veto Message

The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
Room 228M, Building 1
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 61

Dear Speaker Hanshaw:

Pursuant to the provisions of section fourteen, article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 61. This bill purports to add extortion to the list of criminal offenses for which a prosecutor may seek a wiretap to investigate.

The bill is technically flawed because its title is defective. See *State ex rel. Davis v. Oakley*, 156 W.Va. 154, 191 S.E.2d 610 (1972) (requiring bill titles to provide notice of a bill's contents). Specifically, there are two sections that are not referenced in the title, W.Va. Code 562-1 D-6, which would provide that the evidence obtained by the wiretap can be received in any court of competent jurisdiction, and W.Va. Code 562-1 D-9, which provides that information about the evidence obtained through wiretap may be presented in federal criminal proceedings.

As a result of this flaw, I disapprove and return Enrolled Committee Substitute for Senate Bill 61.

Sincerely,

Jim Justice,
Governor.

The House of Delegates proceeded to reconsider the bill and, on motion of Delegate Summers, concurred in the following amendment of the bill by the Senate, in an effort to meet the objections of the Governor:

On page one, by amending the title to read as follows:

S. B. 61- "An Act to amend and reenact 62-1D-6, §62-1D-8, and §62-1D-9 of the Code of West Virginia, 1931, as amended, relating to including the crime of extortion to the list of crimes for which a prosecutor may apply for a court order authorizing interception of communications; permitting for the lawful disclosure of lawfully intercepted communications in court proceedings including federal court; and permitting the use of derivative crime evidence to obtain an arrest warrant or indictment."

The question now being, "Shall the bill pass, in an effort to meet the objections of the Governor?", the yeas and nays were taken (**Roll No. 483**), and there were—yeas 86, nays 12, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Anderson, Angelucci, Atkinson, Azinger, Barrett, Bates, N. Brown, S. Brown, Butler, Byrd, Cadle, Campbell, Canestraro, Caputo, Cooper, Cowles, Criss, Diserio, Doyle, Ellington, Espinosa, Estep-Burton, Evans, Fast, Fleischauer, Fluharty, Foster, Hamrick, Hanna, Hansen, Harshbarger, Hartman, Hicks, Higginbotham, Hill, Hollen, Hornbuckle, Hott, Howell, D. Jeffries, J. Jeffries, Jennings, D. Kelly, J. Kelly, Kessinger, Kump, Lavender-Bowe, Linville, Longstreth, Lovejoy, Malcolm, Mandt, C. Martin, Maynard, Miley, Miller, Nelson, Pack, Pethtel, Phillips, Porterfield, Queen,

Robinson, Rodighiero, Rohrbach, Rowan, Rowe, Shott, Skaff, Sponaugle, Staggers, Steele, Storch, Summers, Swartzmiller, Sypolt, C. Thompson, R. Thompson, Tomblin, Toney, Waxman, Westfall, Williams, Worrell, Zukoff and Hanshaw (Mr. Speaker).

Nays: Bibby, Capito, Dean, Graves, Hardy, P. Martin, McGeehan, Paynter, Pushkin, Pyles, Walker and Wilson.

Absent and Not Voting: Boggs and Householder.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 61) passed, as a result of the objections of the Governor.

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

Resolutions Introduced

Delegates Rowe, Estep-Burton, Hansen, Pushkin, Walker, Robinson, Longstreth, Byrd, Williams, Zukoff, Pyles, Lavender-Bowe, Skaff, Bates, Canestraro, Fleischauer, Diserio, Pethtel, Angelucci, Boggs, C. Thompson, Sponaugle, S. Brown, Hornbuckle, Evans and Fluharty offered the following resolution, which was read by its title and referred to the Committee on Health and Human Resources then Rules:

H. R. 18 - "Supporting federal law protections for the health care of thousands of West Virginians and objecting to a federal court order to end those protections."

Whereas, On December 14, 2018, the United States District Court for the Northern District of Texas, in the case of *Texas, et al, v. United States of America*, entered a ruling to end many current federal law protections for affordable healthcare; and

Whereas, That federal court ruling would end federal law protections among others relied on by (1) West Virginians with preexisting conditions such as diabetes, high blood pressure, high cholesterol, and other conditions; (2) West Virginians who are enrolled in the expansion of Medicaid; (3) young West Virginians who need health coverage through their parent's policies until the of age 26; and (4) West Virginians on Medicare who need protection against out of control prescription drug costs; and

Whereas, This court ruling would end health care protections and threaten the well-being of most all West Virginians, including 740,000 people with preexisting conditions, 90,600 of whom are children; 540,000 West Virginians enrolled in expanded Medicaid; 410,000 West Virginians on Medicare; and thousands of other young West Virginians who have been insured through their parent's policies; and

Whereas, An appeal from this court ruling is now in process; and

Whereas, The House of Delegates, on behalf of the health and welfare of all West Virginians, should take a stand against that federal court ruling in order to protect federal law protections on health care for most all West Virginians; therefore, be it

Resolved by the House of Delegates:

That, On behalf of the health and well-being of all West Virginians, the House of Delegates supports the duly-enacted federal law protections for preexisting condition coverage; expanded

Medicaid coverage; adult children coverage through age 26; and Medicare prescription drug coverage; and, be it

Further Resolved, That the House of Delegates objects to the federal district court's ruling to end those and other current federal law protections as contrary to the best interests of the people of West Virginia; and, be it

Further Resolved, That the House of Delegates supports reversal of the ruling of the United States District Court for the Northern District of Texas through the appeal now pending.

Delegates Foster and Kessinger offered the following resolution, which was read by its title and referred to the Committee on Rules:

H. C. R. 93 - "Requesting the Joint Committee on Energy study legislation relating to the deregulation of natural gas for certain high-volume natural gas consumers."

Whereas, The abundance of natural gas resources in West Virginia provides the unique opportunity to attract significant downstream manufacturing industries to the state; and

Whereas, The production and use of natural gas in West Virginia provides jobs for West Virginia and generates additional income and property taxes for our governments; and

Whereas, More than twenty states provide some level of natural gas deregulation by removing or simplifying the government rules and regulations that constrain the operation of market forces in the natural gas industry; and

Whereas, The Federal Energy Regulatory Commission frequently approves bypass of local utilities and permits construction of interstate pipeline facilities to directly serve end use customers from an interstate pipeline; and

Whereas, The deregulation of natural gas for certain high-volume ultimate consumers has the possibility of facilitating the further use of West Virginia gas in state; and

Whereas, Ultimate consumers of natural gas who use a significant volume of natural gas annually are sophisticated commercial consumers of natural gas capable of choosing their source of natural gas supply; and

Whereas, The ability of large natural gas users to choose among gas suppliers without regulatory supervision creates the opportunity to save economic resources, foster competition in state, and create additional incentives for new businesses to locate in state and employ West Virginians; and

Whereas, Public Service Commission approval of natural gas service is unnecessary for such high-volume ultimate consumers of natural gas; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Energy is hereby requested to study legislation relating to the deregulation of natural gas for certain high-volume natural gas consumers; and, be it

Further Resolved, That the Joint Committee on Energy shall study and report to the regular session of the Legislature, 2020, any additional findings, conclusions, or recommendations with respect to the benefits that deregulation of the natural gas industry could have on West Virginia and

its citizens, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

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

Special Calendar

Third Reading

Com. Sub. for S. B. 1, Increasing access to career education and workforce training; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 484**), and there were—yeas 85, nays 13, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, Cadle, Cooper, Dean, Foster, Hill, Kessinger, P. Martin, McGeehan, Phillips, Wilson and Worrell.

Absent and Not Voting: Boggs and Householder.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 1) passed.

A title amendment offered by the Committee on Finance, was reported by the Clerk.

Whereupon,

Delegate Criss obtained unanimous consent that the amendment be withdrawn.

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

Com. Sub. for S. B. 1 - "A Bill to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-11; to amend and reenact §18-9A-2 of said code; to amend said code by adding thereto a new section, designated §18B-3C-16; and to amend said code by adding thereto a new article, designated §18C-9-1, §18C-9-2, §18C-9-3, §18C-9-4, §18C-9-5, and §18C-9-6, all relating generally to increasing access to career education and workforce training; requiring State Board of Education to promulgate rules for advanced certifications; providing that certain individuals who have completed a secondary education program in a public, private, or home school shall be considered adults enrolled in regular secondary programs for funding purposes; redesignating certain qualifying tests as high school equivalency tests; requiring pathways and other additional requirements for Advanced Career Education programs; requiring community and technical colleges, public baccalaureate institutions, career technical education centers and county boards of education, or any combination of such secondary and postsecondary entities, to establish partnerships that provide for Advanced Career Education programs; providing requirements for Advanced Career Education programs and pathways; requiring Department of Commerce to provide written notification to State Board of Education, West Virginia Council for Community and Technical College Education and West Virginia Higher Education Policy Commission of a determination of areas of workforce need within the state and to develop a hierarchy therefore; requiring State Superintendent of Schools, Chancellor of the Council for Community and Technical College Education, Chancellor of the Higher Education Policy Commission and the Chancellor of the Higher Education Policy Commission to facilitate the Advanced Career Education

programs; requiring State Board of Education and West Virginia Council for Community and Technical College Education to jointly promulgate certain guidelines and maintain and report certain information to Governor and Legislative Oversight Commission on Education Accountability; requiring State Superintendent of Schools, Chancellor for the Council for Community and Technical College Education and Chancellor of the Higher Education Policy Commission to approve written partnership agreements; modifying definition of net enrollment to increase number of Advanced Career Education programs students for which secondary education funding may be provided and imposing conditions on certain institutions to receive funding; encouraging community and technical colleges that offer associate degrees to enter into collaborative agreements with federally registered apprenticeship programs and requiring a report regarding such collaborative agreements be provided to the Legislature and Governor annually; establishing WV Invests Grant Program; providing findings and purposes; defining terms; providing for administration of program by vice chancellor for administration; requiring West Virginia Council for Community and Technical College Education to award WV Invests grants under certain terms and conditions; requiring the council to report certain information on WV Invests Grant Program to Governor and Legislature; requiring the council to propose legislative rules and authorizing emergency rules; limiting eligibility for funding beginning fiscal year 2021; providing eligibility and renewal requirements for a WV Invests Grant; requiring applicants enter into certain agreements; and establishing the WV Invests Fund.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 485**), and there were—yeas 92, nays 6, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Cadle, Dean, McGeehan, Paynter, Porterfield and Worrell.

Absent and Not Voting: Boggs and Householder.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 187) passed.

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

On this question, the yeas and nays were taken (**Roll No. 486**), and there were—yeas 93, nays 5, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Fast, McGeehan, Paynter, Porterfield and Worrell.

Absent and Not Voting: Boggs and Householder.

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. 187) takes effect from its passage.

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

Com. Sub. for S. B. 285, Relating to sale of homemade food items; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 487**), and there were—yeas 93, nays 5, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Canestraro, Kump, Mandt, Robinson and Williams.

Absent and Not Voting: Boggs and Householder.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 285) passed.

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

Com. Sub. for S. B. 285 - "A Bill to amend and reenact §19-35-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §19-35-6, all relating to the sale of homemade food items; defining terms; authorizing production and sale of homemade food items under certain circumstances; establishing conditions for exemption from licensure, permitting, inspection, packaging, and labeling laws; providing required notices to consumer; defining manner of providing notices; exempting certain products from the scope of this provision; permitting local health departments and the Department of Agriculture to investigate and cease production or sale of food items reported to have caused a foodborne illness; authorizing Department of Agriculture to provide assistance, consultation, or inspection at request of producer; providing for preemption of county, local, and municipal ordinances; providing that preemption does not apply to space rentals at governmental owned or operated facilities, governmental sanctioned or operated events, or product placement agreements with governmentally owned facilities as well as temporary events 14 days or less in duration; and providing for exemptions."

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. 537, Creating workgroup to review hospice need standards; on third reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

Com. Sub. for S. B. 546, Relating to health care provider taxes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 488**), and there were—yeas 84, nays 14, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bibby, Foster, Graves, J. Jeffries, Kessinger, Kump, C. Martin, P. Martin, Maynard, McGeehan, Pack, Paynter, Steele and Wilson.

Absent and Not Voting: Boggs and Householder.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 546) passed.

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

Com. Sub. for S. B. 546 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-27-39, relating to creating a tax on certain acute care hospitals; defining terms; imposing a tax on eligible acute care hospitals; providing exceptions to the

tax; creating a fund; providing for how the funds may be spent; permitting the tax to be eligible to be matched by federal funds; providing an effective date; and providing an expiration date for the tax.”

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

On this question, the yeas and nays were taken (**Roll No. 489**), and there were—yeas 91, nays 6, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Bibby, Kump, McGeehan, Paynter, Steele and Wilson.

Absent and Not Voting: Boggs, Householder and Phillips.

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. 546) takes effect from 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. 587, Relating to PEIA reimbursement of air ambulance 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. 490**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bibby, Fast and Wilson.

Absent and Not Voting: Boggs.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 587) passed.

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

S. B. 617, Relating to method of payment to Municipal Pensions Security 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. 491**), 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: Boggs.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 617) passed.

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

Com. Sub. for S. B. 653, Relating generally to practice of medical corporations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 492**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Boggs.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 653) passed.

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

Com. Sub. for S. B. 653 - "A Bill to amend and reenact §30-3-15 of the Code of West Virginia, 1931, as amended, and to amend and reenact §30-14-9a of said, all relating to medical corporations; updating terminology; providing that medical corporations may only practice medicine through certain licensees; permitting certain licensees to be employees of medical corporations; and providing that licensed hospitals do not need to obtain a certificate of authorization so long as the hospital does not exercise control of the independent medical judgment of a licensee."

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

S. B. 675, Requiring DEP create and implement Adopt-A-Stream 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. 493**), 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: Boggs.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 675) passed.

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

On this question, the yeas and nays were taken (**Roll No. 494**), 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: Boggs.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 675) takes effect from its passage.

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

Second Reading

Com. Sub. for S. B. 4, Relating generally to Municipal Home Rule Program; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Summers, and by unanimous consent, the bill was advanced to third reading with amendments pending and the restricted right to amend jointly by Delegates Howell and Pyles, and the rule was suspended to permit the consideration of amendments on that reading.

Com. Sub. for S. B. 90, Transferring Safety and Treatment Program from DHHR to DMV; on second reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

S. B. 153, Providing greater flexibility for making infrastructure project grants; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 199, Authorizing certain miscellaneous agencies and boards promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page four, section two, line thirty-one, after the word "authorized", by striking out the period and inserting in lieu thereof the words "with the following amendment:

On page 4, after subdivision 5.6.b. by inserting a new subsection 5.7. to read as follows:

"5.7. All applications for tax credits must be received by the Department of Agriculture no later than January 31 of the year following the year in which the donation was made."

And,

On page 5, section 2, line 41, after the word "authorized", by striking out the period and inserting in lieu thereof the words "with the following amendment:

On page 8, by striking out paragraph "11.2.a." in its entirety and renumbering the remaining paragraphs accordingly;

On page 6, section 5, line 3, after the words "is authorized", by striking out the period and inserting in lieu thereof a comma, and the following:

"with the following amendments:

On page 16, by striking paragraph "18.1.hh.2" in its entirety and renumber the remaining paragraphs accordingly;

And,

On page 6, section 6, line 6, after the words "is authorized", by striking out the period and inserting in lieu thereof a comma, and the following:

"with the following amendments:

On page 5, subsection 4.2 after the words, "minimum of" by striking out "960" and inserting in lieu thereof "500";

On page 5, subsection 4.2 after the words, "within a" by striking out "15" and inserting in lieu thereof "12".

On page 5, subsection 4.3 after the words, “a pharmacy in a” by striking out “960” and inserting in lieu thereof “500”;

On page 6, subdivision 4.4.c after the word, “Within” by striking out “15” and inserting in lieu thereof “12”;

And,

On page 6, subdivision 4.4.e after the words “within the” by striking out “15” and inserting in lieu thereof “12”.

And, on page 7, section 7, line 5, after the words “is authorized”, by striking out the period and inserting in lieu thereof a comma, and the following:

“with the following amendments:

On page 3, subdivision 4.1.d. after the word “misdemeanor” by striking out the words “involving moral turpitude” and inserting in lieu thereof the following: “that bears a rational nexus to the occupation requiring licensure”;

And

On page 29, subdivision 8.2.c. after the word “misdemeanor by striking out the words “involving moral turpitude” and inserting in lieu thereof the following: “that bears a rational nexus to the occupation requiring licensure”;

And on page 30, subdivision 9.2.f. after the word “misdemeanor” by striking out the words “involving moral turpitude” and inserting in lieu thereof the following: “that bears a rational nexus to the occupation requiring licensure.”

And on page 8, section 9, line 4, after the words “is authorized”, by striking out the period and inserting in lieu thereof a comma, and the following:

“with the following amendments:

On page 4, subdivision 5.1, after the words “New series rules” by striking out the word “may” and inserting in lieu thereof the word “shall”.

The bill was then ordered to third reading.

S. B. 233, Relating to age requirements for deputy sheriff; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk on page one, section eight, line one, by striking out the remainder of the bill and inserting in lieu thereof the following:

“(a) The Civil Service Commission in each county shall require persons applying for the position of deputy sheriff to file a formal application, under oath or affirmation, which shall state the applicant’s:

(1) Full name, residence, and post-office address;

(2) United States citizenship, age, and the place and date of birth;

(3) Health and physical capacity for the position of deputy sheriff; and,

(4) Previous employment, residences, and any businesses for at least the previous three years.

(b) The commission may request additional information for each applicant relative to the applicant's qualifications and fitness as a deputy sheriff including, but not limited to, certificates from citizens, physicians, or other relevant persons with knowledge concerning the applicant's ability to serve as a deputy sheriff. No application for original appointment or reinstatement may be accepted by the commission if the applicant is less than 18 years of age or over 65 years of age.

(c) The commission shall provide blank application forms to any person who requests an application.

(d) Any applicant who formerly served as a deputy sheriff for more than six months before resignation is eligible for reinstatement by appointment if:

(1) No charges of misconduct or other misfeasance are pending against the applicant;

(2) The applicant seeks reinstatement within two years of resignation as a deputy sheriff;

(3) The applicant resides in the same county as the original appointment; and

(4) The applicant completes a medical and psychological examination to certify the applicant can perform the duties of a deputy sheriff.

The commission may reinstate the applicant without a competitive examination in the commission's discretion.

(e) If an applicant is successfully reinstated as a deputy sheriff pursuant to subsection (d), the applicant shall be the lowest in rank in the sheriff's office."

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

The yeas and nays having been ordered, they were taken (**Roll No. 495**), and there were—yeas 62, nays 36, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Atkinson, Azinger, S. Brown, Cadle, Canestraro, Capito, Cowles, Criss, Doyle, Fast, Hardy, Harshbarger, Hollen, Hornbuckle, Householder, D. Kelly, J. Kelly, Kessinger, Linville, Lovejoy, Mandt, Maynard, McGeehan, Miller, Queen, Robinson, Rodighiero, Rohrbach, Shott, Steele, Storch, Tomblin, Toney, Westfall, Wilson and Worrell.

Absent and Not Voting: Boggs and Skaff.

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

The bill was ordered to third reading.

Com. Sub. for S. B. 238, Increasing certain penalties for passing stopped school bus; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 241, Permitting county court clerks scan certain documents in electronic form; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page 1, section 11, line 8, by striking the words “scan and record” and inserting in lieu thereof the following:

“scan, record, and make available online when determined to be financially feasible by the county commission”.

And,

On page 1, section 11, line 12, after the words “are followed” by striking out the period and inserting in lieu thereof a colon and by inserting the following proviso to read as follows:

“: *Provided further*, That any documents in an electronic format are stored on a server off site, such as a cloud based server, to retain a backup copy of electronic documents.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 317, Authorizing three or more adjacent counties form multicounty trail network authority; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 17. MULTICOUNTY TRAIL NETWORK AUTHORITIES.

§20-17-1. Legislative findings.

The West Virginia Legislature finds that outdoor recreation is an increasingly vital part of the state’s economy and that outdoor recreation participants spend billions of dollars annually in the state and support a significant number of local jobs.

The Legislature further finds that well-managed areas for trail-oriented recreation in the state will increase outdoor recreational tourism, increasing revenue to the state and creating more jobs for West Virginia citizens.

The Legislature further finds that, with the cooperation of private landowners, there is an opportunity to provide citizens and recreational tourists with greater access to trail-oriented recreation by incorporating private property into recreational trail systems and areas throughout West Virginia to provide significant economic and recreational benefits to communities in the state.

The Legislature further finds that, under an appropriate contractual and management scheme, well-managed trail systems may exist on private property without diminishing the landowner’s interest, control, or profitability in the land and without increasing the landowner’s exposure to liability.

The Legislature further finds that creating and empowering multicounty trail network authorities, that can work with the landowners, county officials, community leaders, state and federal government agencies, recreational user groups, and other interested parties to expand trail systems will greatly assist in improving and linking recreational trail systems.

The Legislature further finds that it is in the best interests of the state to encourage private landowners to make land available for public use, through multicounty trail network authorities, for recreational purposes by limiting landowner liability for injury to persons entering thereon, by limiting landowner liability for injury to the property of persons entering thereon, and by limiting landowner liability to persons who may be injured or otherwise damaged by the acts or omissions of persons entering thereon.

§20-17-2. Definitions.

Unless the context clearly requires a different meaning, the terms used in this article have the following meanings:

(1) 'Adjacent county' means a nonparticipating county that directly borders any participating county in a multicounty trail network authority;

(2) 'Authority' means a multicounty trail network authority created pursuant to this article;

(3) 'Board' means the board of a multicounty trail network authority;

(4) 'Contiguous counties' means a group of counties in which each county shares the border of at least one other county in the group;

(5) 'Fee' means the amount of money asked in return for an invitation to enter or go upon a recreational area of a trail network, including a one-time fee for a particular event, amusement, occurrence, adventure, incident, experience, or occasion as set by an authority, which may differ in amount for different categories of participants;

(6) 'Land' or 'property' includes, but is not limited to, roads, water, watercourses, private ways, buildings, premises, structures, and machinery or equipment, when attached to the realty;

(7) 'Owner' or 'owner of land' means a person vested with title to real estate and those with the ability to exercise control over real estate and includes, but is not limited to, a tenant, lessee, licensee, holder of a dominant estate, or other lawful occupant;

(8) 'Participant' means any person using a recreational area of a trail network for recreational purposes;

(9) 'Person' means any public or private corporation, institution, association, society, firm, organization, or company organized or existing under the laws of this or any other state or country; the State of West Virginia; any state governmental agency; any political subdivision of the state or of its counties or municipalities; a sanitary district; a public service district; a drainage district; a conservation district; a watershed improvement district; a partnership, trust, or estate; a person or individual; a group of persons or individuals acting individually or as a group; any other legal entity; or any authorized agent, lessee, receiver, or trustee of any of the foregoing;

(10) 'Participating county' means one of the three or more counties forming a multicounty trail network authority;

(11) 'Recreational area' means the recreational trails and appurtenant facilities, including trail head centers, parking areas, camping facilities, picnic areas, recreational areas, historic or cultural interpretive sites, and other facilities or attractions that are a part of a multicounty trail network authority system; and

(12) 'Recreational purposes' means:

(A) Any outdoor activity undertaken, or practice or instruction in any such activity, for the purpose of exercise, relaxation, or pleasure, including, but not limited to any one or any combination of the following noncommercial recreational activities: Hunting, fishing, swimming, boating, kayaking, camping, picnicking, hiking, rock climbing, bouldering, bicycling, horseback riding, spelunking, nature study, water skiing, winter sports, and visiting, viewing, or enjoying historical, archaeological, scenic, or scientific sites, aircraft, or ultralight operations on private airstrips or farms, or otherwise using land for purposes of the user;

(B) Parking on or traversing land, outside of the state road system, for the purpose of engaging in a recreational activity described in paragraph (A) of this subdivision; or

(C) Maintaining or making improvements on land, including, but not limited to, artificial improvements for the purpose of making the land accessible or usable for a recreational activity described in paragraph (A) of this subdivision.

§20-17-3. Multicounty trail network authorities authorized; addition of counties; merger of existing authorities.

(a) For the purposes of this article, three or more contiguous counties may, upon approval of the county commission of each county desiring to participate, form a multicounty trail network authority. An authority established pursuant to this section is a public corporation and a joint development entity existing for the purpose of facilitating the development and operation of a system of recreational trails and areas throughout the participating counties. Such trails will be designated and made available for recreational purposes with significant portions of the trails system being located on private property throughout West Virginia, made available for use through lease, license, easement, or other appropriate legal form by a willing landowner.

(b) An adjacent county may join a multicounty trail network authority as a participating county upon approval of both the board of the authority and the county commission of the adjacent county wishing to become a participating county.

(c) Two or more existing authorities may merge and become a single authority encompassing the participating counties in each merging authority upon approval of the board of each authority. Upon merger of two or more authorities, the board of the newly created authority will be composed of all board members serving on the board of each merging authority at the time the merger takes place. Thereafter, the authority will fill any vacancies and appoint board members as required by §20-17-4 of this code. The board of the newly created authority shall adopt appropriate procedures and bylaws to ensure that the newly created authority complies with all requirements of this article.

§20-17-4. Board; quorum; executive director; expenses; application of state Freedom of Information Act.

(a) The board is the governing body of an authority and the board shall exercise all the powers given the authority in this article. The county commission of each participating county shall appoint two members to the board, as follows:

(1) Each participating county shall appoint one member who represents and is associated with a corporation or individual landowner whose land is being used or is expected to be used in the future as part of the authority's recreational area. This member shall be appointed to a four-year term.

(2) Each participating county shall appoint one member who is an experienced instructor, guide, or participant in recreational activities in the county or an individual who represents and is associated with travel, tourism, economic development, land surveying, or relevant engineering efforts within the county. The initial appointment for this member shall be for a two-year term, but all subsequent appointments shall be for a four-year term.

(3) Any appointed member whose term has expired shall serve until his or her successor has been duly appointed and qualified. Any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member is eligible for reappointment. Members of the board are not entitled to compensation for services performed as members but are entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties.

(b) Upon joining an existing authority as a participating county pursuant to §20-17-3 of this code, the newly participating county shall appoint board members only for the length of the unexpired terms of the authority's board members serving at the time the county joins the authority. Thereafter, the county shall appoint board members according to the regular appointment procedure provided in subsection (a) of this section.

(c) The board shall meet quarterly, unless a special meeting is called by its chairman. During the first meeting of each fiscal year beginning in an odd-numbered year, or as soon as feasible thereafter, the board shall elect a chairman, secretary, and treasurer from among its own members to serve for two-year terms.

(d) A majority of the members of the board constitutes a quorum and a quorum shall be present for the board to conduct business.

(e) The board may prescribe, amend, and repeal bylaws and rules governing the use of the trail system, safety standards for participants, and the manner in which the business of the authority is conducted.

(f) The board shall review and approve an annual budget. The fiscal year for an authority begins on July 1 and ends on the 30th day of the following June.

(g) The board shall appoint an executive director to act as its chief executive officer, to serve at the will and pleasure of the board. The board, acting through its executive director, may employ any other personnel considered necessary and retain such temporary legal, engineering, financial, and other consultants or technicians as may be required for any special study or survey consistent with the provisions of this article. The executive director shall carry out plans to implement the provisions of this article and to exercise those powers enumerated in the bylaws. The executive director shall prepare an annual budget to be submitted to the board for its review and approval prior to the commencement of each fiscal year. The budget shall contain a detailed account of all planned and proposed revenue and expenditures for the authority for the upcoming fiscal year, including a detailed list of employees by title, salary, cost of projected benefits, and total compensation. Before August 15 of each year, the executive director shall provide to the board and the county commission for each participating county a detailed list of actual expenditures and revenue, by account and recipient name, for the previous fiscal year and a copy of the approved budget for the current fiscal year.

(h) All costs incidental to the administration of the authority, including office expenses, personal services expenses, and current expenses, shall be paid in accordance with guidelines issued by the board from funds accruing to the authority.

(i) All expenses incurred by an authority in carrying out the provisions of this article shall be payable solely from funds that have accrued to the authority pursuant to this article. An authority may

not incur liability or an obligation above the amount of funds that have accrued to the authority pursuant to this article.

(j) A multicounty trail network authority and the board is a 'public body' for purposes of the West Virginia Freedom of Information Act, as provided in §29B-1-1 et seq. of this code.

§20-17-5. Financial review and oversight.

(a) An authority shall contract for and obtain an annual financial audit to be conducted by a private accounting firm in compliance with generally accepted government auditing standards. When complete, the audit shall be transmitted to the board, the president of the county commission of each participating county, and the Legislative Auditor. The cost of the audit shall be paid by the authority.

(b) If an authority receives any funds from the Legislature by appropriation or grant, the Legislative Auditor shall have the power and authority to examine the revenues, expenditures, and performance of the authority, and, for these purposes, shall have the power to inspect the properties, equipment, and facilities of the authority and to request, inspect, and obtain copies of any records of the authority. For each fiscal year in which the authority receives any funds from the Legislature by appropriation or grant, the executive director shall provide to the Legislative Auditor and Secretary of Revenue a detailed list of actual expenditures and revenue by account and recipient name for the previous fiscal year within 45 days of the close of that fiscal year.

§20-17-6. Powers of an authority.

An authority, as a public corporation and joint development entity, may exercise all powers necessary or appropriate to carry out the purposes of this article, including, but not limited to, the power:

(1) To acquire, own, hold, and dispose of property, real and personal, tangible and intangible;

(2) To lease property, whether as lessee or lessor, and to acquire or grant through easement, license, or other appropriate legal form, the right to develop and use property and open it to the public;

(3) To mortgage or otherwise grant security interests in its property;

(4) To procure insurance against any losses in connection with its property, licenses, easements, operations, assets, or contracts, including hold-harmless agreements, in such amounts and from such insurers as the authority considers desirable;

(5) To maintain such sinking funds and reserves as the board determines appropriate for the purposes of meeting future monetary obligations and needs of the authority;

(6) To sue and be sued, implead and be impleaded, and complain and defend in any court;

(7) To contract for the provision of legal services by private counsel and, notwithstanding the provisions of §5-3-1 et seq. of this code, the counsel may, in addition to the provisions of other legal services, represent the authority in court, negotiate contracts and other agreements on behalf of the authority, render advice to the authority on any matter relating to the authority, prepare contracts and other agreements, and provide such other legal services as may be requested by the authority;

(8) To adopt, use, and alter at will a corporate seal;

(9) To make, amend, repeal, and adopt bylaws for the management and regulation of the authority's affairs;

(10) To appoint officers, agents, and employees and to contract for and engage the services of consultants;

(11) To make contracts of every kind and nature and to execute all instruments necessary or convenient for carrying out the purposes of this article, including contracts with any other governmental agency of this state or of the federal government or with any person, individual, partnership, or corporation;

(12) Without in any way limiting any other subdivision of this section, to accept grants and loans from, and enter into contracts and other transactions with, any federal agency;

(13) To maintain an office at such place or places within the state as it may designate;

(14) To borrow money, to issue notes, to provide for the payment of notes, to provide for the rights of the holders of notes, and to purchase, hold, and dispose of any of its notes;

(15) To issue notes payable solely from the revenue or other funds available to the authority, which may be issued in such principal amounts as necessary to provide funds for any purpose under this article, including:

(A) The payment, funding, or refunding of the principal of, interest on, or redemption premiums on notes issued by it, whether the notes or interest to be funded or refunded have or have not become due; and

(B) The establishment or increase of reserves to secure or to pay notes, or the interest on the notes, and all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers. Notes may be additionally secured by a pledge of any revenues, funds, assets, or moneys of the authority from any source;

(16) To issue renewal notes, except that no renewal notes may be issued to mature more than 10 years from the date of issuance of the notes renewed;

(17) To apply the proceeds from the sale of renewal notes to the purchase, redemption, or payment of the notes to be refunded;

(18) To accept gifts or grants of property, funds, security interests, money, materials, labor, supplies, or services from the federal government or from any governmental unit or any person, firm, or corporation, and to take appropriate measures in procuring, accepting, or disposing of gifts or grants;

(19) To the extent permitted under its contracts with the holders of notes of the authority, to consent to any modification of the rate of interest, time of payment of any installment of principal or interest, security or any other term of any note, contract or agreement of any kind to which the authority is a party;

(20) To construct, reconstruct, improve, maintain, repair, operate, and manage the recreational areas at the locations within the participating counties as may be determined by the authority;

(21) To enter into an agreement with the West Virginia Division of Natural Resources for natural resources police officers to provide law-enforcement services within the authority's recreational area and to reimburse the Division of Natural Resources for its costs therefor;

(22) To exercise all power and authority provided in this article necessary and convenient to plan, finance, construct, renovate, maintain, and operate or oversee the operation of the authority at such locations within the participating counties as may be determined by the authority;

(23) To exercise all of the powers which a corporation may lawfully exercise under the laws of this state;

(24) To develop, maintain, and operate or contract for the development, maintenance, and operation of the authority;

(25) To enter into contracts with landowners and other persons holding an interest in the land being used for its recreational facilities to hold those landowners and other persons harmless with respect to any claim in tort growing out of the use of the land for recreational purposes or growing out of the recreational activities operated or managed by the authority from any claim except a claim for damages proximately caused by the willful or malicious conduct of the landowner or any of his or her agents or employees;

(26) To assess and collect a reasonable fee from those persons who use the trails, parking facilities, visitor centers, or other facilities which are part of the recreational area and to retain and utilize that revenue for any purposes consistent with this article: *Provided*, That such fee does not constitute a 'charge' or a 'fee' within the meaning and for the purposes of §19-25-5 of this code: *Provided, however*, That the authority may not charge a fee for any user to enter or go upon any trail that is already open for use by the public without fee as of January 1, 2019;

(27) To enter into contracts or other appropriate legal arrangements with landowners under which land is made available for use as part of the recreational area;

(28) To directly operate and manage recreation activities and facilities within the recreational area;

(29) To promulgate and publish rules governing the use of the recreational area and the safety of participants, including rules designating particular trails or segments of trails within the recreational area for certain activities and limiting use of designated trails to such activities;

(30) To coordinate and conduct athletic races, competitions, or events within the recreational area, in cooperation with the county commissions of participating counties in which such events will take place; and

(31) To exercise such other and additional powers as may be necessary or appropriate to carry out the purposes of this article.

§20-17-7. Requirements for trail users and prohibited acts; criminal penalties.

(a) A person may not enter or remain upon a recreational area without a valid, nontransferable user permit issued by the appropriate authority and properly displayed, except properly identified landowners or leaseholders or their officers, employees, or agents while on the land that the person owns or leases for purposes related to the ownership or lease of the land.

(b) An authority may require recreational users to wear protective helmets or use safety equipment that the authority determines to be appropriate for the recreational activity in which the user is engaged.

(c) Each trail user operating a bicycle or mountain bicycle shall obey all traffic laws, traffic-control devices, and signs within the recreational area, including those which restrict trails to certain types of bicycles or mountain bicycles.

(d) Each trail user shall at all times remain within and on a designated and marked trail while within the recreational area.

(e) A person may not ignite or maintain any fire within the recreational area except in a designated camp site.

(f) A person may not operate a motor vehicle within the recreational area unless the person is authorized to operate a motor vehicle in the area to perform maintenance services or emergency response.

(g) A person who violates any provision of this section is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$100. Prosecution or conviction for the misdemeanor described in this subsection shall not prevent or disqualify any other civil or criminal remedies for the conduct prohibited by this section.

§20-17-8. Limiting liability.

(a) An owner of land used by an authority owes no duty of care to keep his or her land safe for entry or use by others for recreational purposes, or to give any warning of a dangerous or hazardous condition, use, structure, activity, or wild animal on such land to persons entering or going upon the land for such purposes. The provisions of this section apply regardless of whether the person entering or going upon the leased land is permitted to enter the land or is a trespasser.

(b) Unless otherwise agreed in writing, an owner of land who grants a lease, easement, or license of land to an authority for recreational purposes does not, by giving a lease, easement or license: (1) Extend any assurance to any person using the land that the land is safe for any purpose; (2) confer upon those persons the legal status of a party to whom a duty of care is owed; or (3) assume responsibility for or incur liability for any injury to person or property or death caused by an act or omission of a person who enters upon the leased land. The provisions of this section apply whether the person entering or going upon the leased land is permitted to enter the land or is a trespasser.

(c) Nothing in this section limits in any way any liability which otherwise exists for deliberate, willful, or malicious infliction of injury to persons or property: *Provided*, That nothing herein limits in any way the obligation of a person entering upon or using the land of another for recreational purposes to exercise due care in his or her use of the land and in his or her activities thereon, so as to prevent the creation of hazards or the commission of waste by himself or herself.

§20-17-9. Purchasing and bidding procedures; criminal penalties.

(a) *Purchasing and bidding procedures; criminal penalties.* —

(1) Whenever an authority proposes to purchase or contract for commodities or services reasonably anticipated to equal or exceed \$25,000 in cost, the purchase or contract shall be based on competitive bidding. Where the purchase of particular commodities or services is reasonably anticipated to be less than \$25,000, the executive director may, on behalf of the authority, solicit bids

or price quotes in any manner that the executive director deems appropriate and the authority shall obtain its commodities or services by the lowest bid. In lieu of seeking bids or quotes for commodities or services in this price range, the authority may purchase those commodities and services pursuant to state master contracts as provided in §5A-3-10e of this code.

(2) Where the cost for the purchase of commodities or services is reasonably anticipated to exceed \$25,000, the executive director shall solicit sealed bids for such commodities or services: *Provided*, That the executive director may permit bids by electronic transmission to be accepted in lieu of sealed bids. Bids shall be solicited by public notice. The notice shall be published as a Class II legal advertisement in all participating counties in compliance with the provisions of §59-3-1 *et seq.* of this code and by such other means as the executive director deems appropriate. The notice shall state the general character of the work and general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place for receiving bids. After all bids are received, the authority shall enter into a written contract with the lowest responsible bidder; however, the authority may reject any or all bids that fail to meet the specifications required by the authority or that exceed the authority's budget estimation for those commodities or services. If the executive director determines in writing that there is only one responsive and responsible bidder and that there has been sufficient public notice to attract competitive bids, he or she may negotiate the price for a noncompetitive award or the specifications for a noncompetitive award based solely on the original purpose of the solicitation.

(3) For any contract that exceeds \$25,000 in total cost, the authority shall require the vendors to post a bond, with form and surety to be approved by the authority, in an amount equal to at least 50 percent of the contract price conditioned upon faithful performance and completion of the contract.

(4) The bidding requirements specified in this section do not apply to any leases for real property upon which the authority makes improvements for public access to the recreational area, information distribution, and welcome centers. This exemption does not apply to leases for offices, vehicle and heavy equipment storage, or administrative facilities.

(5) Any person who violates a provision of this subsection is guilty of a misdemeanor and, upon conviction, shall be confined in jail not less than 10 days nor more than one year, or fined not less than \$10 nor more than \$1,000, or both fined and confined.

(b) *Conflicts of interest in contracts prohibited.* —

An authority or any of its board members, officers, employees, or agents may not enter into any contracts, agreements, or arrangements for purchases of services or commodities violating the requirements of §6B-2-5 or §61-10-15 of this code.

(c) *Civil remedies.* —

The county commission of a participating county in an authority may challenge the validity of any contract or purchase entered, solicited, or proposed by the authority in violation of this section by seeking declaratory or injunctive relief in the circuit court of the county of the challenging party. If the court finds by a preponderance of evidence that the provisions of those sections have been violated, the court may declare the contract or purchase to be void and may grant any injunctive relief necessary to correct the violations and protect the funds of the authority as a joint development entity.

ARTICLE 17A. MOUNTAINEER TRAIL NETWORK RECREATION AUTHORITY.

§20-17A-1. Legislative findings; purpose.

The Legislature further finds that, with the cooperation of private landowners, there is an opportunity to provide trail-oriented recreation facilities primarily on private property in the mountainous terrain of the Potomac Highlands and north central West Virginia and that the facilities will provide significant economic and recreational benefits to the state and to the communities in the Potomac Highlands and north central West Virginia through increased tourism in the same manner as whitewater rafting, snow skiing, and utility terrain motor vehicle riding benefit the state and communities surrounding those activities.

The Legislature further finds that the creation and empowering of a joint development entity to work with the landowners, county officials and community leaders, state and federal government agencies, recreational user groups, and other interested parties to enable and facilitate the implementation of the facilities will greatly assist in the realization of these potential benefits.

The purpose of this article is to provide additional opportunities and regulatory authorization for recreational trail networks and to provide for increased access to recreational areas, including, but not limited to, creating a contiguous trail system that connects to the Chesapeake and Ohio Canal Tow Path.

§20-17A-2. Creation of Mountaineer Trail Network Recreation Authority and establishment of recreation area.

There is hereby created the 'Mountaineer Trail Network Recreation Authority' consisting of representatives from the counties of Barbour, Grant, Harrison, Marion, Mineral, Monongalia, Preston, Randolph, Taylor, and Tucker organized pursuant to the provisions of §20-17-1 et seq. of this code. This authority is authorized to establish a Mountaineer Trail Network Recreation Area within the jurisdictions of those counties and the authority shall be subject to the powers, duties, immunities, and restrictions provided in §20-17-1 et seq. of this code. Visitors and participants in recreational activities within the trail network shall, in similar respects, be subject to the user requirements and prohibitions of §20-17-7 of this code.

§20-17A-3. Recreational purposes.

The allowed recreational purposes for the Mountaineer Trail Network Recreation Area include, but are not limited to, any one or any combination of the following noncommercial recreational activities: Hunting, fishing, swimming, boating, camping, picnicking, hiking, bicycling, mountain bicycling, running, cross-country running, nature study, winter sports and visiting, viewing or enjoying historical, archaeological, scenic, or scientific sites.

§20-17A-4. Governing body and expenses.

(a) The governing body of the authority shall be a board constituted according to the provisions of §20-17-4 of this code.

(b) All costs incidental to the administration of the authority, including office expenses, personal services expenses and current expenses, shall be paid in accordance with guidelines issued by the board from funds accruing to the authority.

(c) All expenses incurred in carrying out the provisions of this article shall be payable solely from funds provided under the authority of this article and under §20-17-1 et seq. of this code. No liability or obligation may be incurred by the authority under this article beyond the extent to which moneys have been provided under the authority of this article.

§20-17A-5. Protection for private landowners.

Owners of land used by the authority shall have the full benefit of the limitations of liability provided in §20-17-8 of this code.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 318, Transferring Medicaid Fraud Control Unit to Attorney General’s office; on second reading, coming up in regular order, was read a second time.

Delegates Fleischauer and Sponaugle moved to amend the bill on page two, section one, line twenty-nine following the words “accrued benefits”, by inserting a comma and “including seniority, annual and sick leave, and any service designations pursuant to §29-6-1 *et seq.* of this code.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 496**), and there were—yeas 40, nays 58, absent and not voting 2, with the yeas and absent and not voting being as follows:

Yeas: Barrett, Bates, 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, Pethtel, Pushkin, Pyles, Robinson, Rohrbach, Rowe, Skaff, Sponaugle, Staggers, Swartzmiller, C. Thompson, R. Thompson, Tomblin, Walker, Williams and Zukoff.

Absent and Not Voting: Angelucci and Boggs.

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 357, Relating generally to Division of Administrative Services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 392, Relating to payment of invoices received by Division of Corrections and Rehabilitation for contract work; on second reading, coming up in regular order, was, on motion of Delegate Summers, postponed one day.

Com. Sub. for S. B. 400, Allowing Board of Dentistry create specialty licenses; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page 8, section 8, line 20, after the semi-colon after the words “clinical setting”, by striking out the word “and”.

On page 8, section 8, line 22, after the semi-colon at the end of the sentence by adding the word “and” and by adding the following new paragraph “(E)” to read as follows:

“(E) The Board may consider clinical examinations taken prior to July 1, 2019, or individual state clinical examinations as equivalent which demonstrates competency.”

And,

On page 9, section 8a, line 2, after the words "to practice as a specialist" by striking out the words "in a dental specialty" and inserting in lieu thereof the following words "upon proper application and fee for each specialty and as provided pursuant to the provisions of this article."

The bill was then ordered to third reading.

Com. Sub. for S. B. 402, Authorizing Division of Forestry investigate and enforce timber theft violations; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page 2, section 52, line 16, by striking the dollar amount "\$1,000" and inserting in lieu thereof the dollar amount "\$2,500";

On page 2, section 52, line 17, by striking the dollar amount "1,000" and inserting in lieu thereof the dollar amount "\$2,500";

On page 2, section 52, line 20, by striking the dollar amount "\$1,000" and inserting in lieu thereof the dollar amount "\$2,500";

And;

On page 2, section 52, line 21, after the word "violation" by inserting the words "within ten years".

The bill was then ordered to third reading.

Com. Sub. for S. B. 404, Relating generally to sediment control during commercial timber harvesting operations; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 405, Increasing limit on additional expenses incurred in preparing notice list for redemption; on second reading, coming up in regular order, was read a second time.

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

"ARTICLE 3. SALE OF TAX LIENS AND NONENTERED, ESCHEATED AND WASTE AND UNAPPROPRIATED LANDS.

§11A-3-23. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.

(a) After the sale of any tax lien on any real estate pursuant to §11A-3-5 of this code, the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien on the real estate was purchased by an individual may redeem at any time before a tax deed is issued for the real estate. In order to redeem, he or she shall pay to the State Auditor the following amounts:

(1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest at the rate of one percent per month from the date of sale;

(2) All other taxes which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) Any additional expenses incurred from January 1 of the year following the sheriff's sale to the date of redemption for the preparation of the list of those to be served with notice to redeem and any written documentation used for the preparation of the list, with interest at the rate of one percent per month from the date of payment for reasonable legal expenses incurred for the services of an attorney who has performed an examination of the title to the real estate and rendered written documentation used for the preparation of the list: ~~Provided, That the~~ The maximum amount the owner or other authorized person shall pay, excluding the interest, for the expenses incurred for the preparation of the list of those to be served required by §11A-3-19 of this code is ~~\$300~~ \$500: ~~Provided however, That the~~ An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-19 of this code; and

(4) All additional statutory costs paid by the purchaser.

(b) Where the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, and any written documentation used for the preparation of the list of those to be served with notice to redeem, including the certification required in subdivision (3), subsection (a) of this section, incident thereto, in the form of receipts or other evidence of legal expenses, incurred as provided in section nineteen of this article, the person redeeming shall pay the State Auditor the sum of ~~\$300~~ \$500 plus interest at the rate of one percent per month from January 1 of the year following the sheriff's sale for disposition by the sheriff pursuant to the provisions of §11A-3-10, §11A-3-24, §11A-3-25, and §11A-3-32 of this code.

(c) The person redeeming shall be given a receipt for the payment and the written opinion or report used for the preparation of the list of those to be served with notice to redeem required by section nineteen of this article.

(d) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased by an individual, is compelled in order to protect himself or herself to redeem the tax lien on all of the real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of that other person for the amount paid to redeem the interest. He or she shall lose his or her right to the lien, however, unless within thirty days after payment he or she files with the clerk of the county commission his or her claim in writing against the owner of the interest, together with the receipt provided in this section. The clerk shall docket the claim on the judgment lien docket in his or her office and properly index the claim. The lien may be enforced as other judgment liens are enforced.

(e) Before a tax deed is issued, the county clerk may accept, on behalf of the State Auditor, the payment necessary to redeem any real estate encumbered with a tax lien and write a receipt. The amount of the payment necessary to redeem any real estate encumbered with a tax lien shall be provided by the State Auditor and the State Auditor shall update the required payments plus interest at least monthly.

(f) On or before the tenth day of each month, the county clerk shall deliver to the State Auditor the redemption money paid and the name and address of the person who redeemed the property on a form prescribed by the State Auditor.

§11A-3-25. Distribution of surplus to purchaser.

(a) Where the land has been redeemed in the manner set forth in §11A-3-23 of this code, and the State Auditor has delivered the redemption money to the sheriff pursuant to §11A-3-24 of this code, the sheriff shall, upon receipt of the sum necessary to redeem, promptly notify the purchaser or his

or her heirs or assigns, by mail, of the fact of the redemption and pay to the purchaser or his or her heirs or assigns the following amounts:

(1) From the sale of tax lien surplus fund provided by §11A-3-10 of this code:

(A) The surplus of money paid in excess of the amount of the taxes, interest and charges paid by the purchaser to the sheriff at the sale; and

(B) The amount of taxes, interest and charges paid by the purchaser on the date of the sale, plus the interest at the rate of one percent per month from the date of sale to the date of redemption;

(2) All other taxes on the land which have since been paid by the purchaser or his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment to the date of redemption;

(3) Any additional reasonable expenses that the purchaser may have incurred from January 1 of the year following the sheriff's sale to the date of redemption for the preparation of the list of those to be served with notice to redeem and any written documentation used for the preparation of the list, in accordance with §11A-3-19 of this code, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding the interest, for the expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-19 of this code shall not exceed the amount actually incurred by the purchaser or ~~\$300~~ \$500, whichever is less: *Provided*, That the attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-19 of this code; and

(4) All additional statutory costs paid by the purchaser.

(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the State Auditor;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem and any written documentation used for the preparation of the list in accordance with §11A-3-19 of this code, the State Auditor shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and any written documentation used for the preparation of the list from January 1 of the year following the sheriff's sale to the date of the sale to the date of the redemption.

(c) Where, pursuant to §11A-3-23 of this code, the State Auditor has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem, including written documentation used for preparation of the list, in the form of receipts or other evidence within thirty days from the date of notification by the State Auditor, the sheriff shall refund the amount to the person redeeming and the purchaser is barred from any claim. Where, pursuant to that section, the State Auditor has received from the person redeeming and therefore delivered to the sheriff the sum of ~~\$300~~ \$500 plus interest at the rate of one percent per

month from January 1 of the year following the sheriff's sale to the date of the sale to the date of redemption, and the purchaser provides the sheriff within thirty days from the date of notification satisfactory proof of the expenses, and the amount of the expenses is less than the amount paid by the person redeeming, the sheriff shall refund the difference to the person redeeming.

§11A-3-36. Operating fund for land department in Auditor's office.

(a) The Auditor shall establish a special operating fund for the land department in his or her office. He or she shall pay into such fund all redemption fees, all publication or other charges collected by him or her, if such charges were paid by or were payable to him or her, the unclaimed surplus proceeds received by him or her from the sale of delinquent and other lands pursuant to this article, and all payments made to him or her under the provisions of §11A-3-64 and §11A-3-65 of this code, except such part thereof as represents state taxes and interest. All payments so excepted shall be credited by the Auditor to the general school fund or other proper state fund.

(b) The operating fund shall be used by the Auditor in cases of deficits in land sales to pay any balances due to deputy commissioners for services rendered, and any unpaid costs including those for publication which have accrued or will accrue under the provisions of this article, to pay fees due surveyors under the provisions of §11A-3-43, and to pay for the operation and maintenance of the land department in his or her office. ~~The surplus over and above the amount of \$100,000, remaining in the fund at the end of any fiscal year, shall be paid by the Auditor into the general school fund. The surplus over and above the amount of 20 percent of gross revenue from operation of the fund from the prior year, remaining at the end of any fiscal year, shall be paid by the Auditor into the General School Fund.~~

§11A-3-56. Redemption from purchase; receipt; list of redemptions; lien; lien of person redeeming interest of another; record.

(a) After the sale of any tax lien on any real estate pursuant to 11A-3-45 or §11A-3-48 of this code, the owner of, or any other person who was entitled to pay the taxes on, any real estate for which a tax lien thereon was purchased by an individual, may redeem at any time before a tax deed is issued therefor. In order to redeem, he or she must pay to the deputy commissioner the following amounts:

(1) An amount equal to the taxes, interest and charges due on the date of the sale, with interest thereon at the rate of one percent per month from the date of sale;

(2) ~~all~~ All other taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) ~~such~~ Such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount he or she shall be required to pay, excluding said interest, for such expenses incurred for the preparation of the list of those to be served with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed \$200 \$500. An attorney may only charge a fee for legal services actually performed and must certify that he or she conducted an examination to determine the list of those to be served required by §11A-3-52 of this code;

(4) ~~all~~ All additional statutory costs paid by the purchaser; and

(5) ~~the~~ The deputy commissioner's fee and commission as provided by §11A-3-66 of this code. Where the deputy commissioner has not received from the purchaser satisfactory proof of the

expenses incurred in preparing the notice to redeem, ~~and any examination of title~~ or of any licensed attorney's title examination incident thereto, in the form of receipts or other evidence thereof, the person redeeming shall pay the deputy commissioner the sum of ~~\$200~~ \$500 plus interest thereon at the rate of one percent per month from the date of the sale for disposition pursuant to the provisions of §11A-3-57, §11A-3-58, and §11A-3-64 of this code. Upon payment to the deputy commissioner of those and any other unpaid statutory charges required by this article, and of any unpaid expenses incurred by the sheriff, the Auditor and the deputy commissioner in the exercise of their duties pursuant to this article, the deputy commissioner shall prepare an original and five copies of the receipt for the payment and shall note on said receipts that the property has been redeemed. The original of such receipt shall be given to the person redeeming. The deputy commissioner shall retain a copy of the receipt and forward one copy each to the sheriff, assessor, the Auditor and the clerk of the county commission. The clerk shall endorse on the receipt the fact and time of such filing and note the fact of redemption on his or her record of delinquent lands.

(b) Any person who, by reason of the fact that no provision is made for partial redemption of the tax lien on real estate purchased by an individual, is compelled in order to protect himself or herself to redeem the tax lien on all of such real estate when it belongs, in whole or in part, to some other person, shall have a lien on the interest of such other person for the amount paid to redeem such interest. He or she shall lose his or her right to the lien, however, unless within thirty days after payment he or she shall file with the clerk of the county commission his or her claim in writing against the owner of such interest, together with the receipt provided for in this section. The clerk shall docket the claim on the judgment lien docket in his or her office and properly index the same. Such lien may be enforced as other judgment liens are enforced.

§11A-3-57. Notice of redemption to purchaser; moneys received by sheriff.

(a) Upon payment of the sum necessary to redeem, the deputy commissioner shall promptly deliver to the sheriff the redemption money paid and the name and address of the purchaser, his or her heirs or assigns.

(b) Of the redemption money received by the sheriff pursuant to this section, the sheriff shall hold as surplus to be disposed of pursuant to §11A-3-64 of this code an amount thereof equal to the amount of taxes, interest and charges due on the date of the sale, plus the interest at the rate of one percent per month thereon from the date of sale to the date of redemption.

§11A-3-58. Distribution to purchaser.

(a) Where the land has been redeemed in the manner set forth in §11A-3-56 of this code, and the deputy commissioner has delivered the redemption money to the sheriff pursuant to §11A-3-57 of this code, the sheriff shall, upon delivery of the sum necessary to redeem, promptly notify the purchaser, his or her heirs or assigns, by mail, of the redemption and pay to the purchaser, his or her heirs or assigns, the following amounts:

(1) The amount paid to the deputy commissioner at the sale;

(2) all other taxes thereon, which have since been paid by the purchaser, his or her heirs or assigns, with interest at the rate of one percent per month from the date of payment;

(3) such additional expenses as may have been incurred in preparing the list of those to be served with notice to redeem, and for any licensed attorney's title examination incident thereto, with interest at the rate of one percent per month from the date of payment, but the amount which shall be paid, excluding said interest, for such expenses incurred for the preparation of the list of those to be served

with notice to redeem required by §11A-3-52 of this code, and for any licensed attorney's title examination incident thereto, shall not exceed ~~\$200~~ \$500; and

(4) all additional statutory costs paid by the purchaser.

(b) (1) The notice shall include:

(A) A copy of the redemption certificate issued by the deputy commissioner;

(B) An itemized statement of the redemption money to which the purchaser is entitled pursuant to the provisions of this section; and

(C) Where, at the time of the redemption, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the list of those to be served with notice to redeem ~~and any~~ or for any licensed attorney's title examination incident thereto, the deputy commissioner shall also include instructions to the purchaser as to how these expenses may be claimed.

(2) Subject to the limitations of this section, the purchaser is entitled to recover any expenses incurred in preparing the list of those to be served with notice to redeem and for any licensed attorney's title examination incident thereto from the date of the sale to the date of the redemption.

(c) Where, pursuant to §11A-3-56 of this code, the deputy commissioner has not received from the purchaser satisfactory proof of the expenses incurred in preparing the notice to redeem, in the form of receipts or other evidence of legal expenses, and any or for any licensed attorney's title examination ~~and rendered written documentation used for the preparation of the list~~ incident thereto, in the form of receipts or other evidence thereof, and therefore received from the purchaser as required by said section and delivered to the sheriff the sum of ~~\$200~~ \$500 plus interest thereon at the rate of one percent per month from the date of the sale to the date of redemption, and the sheriff has not received from the purchaser such satisfactory proof of such expenses within thirty days from the date of notification, the sheriff shall refund such amount to the person redeeming and the purchaser is barred from any claim thereto. Where, pursuant to §11A-3-56 of this code, the deputy commissioner has received from the purchaser and therefore delivered to the sheriff said sum of ~~\$200~~ \$500 plus interest thereon at the rate of one percent per month from the date of the sale to the date of redemption, and the purchaser provides the sheriff within thirty days from the date of notification such satisfactory proof of such expenses, and the amount of such expenses is less than the amount paid by the person redeeming, the sheriff shall refund the difference to the person redeeming.”

Delegate Porterfield moved to amend the Committee on Government Organization amendment, on page 5, following section 36, following line 16 by inserting a new section to read as follows:

“§11A-3-52. What purchaser must do before he can secure a deed.

(a) Within forty-five days following the approval of the sale by the auditor pursuant to section fifty-one of this article, the purchaser, his heirs or assigns, in order to secure a deed for the real estate purchased, shall:

(1) Prepare a list of those to be served with notice to redeem and request the deputy commissioner to prepare and serve the notice as provided in sections fifty-four and fifty-five of this article;

(2) When the real property subject to the tax lien was classified as Class II property, provide the deputy commissioner with the actual mailing address of the property that is subject to the tax lien or liens purchased; and

(3) Deposit, or offer to deposit, with the deputy commissioner a sum sufficient to cover the costs of preparing and serving the notice.

(b) If the purchaser fails to fulfill the requirements set forth in paragraph (a) of this section, the purchaser shall lose all the benefits of his or her purchase.

(c) After the requirements of paragraph (a) of this section have been satisfied, the deputy commissioner may then sell the property in the same manner as he sells lands which have been offered for sale at public auction but which remain unsold after such auction, as provided in section forty-eight of this article.

(d) If the person requesting preparation and service of the notice is an assignee of the purchaser, he shall, at the time of the request, file with the deputy commissioner a written assignment to him of the purchaser's rights, executed, acknowledged and certified in the manner required to make a valid deed.

(e) The purchaser shall have unlimited access to inspect and secure the real property upon the payment of final costs and fees required by this section. At this point, the prior owner has no right of access to the real property for any purpose."

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

The yeas and nays having been ordered, they were taken (**Roll No. 497**), and there were—yeas 52, nays 46, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Capito, Caputo, Dean, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Higginbotham, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, Malcolm, Miley, Miller, Pethtel, Phillips, Pushkin, Pyles, Robinson, Rowe, Sponaugle, Staggers, Steele, Storch, Swartzmiller, Sypolt, C. Thompson, R. Thompson, Walker, Westfall, Williams and Zukoff.

Absent and Not Voting: Boggs and Skaff.

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

The Committee on Government Organization amendment, as amended, was then adopted.

The bill was then ordered to third reading.

S. B. 421, Relating to annual legislative review of economic development tax credit; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 485, Clarifying notification requirements for property insurance purposes; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 487, Relating to admissibility of health care staffing requirements in litigation; on second reading, coming up in regular order, was read a second time.

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

ARTICLE 7B. MEDICAL PROFESSIONAL LIABILITY.

§55-7B-7A. ADMISSIBILITY AND USE OF CERTAIN INFORMATION.

(a) In an action brought, there is a rebuttable presumption that the following information may not be introduced unless it applies specifically to the injured person or it involves substantially similar conduct that occurred within one year of the particular incident involved:

- (1) A state or federal survey, audit, review, or other report of a health care provider or health care facility;
- (2) Disciplinary actions against a health care provider's license, registration, or certification;
- (3) An accreditation report of a health care provider or health care facility; and
- (4) An assessment of a civil or criminal penalty.

(b) In any action brought alleging inappropriate staffing or inadequate supervision, if the health care facility or health care provider demonstrates compliance with the minimum staffing requirements under state and federal law, the health care facility or health care provider is entitled to a rebuttable conclusive presumption that appropriate staffing was provided, and a rebuttable presumption that adequate supervision of patients to prevent accidents was provided, and the jury shall be instructed accordingly.

(c) If staffing is less than the requirements dictated by state and federal law the applicable regulations, then there is a rebuttable presumption that there was inadequate supervision of patients and that inadequate staffing or inadequate supervision was a contributing cause of the patient's fall and injuries or death arising therefrom, and the jury shall be instructed accordingly.

(d) Information under this section may only be introduced in a proceeding if it is otherwise admissible under the West Virginia Rules of Evidence."

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

The yeas and nays having been ordered, they were taken **(Roll No. 498)**, and there were—yeas 54, nays 45, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Anderson, Atkinson, Bibby, Butler, Cadle, Capito, Cooper, Cowles, Ellington, Espinosa, Foster, Graves, Hamrick, Hanna, Hardy, Harshbarger, Hicks, Higginbotham, Hill, Hollen, Hott, Howell, D. Jeffries, J. Jeffries, Jennings, Kessinger, Malcolm, Mandt, C. Martin, P. Martin, Maynard, McGeehan, Nelson, Paynter, Phillips, Porterfield, Queen, Rohrbach, Storch, Summers, Sypolt, Waxman, Westfall, Wilson and Worrell.

Absent and Not Voting: Boggs.

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

The bill was then ordered to third reading.

S. B. 493, Correcting terminology referring to racing vehicles illegally on street; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 496, Transferring authority to regulate milk from DHHR to Department of Agriculture; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page 15, section 17, by striking out section 17 in its entirety and inserting in lieu thereof a new section 17 to read as follows:

“§19-11E-17. Transfer of milk regulation authority from Department of Health and Human Resources (DHHR) to Department of Agriculture (WVDA).

(a) Effective July 1, 2019, authority for the regulation, including enforcement, of Grade ‘A’ milk is hereby transferred to the commissioner from the Department of Health and Human Resources.

(b) Prior to July 1, 2019, the commissioner and the Department of Health and Human Resources shall enter into an agreement to provide for the orderly transition of regulatory operations from the Department of Health and Human Resources to the commissioner. Said agreement shall provide:

(1) For the transfer of records and equipment related to the milk regulation program to the commissioner;

(2) For the continued provision of services by staff of the Department of Health and Human Resources to the commissioner under the terms of the agreement;

(3) For transition, upon notice to Department of Health and Human Resources, of functions from the Department of Health and Human Resources to the commissioner; and

(4) For the completion of the transfer of all responsibilities from the Department of Health and Human Resources to the commissioner no later than December 31, 2019.

(c) During a period from July 1, 2019, to December 31, 2019, the Department of Health and Human Resources shall cooperate fully with the commissioner to ensure a smooth transition of authority, knowledge, and resources to guarantee that milk regulation in West Virginia suffers no gap or failure in regulation.

(d) All legislative rules issued by the Department of Health and Human Resources pursuant to its authority to regulate milk shall remain in effect until superseded by the commissioner’s regulations.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 511, Creating alternating wine proprietorships; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 529, Clarifying provisions of Nonintoxicating Beer Act; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 16. NONINTOXICATING BEER.**§11-16-3. Definitions.**

For the purpose of this article, except where the context clearly requires differently:

(1) ‘Brand’ means a nonintoxicating beer product manufactured, brewed, mixed, concocted, blended, bottled or otherwise produced, ~~or imported,~~ or transshipped by a brewer or manufacturer, the labels of which have been registered and approved by the commissioner, that is being offered for sale or sold in West Virginia by a distributor who has been appointed in a valid franchise agreement or a valid amendment thereto.

(2) ‘Brewer’ or ‘manufacturer’ means any person manufacturing, otherwise producing, importing, or transshipping nonintoxicating beer or nonintoxicating craft beer for sale at wholesale to any licensed distributor. Brewer or manufacturer may be used interchangeably throughout this article. A brewer may obtain only one brewer’s license for its nonintoxicating beer or nonintoxicating craft beer.

(3) ‘Brewpub’ means a place of manufacture of nonintoxicating beer or nonintoxicating craft beer owned by a resident brewer, subject to federal and state regulations and guidelines, a portion of which premises are is designated for retail sales of nonintoxicating beer or nonintoxicating craft beer by the resident brewer owning the brewpub.

(4) ‘Class A retail license’ means a retail license permitting the retail sale of liquor at a freestanding liquor retail outlet licensed pursuant to chapter 60 of this code.

(5) ‘Class B retail license’ means a retail license permitting the retail sale of liquor at a mixed retail liquor outlet licensed pursuant to chapter 60 of this code.

(6) ‘Commissioner’ means the West Virginia Alcohol Beverage Control Administration Commissioner.

(7) ‘Distributor’ means and includes any person jobbing or distributing nonintoxicating beer or nonintoxicating craft beer to retailers at wholesale and whose warehouse and chief place of business shall be within this state. For purposes of a distributor only, the term ‘person’ means and includes an individual, firm, trust, partnership, limited partnership, limited liability company, association or corporation. Any trust licensed as a distributor or any trust that is an owner of a distributor licensee, and the trustee or other persons in active control of the activities of the trust relating to the distributor license, is liable for acts of the trust or its beneficiaries relating to the distributor license that are unlawful acts or violations of §11-11-1 *et seq.* of this code notwithstanding the liability of trustees in §44D-10-1 *et seq.* of this code.

(8) ‘Franchise agreement’ means the written agreement between a brewer and a distributor that is identical as to terms and conditions between the brewer and all its distributors, which agreement has been approved by the commissioner. The franchise agreement binds the parties so that a distributor, appointed by a brewer, may distribute all of the brewer’s nonintoxicating beer products, brands or family of brands imported and offered for sale in West Virginia, including, but not limited to, existing brands, line extensions, and new brands all in the brewer’s assigned territory for the distributor. All brands and line extensions being imported or offered for sale in West Virginia must be listed by the brewer in the franchise agreement or a written amendment to the franchise agreement. A franchise agreement may be amended by mutual written agreement of the parties as approved by the commissioner with identical terms and conditions for a brewer and all of its distributors. Any approved amendment to the franchise agreement becomes a part of the franchise agreement. A brewer and a distributor may mutually agree in writing to cancel a franchise agreement. A distributor

terminated by a brewer as provided in this article and the promulgated rules no longer has a valid franchise agreement. If a brewer has reached an agreement to cancel a distributor or has terminated a distributor, then a brewer may appoint a successor distributor who accedes to all the rights of the cancelled or terminated distributor.

(9) 'Franchise distributor network' means the distributors who have entered into a binding written franchise agreement, identical as to terms and conditions, to distribute nonintoxicating beer products, brands, and line extensions in an assigned territory for a brewer. A brewer may only have one franchise distributor network: *Provided*, That a brewer that has acquired the manufacturing, bottling, or other production rights for the sale of nonintoxicating beer at wholesale from a selling brewer as specified in §11-16-21(a)(2) of this code shall continue to maintain and be bound by the selling brewer's separate franchise distributor's network for any of its existing brands, line extensions, and new brands.

(10) 'Freestanding liquor retail outlet' means a retail outlet that sells only liquor, wine, beer, nonintoxicating beer, and other alcohol-related products, as defined pursuant to §60-3A-4 of this code.

(11) 'Growler' means a container or jug that is made of glass, ceramic, metal, or other material approved by the commissioner, that may be no larger than only 32 or 64 128 fluid ounces in size and must be capable of being securely sealed. The growler is utilized by an authorized licensee for purposes of off-premise sales only of nonintoxicating beer or nonintoxicating craft beer for personal consumption not on a licensed premise and not for resale. Notwithstanding any other provision of this code to the contrary, a securely sealed growler is not an open container under federal, state, and local law. A growler with a broken seal is an open container under federal, state, and local law unless it is located in an area of the motor vehicle physically separated from the passenger compartment. The secure sealing of a growler requires the use of a tamper-resistant seal, security tape, or other material, as approved by the commissioner, placed on or over the growler's opening, which seal, security tape or other material is clearly marked with the date of the secure sealing by the authorized licensee who is selling the growler.

(12) 'Line extension' means any nonintoxicating beer product that is an extension of brand or family of brands that is labeled, branded, advertised, marketed, promoted, or offered for sale with the intent or purpose of being manufactured, imported, associated, contracted, affiliated, or otherwise related to a brewer's existing brand through the use of a brewer, its subsidiaries, parent entities, contracted entities, affiliated entities, or other related entities. In determining whether a nonintoxicating beer product is a line extension, the commissioner may consider, but is not limited to, the following factors: Name or partial name; trade name or partial trade name; logos; copyrights; trademarks or trade design; product codes; advertising promotion; or pricing.

(13) 'Nonintoxicating beer' means all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect containing at least one half of one percent alcohol by volume, but not more than ~~nine and six tenths~~ 11.9 percent of alcohol by weight, or ~~42 15~~ percent alcohol by volume, whichever is greater. The word 'liquor' as used in chapter 60 of this code does not include or embrace nonintoxicating beer nor any of the beverages, products, mixtures, or preparations included within this definition.

(14) 'Nonintoxicating beer floor plan extension' means a temporary one-day extension of an existing Class A licensee's floor plan to a contiguous, adjoining and bounded area, such as a parking lot or outdoor area, which shall for the temporary period encompass the licensee's licensed premises;

further such license shall be endorsed or approved by the county or municipality where the license is located; such license shall be in good standing with the commissioner, and further such temporary event shall cease on or before midnight of the approved temporary one-day event.

(15) 'Nonintoxicating beer sampling event' means an event approved by the commissioner for a Class A retail licensee to hold a nonintoxicating beer sampling authorized pursuant to §11-16-11a of this code.

(15) (16) 'Nonintoxicating beer sampling day' means any days and hours of the week where Class A retail licensees may sell nonintoxicating beer pursuant to §11-16-11a and §11-16-18(a)(1) of this code, and is approved, in writing, by the commissioner to conduct a nonintoxicating beer sampling event.

(16) (17) 'Nonintoxicating craft beer' means any beverage obtained by the natural fermentation of barley, malt, hops, or any other similar product or substitute and containing not less than one half of one percent by volume and not more than ~~12~~ 15 percent alcohol by volume or ~~nine and six tenths~~ 11.9 percent alcohol by weight with no caffeine infusion or any additives masking or altering the alcohol effect.

(17) (18) 'Original container' means the container used by a resident brewer or brewer at the place of manufacturing, bottling, or otherwise producing nonintoxicating beer or nonintoxicating craft beer for sale at wholesale.

(18) (19) 'Person' means and includes an individual, firm, partnership, limited partnership, limited liability company, association, or corporation.

(19) (20) 'Private club' means a license issued pursuant to §60-7-1 *et seq.* of this code.

(20) (21) 'Resident brewer' means any brewer or manufacturer of nonintoxicating beer or nonintoxicating craft beer whose principal place of business and manufacture is located in the State of West Virginia and which does not brew or manufacture more than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer annually, and does not self-distribute more than 10,000 barrels thereof in the State of West Virginia annually.

(21) (22) 'Retailer' means any person selling, serving, or otherwise dispensing nonintoxicating beer and all products regulated by this article, including, but not limited to, malt coolers at his or her established and licensed place of business.

(22) (23) 'Tax Commissioner' means the Tax Commissioner of the State of West Virginia or the commissioner's designee.

§11-16-5. State license required; alcoholic content of beer manufactured for sale without state.

No person shall manufacture, tender, sell, possess for sale, transport, or distribute nonintoxicating beer except in accordance with the provisions of this article, and after first obtaining a state license therefor, as provided in this article. ~~Nothing contained in this article shall prohibit any brewer located within the state from manufacturing or transporting for sale without the state beer of an alcoholic strength greater than that of nonintoxicating beer~~

§11-16-6a. Brewer and resident brewer license to manufacture, sell, and provide complimentary samples.

(a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to regulate, control, and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of nonintoxicating beer and nonintoxicating craft beer and its industry in this state in order to protect the public health, welfare, and safety of the citizens of this state, and promote hospitality and tourism. Therefore, this section authorizes a licensed brewer or resident brewer with its principal place of business and manufacture located in this state to have certain abilities in order to promote the sale of nonintoxicating beer and nonintoxicating craft beer manufactured in this state for the benefit of the citizens of this state, the state's growing brewing industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of nonintoxicating beer.* — A licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia may offer only nonintoxicating beer or nonintoxicating craft beer manufactured by the licensed brewer or resident brewer for retail sale to customers from the brewer's or resident brewer's licensed premises for consumption off of the licensed premises only in the form of kegs, bottles, cans, or growlers for personal consumption and not for resale. A licensed brewer or resident brewer may not sell, give or furnish nonintoxicating beer for consumption on the premises of the principal place of business and manufacture located in the State of West Virginia, except for the limited purpose of complimentary samples as permitted in subsection (c) of this section.

(c) *Complimentary samples.* — A licensed brewer or resident brewer with its principal place of business and manufacture located in the State of West Virginia may only offer complimentary samples of nonintoxicating beer or nonintoxicating craft beer brewed at the brewer's or resident brewer's principal place of business and manufacture located in the State of West Virginia. The complimentary samples may be no greater than two ounces per sample per patron, and a sampling shall not exceed 10 complimentary two-ounce samples per patron per day. A licensed brewer or resident brewer providing complimentary samples shall provide complimentary food items to the patron consuming the complimentary samples; and prior to any sampling, verify, using proper identification, that the patron sampling is 21 years of age or over and that the patron is not visibly intoxicated.

(d) *Retail sales.* — Every licensed brewer or resident brewer under this section shall comply with all the provisions of this article as applicable to nonintoxicating beer retailers when conducting sales of nonintoxicating beer or nonintoxicating craft beer and shall be subject to all applicable requirements and penalties in this article.

(e) *Payment of taxes and fees.* — A licensed brewer or resident brewer under this section shall pay all taxes and fees required of licensed nonintoxicating beer retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(f) *Advertising.* — A licensed brewer or resident brewer under this section may advertise a particular brand or brands of nonintoxicating beer or nonintoxicating craft beer produced by the licensed brewer or resident brewer and the price of the nonintoxicating beer or nonintoxicating craft beer subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance.

(g) *Growler requirements.* — A licensed brewer or resident brewer under this section must fill a growler and patrons are not permitted to access the secure area or fill a growler. A licensed brewer or resident brewer under this section must sanitize, fill, securely seal, and label any growler prior to its sale. A licensed brewer or resident brewer under this section may only offer for retail sale ~~up to two 64-ounce, or four 32-ounce,~~ growlers no larger than 128 fluid ounces of nonintoxicating beer or

nonintoxicating craft beer manufactured by the licensed brewer or resident brewer ~~per customer per day~~ for personal consumption off of the licensed premises and not for resale. A licensed brewer or resident brewer under this section may refill a growler subject to the requirements of this section. A licensed brewer or resident brewer shall visually inspect any growler before filling or refilling it. A licensed brewer or resident brewer may not fill or refill any growler that appears to be cracked, broken, unsafe or otherwise unfit to serve as a sealed beverage container.

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

(i) *Growler sanitation.* — A licensed brewer or resident brewer authorized under this section shall clean and sanitize all growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing. In addition, the licensed brewer or resident brewer shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipe lines, barrel tubes and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under §11-16-23 of this code.

(j) *Fee.* — There is no additional fee for a licensed brewer or resident brewer authorized under this section to sell growlers.

(k) *Limitations on licensees.* — To be authorized under this section, a licensed brewer or resident brewer may not produce more than 25,000 barrels per calendar year at the brewer's or resident brewer's principal place of business and manufacture located in the State of West Virginia. No more than one brewer or resident brewer license may be issued to a single person or entity and no person may hold both a brewer and a resident brewer license. A licensed brewer or resident brewer under this section may only conduct tours, give complimentary samples and sell growlers during the hours of operation set forth in §11-16-18(a)(1) of this code. A licensed brewer or resident brewer authorized under this section shall be subject to the applicable penalties under §11-16-23 of this code for violations of this section.

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

§11-16-6b. Brewpub, Class A retail dealer, Class B retail dealer, private club, Class A retail licensee, and Class B retail licensee's authority to sell growlers.

(a) *Legislative findings.* — The Legislature hereby finds that it is in the public interest to regulate, control and support the brewing, manufacturing, distribution, sale, consumption, transportation, and storage of nonintoxicating beer and nonintoxicating craft beer and its industry in this state in order to protect the public health, welfare, and safety of the citizens of this state and promote hospitality and tourism. Therefore, this section authorizes a licensed brewpub, Class A retail dealer, Class B retail dealer, private club, Class A retail licensee, or Class B retail licensee to have certain abilities in order to promote the sale of nonintoxicating beer and nonintoxicating craft beer manufactured in this state for the benefit of the citizens of this state, the state's growing brewing industry, and the state's hospitality and tourism industry, all of which are vital components for the state's economy.

(b) *Sales of nonintoxicating beer.* — A licensed brewpub, Class A retail dealer, Class B retail dealer, private club, Class A retail licensee, or Class B retail licensee who pays the fee in subsection (i) of this section and meets the requirements of this section may offer nonintoxicating beer or nonintoxicating craft beer for retail sale to patrons from their licensed premises in a growler for personal consumption only off of the licensed premises and not for resale. Prior to the sale, the licensee shall verify, using proper identification, that any patron purchasing nonintoxicating beer or nonintoxicating craft beer is 21 years of age or over and that the patron is not visibly intoxicated. A licensee authorized under this section may not sell, give or furnish alcoholic liquors, including wine, for consumption off of its licensed premises, unless it is a private club licensed to sell sealed wine for consumption off of the licensed premises and meets the requirements set out in §60-8-3(j) and §60-8-3(l) of this code, for the sale of wine, not liquor.

(c) *Retail sales.* — Every licensee authorized under this section shall comply with all the provisions of this article as applicable to nonintoxicating beer retailers when conducting sales of nonintoxicating beer or nonintoxicating craft beer and shall be subject to all applicable requirements and penalties in this article.

(d) *Payment of taxes and fees.* — A licensee authorized under this section shall pay all taxes and fees required of licensed nonintoxicating beer retailers, in addition to any other taxes and fees required, and meet applicable licensing provisions as required by this chapter and by rule of the commissioner.

(e) *Advertising.* — A licensee authorized under this section may advertise a particular brand or brands of nonintoxicating beer or nonintoxicating craft beer and the price of the nonintoxicating beer or nonintoxicating craft beer subject to state and federal requirements or restrictions. The advertisement may not encourage intemperance.

(f) *Growler requirements.* — A licensee authorized under this section must fill a growler and patrons are not permitted to access the secure area or fill a growler. A licensee authorized under this section must sanitize, fill, securely seal, and label any growler prior to its sale. A licensee authorized under this section may only offer for retail sale up to two 64-ounce, or four 32-ounce, growlers no larger than 128 fluid ounces of nonintoxicating beer or nonintoxicating craft beer ~~per customer per day~~ for personal consumption off of the licensed premises and not for resale. A licensee under this section may refill a growler subject to the requirements of this section. A licensee shall visually inspect any growler before filling or refilling it. A licensee may not fill or refill any growler that appears to be cracked, broken, unsafe, or otherwise unfit to serve as a sealed beverage container.

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

(h) *Growler sanitation.* — A licensed brewer or resident brewer authorized under this section shall clean and sanitize all growlers he or she fills or refills in accordance with all state and county health requirements prior to its sealing. In addition, the licensed brewer or resident brewer shall sanitize, in accordance with all state and county health requirements, all taps, tap lines, pipe lines, barrel tubes, and any other related equipment used to fill or refill growlers. Failure to comply with this subsection may result in penalties under §11-16-23 of this code.

(i) Fee Fees. — Commencing July 1, 2015, and by every July 1 thereafter, there is an annual \$100 nonrefundable fee for a licensee, except for a licensed brewpub, to sell growlers as provided by this section. The licensee must be in good standing with the state at the time of paying the fee.

(j) Complimentary samples. — A licensee authorized under this section may provide complimentary samples which may be no greater than one ounce per sample and a sampling shall not exceed three different nonintoxicating beer or nonintoxicating craft beer complimentary one-ounce samples per patron per day. A licensee authorized under this section providing complimentary samples shall prior to any sampling verify, using proper identification, that the patron sampling is 21 years of age or over and that the patron is not visibly intoxicated. All nonintoxicating beer and nonintoxicating craft beer utilized for sampling purposes must be purchased from the licensee's inventory.

(k) Limitations on licensees. — A licensee under this section may only sell growlers during the hours of operation set forth in §11-16-18(a)(1) of this code. Any licensee licensed under this section must maintain a secure area for the sale of nonintoxicating beer or nonintoxicating craft beer in a growler. The secure area must only be accessible by the licensee. Any licensee licensed under this section shall be subject to the applicable penalties under §11-16-23 of this code for violations of this section.

~~(l)~~ (l) Nonapplicability of certain statutes. — Notwithstanding any other provision of this code to the contrary, licensees under this section are permitted to break the seal of the original container for the limited purpose of filling a growler or providing complimentary samples as provided in this section. Any unauthorized sale of nonintoxicating beer or nonintoxicating craft beer or any consumption not permitted on the licensee's licensed premises is subject to penalties under this article.

~~(m)~~ (m) Rules. — The commissioner is authorized to propose rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, to implement this section.

§11-16-6c. Class B retail dealer which is a grocery store, mobile application, or web-based sales privilege permit; fee.

(a) A Class B retail dealer who is licensed to sell nonintoxicating beer or nonintoxicating craft beer and who operates a grocery store containing over \$100,000 of fresh produce and saleable food and food products fit for human consumption in a combination of displayed and stored inventory may apply for a Class B license privilege granting the licensee the ability to complete the sale of such nonintoxicating beer or nonintoxicating craft beer in the original sealed container for off-premises consumption to a person purchasing the nonintoxicating beer or nonintoxicating craft beer from a vehicle:

(1) If the vehicle is parked in a licensed parking area which is contiguous to the Class B licensee's licensed premises; or

(2) If the vehicle is parked in a licensed parking area which is within 500 feet of the Class B licensee.

(b) The parking area referenced in subsection (a) of this section shall be designated by signage solely for the use of persons who have previously ordered items including, but not limited to, nonintoxicating beer or nonintoxicating craft beer using a mobile application or web-based software program.

(c) No nonintoxicating beer or nonintoxicating craft beer may be loaded into a vehicle under this section unless the Class B licensee or such licensee's staff have verified that both the person placing

the order, and, if different from the person placing the order, the person picking up the order are 21 years of age or older and not noticeably intoxicated; and

(d) To operate under this section, a Class B retail dealer licensee must be in good standing with the commissioner, apply, qualify, pay the Class B license privilege fee and obtain the permit for the Class B licensee privilege for nonintoxicating beer or nonintoxicating craft beer sales at a designated parking area. The Class B license privilege permit nonrefundable and non-prorated annual fee is \$250. For purposes of criminal enforcement of the provisions of this article, persons placing orders and picking up orders are deemed to be purchasers.

(e) The licensee shall be subject to all requirements, penalties and sanctions of this article.

§11-16-8. Form of application for license; fee and bond; refusal of license.

(a) A license may be issued by the commissioner to any person who submits an application, accompanied by a license fee and, where required, a bond, and states under oath:

(1) The name and residence of the applicant, the duration of such residency, that the applicant has been a resident of the state for a period of two years preceding the date of the application and that the applicant is 21 years of age. If the applicant is a firm, association, partnership, limited partnership, limited liability company, or corporation, the application shall include the residence of the members or officers for a period of two years preceding the date of such application. If a person, firm, partnership, limited partnership, limited liability company, association, corporation, or trust applies for a license as a distributor, such person, or in the case of a firm, partnership, limited partnership, limited liability company, association or trust, the members, officers, trustees or other persons in active control of the activities of the limited liability company, association or trust relating to the license, shall state under oath that each has been a bona fide resident of the state for four years preceding the date of such application. If the applicant is a trust or has a trust as an owner, the trustees or other persons in active control of the activities of the trust relating to the license shall provide a certification of trust as described in §44D-10-1013 of this code. This certification of trust shall include the excerpts described in §44D-10-1013(e), of this code and shall further state, under oath, the names, addresses, Social Security numbers and birth dates of the beneficiaries of the trust and certify that the trustee and beneficiaries are 21 years of age or older. If a beneficiary is not 21 years of age, the certification of trust must state that such beneficiary's interest in the trust is represented by a trustee, parent, or legal guardian who is 21 years of age and who will direct all actions on behalf of such beneficiary related to the trust with respect to the distributor until the beneficiary is 21 years of age. Any beneficiary who is not 21 years of age or older shall have his or her trustee, parent, or legal guardian include in the certification of trust and state under oath his or her name, address, Social Security number and birth date;

(2) The place of birth of applicant, that he or she is a citizen of the United States and of good moral character and, if a naturalized citizen, when and where naturalized. If the applicant is a corporation organized or authorized to do business under the laws of the state, the application must state when and where incorporated, the name and address of each officer, and that each officer is a citizen of the United States and a person of good moral character. If the applicant is a firm, association, limited liability company, partnership, limited partnership, trust or has a trust as an owner, the application shall provide the place of birth of each member of the firm, association, limited liability company, partnership or limited partnership and of the trustees, beneficiaries or other persons in active control of the activities of the trust relating to the license and that each member or trustee, beneficiary or other persons in active control of the activities of the trust relating to the license is a citizen of the United States, and if a naturalized citizen, when and where naturalized, each of whom must qualify and sign the application. The requirements as to residence do not apply to the officers

of a corporation applying for a retailer's license but the officers, agent, or employee who manages and is in charge of the licensed premises shall possess all of the qualifications required of an individual applicant for a retailer's license including the requirement as to residence;

(3) The particular place for which the license is desired and a detailed description thereof;

(4) The name of the owner of the building and, if the owner is not the applicant, that the applicant is the actual and bona fide lessee of the premises;

(5) That the place or building in which is proposed to do business conforms to all applicable laws of health, fire and zoning regulations and is a safe and proper place or building not within 300 feet of a school or church measured from front door to front door, along the street or streets. This requirement does not apply to a Class B license or to a place occupied by a beer licensee so long as it is continuously so occupied. The prohibition against locating a proposed business in a place or building within 300 feet of a school does not apply to a college or university that has notified the commissioner, in writing, that it has no objection to the location of a proposed business in a place or building within 300 feet of the college or university;

(6) That the applicant is not incarcerated and has not during the five years preceding the date of said application been convicted of a felony;

(7) That the applicant is the only person in any manner pecuniarily interested in the business so asked to be licensed and that no other person is in any manner pecuniarily interested during the continuance of the license; and

(8) That the applicant has not during five years preceding the date of the application had a nonintoxicating beer license revoked.

(b) In the case of an applicant that is a trust or has a trust as an owner, a distributor license may be issued only upon submission by the trustees or other persons in active control of the activities of the trust relating to the distributor license of a true and correct copy of the written trust instrument to the commissioner for his or her review. Notwithstanding any provision of law to the contrary, the copy of the written trust instrument submitted to the commissioner pursuant to this section is confidential and is not a public record and is not available for release pursuant to the West Virginia Freedom of Information Act codified in 29B-1-1 *et seq.* of this code.

(c) The provisions and requirements of subsection (a) of this section are mandatory prerequisites for the issuance and, if any applicant fails to qualify, the license shall be refused. In addition to the information furnished in any application, the commissioner may make such additional and independent investigation of each applicant and of the place to be occupied as necessary or advisable and, for this reason, all applications, with license fee and bond, must be ~~filed thirty days prior to the beginning of any fiscal year. If the application is for an unexpired portion of a fiscal year, the issuance of license may be withheld for such reasonable time as necessary for investigation~~ submitted with all true and correct information. For the purpose of conducting such independent investigation, the commissioner may withhold the granting or refusal to grant such license for a 30-day period or until the applicant has completed the conditions set forth in this section. If it shall appear that such applicant meets the requirements in the code and the rules, including, but not limited to, being a suitable person of good reputation and morals; having made no false statements or material misrepresentations; involving no hidden ownership; and having no persons with an undisclosed pecuniary interest contained in such application; and if there are no other omissions or failures by the applicant to complete the application, as determined by the commissioner, the commissioner shall issue a license authorizing the applicant to sell nonintoxicating beer or nonintoxicating craft beer.

(d) The commissioner may refuse a license to any applicant under the provisions of this article if the commissioner is of the opinion:

(1) That the applicant is not a suitable person to be licensed;

(2) That the place to be occupied by the applicant is not a suitable place or is within 300 feet of any school or church measured from front door to front door along the street or streets. This requirement does not apply to a Class B licensee or to a place now occupied by a beer licensee so long as it is continuously so occupied. The prohibition against locating any such place within 300 feet of a school does not apply to a college or university that has notified the commissioner, in writing, that it has no objection to the location of any such place within 300 feet; or

(3) That the license should not be issued for reason of conduct declared to be unlawful by this article.

§11-16-9. Amount of license tax; Class A and Class B retail dealers; purchase and sale of nonintoxicating beer permitted; distributors; brewers; brewpubs.

(a) All retail dealers, distributors, brewpubs, brewers and resident brewers of nonintoxicating beer and of nonintoxicating craft beer shall pay an annual fee to maintain an active license as required by this article. The license period begins on July 1 of each year and ends on June 30 of the following year. If the license is granted for a shorter period, then the license fee shall be computed semiannually in proportion to the remainder of the fiscal year: Provided, That if a licensee fails to complete a renewal application and make payment of its annual license fee in renewing its license on or before June 30 of any subsequent year, after initial application, then an additional \$150 reactivation fee shall be charged and paid by the licensee; the fee may not be prorated or refunded, prior to the processing of any renewal application and applicable full year annual license fee; and furthermore a licensee who continues to operate upon the expiration of its license is subject to all fines, penalties and sanctions available in §11-16-23 of this code, all as determined by the commissioner.

(b) The annual license fees are as follows:

(1) Retail dealers shall be divided into two classes: Class A and Class B.

(A) For a Class A retail dealer, the license fee is \$150 for each place of business; the license fee for social, fraternal or private clubs not operating for profit, and having been in continuous operation for two years or more immediately preceding the date of application, is \$150: *Provided*, That railroads operating in this state may dispense nonintoxicating beer upon payment of an annual license tax of \$10 for each dining, club or buffet car in which the beer is dispensed.

Class A licenses issued for railroad dining, club or buffet cars authorize the licensee to sell nonintoxicating beer at retail for consumption only on the licensed premises where sold. All other Class A licenses authorize the licensee to sell nonintoxicating beer at retail for consumption on or off the licensed premises.

(B) For a Class B retail dealer, the license fee, authorizing the sale of both chilled and unchilled beer, is \$150 for each place of business. A Class B license authorizes the licensee to sell nonintoxicating beer at retail in bottles, cans or other sealed containers only, and only for consumption off the licensed premises. A Class B retailer may sell to a patron, for personal use and not for resale, quantities of draught beer in original containers that are no larger in size than one-half barrel for off-premises consumption.

A Class B license may be issued only to the proprietor or owner of a grocery store. For the purpose of this article, the term 'grocery store' means any retail establishment commonly known as a grocery store or delicatessen, and caterer or party supply store, where food or food products are sold for consumption off the premises, and includes a separate and segregated portion of any other retail store which is dedicated solely to the sale of food, food products and supplies for the table for consumption off the premises. Caterers or party supply stores are required to purchase the appropriate licenses from the Alcohol Beverage Control Administration.

(2) For a distributor, the license fee is \$1,000 for each place of business.

(3) For a brewer or a resident brewer with its principal place of business or manufacture located in this state and who produces:

(A) Twelve thousand five hundred barrels or less of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$500 for each place of manufacture;

(B) Twelve thousand five hundred one barrels and up to 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,000 for each place of manufacture;

(C) More than 25,001 barrels of nonintoxicating beer or nonintoxicating craft beer, the license fee is \$1,500 for each place of manufacture.

(4) For a brewer whose principal place of business or manufacture is not located in this state, the license fee is \$1,500. The brewer is exempt from the requirements set out in subsections (c), (d) and (e) of this section: *Provided*, That a brewer whose principal place of business or manufacture is not located in this state that produces less than 25,000 barrels of nonintoxicating beer or nonintoxicating craft beer may choose to apply, in writing, to the commissioner to be subject to the variable license fees of subdivision (3), subsection (b) of this section and the requirements set out in subsections (c), (d) and (e) of this section subject to investigation and approval by the commissioner as to brewer requirements.

(5) For a brewpub, the license fee is \$500 for each place of manufacture.

(c) As part of the application or renewal application and in order to determine a brewer or resident brewer's license fee pursuant to this section, a brewer or resident brewer shall provide the commissioner, on a form provided by the commissioner, with an estimate of the number of nonintoxicating beer or nonintoxicating craft beer barrels and gallons it will produce during the year based upon the production capacity of the brewer's or resident brewer's manufacturing facilities, and the prior year's production and sales volume of nonintoxicating beer or nonintoxicating craft beer.

(d) On or before July 15 of each year, every brewer or resident brewer who is granted a license shall file a final report, on a form provided by the commissioner, that is dated as of June 30 of each year, stating the actual volume of nonintoxicating beer or nonintoxicating craft beer in barrels and gallons produced at its principal place of business and manufacture during the prior year.

(e) If the actual total production of nonintoxicating beer or nonintoxicating craft beer by the brewer or resident brewer exceeded the brewer's or resident brewer's estimate that was filed with the application or renewal for a brewer's or resident brewer's license for that period, then the brewer or resident brewer shall include a remittance for the balance of the license fee pursuant to this section that would be required for the final, higher level of production.

(f) Any brewer or resident brewer failing to file the reports required in subsections (c) and (d) of this section, and who is not exempt from the reporting requirements, shall, at the discretion of the commissioner, be subject to the penalties set forth in §11-16-23 of this code.

(g) Notwithstanding subsections (a) and (b) of this section, the license fee per event for a nonintoxicating beer floor plan extension is \$100, and the fee may not be prorated or refunded, and must be accompanied with a license application, certification that the event meets certain requirements in the code and rules, and such other information as the commissioner may reasonably require, at least 15 days prior to the event, all as determined by the commissioner.

§11-16-10. Brewer's license for foreign corporation; application; bond; contents of application; limitations; licensed representatives for brewers, resident brewers, and distributors; annual license fee; renewal; suspension; license fee for sales representatives; transportation permits; container label registration; and Beer License Operations Fund created; and implementation operations of fee.

(a) A brewer's license shall be issued by the commissioner to a foreign corporation which submits an application therefor accompanied by the license fee hereinafter prescribed, ~~the bond required by section nine of this article~~ a certified copy of the certificate of authority issued by the Secretary of State authorizing such foreign corporation to transact business in the state, and a certified copy of its most recent corporation charter. Such application shall be verified and shall state:

- (1) The name of the corporation and the state under the laws of which it is incorporated;
- (2) The date of incorporation;
- (3) The address of the principal office of the corporation;
- (4) The names and respective addresses of the directors and officers of the corporation;
- (5) The date that such foreign corporation qualified to transact business in this state; and
- (6) Such other information as the commissioner, by rule or regulation, may require.

(b) So long as the foreign corporation remains qualified to transact business in this state so that the Secretary of State can accept service of notice and process for such foreign corporation, then, notwithstanding any other provision of this article to the contrary, none of the officers and directors of such foreign corporation need be residents of this state.

(c) The license fee for a brewer's license for a foreign corporation selling any nonintoxicating beer product within this state, whether or not its principal place of business be located in this state, shall be \$1,500 per annum. The license period shall begin on July 1 of each year and end on June 30 of the following year, and if granted for a lesser period, the same shall be prorated semiannually in proportion to the remainder of the fiscal year.

(d) As of July 1, 2019, there is an annual nonrefundable and non-prorated operational fee for all brewers, resident brewers, Class A retail dealers, Class B retail dealers, and distributors of \$100 which shall be paid on or before July 1, 2019 and every July 1 thereafter. All fees collected by the commissioner pursuant to this subsection shall be deposited in a special revenue account in the State Treasury, hereby created, to be known as the Beer License Operations Fund. Moneys in the fund may only be expended by the commissioner for the administration of this article, and as appropriated by law.

(e) All sales representatives for engaged in the selling, marketing, merchandising, or the conducting of any other sales on behalf of any brewer, or manufacturer resident brewer or distributor of nonintoxicating beer shall be issued a permit license by the commissioner. The permit for each sales representative of or employed by a licensed brewer or manufacturer shall be \$50. A licensee is subject to the provisions of §11-16-23 of this code for violations of this article and the rules promulgated thereunder. It is a violation of the code and rules to operate without such license and is punishable by the penalties available under this article. The commissioner shall prescribe forms to complete such licensure.

(f) Any brewer, resident brewer, distributor or any person transporting nonintoxicating beer or nonintoxicating craft beer for resale, and not for personal use, in or through this state on behalf of such licensees or persons, or by contract or other means, who is operating in this state may only transport nonintoxicating beer or nonintoxicating craft beer available for resale, and not personal use, in or through this state. All vehicles transporting nonintoxicating beer or nonintoxicating craft beer shall be issued a nonintoxicating beer transportation permit. Transporting nonintoxicating beer or nonintoxicating craft beer for resale, and not for personal use, in or through this state without a nonintoxicating beer transportation permit is in violation of law and the penalties prescribed under §11-16-18 and §11-16-23 of this code are applicable for any violation. The commissioner shall prescribe forms to complete such permitting.

(g) Any brewer or resident brewer offering nonintoxicating beer or nonintoxicating craft beer for sale under this article shall register, prior to offering such beer for sale in the state, with the commissioner each nonintoxicating beer or nonintoxicating craft beer container label. No nonintoxicating beer or nonintoxicating craft beer brand may be sold under this article unless all of such nonintoxicating beer or nonintoxicating craft beer brand's container labels for the product intended for sale in the state have been registered and reviewed by the commissioner. Prior to registration of any nonintoxicating beer or nonintoxicating craft beer container labels, this review shall include, but not be limited to, a review of the alcohol content, corporate or product information, marketing and advertising so that the nonintoxicating beer or nonintoxicating craft beer container label is not intended to be marketed to persons less than 21 years of age. The commissioner shall remove all nonrenewed nonintoxicating beer or nonintoxicating craft beer container labels, and any licensee who sells nonintoxicating beer or nonintoxicating craft beer with nonrenewed container labels shall be subject to the penalties under §11-16-23 of this code. Failure to register, obtain a review, and a certification for a nonintoxicating beer or nonintoxicating craft beer container label and failure to register such labels will subject the brewer or resident brewer to penalties under said section. The commissioner shall prescribe forms to complete such registration.

~~(e)~~(h) The licenses and permits issued under the provisions of this section shall be renewed annually upon application for renewal on a form prescribed by the commissioner and payment of the annual license fee.

~~(f)~~(i) If at any time such a foreign corporation is no longer qualified to transact business in this state, the Secretary of State shall notify the commissioner of such fact and the commissioner shall thereupon suspend the brewer's license issued to such foreign corporation until such time as such foreign corporation has again qualified to transact business in this state and has otherwise complied with the provisions of this section.

~~(g)~~(j) Notwithstanding any other provision of this article to the contrary, any corporation issued a brewer's license under the provisions of this article shall not engage in the business of a distributor or retailer as defined in this article.

§11-16-11b. Special license for one-day charitable events; application; license subject to provisions of article; exception.

(1) The commissioner may issue a special one-day license to be designated a Class S1 license for the retail sale of nonintoxicating beer and nonintoxicating craft beer to a duly-organized nonprofit corporation, limited liability entity, or an association having received federal tax exempt status allowing the sale and serving of nonintoxicating beer or nonintoxicating craft beer when raising money for artistic, athletic, charitable, educational, or religious purposes. The commissioner may not charge a fee to the applicant that meets requirements for licensure. The special license shall be issued for a term no longer than one day. No more than six licenses may be issued to any single licensee during any calendar year. The license application shall contain a copy of the documents showing approved federal tax-exempt status and other information required by the commissioner and shall be submitted to the commissioner at least 15 days prior to the event. Nonintoxicating beer served and sold during the event shall be purchased from a licensed distributor, or resident brewer, acting in the limited capacity of a distributor for its own products, that services the location where the festival, fair, or other event is occurring. All distributors and resident brewers in the area must be notified in writing by mail, facsimile or electronic mail of the event in advance and be presented with the opportunity to participate in the event. Licensed representatives of distributors, brewers, or resident brewers may attend the one-day event and discuss their products, but may not engage in the serving or selling of the nonintoxicating beer or nonintoxicating craft beer. A licensee licensed by this section may use bona fide employees or volunteers of the charitable entity to sell and serve nonintoxicating beer and nonintoxicating craft beer.

(2) A license issued under the provisions of this section and the licensee holding the license are subject to all other provisions of this article and the rules and orders of the commissioner relating to the special license: *Provided*, That the commissioner may by rule or order allow certain waivers or exceptions with respect to those provisions, rules, or orders as the circumstances of each event requires, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions of §11-16-24 of this code: *Provided, however*, That under no circumstances may the provisions §11-16-18(a)(1), §11-16-18(a)(2), or §11-16-18(a)(3) of this code, be waived or an exception granted with respect to those provisions.

§11-16-12. When bond not required; bond of brewer, distributor and a Class A retail dealer; action on bond of retail dealer upon revocation of license; duty of prosecuting attorney.

~~(a) In addition to furnishing the information required by this article, each brewer or distributor applying for a license under this article shall furnish, as prerequisite to a license, a bond with some solvent surety company as surety, to be approved by the commissioner, payable to the state of West Virginia, conditioned for the payment of any and all additional taxes accruing during the period of such license, and conditioned further for the faithful observance of the provisions of this article, the rules, regulations and orders promulgated pursuant thereto and of any other laws of the state of West Virginia generally relating to the sale, transportation, storage and distribution of nonintoxicating beer, which said bonds shall be forfeited to the state upon the revocation of the license of any such brewer or distributor. The amount of such bond in the case of a resident brewer or brewpub shall be not less than \$5,000 nor more than \$10,000 and in the case of a distributor, not less than \$2,000 nor more than \$5,000 for each place of business licensed and conducted within the state, the amount of such bond, between the minimum and maximum amounts, to be determined in the discretion of the commissioner. There shall be no bond for a brewer, resident brewer, distributor, Class S brewpub license, as the license privilege itself secures the payment of taxes and is subject to suspension and revocation for failure to pay said taxes. In the case of brewers shipping nonintoxicating beer into the state, any brewer must also furnish a bond in a penalty of not less than \$5,000 nor more than \$25,000~~

~~conditioned as hereinabove in this subsection provided and any bond furnished pursuant hereto shall be forfeited to the state in the full amount of said bond upon revocation of license of any such brewer or distributor. Such money received by the state shall be credited to the State Fund, General Revenue~~

(b) Each Class A retail dealer, in addition to furnishing the information required by this article, shall furnish, as prerequisite to obtaining a license, a bond with some solvent surety company as surety, to be approved by the commissioner, payable to the State of West Virginia, in the amount not less than \$500 nor more than \$1,000 within the discretion of the commissioner. All such bonds shall be conditioned for the faithful observance of the provisions of this article, the rules, regulations and orders promulgated pursuant thereto and of any other laws of the State of West Virginia generally relating to the distribution, sale and dispensing of nonintoxicating beer and shall be forfeited to the state in the full amount of said bond upon the revocation of the license of any such retail dealer. Such money received by the state shall be credited to the State Fund, General Revenue.

(c) Upon the revocation of the license of any Class A retail dealer by the commissioner or by any court of competent jurisdiction, the commissioner or the clerk of said court shall notify the prosecuting attorney of the county wherein such retail dealer's place of business is located, or the prosecuting attorney of the county wherein the licensee resides, of such revocation, and, upon receipt of said notice, it shall be the duty of such prosecuting attorney forthwith to institute appropriate proceedings for the collection of the full amount of said bond. Upon request of such prosecuting attorney, the commissioner shall deliver the bond to him. Willful refusal without just cause therefor by the prosecuting attorney to perform said duty hereby imposed shall subject him or her to removal from office by the circuit court of the county for which said prosecuting attorney was elected upon proper proceedings and proof in the manner provided by law.

§11-16-17a. Commissioner to investigate, review, and approve or deny franchise agreements, labels, brands, and line extensions.

(a) The commissioner shall investigate and review:

(1) All franchise agreements and any amendments to a franchise agreement to verify compliance with this article and the promulgated rules.

(2) The registration of all container labels for brands manufactured, imported or sold in West Virginia, as further specified in §11-16-10(g) of this code.

(3) The registration of all brands and line extensions with the commissioner that are the subject of a franchise agreement or an amendment to a franchise agreement.

(4) The appointment of all brands or line extensions to a distributor in a brewer's established franchise distributor network and to that distributor's assigned territory from the brewer.

(5) The appointment of all brands or line extensions acquired by a brewer as either an acquiring brewer, successor brewer and also any successor entities of a brewer, as specified in §11-16-21(a)(3) of this code, to the distributor in the selling brewer's established franchise distributor network and to that distributor's assigned territory.

(b) The commissioner's investigation and review under subsection (a) of this section may include, but is not limited to: the brewer, its subsidiaries, parent entities, contracted entities, affiliated entities, associated entities or any other related entities, the brewer's corporate structure, the nature of the relatedness of various entities, ownership, trade names or partial trade names, logos, copyrights, trademarks or trade design, product codes, marketing and advertising, promotion or pricing.

(c) The commissioner may approve or deny any item listed in subsection (a) of this section as determined by the commissioner in accordance with this article, the promulgated rules as the facts and circumstances dictate.

(d) Any brewer adversely affected by a denial as specified in subdivision (3) or (4), subsection (a) of this section, may request, in writing, a final written determination from the commissioner.

(e) Upon receipt of final determination as provided in subsection (d) of this section, a brewer may request an administrative hearing by filing a written petition and as otherwise required per §11-16-24 of this code and the rules promulgated by the commissioner. Upon filing a written petition, the brewer shall file a \$1,000 hearing deposit, via certified check or money order, to cover the costs of the hearing. Such certified check or money order shall be made payable to the commissioner. In any such hearing held by the request of a brewer, the burden of proof is on the brewer and the standard of review for the administrative hearing is by a preponderance of the evidence.”

The bill was then ordered to third reading.

S. B. 566, Relating to compensation for State Athletic Commission members; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk.

Delegate J. Kelly requested to be excused from voting on S. B. 566 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 Committee on Government Organization amendment was adopted, amending the bill 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 bill was then ordered to third reading.

S. B. 596, Adjusting voluntary contribution amounts on certain DMV forms; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 2. DIVISION OF MOTOR VEHICLES.

§17A-2-12a. Commissioner of Motor Vehicles — commissioner shall prescribe forms providing for veteran contributions.

(a) Notwithstanding §17A-2-12 of this code, the commissioner shall prescribe and provide suitable forms of application which provide the following applicants the ability to make a contribution of \$3, \$5, ~~or \$10~~, or any amount of the applicant's choosing to the West Virginia Department of Veterans Assistance, the West Virginia Farm Bureau Foundation, the West Virginia University Foundation, reserved for 4 H Youth Education Program, or the West Virginia Future Farmers of America Education Foundation:

- (1) Applicants for original or renewal driver's licenses or identification cards; and
- (2) Applicants for a renewal of a vehicle registration.

(b) A contribution under §17A-2-12a(a) of this code shall be added, as appropriate, to the regular fee for:

- (1) An original or renewal driver's license or identification card; and
- (2) A renewal of a vehicle registration.

(c) Contributions to the West Virginia Department of Veterans Assistance ~~under §17A-2-12a(a) of this code~~ shall be used exclusively for purposes set forth in §9A-1-1 *et seq.* of this code.

(d) (1) The division shall determine on a monthly basis the total amount collected for the West Virginia Department of Veterans Assistance under this section and report and transfer said amount to the State Treasurer. The State Treasurer shall transfer the amount collected under this section to the West Virginia Department of Veterans Assistance.

(2) The division shall determine on a biannual basis the total amount collected for the West Virginia Farm Bureau Foundation, the West Virginia University Foundation, reserved for 4 H Youth Education Program, and the West Virginia Future Farmers of America Education Foundation under this section and report and transfer said amount to the State Treasurer on July 1 and January 1 each fiscal year. The State Treasurer shall transfer the funds collected for the West Virginia Farm Bureau Foundation, the West Virginia University Foundation, reserved for 4 H Youth Education Program, and the West Virginia Future Farmers of America Education Foundation under this section in equal amounts to the West Virginia Farm Bureau Foundation, the West Virginia University Foundation, reserved for 4 H Youth Education Program, and the West Virginia Future Farmers of America Education Foundation.

~~(e) The West Virginia Department of Veterans Assistance shall reimburse the Motor Vehicle Fees Fund for the actual costs incurred by the division in the administration of this section. The division may deduct from all contributions under this section no more than two percent as an administrative fee to recover processing costs prior to transferring any money to the State Treasurer or to any foundation."~~

The bill was then ordered to third reading.

Com. Sub. for S. B. 597, Conforming state law to federal law for registration of appraisal management companies; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 600, Relating to preservation of biological evidence obtained through criminal investigations and trials; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on the Judiciary, was reported by the Clerk and adopted, amending the bill on page one by striking out the section caption and inserting a new section caption to read as follows:

“§15A-1-8. Preservation of biological evidence from criminal cases; directing Secretary to undertake a study and report to the Legislature.”

The bill was then ordered to third reading.

S. B. 625, Clarifying and defining authority of State Athletic Commission; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 633, Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses; on second reading, coming up in regular order, was read a second time.

An amendment, recommended by the Committee on Government Organization, was reported by the Clerk and adopted, amending the bill on page one, after the article heading, by striking out the section heading and the remainder of the bill in its entirety and inserting in lieu thereof the following:

“§30-41-4. West Virginia Board of Physical Therapy criminal history record checks.

(a) The West Virginia Board of Physical Therapy is authorized to require state and national criminal history record checks for the purpose of issuing licenses. The West Virginia Board of Physical Therapy shall require an applicant, including physical therapists and physical therapy assistants, as a condition of eligibility for initial license to submit to a state and national criminal history record check as set forth in this section.

(b) The applicant shall meet all requirements necessary to accomplish the state and national criminal history record check, including:

(1) Submitting fingerprints for the purposes set forth in this subsection; and

(2) Authorizing the board, the West Virginia State Police and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(c) The results of the state and national criminal history record check may not be released to or by a private entity except:

(1) To the individual who is the subject of the criminal history record check;

(2) With the written authorization of the individual who is the subject of the criminal history record check; or

(3) Pursuant to a court order.

(d) The criminal history record check and related records are not public records for the purposes of Chapter 29B of this code.

(e) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original application for registration.

(f) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(g) The board may not disqualify an applicant for initial licensure because of a prior criminal conviction that has not been reversed unless that conviction is for a crime that bears a rational nexus to the occupation requiring licensure.

(h) The board may not use crimes involving moral turpitude in making licensure determinations.

(i) If an applicant is disqualified for licensure because of a criminal conviction that has not been reversed, the board shall afford the applicant the opportunity to reapply for licensure after the expiration of five years from the date of conviction or date of release from the penalty that was imposed, whichever is later, if the individual has not been convicted of any other crime during that period of time: *Provided*, That convictions for violent or sexual offenses or offenses shall subject an individual to a longer period of disqualification, to be determined by the board.

(j) An individual with a criminal record who has not previously applied for licensure, certification or registration may petition the board at any time for a determination of whether the individual's criminal record will disqualify the individual from obtaining a license or other authorization to practice. This petition shall include sufficient details about the individual's criminal record to enable the board to identify the jurisdiction where the conviction occurred, the date of the conviction and the specific nature of the conviction. The board shall inform the individual of his or her standing within 60 days of receiving the petition from the applicant. The board may charge a fee established by rule to recoup its costs for each petition.

(k) The board shall propose rules or amendments to existing rules for legislative approval to comply with the provisions of this section. These rules or amendments to rules shall be proposed pursuant to the provisions of §29A-3-1 *et seq.* of this code within the applicable time limit to be considered by the Legislature during its regular session in the year 2020."

The bill was then ordered to third reading.

S. B. 655, Relating to conservation districts generally; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 657, Providing consumer protection regarding self-propelled farm equipment; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 658, Relating to motor vehicle salesperson licenses; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 672, Authorizing School Building Authority to promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 673, Relating to public higher education accountability and planning; on second reading, coming up in regular order, was read a second time.

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

“CHAPTER 18B. HIGHER EDUCATION.**ARTICLE 1. GOVERNANCE****§18B-1-2. Definitions.**

The following words when used in this chapter and chapter eighteen-c of this code have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) ‘Administratively linked community and technical college’ means a state institution of higher education delivering community and technical college education and programs which has maintained a contractual agreement to receive essential services from another accredited state institution of higher education prior to July 1, 2008;

(2) ‘Advanced technology center’ means a facility established under the direction of an independent community and technical college or the council for the purpose of implementing and delivering education and training programs for high-skill, high-performance Twenty-first Century workplaces;

(3) ‘Approve’ or ‘approval’, when used in reference to action by the Commission or the Council, means action in which the governance rationale of a governing board under its jurisdiction is given due consideration, and the action of the Commission is to additionally establish whether the proposed institutional action is consistent with law and established policy and is an appropriate advancement of the public interest;

(4) ‘Board of visitors’ means the advisory board previously appointed for the West Virginia Graduate College and the advisory board previously appointed for West Virginia University Institute of Technology, which provide guidance to the Marshall University Graduate College and West Virginia University Institute of Technology, respectively;

(5) ‘Broker’ or ‘brokering’ means serving as an agent on behalf of students, employers, communities or responsibility areas to obtain education services not offered at that institution. These services include courses, degree programs or other services contracted through an agreement with a provider of education services either in-state or out-of-state;

(6) ‘Chancellor’ means the Chancellor for Higher Education where the context refers to a function of the Higher Education Policy Commission. ‘Chancellor’ means the Chancellor for Community and Technical College Education where the context refers to a function of the West Virginia Council for Community and Technical College Education;

(7) ‘Chancellor for Community and Technical College Education’ means the chief executive officer of the West Virginia Council for Community and Technical College Education employed pursuant to section three, article two-b of this chapter;

(8) ‘Chancellor for Higher Education’ means the chief executive officer of the Higher Education Policy Commission employed pursuant to section five, article one-b of this chapter;

(9) ‘Collaboration’ means entering into an agreement with one or more providers of education services in order to enhance the scope, quality or efficiency of education services;

(10) ‘Community and technical college’, in the singular or plural, means the free-standing community and technical colleges and other state institutions of higher education which deliver community and technical college education. This definition includes Blue Ridge Community and

Technical College, Bridgemont Community and Technical College, Eastern West Virginia Community and Technical College, Kanawha Valley Community and Technical College, Mountwest Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College and West Virginia University at Parkersburg;

(11) 'Community and technical college education' means the programs, faculty, administration and funding associated with the delivery of community and technical college education programs;

(12) 'Community and technical college education program' means any college-level course or program beyond the high school level provided through a public institution of higher education resulting in or which may result in a two-year associate degree award including an associate of arts, an associate of science and an associate of applied science; certificate programs and skill sets; developmental education; continuing education; collegiate credit and noncredit workforce development programs; and transfer and baccalaureate parallel programs. All programs are under the jurisdiction of the council. Any reference to 'post-secondary vocational education programs' means community and technical college education programs as defined in this subsection;

(13) 'Confirm' or 'confirmation', when used in reference to action by the Commission, means action in which substantial deference is allocated to the governing authority of a governing board under its jurisdiction and the action of the Commission is to review whether the proposed institutional action is consistent with law and established policy;

(14) 'Council' means the West Virginia Council for Community and Technical College Education created by article two-b of this chapter;

(15) 'Dual credit course' or 'dual enrollment course' means a credit-bearing college-level course offered in a high school by a state institution of higher education for high school students in which the students are concurrently enrolled and receiving credit at the secondary level.

(16) 'Essential conditions' means those conditions which shall be met by community and technical colleges as provided in section three, article three-c of this chapter;

(17) 'Exempted schools' means West Virginia University, including West Virginia University Potomac State College and West Virginia University Institute of Technology; Marshall University; Fairmont State University; Shepherd University; and the West Virginia School of Osteopathic Medicine;

(18) 'Free-standing community and technical colleges' means Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, and Eastern West Virginia Community and Technical College, which may not be operated as branches or off-campus locations of any other state institution of higher education;

(19) 'Governing boards' or 'boards' means the institutional boards of Governors created by section one, article two-a of this chapter;

(20) 'Higher Education Policy Commission', 'Policy Commission' or 'Commission' means the commission created by section one, article one-b of this chapter;

(21) 'Independent community and technical college' means a state institution of higher education under the jurisdiction of the council which is independently accredited, is governed by its own independent governing board, and may not be operated as a branch or off-campus location of any other state institution of higher education. This definition includes Blue Ridge Community and

Technical College, Bridgemont Community and Technical College, Eastern West Virginia Community and Technical College, Kanawha Valley Community and Technical College, Mountwest Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, and West Virginia University at Parkersburg;

(22) 'Institutional compact' means the compact developed by a state institution of higher education, consistent with the public policy agenda for higher education;

(23) 'Institutional operating budget' or 'operating budget' means for any fiscal year an institution's total unrestricted education and general funding from all sources, including, but not limited to, tuition and fees and legislative appropriation, and any adjustments to that funding as approved by the commission or council based on comparisons with peer institutions or to reflect consistent components of peer operating budgets;

(24) 'Rule' or 'rules' means a regulation, standard, policy or interpretation of general application and future effect;

(25) 'Sponsoring institution' means a state institution of higher education that maintained an administrative link to a community and technical college providing essential services prior to July 1, 2008. This definition includes institutions whose governing boards had under their jurisdiction a community and technical college, regional campus or a division delivering community and technical college education and programs;

(26) 'State college and university' means Bluefield State College, Concord University, Fairmont State University, Glenville State College, Shepherd University, West Liberty University or West Virginia State University;

(27) 'State institution of higher education' means any university, college or community and technical college under the jurisdiction of a governing board as that term is defined in this section;

(28) 'Statewide network of independently accredited community and technical colleges' or 'community and technical college network' means the state institutions of higher education under the jurisdiction of the West Virginia Council for Community and Technical College Education which are independently accredited, each governed by its own independent governing board, and each having a core mission of providing affordable access to and delivering high quality community and technical education in every region of the state; and

(29) 'Vice Chancellor for Administration' means the person employed in accordance with section two, article four of this chapter. Any reference in this chapter or chapter eighteen-c of this code to 'Senior Administrator' means Vice Chancellor for Administration.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.

§18B-1D-1. Master plan repealed; accountability system continued.

(a) The Legislature finds that:

(1) Accountability and strategic planning are valuable and necessary components of establishing and achieving goals for higher education in this state and fulfilling missions of the institutions;

(2) To be most effective and efficient, the accountability and strategic planning process should be coordinated, streamlined, and nonduplicative; and

(3) Redundant reporting requirements exist in the accountability and strategic planning process which serve to waste scarce resources and decrease efficiency.

(b) It is the intent of the Legislature that the accountability and strategic planning process for public higher education in this state continues in a unified and comprehensive manner while utilizing the resources of the higher education systems in an economical and efficient manner. To that end:

(1) The requirement for a statewide master plan for public higher education is repealed, and any provision of this code regarding the plan is void and of no effect;

(2) The requirements for state and institutional compacts for public higher education are repealed, and any provision of this code regarding the compacts are void and of no effect; and

(3) When collecting data from an institution, the commission and council first shall consider data generated from the unit-record student, registration, course and personnel files, the audited financial statements, and any source previously submitted formally to the commission or council from which the requested data may be obtained, so long as the data or information available through these sources reflects the most current reporting period.

§18B-1D-2. Definitions.

[Repealed]

§18B-1D-3. State vision for public higher education; findings; establishment of objectives.

[Repealed]

§18B-1D-4. Responsibilities of Higher Education Policy Commission and Council for Community and Technical College Education; development of public policy agendas; reports; institutional responsibilities.

[Repealed.]

§18B-1D-5. Master plans; reports; approval process.

[Repealed]

§18B-1D-8. ~~Institutional and system report cards~~ Publication of institution and system data.

(a) The purpose of the institutional and statewide ~~report cards~~ data reporting system is to make information available through the official websites of the commission and council to parents, students, faculty, staff, state policymakers, and the general public on the quality and performance of public higher education. ~~The focus of the report cards is to determine annual progress of the commission, the council and institutions under their respective jurisdictions toward achieving state goals and objectives identified in this article and section one-a, article one of this chapter and system goals and objectives contained in the statewide master plans of the commission and council created pursuant to section five of this article.~~

(b) The information ~~contained in the report cards~~ provided through the reporting system shall be consistent and comparable between and among state institutions of higher education. If applicable,

the information shall allow for easy comparison with higher education-related data collected and disseminated by the Southern Regional Education Board, the United States Department of Education and other education data-gathering and data-disseminating organizations upon which state policymakers frequently rely in setting policy.

(c) The rules required by ~~subsection (c), section one of this article~~ shall provide for the collection, analysis, and dissemination of information on the performance of the state institutions of higher education, including health sciences education, in relation to the findings, goals, and objectives set forth in this article and §18B-1-1a of this code. ~~and those contained in the statewide master plans of the commission and council developed pursuant to section five of this article~~

(1) The objective of this portion of the rule is to ensure that the Legislative Oversight Commission on Education Accountability and others identified in subsection (a) of this section are provided with full and accurate information while minimizing the institutional burden of recordkeeping and reporting.

(2) This portion of the rule shall identify various indicators of student and institutional performance that, at a minimum, must be reported annually, set forth general guidelines for the collection and reporting of data, and provide for the preparation ~~printing and distribution of report cards under this section~~ and publication of the statewide data and reports.

~~(d) The report cards statewide annual report shall be analysis-driven, rather than simply data-driven, and shall present information in a format that can inform education policymaking. They shall include an executive summary which outlines~~ It shall outline significant trends, ~~identifies~~ identify major areas of concern, and ~~discusses~~ discuss progress toward meeting state and system goals and objectives. ~~They~~ It shall be brief and concise, reporting required information in nontechnical language. ~~Any technical or supporting material to be included shall be contained in a separate appendix.~~

~~(e) (d) The statewide report card data reporting system shall include the data for each separately listed, applicable indicator identified in the rule promulgated pursuant to subsection (c) of this section and the aggregate of the data for all public institutions of higher education.~~

~~(f) The (e) A statewide annual report card shall be prepared using actual institutional, state, regional, and national data, as applicable and available, indicating the present performance of the individual institutions, the governing boards, and the state systems of higher education. The statewide report cards shall be based upon information for the current school year or for the most recent school year for which the information is available, in which case the year shall be clearly noted.~~

~~(g) (f) The president or chief executive officer of each state institution of higher education shall prepare and submit annually all requested data to the commission at the times established by the commission.~~

~~(h) (g) The higher education central office staff, under the direction of the vice chancellor for administration, shall provide technical assistance to each institution and governing board in data collection and reporting and is responsible for assembling the statewide annual report card from information submitted by each governing board.~~

~~(i) (h) Current data shall be published to the statewide data reporting system prior to January 1 annually. The statewide annual report shall be completed and disseminated with copies to the Legislative Oversight Commission on Education Accountability prior to January 1 of each year annually, and the staff of the commission and the council shall prepare a report highlighting specifically the trends, progress toward meeting goals and objectives, and major areas of concern for public higher education, including medical education, for presentation to the Legislative Oversight~~

Commission on Education Accountability annually at the interim meetings in January. ~~2009, and annually thereafter.~~

~~(j) For a reasonable fee~~

~~(i) The vice chancellor for administration shall make copies~~ a digital copy of the statewide annual report cards, including any appendices of supporting material, available to any individual requesting them available to the public for download from the official websites of the commission and council.

ARTICLE 7. PERSONNEL GENERALLY.

§18B-7-8. Reporting.

[Repealed]

CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.

ARTICLE 1. FINANCIAL ASSISTANCE GENERALLY.

§18C-1-1. Legislative findings; purpose; administration generally; reporting.

(a) The Legislature makes the following findings:

(1) Although enrollments in institutions of higher education in this state and throughout the nation continue to increase at a rapid pace, West Virginia has not developed sufficiently the state's human talent and resources because many able, but needy, students are not able to finance a higher education program;

(2) The state can achieve its full economic and social potential only when the following elements are in place:

(A) Every individual has the opportunity to contribute to the full extent of his or her capability; and

(B) The state assists in removing financial barriers to the individual's education goals that remain after he or she has used all resources and work opportunities available;

(b) The ultimate state goal in providing student financial aid is to create a culture that values education, to improve the quality of the workforce, and to enhance the quality of life for the citizens of West Virginia.

(c) The vice chancellor for administration has a ministerial duty to administer, oversee, and monitor all state and federal student financial aid programs administered at the state level in accordance with established rules under the direction of the commission and council and in consultation with the Higher Education Student Financial Aid Advisory Board.

(d) These programs include, but are not limited to, the following programs:

(1) The Guaranteed Student Loan Program, which may be administered by a private nonprofit agency;

(2) The Medical Student Loan Program;

(3) The Underwood-Smith Teacher Scholarship Program;

- (4) The Engineering, Science and Technology Scholarship Program;
 - (5) The West Virginia Higher Education Grant Program;
 - (6) The Higher Education Adult Part-Time Student Grant Program;
 - (7) The West Virginia Providing Real Opportunities for Maximizing In-State Student Excellence (PROMISE) Scholarship Program;
 - (8) The Higher Education Student Assistance Loan Program established pursuant to ~~article twenty-two-d, chapter eighteen~~ §18-22D-1 et seq. of this code;
 - (9) The West Virginia College Prepaid Tuition and Savings Program established pursuant to ~~article thirty, chapter eighteen~~ §18-30-1 et seq. of this code, which is administered by the state Treasurer;
 - (10) The state aid programs for students of optometry, pursuant to ~~article three~~ §18C-3-1 et seq. of this ~~chapter~~ code;
 - (11) The state aid programs for students of veterinary medicine pursuant to ~~section six-a, article eleven, chapter eighteen~~ §18-11-6a of this code;
 - (12) Any reciprocal program and contract program for student aid established pursuant to ~~sections three and four, article four, chapter eighteen-b~~ §18B-4-3 and §18B-4-4 of this code;
 - (13) Any other state-level student aid programs in this code; and
 - (14) Any federal grant or contract student assistance or support programs administered at the state level.
- (e) Notwithstanding any provision of this chapter to the contrary, the Vice Chancellor for Administration shall ~~prepare a single, comprehensive report~~ publish comprehensive data to the official websites of the commission and council regarding the implementation of the financial aid programs identified in subsection (d) of this section which are administered under his or her supervision. ~~The A concise summary~~ report shall be provided to the commission and the council and shall be presented to the Legislative Oversight Commission on Education Accountability no later than ~~November 30, 2009, and annually thereafter~~ January 1 annually. The report shall address all financial aid issues for which reports are required in this code, as well as any findings and recommendations.”

The bill was then ordered to third reading.

S. B. 676, Relating to off-road vehicle recreation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

First Reading

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

S. B. 16, Authorizing expenditure of surplus funds by Wyoming County Commission,

Com. Sub. for S. B. 30, Eliminating tax on annuity considerations collected by life insurer,

S. B. 36, Allowing adjustment of gross income for calculating personal income liability for certain retirees,

Com. Sub. for S. B. 40, Establishing Military Service Members Court program,

Com. Sub. for S. B. 103, Relating generally to Public Defender Services,

Com. Sub. for S. B. 147, Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities,

Com. Sub. for S. B. 152, Relating generally to criminal offense expungement,

Com. Sub. for S. B. 264, Requiring courts to order restitution to crime victims where economically practicable,

Com. Sub. for S. B. 291, Relating generally to survivor benefits for emergency response providers,

Com. Sub. for S. B. 329, Relating to agricultural education in high schools,

Com. Sub. for S. B. 340, Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company,

Com. Sub. for S. B. 369, Relating to generic drug products,

Com. Sub. for S. B. 396, Waiving occupational licensing fees for low-income individuals and military families,

Com. Sub. for S. B. 398, Relating to compensation for senior judges,

S. B. 461, Providing for personal income tax withholding on certain lottery winnings,

S. B. 499, Amending WV tax laws to conform to changes in partnerships for federal income tax purposes,

Com. Sub. for S. B. 502, Exempting sales of investment metal bullion and coins,

Com. Sub. for S. B. 538, Relating to WV Highway Design-Build Pilot Program,

Com. Sub. for S. B. 539, Relating to accrued benefit of retirees in WV State Police Retirement System Plan B,

Com. Sub. for S. B. 543, Relating generally to automobile warranties and inspections,

S. B. 550, Declaring certain claims to be moral obligations of state,

Com. Sub. for S. B. 561, Permitting Alcohol Beverage Control Administration request assistance of local law enforcement,

Com. Sub. for S. B. 601, Relating to mandatory supervision of adult inmates,

Com. Sub. for S. B. 603, Exempting certain activities from licensing requirements for engaging in business of currency exchange,

Com. Sub. for S. B. 613, Requiring DNR include election of organ donation on hunting licenses,

Com. Sub. for S. B. 622, Relating generally to regulation and control of financing elections,

Com. Sub. for S. B. 632, Improving student safety,

Com. Sub. for S. B. 640, Regulating sudden cardiac arrest prevention,

S. B. 656, Relating to electronic filing of tax returns,

S. B. 665, Allowing for expedited oil and gas well permitting,

S. B. 669, Allowing appointment of commissioners to acknowledge signatures,

And,

S. B. 670, Relating to WV College Prepaid Tuition and Savings Program.

At 1:33 p.m., the House of Delegates recessed until 4:30 p.m.

* * * * *

Afternoon Session

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

In the absence of objection, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

Delegate Householder, Chair of the Committee on Finance, submitted the following report, which was received:

Your Committee on Finance has had under consideration:

S. B. 544, Increasing salaries for members of WV State Police over three-year period,

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

In the absence of objection, the bill (S. B. 544) was taken up for immediate consideration, read a first time and ordered to second reading.

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 6th 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. 2759, Providing for the ancillary administration of West Virginia real estate owned by nonresidents by affidavit and without administration.

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 6th day of March, 2019, presented to His Excellency, the Governor, for his action, the following bill(s), signed by the President of the Senate and the Speaker of the House of Delegates.

Com. Sub. for H. B. 2740, Barring a parent from inheriting from a child in certain instances.

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 6th 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. 2476, Relating to the valuation of a motor vehicle involved in an insurance claim,

And

H. B. 2691, Providing that a license to carry a concealed deadly weapon expires on the holder's birthday.

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

Your Committee on the Judiciary has had under consideration:

H. C. R. 33, Applying to the Congress of the United States to call a convention for proposing amendments pursuant to Article V,

And,

H. C. R. 61, Applying to and urging Congress to call a convention of the states to limit the terms of office,

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

The Speaker referred the resolutions (H. C. R. 33 and H. C. R. 61) to the Committee on Rules.

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

Your Committee on Rules has had under consideration:

H. C. R. 10, Resiliency Week,

H. C. R. 14, U. S. Army CPT Benjamin Ronk Memorial Bridge,

H. C. R. 28, Charleston Police Capt. Jerry D. Hill Memorial Bridge,

H. C. R. 36, SPEC 5 Garry Monzel 'Michael' Shannon Memorial Bridge,

Com. Sub. for H. C. R. 42, U. S. Navy Petty Officer 2d Class Joseph Allen Ashley Memorial Bridge,

H. C. R. 54, U. S. Navy AOAN David 'Wayne' Cornell Memorial Bridge,

Com. Sub. for H. C. R. 64, U. S. Army CPL Jerry Lee Noble Memorial Bridge,

H. C. R. 68, Bluefield Police Lt. Aaron L. Crook Memorial Road,

Com. Sub. for H. C. R. 72, U. S. Army PFC Harold Paul Cottle Memorial Highway,

H. C. R. 73, U. S. Army SGT Matthew T. Miller Memorial Bridge,

Com. Sub. for H. C. R. 76, Reverend Lonnie Ramsey Memorial Bridge,

H. C. R. 85, Requesting the Joint Committee on Government and Finance study the feasibility of combining the volunteer fire departments,

H. C. R. 86, Requesting study of municipal and county governments for efficiencies and economies of scale,

H. C. R. 87, Requesting the Joint Committee on Government and Finance study the Public Service Commission,

H. C. R. 88, Requesting the Joint Committee on Government and Finance study the Board of Risk and Insurance Management,

H. C. R. 91, U. S. Army SGT. Robert Henry Waggy Memorial Bridge,

H. R. 11, Recognizing the importance of the Atlantic Coast Pipeline,

H. R. 6, Recognizing the importance of West Virginia's energy resources and critical energy infrastructure to support economic development and national security,

S. C. R. 23, Jeffrey Alan Clovis Memorial Bridge,

And,

Com. Sub. for S. C. R. 25, US Army PFC Andrew "Bo" Martin Harper Memorial Bridge,

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

Messages from the Executive

The following Proclamation of His Excellency, the Governor, was laid before the House of Delegates and read by the Clerk:

STATE OF WEST VIRGINIA
EXECUTIVE DEPARTMENT
Charleston

A P R O C L A M A T I O N

By the Governor

WHEREAS, the Constitution of West Virginia sets forth the respective powers, duties and responsibilities of the three separate branches of government; and

WHEREAS, Article VI, Section 22 of the Constitution of West Virginia provides that the current regular session of the Legislature shall not exceed sixty calendar days computed from and including the second Wednesday of January, two thousand nineteen; and

WHEREAS, pursuant to Article VI, Section 22 of the Constitution of West Virginia, the two thousand nineteen regular session of the Legislature is scheduled to conclude on the ninth day of March, two thousand nineteen; and

WHEREAS, Article VI, Section 51 of the Constitution of West Virginia sets forth the obligations of the Governor and the Legislature relating to the preparation and enactment of the Budget Bill; and

WHEREAS, Subsection D, Article VI, Section 51 of the Constitution of West Virginia requires the Governor to issue a proclamation extending the regular session of the Legislature if the Budget Bill shall not have been finally acted upon by the Legislature three days before the expiration of its regular session; and

WHEREAS, the Budget Bill has not been finally acted upon by the Legislature as of this sixth day of March, two thousand nineteen.

NOW, THEREFORE, I, JIM JUSTICE, Governor of the State of West Virginia, do hereby issue this Proclamation, in accordance with Subsection D, Article VI, Section 51 of the Constitution of West Virginia, extending the two thousand nineteen regular session of the Legislature for an additional period not to exceed one day, through and including the tenth day of March, two thousand nineteen; but no matters other than the Budget Bill shall be considered during this extension of the regular session, except a provision for the cost thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of West Virginia to be affixed.



DONE at the Capitol in the City of Charleston, State of West Virginia, on this the sixth day of March, in the year of our Lord, Two Thousand Nineteen, and in the One Hundred Fifty-Sixth year of the State.

James Justice,
Governor

By the Governor

MAC WARNER
Secretary of State

The following communication from His Excellency, the Governor, was reported by the Clerk:

State of West Virginia
OFFICE OF THE GOVERNOR
Charleston, WV

HOUSE EXECUTIVE MESSAGE NO. 2
2019 REGULAR SESSION

The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
Building 1, Room M-228
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Dear Speaker Hanshaw:

The following amends and replaces the "FY 2019 Official Estimate General Revenue – Statement of Revenues by Source" which I submitted to you on January 9, 2019 as part of my Budget Document for the fiscal year ending June 30, 2019:

General Revenue Fund
Statement of Revenues by Source
(Expressed in Thousands)

<u>Source of Revenue</u>	FY 2019 Official <u>Estimate Revised</u>
Business and Occupation Tax	\$ 117,500
Consumer Sales & Service and Use Tax	1,358,000
Personal Income Tax	2,054,000
Liquor Profit Transfers	20,800
Beer Tax and Licenses	7,500
Tobacco Products Tax	179,700
Business Franchise Fees	670
Property Transfer Tax	13,000
Property Tax	6,900
Insurance Tax	123,500
Departmental Collections	23,600

Corporate Net Income Tax	155,713
Miscellaneous Transfers	1,000
Interest Income	23,000
Severance Tax	424,000
Miscellaneous Receipts	10,700
HB102 – Lottery Transfers	65,000
Special Revenue Transfers	13,250
Senior Citizen Tax Credit Reimbursement	<u>10,000</u>
Total General Revenue	<u>\$ 4,607,833</u>

Note: The Governor's official Revenue Estimates for Fiscal Year 2019 were revised upward by \$25.913 million at the beginning of March. The changes include an increase in the Consumer Sales & Service Tax and Use Tax estimate, Corporate Net Income Tax estimate, and the Severance Tax estimate. These revisions are reflected in the estimates for the first eight months of the fiscal year. As a result of these revisions, cumulative revenue collections at the end of February were \$27.143 million above the cumulative estimate.

The following amends and replaces the FY 2019 "General Revenue Fund – Statement of Revenues, Expenditures, and Changes in Cash Balance" which I submitted to you on January 9, 2019 as part of my Budget Document for the fiscal year ending June 30, 2020:

General Revenue Fund
Statement of Revenues, Expenditures, and Changes in Cash Balance
(Nearest Dollar)

Actual Beginning Cash Balance July 1, 2018	\$377,650,037
Less: 31 Day Disbursements (July 1, 2018 - July 31, 2018)	(42,888,978)
Plus: Prior Year Reimbursements (July 1, 2018 - July 31, 2018)	27,203
Less: Prior Year Appropriations Forwarded	(297,422,832)
Less: Cash Balance - Adjustments and Accruals	<u>(1,337,913)</u>
Accumulated Surplus from FY 2018 @ July 31, 2018	\$36,027,517
Less: Transfer to Revenue Shortfall Reserve Fund (Statutory)	(18,013,759)
Less: FY 2019 Surplus Appropriation (FY 2019 Budget Bill)	(13,765,000)
Plus: Prior Year Reimbursements and adjustments (August 1, 2018 – February 22, 2019)	<u>391,340</u>
Estimated Unappropriated Surplus Balance @ June 30, 2019	\$4,640,098

Plus: FY 2019 Revenue Estimate	\$4,439,920,000
Plus: FY 2019 Revision to Revenue Estimate (2019 Regular Session)	142,000,000
Plus: FY 2019 Revision to Revenue Estimate (2019 Regular Session) 3/5/2019	25,913,000
Less: FY 2019 Appropriations (FY 2019 Budget Bill) (2018 Regular Session)	(4,381,808,884)
Plus: FY 2019 Appropriations (FY 2019 Budget Bill) veto	0
Less: Recommended FY 2019 increases to FY 2019 Appropriations (2019 Regular Session)	<u>(226,023,199)</u>
Estimated Unappropriated Balance from FY 2019 Activity @ June 30, 2019	\$917
Plus: FY 2020 Revenue Estimate	\$4,675,820,000
Less: Recommended FY 2020 Appropriations (FY 2020 Budget Bill) (2019 Regular Session)	<u>(4,675,361,773)</u>
Estimated Unappropriated Balance from FY 2020 Activity @ June 30, 2020	<u>\$458,227</u>
Total Estimated Unappropriated Balance @ June 30, 2020	<u>\$5,099,242</u>

Thank you for your cooperation in this matter.

Sincerely,

Jim Justice
Governor

Messages from the Senate

A message from the Senate, by

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

H. B. 2009, Creating a new category of Innovation in Education grant program.

On motion of Delegate Summers, the House of Delegates refused to concur in the following amendment of the bill by the Senate, and requested the Senate to recede therefrom:

On page two, section eight, line thirty-two, by striking out the word “assess” and inserting in lieu thereof the word “assesses”.

On page two, section eight, line thirty-two, by striking out the word “allow” and inserting in lieu thereof the word “allows”.

On page two, section eight, line thirty-three, by striking out the words “create an” and inserting in lieu thereof the words “creates a”.

On page two, section eight, line thirty-seven, before the words “Incubator process” by inserting “(1)”.

On page three, section eight, line forty-four, after the word “education” by changing the period to a semicolon and adding the word “and”.

On page three, section eight, line forty-five, before the words “Mastery-based education”, by inserting “(2)”.

On page three, section eight, line fifty-seven, by striking out the word “and” and inserting in lieu thereof the word “or”.

On page three, section eight, after line fifty-seven, by inserting a new paragraph, designated paragraph (G), to read as follows:

“(G) May include an educational method or technique not meeting all other aspects of this definition if the state board determines that the method or technique is proven to advance student achievement more than other education systems meeting all aspects of this definition.”

On page four, section eight, lines seventy-five through seventy-eight, by striking out all of subdivision (3) and inserting in lieu thereof the following:

“(3) Legislative appropriations made for Innovation in Education/Mastery-Based schools shall be deposited in the Innovation in Education Fund created in §18-5D-7 of this code and may be distributed consistent with §18-5E-7 of this code.”

And,

On page four, section eight, line eighty, by striking out the words “Schools/Mastery-Based” and inserting in lieu thereof the words “Education/Mastery-Based”.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2193, Providing a specific escheat of US savings bonds.

Delegate Summers moved that the House concur in the following amendment by the Senate, with further amendment:

On page six, after line forty-five, by adding a new subsection, designated subsection (g), to read as follows:

“(g) Notwithstanding the provisions of §36-8-15 and §36-8-16 of this code, any person making a claim for the United States savings bonds escheated to the State of West Virginia under this section, or for the proceeds from such bonds, may file a claim with the administrator pursuant to §36-8-15 of this code. Upon providing sufficient proof of the validity of such person’s claim, the administrator may, in his or her sole discretion, pay such claim less any expenses and costs which have been incurred by the state in securing full title and ownership of such property by escheat. If payment has been made to any claimant, no action thereafter may be maintained by any other claimant against the state or any officer thereof, for, or on account of, such funds.”

On motion of Delegate Summers, the House concurred in the Senate amendment with further amendment, on page one, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

§36-8-1. Definitions.

As used in this article:

(1) ‘Administrator’ means the State Treasurer.

(2) ‘Apparent owner’ means a person whose name appears on the records of a holder as the person entitled to property held, issued or owing by the holder.

(3) ‘Business association’ means a corporation, joint stock company, investment company, partnership, unincorporated association, joint venture, limited liability company, business trust, trust company, safe deposit company, financial organization, insurance company, mutual fund, utility or other business entity consisting of one or more persons, whether or not for profit.

(4) ‘Domicile’ means the state of incorporation of a corporation and the state of the principal place of business of a holder other than a corporation.

(5) ‘Financial organization’ means a savings and loan association, bank, banking organization or credit union.

(6) ‘Holder’ means a person obligated to hold for the account of, or deliver or pay to, the owner property that is subject to this article.

(7) ‘Insurance company’ means an association, corporation, or fraternal or mutual benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities or insurance, including accident, burial, casualty, credit life, contract performance, dental, disability, fidelity, fire, health, hospitalization, illness, life, malpractice, marine, mortgage, surety, wage protection and workers’ compensation insurance.

(8) ‘Mineral’ means gas; oil; coal; other gaseous, liquid and solid hydrocarbons; oil shale; cement material; sand and gravel; road material; building stone; chemical raw material; gemstone; fissionable and nonfissionable ores; colloidal and other clay; steam and other geothermal resource; or any other substance defined as a mineral by the law of this state.

(9) ‘Mineral proceeds’ means amounts payable for the extraction, production or sale of minerals, or, upon the abandonment of those payments, all payments that become payable thereafter. The term includes amounts payable:

(i) For the acquisition and retention of a mineral lease, including bonuses, royalties, compensatory royalties, shut-in royalties, minimum royalties and delay rentals;

(ii) For the extraction, production or sale of minerals, including net revenue interests, royalties, overriding royalties, extraction payments and production payments; and

(iii) Under an agreement or option, including a joint operating agreement, unit agreement, pooling agreement and farm-out agreement.

(10) 'Money order' includes an express money order and a personal money order, on which the remitter is the purchaser. The term does not include a bank money order or any other instrument sold by a financial organization if the seller has obtained the name and address of the payee.

(11) 'Owner' means a person who has a legal or equitable interest in property subject to this article or the person's legal representative. The term includes a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, and a creditor, claimant or payee in the case of other property.

(12) 'Person' means an individual, business association, financial organization, estate, trust, government, governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(13) 'Property' means tangible personal property described in section three of this article or a fixed and certain interest in intangible personal property that is held, issued or owed in the course of a holder's business, or by a government, governmental subdivision, agency or instrumentality, and all income or increments therefrom. The term includes property that is referred to as or evidenced by:

(i) Money, a check, draft, warrant for payment issued by the State of West Virginia, deposit, interest or dividend;

(ii) Credit balance, customer's overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused ticket, mineral proceeds or unidentified remittance;

(iii) Stock or other evidence of ownership of an interest in a business association or financial organization;

(iv) A bond, debenture, note or other evidence of indebtedness;

(v) Money deposited to redeem stocks, bonds, coupons or other securities or to make distributions;

(vi) An amount due and payable under the terms of an annuity or insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance or health and disability insurance; and

(vii) An amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance or similar benefits.

(14) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

(16) 'United States savings bond' means property, tangible or intangible, in the form of a savings bond issued by the United States Treasury whether in paper form, electronic or paperless form, along with the proceeds thereof.

~~(16)~~ (17) 'Utility' means a person who owns or operates for public use any plant, equipment, real property, franchise or license for the transmission of communications or the production, storage,

transmission, sale, delivery or furnishing of electricity, water, steam or gas as defined in §24-1-2 of this code.

§36-8-2a. Escheat of United States savings bonds.

(a) Notwithstanding any other section of this article or any other section of this code to the contrary, United States savings bonds held or owing in this state by any person, or issued, or owed, in the course of a holder's business, by a state or other government, governmental subdivision, agency, or instrumentality, and all proceeds thereof, shall be presumed abandoned in the state if:

(1) The last known address of the owner of the United States savings bond is in this state; and

(2) The United States savings bond has remained unclaimed and unredeemed for a period of five years after final maturity.

(b) United States savings bonds which are presumed abandoned under §36-8-2a(a) of this code, including bonds in the possession of the administrator, and those lost, stolen or destroyed bonds registered to persons with last known addresses in this state, shall, upon satisfaction by the administrator of the requirements of §36-8-2a(c) through (e) of this code, escheat to the State of West Virginia one year after such bonds are presumed abandoned, and all property rights and legal title to, and ownership of, the United States savings bonds or proceeds from the bonds, including all rights, powers and privileges of survivorship of any owner, co-owner, or beneficiary, shall vest solely in the State of West Virginia, subject only to the provisions of §36-8-15 and §36-8-16 of this code.

(c) After the expiration of the one-year period prescribed in §36-8-2a(b) of this code, if no claim has been filed pursuant to the provisions of §36-8-15 and §36-8-16 of this code for such United States savings bonds, but before such savings bonds escheat to the State of West Virginia, a civil action must be commenced by the administrator in the circuit court of Kanawha County, or in any other court of competent jurisdiction, for a determination that such United States savings bonds shall escheat to the State of West Virginia.

(d) The administrator shall make service by publication of the civil action in accordance with Rule 4(e) of the West Virginia Rules of Civil Procedure.

(e) Any person claiming ownership, including all persons claiming rights, powers and privileges of survivorship and any co-owner or beneficiary, or his or her agent, may appear and defend his or her rights to the subject bond or bonds, and if the court is satisfied that the claimant is entitled to the bond or bonds, the court may award judgment in the claimant's favor. If no person files a claim or appears at the hearing to substantiate a claim, or if the court determines that a claimant is not entitled to the property claimed by such claimant, then the court, if satisfied by evidence that the administrator has substantially complied with this section, shall enter a judgment that the subject United States savings bonds have escheated to the State of West Virginia, and all property rights and legal title to and ownership of such United States savings bonds or proceeds from such bonds, including all rights, powers and privileges of survivorship of any owner, co-owner or beneficiary, shall vest solely in the State of West Virginia.

(f) Upon being awarded a judgment that the United States savings bond or bonds have escheated to the State of West Virginia, the administrator shall redeem such United States savings bonds. Upon recovery of the proceeds of any United States savings bonds, the administrator shall first pay all costs incident to the collection and recovery of such proceeds from the proceeds of such United States savings bonds and shall thereafter promptly deposit the remaining balance of such proceeds into the Unclaimed Property Fund pursuant to §36-8-13 of this code.

(g) Notwithstanding any other section of this article or any other section of this code to the contrary, any person making a claim for a United States savings bond escheated to the State of West Virginia under this section, or for the proceeds of such bond, may file a claim with the administrator pursuant to §36-8-15 of this code. Upon receipt of sufficient proof of the validity of such person's claim, the administrator may, in his or her sole discretion, pay such claim less any expenses and costs which have been incurred by the state in securing full title and ownership of such property by escheat. If payment has been made to any claimant, no action thereafter may be maintained by any other claimant against the state or any officer thereof, for, or on account of, such funds."

And,

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

Com. Sub. for H. B. 2193 - "A Bill to amend and reenact §36-8-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §36-8-2a, all relating to providing for the specific escheat of United States savings bonds and all rights and legal title thereto; defining 'United States savings bond'; providing that a United States savings bond held or owing in West Virginia shall be presumed abandoned if the last known address of the owner is in West Virginia and the United States savings bond has remained unclaimed and unredeemed for a period of five years after final maturity; setting forth a procedure by which abandoned, lost, stolen and destroyed United States savings bonds may escheat to the state; requiring the State Treasurer to commence a civil action for a determination that a United States savings bond shall escheat to the state; requiring service by publication; providing that claimants may appear in court to defend their right to the subject bond or bonds; requiring the court to enter a judgment vesting title in the state if the State Treasurer has substantially complied with required procedure and no valid claim is made for a United States savings bond; requiring the Treasurer to redeem United States savings bonds that have escheated to the state; permitting the State Treasurer to pay collection and recovery costs from United States savings bond proceeds; requiring the State Treasurer to deposit remaining balance of proceeds into the Unclaimed Property Fund; permitting persons to file claims for escheated United States savings bonds or proceeds thereof after a United States savings bond has escheated to the state; and barring subsequent actions against the state after payment has been made to a claimant."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 499**), and there were—yeas 72, nays 22, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Bibby, S. Brown, Campbell, Caputo, Doyle, Fleischauer, Fluharty, Hansen, Hornbuckle, J. Jeffries, Lavender-Bowe, Linville, Longstreth, Paynter, Pyles, Sponaule, Walker, Williams and Wilson.

Absent and Not Voting: Boggs, Harshbarger, Queen, Storch, C. Thompson and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2193) passed.

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. 2362, Ardala Miller Memorial 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 article heading and inserting in lieu thereof the following:

“§3-3-1. Persons eligible to vote absentee ballots.

(a) All registered and other qualified voters of the county may vote an absentee ballot during the period of early voting in person.

(b) Registered voters and other qualified voters in the county are authorized to vote an absentee ballot by mail in the following circumstances:

(1) Any voter who is confined to a specific location and prevented from voting in person throughout the period of voting in person because of:

(A) Illness, injury, or other medical reason;

(B) Physical disability or immobility due to extreme advanced age; or

(C) Incarceration or home detention: *Provided*, That the underlying conviction is not for a crime which is a felony or a violation of §3-9-12, §3-9-13, or §3-9-16 of this code involving bribery in an election;

(2) Any voter who is absent from the county throughout the period and available hours for voting in person because of:

(A) Personal or business travel;

(B) Attendance at a college, university, or other place of education or training; or

(C) Employment which because of hours worked and distance from the county seat make voting in person impossible;

(3) Any voter absent from the county throughout the period and available hours for voting in person and who is an absent uniformed services voter or overseas voter, as defined by 42 U.S.C. §1973, *et seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of 1986, including members of the uniformed services on active duty, members of the merchant marine, spouses and dependents of those members on active duty and persons who reside outside the United States and are qualified to vote in the last place in which the person was domiciled before leaving the United States;

(4) Any voter who is required to dwell temporarily outside the county and is absent from the county throughout the time for voting in person because of:

(A) Serving as an elected or appointed federal or state officer; or

(B) Serving in any other documented employment assignment of specific duration of four years or less;

(5) Any voter for whom the designated area for absentee voting within the county courthouse or annex of the courthouse and the voter's assigned polling place are inaccessible because of his or her physical disability; and

(6) Any voter who is participating in the Address Confidentiality Program as established by §48-28A-103 of this code.

(c) Registered voters and other qualified voters in the county may, in the following circumstances, vote an emergency absentee ballot, subject to the availability of the services as provided in this article:

(1) Any voter who is confined or expects to be confined in a hospital or other duly licensed health care facility within the county of residence or other authorized area, as provided in this article, on the day of the election;

(2) Any voter who resides in a nursing home within the county of residence and would be otherwise unable to vote in person, providing the county commission has authorized the services if the voter has resided in the nursing home for a period of less than 30 days; and

(3) Any voter who becomes confined, on or after the seventh day preceding an election, to a specific location within the county because of illness, injury, physical disability, immobility due to advanced age, or another medical reason: *Provided*, That the county clerk may require a written confirmation by a licensed physician, physician's assistant, or advanced practice registered nurse that the voter meets the criteria of this subdivision before permitting such voter to vote an emergency absentee ballot; and

~~(3)~~ (4) Any voter who is working as a replacement poll worker and is assigned to a precinct out of his or her voting district, if the assignment was made after the period for voting an absentee ballot in person has expired.

§3-3-5c. Procedures for voting an emergency absentee ballot by qualified voters.

(a) Notwithstanding any other provision of this chapter, a person qualified to vote an emergency absentee ballot, as provided in §3-3-1(c) of this code, may vote an emergency absentee ballot under the procedures established in this section. The county commission may adopt a policy extending the emergency absentee voting procedures to: (1) Qualified voters in hospitals or other duly licensed health care facilities within an adjacent county or within 35 miles of the county seat; ~~or~~ (2) qualified voters in nursing homes within the county; or (3) qualified voters who become confined, on or after the seventh day preceding an election, to a specific location within the county because of illness, injury, physical disability, immobility due to advanced age, or another medical reason: *Provided*, That the policy is to be adopted by the county commission at least 90 days prior to the election that will be affected and a copy of the policy is to be filed with the Secretary of State.

(b) On or before the 56th day preceding the date on which any election is to be held, the official designated to supervise and conduct absentee voting shall notify the county commission of the number of sets of emergency absentee ballot commissioners which he or she determines necessary to perform the duties and functions pursuant to this section.

(c) A set of emergency absentee ballot commissioners at-large shall consist of two persons with different political party affiliations appointed by the county commission in accordance with the procedure prescribed for the appointment of election commissioners under the provisions of §3-1-1 *et seq.* of this code. Emergency absentee ballot commissioners have the same qualifications and rights and take the same oath required under the provisions of this chapter for commissioners of

elections. Emergency absentee ballot commissioners are to be compensated for services and expenses in the same manner as commissioners of election or poll clerks obtaining and delivering election supplies under the provisions of §3-1-44 of this code.

(d) Upon request of the voter or a member of the voter's immediate family or, when the county commission has adopted a policy to provide emergency absentee voting services to nursing home residents within the county, upon request of a staff member of the nursing home, the official designated to supervise and conduct absentee voting, upon receiving a proper request for voting an emergency absentee ballot no earlier than the seventh day next preceding the election and no later than noon of election day shall supply to the emergency absentee ballot commissioners the application for voting an emergency absentee ballot and the balloting materials. The emergency absentee ballot application is to be prescribed by the Secretary of State and is to include the name, residence address and political party affiliation of the voter, the date, location and reason for confinement in the case of an emergency, and the name of the attending physician.

(e) The application for an emergency absentee ballot is to be signed by the person applying. If the person applying for an emergency absentee ballot is unable to sign his or her application because of illiteracy or physical disability, he or she is to make his or her mark on the signature line provided for an illiterate or disabled applicant, the mark is to be witnessed. The person assisting the voter and witnessing the mark of the voter shall sign his or her name in the space provided.

(f) A declaration is to be completed and signed by each of the emergency absentee ballot commissioners, stating their names, the date on which they appeared at the place of confinement of the person applying for an emergency absentee ballot, and the particulars of the confinement.

(g) At least one of the emergency absentee ballot commissioners receiving the balloting materials shall sign a receipt which is to be attached to the application form. Each of the emergency absentee ballot commissioners shall deliver the materials to the absent voter, await his or her completion of the application and ballot and return the application and the ballot to the official designated to supervise and conduct absentee voting. Upon delivering the application and the voted ballot to the official, the emergency absentee ballot commissioners shall sign an oath that no person other than the absent voter voted the ballot. The application and the voted ballot are to be returned to the official designated to supervise and conduct absentee voting prior to the close of the polls on election day. Any ballots received by the official after the time that delivery may reasonably be made but before the closing of the polls are to be delivered to the canvassing board along with the absentee ballots challenged in accordance with the provisions of §3-3-10 of this code.

(h) Upon receiving the application and emergency absentee ballot, the official designated to supervise and conduct absentee voting shall ascertain whether the application is complete, whether the voter appears to be eligible to vote an emergency absentee ballot, and whether the voter is properly registered to vote with the office of the clerk of the county commission. If the voter is found to be properly registered in the precinct shown on the application, the ballot is to be delivered to the precinct election commissioner pursuant to §3-3-7 of this code. If the voter is found not to be registered or is otherwise ineligible to vote an emergency ballot, the ballot is to be challenged for the appropriate reason provided for in §3-3-10 of this code.

(i) If either or both of the emergency absentee ballot commissioners refuse to sign any application for voting an emergency absentee ballot, the voter may vote as an emergency absentee and the ballot will be challenged in accordance with the provisions of §3-3-10 of this code, in addition to those absentee ballots subject to challenge as provided in that section.

(j) Any voter who receives assistance in voting an emergency absentee ballot shall comply with the provisions of §3-3-6 of this code. Any other provisions of this chapter relating to absentee ballots not altered by the provisions of this section are to govern the treatment of emergency absentee ballots.”

And,

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

Com. Sub. for H. B. 2362 - “A Bill to amend and reenact §3-3-1 and §3-3-5c of the Code of West Virginia, 1931, as amended, all relating to emergency absentee ballots; providing that persons who become confined to a particular location on or after the seventh day preceding an election, because of illness, injury, physical disability, immobility due to extreme advanced age, or other medical reason, may vote an emergency absentee ballot; providing that a county commission may adopt a policy extending emergency absentee voting procedures to qualified voters who are eligible to vote an emergency absentee ballot; and providing that a county clerk may require written confirmation by certain licensed medical professionals that a voter meets the criteria to vote an emergency absentee ballot based on confinement.”

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. 500**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Harshbarger, Queen, Storch, C. Thompson and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2362) passed.

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

A message from the Senate, by

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

H. B. 2509, Clarifying that theft of a controlled substance is a felony.

On motion of Delegate Summers, the House of Delegates concurred in the following Senate title amendment:

H. B. 2509 - “A Bill to amend and reenact §60A-4-403 of the Code of West Virginia, 1931, as amended, relating to creating the felony offense of a theft of a controlled substance; and establishing penalties.”

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 501**), and there were—yeas 67, nays 27, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, N. Brown, S. Brown, Byrd, Campbell, Caputo, Cowles, Diserio, Estep-Burton, Fleischauer, Fluharty, Hansen, Hill, Lavender-Bowe, Linville, Longstreth, McGeehan, Miley, Pethtel, Pushkin, Pyles, Robinson, Rowe, Sponaugle and Walker.

Absent and Not Voting: Boggs, Harshbarger, Queen, Storch, C. Thompson and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (H. B. 2509) 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. 2530, Creating a voluntary certification for recovery residences.

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 56. CERTIFICATION OF RECOVERY RESIDENCES

§16-56-1. Definitions

As used in this article, the term:

(1) ‘Certificate of compliance’ means a certificate that is issued to a recovery residence by the Department’s appointed certifying agency.

(2) ‘Certified recovery residence’ means a recovery residence that holds a valid certificate of compliance.

(3) ‘Department’ means the Department of Health and Human Resources.

(4) ‘Recovery residence’ means a single family, drug-free and alcohol-free residential dwelling unit, or other form of group housing, that is offered or advertised by any person or entity as a residence that provides a drug-free and alcohol-free living environment for the purposes of promoting sustained, long-term recovery from substance use disorder.

§16-56-2. Voluntary Certification of Recovery Residences.

(a) The Department shall contract with an entity to serve as the certifying agency for a voluntary certification program for drug-free and alcohol-free recovery residences based upon standards determined by the National Alliance for Recovery Residences (NARR) or a similar entity. The certifying agency shall establish and implement an accreditation program for drug-free and alcohol-free recovery residences that shall maintain nationally-recognized standards that:

(1) Uphold industry best practices and support a safe, healthy and effective recovery environment;

(2) Evaluate the residence’s ability to assist persons in achieving long-term recovery goals;

(3) Protect residents of drug and alcohol free housing against unreasonable and unfair practices in setting and collecting fee payments.

(b) The Department shall require the recovery residence to submit the following:

(1) Documentation verifying certification as specified and administered by the certifying agency;

(2) If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, documentation of verification by the municipality or county where the recovery residence is located stating that the recovery residence is in compliance.

(c) If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, the municipality or county must perform requested or required inspections within 30 days of receiving a request for verification. If a residence is located within a municipality or county that offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, and the municipality or county fails to perform requested or required inspections within 30 days of receiving a request for verification, the residence may apply for and be granted certification directly through the certifying agency without the aforementioned verification.

(d) Upon receiving a complete application, the certifying agency shall evaluate the residence to determine if the residence is in compliance with national best-practice standards and safety requirements. Additionally, any application of the items specified in this section, must comply with the Fair Housing Act, 42 U.S.C. § 3601 *et seq.* and the Americans with Disabilities Act of 2008, 42 U.S.C. § 12101 *et seq.*

(1) If it is determined that the residence is in compliance, the certification agency shall issue a certificate of compliance to the recovery residence operator for the specific recovery residence location set forth in the application.

(2) Each residence location, even if operated by the same person or entity, must maintain a certificate of compliance for the purposes of this article.

(e) The certifying agency may suspend or revoke a certificate of compliance if the recovery residence is not in compliance with any provision of this section or has failed to remedy any deficiency identified in writing and served by certified mail. Suspension or revocation may take place after a notice of deficiency is served and has existed for at least 30 days.

(f) The certifying agency shall implement and maintain a process by which a residence whose certification has been suspended or revoked may apply for and be granted reinstatement. If a municipality or county offers or requires verification of compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing, and if the residence's certification suspended or revoked for non-compliance with local building, maximum occupancy, fire safety and sanitation codes applicable to single family housing the municipality or county may charge a fee of up to \$100.00 for any requested re-inspection of a recovery residence by the residence seeking reinstatement.

(g) The Department shall periodically evaluate the quality, integrity, and efficacy of the accreditation program developed. The certifying agency, in consultation with the Department, shall promulgate rules subject to legislative approval in accordance with §29A-3-1 *et seq.* of this code to implement this section that shall include a process for receiving complaints against drug-free and alcohol-free recovery residences and criteria by which such residences' certifications can be revoked.

(h) A person may not advertise to the public, any recovery residence as a 'certified recovery residence' unless the recovery residence has first secured a certificate of compliance under this section. A person who violates this subsection commits a misdemeanor, punishable by a fine of not less than \$1,000.00 nor more than \$5,000.00 for each infraction.

(i) Nothing herein shall be read to require any recovery residence to obtain certifications set forth herein in order to conduct operations.

§16-56-3 Referrals to Recovery Residences; Prohibitions; Receipt of State Funds.

(a) The certifying agency shall maintain, publish and disseminate a list of drug and alcohol free housing certified pursuant to this section. This list shall be disseminated to the Department for use by each state agency or vendor with a statewide contract that provides substance use disorder treatment services. The list shall also be posted on the website maintained by the certifying agency.

(b) The Division of Corrections and Rehabilitation, the Parole Board, county probation offices, day report centers, municipal courts, and a medical or clinical treatment facility that receives any funds for its operations from the state treasury, may not make a referral of any prisoner, parolee, probationer, or prospective, current, or discharged patient or client to a recovery residence unless the recovery residence holds a valid certificate of compliance as provided in §16-56-2 of this code.

(c) No recovery residence is eligible to receive funds from any source within the state treasury unless it holds a valid certificate of compliance as provided in §16-56-2.

(d) A state agency and a medical or clinical treatment facility that receive funds for its operation from the state treasury, that make referrals to recovery residences shall maintain records of referrals to or from recovery residences.

(e) Nothing in this section requires a state agency or a clinical or medical provider to make a referral of a person to a recovery residence.

(f) A person who violates this section commits a misdemeanor, punishable by a fine of not less than \$500.00 nor more than \$1,000.00."

And,

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

H. B. 2530 - "A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated §16-56-1, §16-56-2, and §16-56-3, all relating to regulation of recovery residences; providing voluntary certification procedures; providing voluntary inspection standards; providing requirements for the referral of persons; providing criminal penalties and fines; permitting rulemaking; requiring compliance with the Fair Housing Act and Americans with Disabilities Act; and providing for the payment of state funds to recovery residences in certain circumstances."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 502**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Harshbarger, Queen, Storch, C. Thompson and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2530) 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. 2872, Authorizing law-enforcement officers to assist the State Fire Marshal.

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 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-12. Powers and duties of State Fire Marshal.

(a) *Enforcement of laws.* — The State Fire Marshal and any other person authorized to enforce the provisions of this article under the supervision and direction of the State Fire Marshal ~~has the authority to~~ may enforce all laws of the state having to do with:

(1) Prevention of fire;

(2) The storage, sale, and use of any explosive, combustible, or other dangerous article or articles in solid, flammable liquid, or gas form;

(3) The installation and maintenance of equipment of all sorts intended to extinguish, detect, and control fires;

(4) The means and adequacy of exit, in case of fire, from buildings and all other places in which persons work, live, or congregate, from time to time, for any purpose, except buildings used wholly as dwelling houses for no more than two families;

(5) The suppression of arson; and

(6) Any other thing necessary to carry into effect the provisions of this article including, but not limited to, confiscating any materials, chemicals, items, or personal property owned, possessed, or used in direct violation of the State Fire Code.

(b) *Assistance upon request.* — Upon request, the State Fire Marshal shall assist any chief of any recognized fire company or department. Upon the request of any federal law-enforcement officer, state police officer, Natural Resources police officer, or any county or municipal law-enforcement officer, the State Fire Marshal, any deputy state fire marshal, or assistant state fire marshal employed pursuant to §29-3-11 of this code and any person deputized pursuant to subsection (j) of this section may assist in the lawful execution of the requesting officer’s official duties: *Provided*, That the State Fire Marshal, or other person authorized to act under this subsection, shall at all times work under the direct supervision of the requesting officer.

(c) *Enforcement of rules.* — The State Fire Marshal shall enforce the rules promulgated by the State Fire Commission as authorized by this article.

(d) *Inspections generally.* — The State Fire Marshal shall inspect all structures and facilities, other than one- and two-family dwelling houses, subject to the State Fire Code and this article, including, but not limited to, state, county, and municipally owned institutions, all public and private schools, health care facilities, theaters, churches, and other places of public assembly to determine whether the structures or facilities are in compliance with the State Fire Code.

(e) *Right of entry.* — The State Fire Marshal may, at all reasonable hours, enter any building or premises, other than dwelling houses, for the purpose of making an inspection which he or she may consider necessary under the provisions of this article. The State Fire Marshal and any deputy state fire marshal or assistant state fire marshal approved by the State Fire Marshal may enter upon any property, or enter any building, structure or premises, including dwelling houses during construction and prior to occupancy, for the purpose of ascertaining compliance with the conditions set forth in any permit or license issued by the office of the State Fire Marshal pursuant to §29-3-12b(A)(1) of this code or §29-3B-1 *et seq.* of this code.

(f) *Investigations.* — The State Fire Marshal may, at any time, investigate as to the origin or circumstances of any fire or explosion or attempt to cause fire or explosion occurring in the state. The State Fire Marshal has the authority at all times of the day or night, in performance of the duties imposed by the provisions of this article, to investigate where any fires or explosions or attempt to cause fires or explosions may have occurred, or which at the time may be burning. Notwithstanding the above provisions of this subsection, prior to entering any building or premises for the purposes of the investigation, the State Fire Marshal shall obtain a proper search warrant: *Provided*, That a search warrant is not necessary where there is permissive waiver or the State Fire Marshal is an invitee of the individual having legal custody and control of the property, building or premises to be searched.

(g) *Testimony.* — The State Fire Marshal, in making an inspection or investigation when in his or her judgment the proceedings are necessary, may take the statements or testimony under oath of all persons who may be cognizant of any facts or have any knowledge about the matter to be examined and inquired into and may have the statements or testimony reduced to writing; and shall transmit a copy of the statements or testimony so taken to the prosecuting attorney for the county wherein the fire or explosion or attempt to cause a fire or explosion occurred. Notwithstanding the above, no person may be compelled to testify or give any statement under this subsection.

(h) *Arrests; warrants.* — The State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal pursuant to §29-3-11 of this code is hereby authorized and empowered and any person deputized pursuant to §29-3-11 of this code may be authorized and empowered by the State Fire Marshal:

(1) To arrest any person anywhere within the confines of the State of West Virginia, or have him or her arrested, for any violation of the arson-related offenses of §61-3-1 *et seq.* of this code or of the explosives-related offenses of §61-3E-1 *et seq.* of said code: *Provided*, That any and all persons so arrested shall be forthwith brought before the magistrate or circuit court; *Provided, however, that the State Fire Marshal, any full-time deputy fire marshal or any full-time assistant fire marshal is authorized to arrest persons for violations of §61-5-17 of this code.*

(2) To make complaint in writing before any court or officer having jurisdiction and obtain, serve, and execute an arrest warrant when knowing or having reason to believe that anyone has committed an offense under any provision of this article, of the arson-related offenses of §61-3-1 *et seq.* of this

code or of the explosives-related offenses of §61-3E-1 *et seq.* of this code. Proper return shall be made on all arrest warrants before the tribunal having jurisdiction over the violation.

(3) To make complaint in writing before any court or officer having jurisdiction and obtain, serve, and execute a warrant for the search of any premises that may possess evidence or unlawful contraband relating to violations of this article, of the arson-related offenses of §61-3-1 *et seq.* of this code or of the explosives-related offenses of §61-3E-1 *et seq.* of said code. Proper return shall be made on all search warrants before the tribunal having jurisdiction over the violation.

(4) Any member of the West Virginia State Police, Natural Resources Police Officer, or any county or municipal law-enforcement officer may assist, upon request, the State Fire Marshal or any of his or her employees authorized to enforce the provisions of this section in any duties for which the State Fire Marshal has jurisdiction.

(i) *Witnesses and oaths.* — The State Fire Marshal ~~is empowered and authorized to~~ may issue subpoenas and subpoenas duces tecum to compel the attendance of persons before him or her to testify in relation to any matter which is, by the provision of this article, a subject of inquiry and investigation by the State Fire Marshal and cause to be produced before him or her such papers as he or she may require in making the examination. The State Fire Marshal ~~is hereby authorized to~~ may administer oaths and affirmations to persons appearing as witnesses before him or her. False swearing in any matter or proceeding ~~aforesaid~~ is considered perjury and is punishable as perjury.

(j) *Deputizing members of fire departments in this state.* — The State Fire Marshal may deputize a member of any fire department, duly organized and operating in this state, who is approved by the chief of his or her department and who is properly qualified to act as his or her assistant for the purpose of making inspections with the consent of the property owner or the person in control of the property and the investigations as may be directed by the State Fire Marshal, and the carrying out of orders as may be prescribed by him or her, to enforce and make effective the provisions of this article and any and all rules promulgated by the State Fire Commission under authority of this article: *Provided*, That in the case of a volunteer fire department, only the chief thereof or his or her single designated assistant may be so deputized.

(k) *Written report of examinations.* — The State Fire Marshal shall, at the request of the county commission of any county or the municipal authorities of any incorporated municipality in this state, make to them a written report of the examination made by him or her regarding any fire happening within their respective jurisdictions.

(l) *Report of losses by insurance companies.* — ~~It is the duty of each~~ Each fire insurance company or association doing business in this state, within 10 days after the adjustment of any loss sustained by it that exceeds \$1,500, ~~to shall~~ report to the State Fire Marshal information regarding the amount of insurance, the value of the property insured, and the amount of claim as adjusted. This report is in addition to any information required by the State Insurance Commissioner. Upon the request of the owner or insurer of any property destroyed or injured by fire or explosion, or in which an attempt to cause a fire or explosion may have occurred, the State Fire Marshal shall report in writing to the owner or insurer the result of the examination regarding the property.

(m) *Issuance of permits and licenses.* — The State Fire Marshal ~~is authorized to~~ may issue permits, documents, and licenses in accordance with the provisions of this article or §29-3B-1 *et seq.* of this code: *Provided*, That unless otherwise provided, the State Fire Marshall shall take final action upon any completed permit applications within 30 days of receipt if the application is uncontested, or within 90 days if the application is contested. The State Fire Marshal may require any person who applies for a permit to use explosives, other than an applicant for a license to be a pyrotechnic operator under ~~§29-3-24~~ §29-3E-6 of this code, to be fingerprinted and to authorize the State Fire

Marshal to conduct a criminal records check through the criminal identification bureau of the West Virginia State Police and a national criminal history check through the Federal Bureau of Investigation. The results of any criminal records or criminal history check shall be sent to the State Fire Marshal.

(n) *Issuance of citations for fire and life safety violations.* — The State Fire Marshal, any deputy fire marshal, and any assistant fire marshal employed pursuant to §29-3-11 of this code ~~are hereby authorized~~, and any person deputized pursuant to subsection (j) of this section may be authorized by the State Fire Marshal to issue citations, in his or her jurisdiction, for fire and life safety violations of the State Fire Code and as provided for by the rules promulgated by the State Fire Commission in accordance with §29-3-1 *et seq.* of this code: *Provided*, That a summary report of all citations issued pursuant to this section by persons deputized under subsection (j) of this section shall be forwarded monthly to the State Fire Marshal in the form and containing information as he or she may by rule require, including the violation for which the citation was issued, the date of issuance, the name of the person issuing the citation, and the person to whom the citation was issued. The State Fire Marshal may at any time revoke the authorization of a person deputized pursuant to subsection (j) of this section to issue citations, if in the opinion of the State Fire Marshal, the exercise of authority by the person is inappropriate.

Violations for which citations may be issued include, but are not limited to:

(1) Overcrowding places of public assembly;

(2) Locked or blocked exits in public areas;

(3) Failure to abate a fire hazard;

(4) Blocking of fire lanes or fire department connections; and

(5) Tampering with, or rendering inoperable except during necessary maintenance or repairs, on-premise firefighting equipment, fire detection equipment, and fire alarm systems.

(o) *Required training; liability coverage.* — No person deputized pursuant to subsection (j) of this section may be authorized to issue a citation unless that person has satisfactorily completed a law-enforcement officer training course designed specifically for fire marshals. The course shall be approved by the Law-enforcement Training Subcommittee of the Governor's Committee on Criminal Justice and Highway Safety and the State Fire Commission. In addition, no person deputized pursuant to subsection (j) of this section may be authorized to issue a citation until evidence of liability coverage of the person has been provided, in the case of a paid municipal fire department, by the municipality wherein the fire department is located, or in the case of a volunteer fire department, by the county commission of the county wherein the fire department is located or by the municipality served by the volunteer fire department and that evidence of liability coverage has been filed with the State Fire Marshal.

(p) *Statewide contracts.* — The State Fire Marshal may cooperate with the Department of Administration, Purchasing Division, to establish one or more statewide contracts for equipment and supplies utilized by fire companies and departments in accordance with §5A-3-1 *et seq.* of this code.

(1) Any statewide contract established hereunder shall be made available to any fire company and department in this state, as well as any other state agency or political subdivision that has a need for the equipment or supplies included in those contracts.

(2) The State Fire Marshal may develop uniform standards for equipment and supplies used by fire companies and departments in accordance with §5A-3-1 *et seq.* of this code.

(3) The State Fire Commission shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to effectuate the provisions of this subsection.

(q) *Penalties for violations.* — Any person who violates any fire and life safety rule of the State Fire Code is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in jail not more than 90 days, or both fined and confined. ~~Each and every~~ Every day during which any violation of the provisions of this article continues after knowledge or official notice that ~~same~~ it is illegal is a separate offense.

(r) The State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal pursuant to §29-3-11 of this code may carry a firearm while acting in the course of his or her official duties, if he or she has successfully completed a firearms training and certification program equivalent to that provided to officers attending the entry level law-enforcement certification course provided at the West Virginia State Police Academy. The person shall thereafter successfully complete an annual firearms qualification course equivalent to that required of certified law-enforcement officers as established by legislative rule. The State Fire Marshal may reimburse the person for the cost of the training and requalification.”

And,

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

H. B. 2872 - “A Bill to amend and reenact §29-3-12 of the Code of West Virginia, 1931, as amended, relating to authorizing any member of the West Virginia State Police, Natural Resources Police Officer, or any county or municipal law-enforcement officer to assist the State Fire Marshal or any of his or her employees in any duties for which the State Fire Marshal has jurisdiction; granting the State Fire Marshal, any full-time deputy and assistant fire marshal the power of arrest for obstructing them in their official duties; authorizing the State Fire Marshal, any full-time deputy fire marshal, or any full-time assistant fire marshal employed by the State Fire Marshal to carry a firearm in the course of official duties; and establishing requirements for annual requalification.”

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. 503**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Harshbarger, Queen, Storch, C. Thompson and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2872) 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. 2958, Authorizing the State Auditor to conduct regular financial examinations or audits of all volunteer fire companies.

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

On page one, section seven-a, line three, by striking out the words “should be so” and inserting in lieu thereof the words “shall be”;

On page one, section seven-a, line six, by striking out the word “that” and inserting in lieu thereof the words “the five-year”.

And,

On page one, section seven-a, line ten, after the word “company” by changing the period to a colon and inserting the following proviso: *Provided, however*, That the State Auditor shall implement internal policies to ensure that any costs associated with an audit under this section of the code may be carried by the State Auditor or may be recouped by the volunteer fire company.

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

Nays: McGeehan.

Absent and Not Voting: Boggs, Harshbarger, Queen, Storch, C. Thompson and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2958) passed.

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

A message from the Senate, by

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

Com. Sub. for S. B. 60, Licensing practice of athletic training.

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

On page fifteen, subdivision (8), after the words “July 1, 2011” by changing the semicolon to a colon and inserting the following proviso: “*Provided further*, That this provision only applies to persons practicing athletic training certified by the West Virginia Board of Education prior to July 1, 2011, and any additional persons practicing athletic training excluding these specified individuals, shall meet the provisions of this article” and a semicolon.

The question then being on the passage of the bill, the yeas and nays were taken (**Roll No. 505**), and there were—yeas 91, nays 3, absent and not voting 6, with the nays and absent and not voting being as follows:

Nays: Howell, C. Martin and McGeehan.

Absent and Not Voting: Boggs, Harshbarger, Queen, Storch, C. Thompson and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 60) passed.

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

A message from the Senate, by

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

S. B. 668, Relating to physician assistants collaborating with physicians in hospitals.

On motion of Delegate Summers, the House of Delegates concurred in the following Senate title amendment:

S. B. 668 - "A Bill to amend and reenact §30-3E-1, §30-3E-3, §30-3E-9, §30-3E-11, §30-3E-12, and §30-3E-13 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §30-3E-10a, all relating to physician assistants collaborating with physicians in hospitals; requiring written notice to the appropriate licensing board; requiring rulemaking; amending scope of practice; providing for disciplinary proceedings for failure to provide timely notice of termination of practice notification; and specifying practice requirements."

The question then being on the passage of the bill, the yeas and nays were taken (**Roll No. 506**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Boggs, Harshbarger, Queen, Storch, C. Thompson and Westfall.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 668) passed.

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

Leaves of Absence

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

Miscellaneous Business

Pursuant to House Rule 132, consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Delegate Fleischauer regarding Jan Lilly-Stewart and David Stewart

At 5:28 p.m., the House of Delegates adjourned until 9:00 a.m., Thursday, March 7, 2019.

SPECIAL CALENDAR

Thursday, March 7, 2019

58th Day

9:00 A. M.

UNFINISHED BUSINESS

- S. C. R. 23 - Jeffrey Alan Clovis Memorial Bridge
- Com. Sub. for S. C. R. 25 - US Army PFC Andrew "Bo" Martin Harper Memorial Bridge
- H. C. R. 10 - Resiliency Week
- H. C. R. 14 - U. S. Army CPT Benjamin Ronk Memorial Bridge
- H. C. R. 28 - Charleston Police Capt. Jerry D. Hill Memorial Bridge
- H. C. R. 36 - SPEC 5 Garry Monzel 'Michael' Shannon Memorial Bridge
- Com. Sub. for H. C. R. 42 - U. S. Navy Petty Officer 2d Class Joseph Allen Ashley Memorial Bridge
- H. C. R. 54 - U. S. Navy AOAN David 'Wayne' Cornell Memorial Bridge
- Com. Sub. for H. C. R. 64 - U. S. Army CPL Jerry Lee Noble Memorial Bridge
- H. C. R. 68 - Bluefield Police Lt. Aaron L. Crook Memorial Road
- Com. Sub. for H. C. R. 72 - U. S. Army PFC Harold Paul Cottle Memorial Highway
- H. C. R. 73 - U. S. Army SGT Matthew T. Miller Memorial Bridge
- Com. Sub. for H. C. R. 76 - Reverend Lonnie Ramsey Memorial Bridge
- H. C. R. 85 - Requesting the Joint Committee on Government and Finance study the feasibility of combining the volunteer fire departments
- H. C. R. 86 - Requesting study of municipal and county governments for efficiencies and economies of scale
- H. C. R. 87 - Requesting the Joint Committee on Government and Finance study the Public Service Commission

- H. C. R. 88 - Requesting the Joint Committee on Government and Finance study the Board of Risk and Insurance Management
- H. C. R. 91 - U. S. Army SGT. Robert Henry Waggy Memorial Bridge
- H. R. 6 - Recognizing the importance of West Virginia's energy resources and critical energy infrastructure to support economic development and national security
- H. R. 11 - Recognizing the importance of the Atlantic Coast Pipeline

THIRD READING

- Com. Sub. for S. B. 4 - Relating generally to Municipal Home Rule Program (HOWELL) (REGULAR) [AMENDMENTS PENDING] [RIGHT TO AMEND BY DELEGATES HOWELL AND PYLES]
- S. B. 153 - Providing greater flexibility for making infrastructure project grants (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 199 - Authorizing certain miscellaneous agencies and boards promulgate legislative rules (JUDICIARY COMMITTEE AMENDMENT PENDING) (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 233 - Relating to age requirements for deputy sheriff (HOWELL) (REGULAR)
- Com. Sub. for S. B. 238 - Increasing certain penalties for passing stopped school bus (SHOTT) (REGULAR)
- Com. Sub. for S. B. 241 - Permitting county court clerks scan certain documents in electronic form (HOWELL) (REGULAR)
- Com. Sub. for S. B. 317 - Authorizing three or more adjacent counties form multicounty trail network authority (HOWELL) (REGULAR)
- Com. Sub. for S. B. 318 - Transferring Medicaid Fraud Control Unit to Attorney General's office (ELLINGTON) (OCTOBER 1, 2019)
- Com. Sub. for S. B. 357 - Relating generally to Division of Administrative Services (HOWELL) (REGULAR)
- Com. Sub. for S. B. 400 - Allowing Board of Dentistry create specialty licenses (HOWELL) (REGULAR)
- Com. Sub. for S. B. 402 - Authorizing Division of Forestry investigate and enforce timber theft violations (HOWELL) (REGULAR)

- Com. Sub. for S. B. 404 - Relating generally to sediment control during commercial timber harvesting operations (SHOTT) (REGULAR)
- Com. Sub. for S. B. 405 - Increasing limit on additional expenses incurred in preparing notice list for redemption (HOWELL) (REGULAR)
- S. B. 421 - Relating to annual legislative review of economic development tax credit (LINVILLE) (REGULAR)
- Com. Sub. for S. B. 485 - Clarifying notification requirements for property insurance purposes (SHOTT) (REGULAR)
- Com. Sub. for S. B. 487 - Relating to admissibility of health care staffing requirements in litigation (SHOTT) (REGULAR)
- S. B. 493 - Correcting terminology referring to racing vehicles illegally on street (SHOTT) (REGULAR)
- Com. Sub. for S. B. 496 - Transferring authority to regulate milk from DHHR to Department of Agriculture (HOWELL) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 511 - Creating alternating wine proprietorships (HOWELL) (REGULAR)
- Com. Sub. for S. B. 529 - Clarifying provisions of Nonintoxicating Beer Act (SHOTT) (REGULAR)
- Com. Sub. for S. B. 537 - Creating workgroup to review hospice need standards (ELLINGTON) (REGULAR)
- S. B. 566 - Relating to compensation for State Athletic Commission members (HOWELL) (REGULAR)
- S. B. 596 - Adjusting voluntary contribution amounts on certain DMV forms (CRISS) (REGULAR)
- Com. Sub. for S. B. 597 - Conforming state law to federal law for registration of appraisal management companies (HOWELL) (REGULAR)
- Com. Sub. for S. B. 600 - Relating to preservation of biological evidence obtained through criminal investigations and trials (SHOTT) (EFFECTIVE FROM PASSAGE)
- S. B. 625 - Clarifying and defining authority of State Athletic Commission (HOWELL) (REGULAR)

- S. B. 633 - Authorizing Board of Physical Therapy conduct criminal background checks on applicants for licenses (HOWELL) (REGULAR)
- S. B. 655 - Relating to conservation districts generally (HOWELL) (REGULAR)
- Com. Sub. for S. B. 657 - Providing consumer protection regarding self-propelled farm equipment (SHOTT) (REGULAR)
- S. B. 658 - Relating to motor vehicle salesperson licenses (HOWELL) (EFFECTIVE FROM PASSAGE)
- S. B. 672 - Authorizing School Building Authority to promulgate legislative rules (HAMRICK) (EFFECTIVE FROM PASSAGE)
- S. B. 673 - Relating to public higher education accountability and planning (HAMRICK) (REGULAR)
- S. B. 676 - Relating to off-road vehicle recreation (HOWELL) (EFFECTIVE FROM PASSAGE)

SECOND READING

- S. B. 16 - Authorizing expenditure of surplus funds by Wyoming County Commission (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 30 - Eliminating tax on annuity considerations collected by life insurer (HOUSEHOLDER) (REGULAR)
- S. B. 36 - Allowing adjustment of gross income for calculating personal income liability for certain retirees (PENSIONS AND RETIREMENT COMMITTEE AMENDMENT PENDING) (HOLLEN) (JULY 1, 2019)
- Com. Sub. for S. B. 40 - Establishing Military Service Members Court program (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 90 - Transferring Safety and Treatment Program from DHHR to DMV (JUDICIARY COMMITTEE AMENDMENT PENDING) (SHOTT) (REGULAR)
- Com. Sub. for S. B. 103 - Relating generally to Public Defender Services (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (JULY 1, 2019)
- Com. Sub. for S. B. 147 - Shifting funding from Landfill Closure Assistance Fund to local solid waste authorities (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)

- Com. Sub. for S. B. 152 - Relating generally to criminal offense expungement (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 264 - Requiring courts to order restitution to crime victims where economically practicable (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 291 - Relating generally to survivor benefits for emergency response providers (HOUSEHOLDER) (JULY 1, 2019)
- Com. Sub. for S. B. 329 - Relating to agricultural education in high schools (HAMRICK) (REGULAR)
- Com. Sub. for S. B. 340 - Repealing obsolete provisions of code relating to WV Physicians Mutual Insurance Company (SHOTT) (REGULAR)
- Com. Sub. for S. B. 345 - Relating to fire service equipment and training funds for VFDs (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 352 - Relating to Division of Corrections and Rehabilitation acquiring and disposing of services, goods, and commodities (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 369 - Relating to generic drug products (SHOTT) (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)
- Com. Sub. for S. B. 396 - Waiving occupational licensing fees for low-income individuals and military families (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 398 - Relating to compensation for senior judges (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- S. B. 461 - Providing for personal income tax withholding on certain lottery winnings (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- S. B. 499 - Amending WV tax laws to conform to changes in partnerships for federal income tax purposes (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (JULY 1, 2019)
- Com. Sub. for S. B. 502 - Exempting sales of investment metal bullion and coins (HOUSEHOLDER) (JULY 1, 2019)

- Com. Sub. for S. B. 522 - Creating Special Road Repair Fund (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (JULY 1, 2019)
- Com. Sub. for S. B. 538 - Relating to WV Highway Design-Build Pilot Program (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 539 - Relating to accrued benefit of retirees in WV State Police Retirement System Plan B (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 543 - Relating generally to automobile warranties and inspections (HOUSEHOLDER) (JULY 1, 2019)
- S. B. 544 - Increasing salaries for members of WV State Police over three-year period (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (JULY 1, 2019)
- S. B. 550 - Declaring certain claims to be moral obligations of state (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)
- S. B. 554 - Removing salary caps for director of State Rail Authority (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 561 - Permitting Alcohol Beverage Control Administration request assistance of local law enforcement (JUDICIARY COMMITTEE AMENDMENT PENDING) (SHOTT) (REGULAR)
- Com. Sub. for S. B. 564 - Expanding comprehensive coverage for pregnant women through Medicaid (HOUSEHOLDER) (REGULAR)
- Com. Sub. for S. B. 601 - Relating to mandatory supervision of adult inmates (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 603 - Exempting certain activities from licensing requirements for engaging in business of currency exchange (JUDICIARY COMMITTEE AMENDMENT PENDING) (SHOTT) (REGULAR)
- Com. Sub. for S. B. 613 - Requiring DNR include election of organ donation on hunting licenses (SHOTT) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 622 - Relating generally to regulation and control of financing elections (SHOTT) (REGULAR)
- S. B. 627 - Relating generally to Rural Rehabilitation Loan Program (HOUSEHOLDER) (EFFECTIVE FROM PASSAGE)

- Com. Sub. for S. B. 632 - Improving student safety (EDUCATION COMMITTEE AMENDMENT PENDING) (HAMRICK) (REGULAR)
- Com. Sub. for S. B. 640 - Regulating sudden cardiac arrest prevention (ELLINGTON) (REGULAR)
- S. B. 656 - Relating to electronic filing of tax returns (FINANCE COMMITTEE AMENDMENT PENDING) (HOUSEHOLDER) (JULY 1, 2019)
- S. B. 665 - Allowing for expedited oil and gas well permitting (ENERGY COMMITTEE AMENDMENT PENDING) (ANDERSON) (EFFECTIVE FROM PASSAGE)
- S. B. 669 - Allowing appointment of commissioners to acknowledge signatures (JUDICIARY COMMITTEE AMENDMENT PENDING) (SHOTT) (REGULAR)
- S. B. 670 - Relating to WV College Prepaid Tuition and Savings Program (HOUSEHOLDER) (REGULAR)

HOUSE CALENDAR

Thursday, March 7, 2019

58th Day

9:00 A. M.

THIRD READING

- 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 (HOUSEHOLDER) (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)
- S. B. 605 - Permitting Secondary Schools Athletic Commission discipline schools for not following protocol for concussions and head injuries (HAMRICK) (REGULAR)
- 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

THURSDAY, MARCH 7, 2019

HOUSE CONVENES AT 9:00 A.M.

**COMMITTEE ON RULES
8:45 A.M. – BEHIND CHAMBER**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470