

West Virginia Legislature

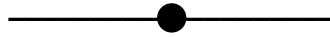
JOURNAL
of the
HOUSE of DELEGATES

Eighty-Fourth Legislature
Second Regular Session

Held at Charleston
Published by the Clerk of the House



March 7, 2020
SIXTIETH DAY



Saturday, March 7, 2020

SIXTIETH DAY

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

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

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

The Clerk proceeded to read the Journal of Friday, March 6, 2020, being the first order of business.

Delegate Lovejoy asked unanimous consent that reading of the Journal be dispensed with and it be approved as having been read, which consent was not granted, objection being heard.

The Speaker then put the question, "Shall the reading of the Journal be dispensed with?"

On this question, the yeas and nays were taken (**Roll No. 699**), and there were—yeas 63, nays 35, absent and not voting 2, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Pyles and Queen.

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

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Summers announced that S. C. R. 4, on Unfinished Business, Special Calendar, had been moved to the foot of all bills; and Com. Sub. for S. B. 752, on third reading, Special Calendar, had been transferred to the House Calendar.

Messages from the Executive

The following communications were laid before the House of Delegates and reported by the Clerk:

Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

March 6, 2020

Executive Message No. 2

The Honorable Roger Hanshaw, Speaker
West Virginia House of Delegates
State Capitol, Rm 228M, Charleston, WV 25305

Dear Mr. Speaker:

Pursuant to the provisions of section twenty, article one, chapter five of the Code of West Virginia, I hereby certify that the attached annual reports have been received in the Office of the Governor:

Accountancy, West Virginia Board of; Annual Report for June 30, 2018-June 30, 2019

Administration, West Virginia Department of; West Virginia Public Land Corporation Annual Report

Administration, West Virginia Department of; Shared Services Section- Finance Division- Annual Report

Administration, West Virginia Department of; Real Estate Division 2019 Real Property and Lease Report

Administration, West Virginia Department of; State Vehicle Fleet Annual Report for FY 2019

Aeronautics Commission, West Virginia Department of Transportation; Aeronautics Commission Annual Report September 1, 2018- June 30, 2019

Agricultural Land Protection Authority, West Virginia; Conservation Easements Recorded in West Virginia by County Farmland Protection Boards or other land trust organizations

Architects, West Virginia Board of; Annual Report FY 2018 & FY 2019

Attorney General, State of West Virginia; Annual Report 2019

Attorney General, State of West Virginia; 2019 Annual Report on the Activities of the Consumer Protection and Antitrust Division

Auditor's Office, West Virginia State; 2019 Annual Report

Board of Risk and Insurance Management, State of West Virginia Department of Administration; 2019 Annual Report

Bureau of Senior Services, State of West Virginia; FY 2019 Annual Report

Chiropractic Examiners, State of West Virginia Board of; Biennium Report July 1, 2017-June 30, 2019

Coal Mine Health and Safety, State of West Virginia Board of; 2019 Annual Report

Commercial Motor Vehicle Weight and Safety Enforcement Advisory Committee; 2019 Annual Report

Consolidated Public Retirement Board's, West Virginia; 2019, Annual Report on the Disability Retirement Experience for the West Virginia Death, Disability, and Retirement Fund (Plan A) and the West Virginia State Police Retirement System (Plan B)

Consumer Advocate Offices of the WV Insurance Commissioner, West Virginia Office of; Annual Report

Consumer Advocate Division, State of West Virginia (Public Service Commission); 2019 Annual Report

Counseling, West Virginia Board of; 2017-2019 Annual Report

Department of Health and Human Resources, State of West Virginia; Office of the Inspector General Olmstead Office Plan "Building Inclusive Communities: Keeping the Promise" Annual Report for State Fiscal Year 2019

Development Office, West Virginia; West Virginia Office of Energy Annual Report

Development Office, West Virginia; FY20 Tax Increment Financing Annual Report

Health and Human Resources, State of West Virginia Department of; Critical Incident Annual Report

Health and Human Resources, State of West Virginia Department of; Sanctions Relating to TANF

Health and Human Resources, State of West Virginia Department of; 2019 WV Chip Annual Report

Education, West Virginia Department and Board of; Fall Listening Tour Final Report December 2019

Environmental Protection, West Virginia Department of; Report for Special Reclamation Fund and the Special Reclamation Water Trust Fund

Equal Employment Opportunity Office, West Virginia; 2018 Annual Report

Equal Employment Opportunity Office, West Virginia; 2019 Annual Report

Fire Commission, West Virginia State; FY 2019 Annual Report

Forward, West Virginia, 2018 Annual Report

Greater Kanawha Valley Foundation, The; 2018 Annual Report

Infrastructure and Jobs Development Council, West Virginia; Annual Report

Insurance Commissioner, West Virginia Office of the; Annual Report for the Calendar Year 2018

Insurance Commissioner, State of West Virginia Offices; Annual Report Office of the Consumer Advocate at the WV Insurance Commission for Calendar Year 2018

Insurance Commissioner, State of West Virginia Offices; 2019 Annual Medical Malpractice Report

Regional Intergovernmental Council, Boone Clay Kanawha Putnam; 2018 Annual Report

Interstate Insurance Product Regulation Commission (Insurance Compact); 2018 Annual Report

Interstate Commission on the Potomac Basin; Seventy-Eighth Financial Statements and Independent Auditor's Report for the Year Ended September 30, 2018

Judicial Compensation Commission, West Virginia; 2019 Report

Justice and Community Services, West Virginia Division of; Juvenile Justice Subcommittee September 1, 2017-August 31, 2018 Annual Report

Justice and Community Services, West Virginia Division of; Law Enforcement Professional Standards (LEPS) Subcommittee/ Program July 1, 2018- June 30, 2019 Annual Report

Justice and Community Services, West Virginia Division of; Sexual Assault Forensic Examination (Safe) Commission September 1, 2018-August 31, 2019 Annual Report

Justice and Community Services, West Virginia Division of; West Virginia Community Corrections Act July 1, 2018-June 30, 2019 Annual Report

Labor, West Virginia Division of; FY 2019 Jobs Act Annual Report

Legislative Claims Commission, West Virginia; Reports of the Legislative Claims Commission for November 2019

Legislative Claims Commission, West Virginia; Supplemental Reports of the Legislative Claims Commission

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending January 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending February 28, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending March 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations. Month Ending April 30, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending May 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending June 30, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending July 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending August 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending September 30, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending October 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending November 30, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending December 31, 2019

Lottery, West Virginia State; Monthly Report on Lottery Operations Month Ending January 31, 2020

Medicaid and Chip Payment and Access Commission; June 2019 Report

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; FY 2019 Annual Report

Medicine, West Virginia Board of; Annual Report for the Biennium of July 1, 2016- June 30, 2018

Military Affairs and Public Safety, West Virginia Department of; Executive Summary and Report

Miners¹ Health, Safety and Training, West Virginia Office of; 2018 Statistical Report and Directory of Mines (Department of Commerce)

Municipal Bond Commission, West Virginia; Annual Summary of Receipts and Disbursements July 1, 2018- June 30, 2019

National Guard, West Virginia; Annual Report 2019

Natural Resources, West Virginia Division of; 2018-2019 Annual Report

Occupational Therapy, West Virginia Board of; Annual Report for Fiscal Year 2018-2019

Osteopathic Medicine, West Virginia School of; 2018-2019 Annual Report

Board of Pharmacy, West Virginia; West Virginia Controlled Substances Monitoring Program to the Legislative Oversight Commission on Health and Human Resources Accountability

Public Defender Services, West Virginia; Annual Report, Fiscal Year 2018

Public Employees Grievance Board; 2019 Annual Report

Psychologists, State of West Virginia Board of Examiners of; Annual Report for Fiscal Year 2018-2019

Board of Sanitarians, West Virginia State; 2018 Annual Report

Tax Department, West Virginia State; Manufacturing Property Tax Adjustment Credit Report

Tax Department, West Virginia State; 2019 Tax Year

Tax Department, West Virginia State; Fifty-Third Biennial Report of the Tax Commissioner

Tax Department, West Virginia State; Report on Adjustments to the Allocated State Aid Share to Schools

Tax Department, West Virginia State; Calculation of Regular School Levy Rates for Tax Year 2020 and the Effects on Projected County School Revenues. ~ Treasury Investments, West Virginia Board of; Audited Financial Statements with other Financial Information Year ended June 30, 2019

Treasury Investments, West Virginia Board of; Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2019

Veterinary Medicine, West Virginia Board of; Biennium Report 2018 and 2019

Water Development Authority, West Virginia; Fiscal Year 2019 Annual Report

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

March 6, 2020

**Executive Message No. 3
2020 Regular Session**

The Honorable Roger Hanshaw
Speaker, West Virginia House of Delegates
State Capitol, Rm 228M
Charleston, WV 25305

Dear Mr. Speaker:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of March 7, 2019 through March 6, 2020.

Very truly yours,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

March 6, 2020

The Honorable Mitch Carmichael
President of the Senate
State Capitol, Building I, Room 229-M
Charleston, West Virginia 25305

The Honorable Roger Hanshaw
Speaker of the House of Delegates
State Capitol, Building I, Room 228-M

Dear President Carmichael and Speaker Hanshaw:

After submission of my recommended FY 2021 Executive Budget on January 8, 2020, there have been a few areas that require adjustments.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2021 Budget Bill for the TITLE II - APPROPRIATIONS as attached:

Section 1. Appropriations from general revenue.

Department of Commerce

West Virginia Tourism Office, Fund 0246, Fiscal Year 2021, Org 0304

(To correct drafting error.)

- Replace the phrase at the end of the first paragraph that reads "... are hereby reappropriated for expenditure during the fiscal year 20201." with "... are hereby reappropriated for expenditure during the fiscal year 2021."

Department of Education

State Board of Education - State Department of Education, Fund 0313, Fiscal Year 2021, Org 0402

(To adjust the Teachers' Retirement Savings Realized appropriation based on the actuarial requirement from the West Virginia Consolidated Public Retirement Board.)

- Decrease "Teachers' Retirement Savings Realized" Appropriation 09500 by \$9,115,000.

State Board of Education - State Aid to Schools, Fund 0317, Fiscal Year 2021, Org 0402

(To adjust School Aid Formula based on final local share numbers.) (*subject to revision*)

- Increase "Improved Instructional Programs" Appropriation 15600 by \$ 105,056.
- Increase "21 st Century Strategic Technology Learning Growth" Appropriation 93600 by \$210,113.
- Increase "Teacher and Leader Induction" Appropriation 93601 by \$210,113
- Decrease "Less Local Share" line by (\$1,050,567) from (\$475,033,135) to (\$476,083,702).

(To adjust the State Aid Formula Teachers' Retirement System appropriations based on the actuarial requirement from the West Virginia Consolidated Public Retirement Board.)

- Decrease "Teachers' Retirement System" Appropriation 01900 by \$9,775,000.
- Decrease "Retirement Systems - Unfunded Liability" Appropriation 77500 by \$14,670,000.

Department of Health and Human Resources

Division of Health - Central Office, Fund 0407, Fiscal Year 2021, Org 0506

(To add reappropriation language.)

- Add an "(R)" to indicate reappropriation on the line item "Office of Medical Cannabis".
- Insert. into the reappropriation language after Statewide EMS Program Support (fund 0407, appropriation 38300), "... Office of Medical Cannabis (fund 0407, appropriation 42001),.. "

Division of Human Services, Fund 0403, Fiscal Year 2021, Org 0511

(To adjust Child Protective Services staffing improvement due to appropriation request error.) •

- Decrease "Current Expenses" Appropriation 13000 by \$ 1,158,301
- Increase "Personal Services and Employee Benefits" Appropriation 00100 by \$1,158,301.

(To maintain for Adult Protective Services staffing levels.)

- Increase "Personal Services and Employee Benefits" Appropriation 00100 by \$268,592.

Department of Military Affairs and Public Safety

Department of Military Affairs and Public Safety - Office of the Secretary, Fund 0430, Fiscal Year 2021, Org 0601

(To provide funding for the Narcotics Intelligence Unit.)

- Increase "Fusion Center" Appropriation 46900 by \$1,900,000.

Adjutant General - State Militia, Fund 043 3, Fiscal Year 2021,. Org 0603

(To adjust transfer language.)

- Remove "and the secretary of Military Affairs and Public Safety" from the second paragraph under item number 63 to read, "From the above appropriations an amount approved by the Adjutant General may be transferred to the State Armory Board for operation and maintenance of National Guard Armories."

West Virginia State Police, Fund 0453, Fiscal Year 2021, Org 0612

(To adjust the Trooper Retirement' Fund appropriation based on the actuarial requirement from the West Virginia Consolidated Public Retirement Board.)

- Decrease "Retirement Systems - Unfunded Liability" Appropriation 77500 by \$372,000.

Division of Justice and Community Services, Fund 0546, Fiscal Year 2021, Org 0623

(To separate the Justice Reinvestment Initiative program from the Community Corrections Appropriation.)

- Decrease "Community Corrections" Appropriation 56100 by \$2,332,101.
- Add "Justice Reinvestment Initiative" Appropriation 89501 for \$2,332,101.

(To correct appropriation name in reappropriation language.)

- Revise Law Enforcement Professional Standards - Surplus (fund 0546, appropriation 83899) to"... Law Enforcement Training- Surplus (fund 0546, appropriation 83899)... "

Department of Transportation

Aeronautics Commission, Fund 0582, Fiscal Year 2021, Org 0807

(To fully fund the Aeronautics staff.)

- Increase "Personal Services and Employee Benefits" Appropriation 00100 by \$45,000.

Section 3. Appropriations from other funds.

Executive

Treasurer's Office College Prepaid Tuition an(i Savings Program Administrative Account, Fund 1301, Fiscal Year 2021, Org 1300

(To increase spending authority to meeting operating needs.) • Increase “Current Expenses” Appropriation 13000 by \$278,000.

Department of Administration

Department of Administration - Office of the Secretary- Employee Pension and Health Care Benefit Fund, Fund 2044, Fiscal Year 2021, Org 0201

(To adjust spending authority to match the Teachers’ Retirement Realized Savings.)
 • Decrease “Current Expenses” Appropriation 13000 by \$9,115,000.

Department of Commerce

West Virginia Development Office - Department of Commerce - Marketing and Communications Operating Fund, Fund 3002, Fiscal Year 2021, Org 0307

(To reimburse general revenue for classified exempt positions.)
 • Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$131,682.
 • Decrease “Current Expenses” Appropriation 13000 by \$131,682.

Division of Labor - West Virginia Jobs Act Fund, Fund 3176, Fiscal Year 2021, Org 0308

(Add spending authority for the Jobs Act created through HB 205, passed October 17, 2017, before fund 3186.)

158a – Division-of Labor

West Virginia Jobs Act Fund

(WV Code Chapter 21)

Fund 3176 FY 2021 Org 0308

1	Current Expenses	13000	\$	75,000
2	Equipment	07000		<u>25,000</u>
3	Total		\$	100,000

Division of Labor- Weights and Measures Fund, Fund 3196, Fiscal Year 2021, Org 0308

(To realign spending authority to more accurately reflect anticipated revenues.)

- Decrease/eliminate “Personal Services and Employee Benefits” Appropriation 00100 by \$1,500,000.
- Decrease/eliminate “BRIM Premium” Appropriation 91300 by \$8,500
- Decrease “Current Expenses” Appropriation 13000 by \$127,000
- Decrease “Repairs and Alterations” Appropriation 06400 by \$18,000.
- Decrease “Equipment” Appropriation 07000 by \$5,000
- Add “Unclassified” Appropriation 09900 for \$1,200.

Division of Miners’ Health, Safety and Training - Special Health, Safety and Training Fund, Fund 3355, Fiscal Year 2021, Org 0314

(To increase spending authority to allow purchase of a building.)

- Increase “Buildings” Appropriation 25800 by \$2,000,000.

Department of Commerce - Office of the Secretary- Broadband Enhancement Fund, Fund 3013, Fiscal Year 2021, Org 0327

(To realign spending authority to add two new positions for Broadband work.)

- Add “Personal Services and Employee Benefits” Appropriation 00100 for \$131,682.
- Decrease “Current Expenses” Appropriation 13000 by \$131,682.

Department of Education

State Board of Education — School Construction Fund, Fund 3952, Fiscal Year 2021, Org 0404
 (To clarify fund name.) State Board of Education

School Building Authority

School Construction Fund

(WV Code Chapters 18 and 18a)

Fund 3952 FY 2021 Org 0404

Department of Health and Human Resources

Division of Health- West Virginia Birth-to-Three Fund, Fund 5214, Fiscal Year 2021, Org 0506
 (To increase spending authority due to increased costs.)

- Increase “Current Expenses” Appropriation 13000 by \$2,080,851.

Department of Military Affairs and Public Safety

State Armory Board- General Armory Fund, Fund 6057, Fiscal Year 2021, Org 0603
 (To adjust spending authority to meet anticipated expenditures.)

- Decrease “Buildings” Appropriation 25800 by \$250,000.
- Increase “Other Assets” Appropriation 69000 by \$250,000.

Division of Administrative Services - Second Chance Driver’s License Program Account, Fund 6810, Fiscal Year 2021, Org 0623

- (To increase spending authority to properly administer program.)
- Increase “Current Expenses” Appropriation 13000 by \$100,000.

Department of Transportation

Division of Highways-A. James Manchin Fund, Fund 8319, Fiscal Year 2021, Org 0803
 (To increase spending authority due to. increased costs for waste tire removal.)

- Increase “Current Expenses” Appropriation 13000 by \$850,000.

State Rail Authority- West Virginia Commuter Rail Access Fund, Fund 8402, Fiscal Year 2021, Org 0804 (Add spending authority with fund and item of appropriation appearing before “Department of Veterans’ Assistance” for transfer of General Revenue.)

266a - State Rail Authority

West Virginia Commuter Rail Access Fund

(WV Code Chapter 29)

Fund 8402 FY 2021 Org 0804

1	Current Expenses	13000	\$	2,800,000
---	------------------------	-------	----	-----------

Miscellaneous Boards and Commissions

Board of Barbers and Cosmetologists - Barbers and Beauticians Special Fund, Fund 5425, Fiscal Year 2021, Org 0505

- (To adjust spending authority to meet anticipated expenditures.)
- Decrease “Current Expenses” Appropriation 13000 by \$5,000

- Add “Repairs and Alterations” Appropriation 06400 for \$5,000.

Public Service Commission - Consumer Advocate Fund, Fund 8627, Fiscal Year 2021, Org 0926

(To adjust spending authority for increased expenses and a new position due to federal legislation.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$104,000.
- Increase “Current Expenses” Appropriation 13000 by \$1 10,000.

Section 4. Appropriations from lottery net profits.

Department of Education

State Department of Education - School Building Authority - Debt Service Fund, Fund 3963, Fiscal Year 2021, Org 0404

(To bring School Building Authority Lottery bond debt service into compliance with bond indentures.)

- Add the following directive language below the items of appropriation as follows:
“The above appropriation for Directed Transfer (fund 3963, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.”

Section 5. Appropriations from state excess lottery revenue.

State Department of Education -School Building Authority, Fund 3514, Fiscal Year 2021, Org 0404

(To bring School Building Authority Excess Lottery bond debt service into compliance with bond indentures.)

- Decrease “Debt Service - Total” Appropriation 31000 by \$100.
- Add “Direct Transfer” Appropriation 70000 for \$100.
- Add Total line for the fund.
- Add the following directive language below the items of appropriation as follows:
“The School Building Authority shall have the authority to transfer between the above appropriations in accordance with W.Va. Code §29-22-18a.
The above appropriation for Directed Transfer (fund 3514, appropriation 70000) may be transferred to the Department of Education, State Board of Education, School Building Authority, School Construction Fund, fund 3952, organization 0404 to be used for school construction and maintenance projects.”

Section 6. Appropriations of federal funds.

Department of Commerce

West Virginia Development Office, Fund 8705, Fiscal Year 2021, Org 0307

(To increase federal spending authority for the Apprenticeship Grant federal positions.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$250,000.

Division of Natural Resources, Fund 8707, Fiscal Year 2021, Org 0310

(To increase federal spending authority to enable expenditure of funds from federal grant and cooperative agreement programs.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$1,826,933.

Department of Education

State Board of Education - Vocational Division, Fund 8714, Fiscal Year 2021, Org 0402

(To increase federal spending authority due to gradually increasing federal appropriations.)

- Increase “Current Expenses” Appropriation 13000 by \$1,000,000.

State Board of Education - Aid for Exceptional Children, Fund 8715, Fiscal Year 2021, Org 0402

(To increase federal spending authority due to gradually increasing federal appropriations.)

- Increase “Current Expenses” Appropriation 13000 by \$10,000,000.

Department of Military Affairs and Public Safety

Adjutant General-State Militia, Fund 8726, Fiscal Year 2021, Org 0603

(To. adjust federal spending authority to hire additional staff for Mountaineer Challenge Academy.)

- Decrease “Military Authority” Appropriation 74800 by \$2,221,320.
- Increase “Mountaineer Challenge Academy” Appropriation 70900 by \$2,221,320.

Adjutant General - West Virginia National Guard Counterdrug Forfeiture Fund, Fund 8785, Fiscal Year 2021, Org 0603

(To adjust federal spending authority to have flexibility to use federal funds.)

- Decrease “Current Expenses” Appropriation 13000 by \$150,000.
- Add “Repairs and Alterations” Appropriation 06400 for \$50,000
- Decrease “Equipment” Appropriation 07000 by \$150,000.
- Add “Buildings” Appropriation 25 800 for \$100,000
- Add “Other Assets” Appropriation 69000 for \$100,000.
- Add “Land” Appropriation 73000 for \$50,000.

Division of Administrative Services, Fund 8803, Fiscal Year 2021, Org 0623

(To correct a drafting error.)

- Decrease “Unclassified” Appropriation 09900 by \$25,356,788.
- Increase “Current Expenses” Appropriation 13000 by \$25,380,223.
- Decrease “Repairs and Alterations” Appropriation 06400 by \$23,435.

Department of Transportation

Division of Motor Vehicles, Fund 8787, Fiscal Year 2021, Org 0802

(To adjust federal spending authority to allow the across-the-board increase provided in July 2019 to be charged to federal funding.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$50,000.
- Decrease “Current Expenses” Appropriation 13000 by \$50,000.

Aeronautics Commission, Fund 8831, Fiscal Year 2021, Org 0807

(Add federal spending authority for an Aviation Impact Study awarded from Federal Aviation Administration with fund and items of appropriation appearing before “Department of Veterans’ Assistance”.)

364a - Aeronautics Commission

(WV Code Chapter 29)

Fund 8831 FY 2021 Org 0807

1	Current Expenses	13000	\$	400,000
2	Other Assets	69000	\$	100
3	Total		\$	<u>400,100</u>

Miscellaneous Boards and Commissions

Public Service Commission - Motor Carrier Division, Fund 8743, Fiscal Year 2021, Org 0926

(To increase federal spending authority for installation of Smart Roadside Inspection System and purchase of License Plate Readers through a grant.)

- Increase "Equipment" Appropriation 07000 by \$934,500.

Section 7. Appropriations from federal block grants.

Department of Health and Human Resources

Division of Human Services - Energy Assistance, Fund 8755, Fiscal Year 2021, Org 0511

(To increase spending authority for complete spending of federal grant.)

- Increase "Current Expenses" Appropriation 13000 by \$5,000,000.

Section 9. Appropriations from lottery net profits surplus accrued.

To correct drafting error in sequential fund item numbering, renumber budget bill items to include item number 382.

Other Items for Consideration:

Since introduction of the FY 2021 Budget Bill and subsequent passage of the Senate Committee Substitute and Bouse Committee Substitute for the budget bill, please consider the following:

Public Defender Services, Fund 0226, Fiscal Year 2021, Org 0221

(To adjust funding for the hiring of two attorneys for the Habeas Corpus Division implemented through supplemental Senate Bill 571 which completed legislation.)

- Increase "Personal Services and Employee Benefits" Appropriation 13000 by \$188,402.
- Decrease "Appointed Counsel Fees" Appropriation 78800 by \$188,402.

Department of Transportation, State Rail Authority, Fund 0506, Fiscal Year 2021, Org 0804

As introduced, my budget included \$2.8 million in the General Revenue Fund, State Rail Authority to be transferred to the Commuter Rail Access Fund. I would ask that you reconsider your position and restore my requested recommendation by:

- Increasing "Current Expenses" Appropriation 13000 by \$1,800,000 to \$3,087,707 as per my original recommendation.
- Updating the directive language to indicate \$2,800,00 be transferred.

Another item for consideration, as Senate Bill 586 has completed Legislative action and in order to account for the changes resulting from the passage of the bill for inclusion in the FY 2021 Budget Bill, please consider the following:

(To more accurately account for the Adjutant General, General Revenue funds.)

- Add a "Miscellaneous Boards and Commissions" to Section 1, "Appropriations from General Revenue", immediately following the item for West Virginia State University, Fund 0373, Fiscal Year 2021, Org 0490 and before the total of TITLE II, Section 1 - General Revenue.
- Following the addition of the section above, move in its entirety Adjutant General - State Militia, Fund 0433, Org 0603 and Adjutant General - Military Fund, Fund 0605, Org 0603 from under Military Affairs and Public Safety to Miscellaneous Board and Commissions.

(To more accurately account for the Adjutant General, Special Revenue funds..)

- In Section 3 "Appropriations from Other Funds", "Miscellaneous Boards and Commissions", immediately following the item for Hospital Finance Authority - Hospital Finance Authority Fund, Fund 5475, Fiscal Year 2021, Org 0509 move in its entirety State Armory Board

General Amory Fund, Fund 6057, Org 0603 from under Military Affairs and Public Safety to Miscellaneous Boards and Commissions.

(To more accurately account for the Adjutant General, Federal Revenue funds.)

- In Section 6 "Appropriations of Federal Funds". "Miscellaneous Boards and Commissions", as the first item under Miscellaneous Boards and Commissions, move in its entirety Adjutant General - State Militia, Fund 8726, Org 0603 and Adjutant General - West Virginia National Guard Counterdrug Forfeiture Fund. Fund 8785, Org 0603 from under Military Affairs and Public Safety to Miscellaneous Boards and Commissions.

Thank you for your prompt attention of this matter. Your cooperation is always appreciated. Should you have any questions or require additional information, please call me at any time.

Sincerely,

Jim Justice,
Governor.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates to the Senate amendment and requested the House to recede from its amendment to

Com. Sub. for H. B. 4083, Requiring the West Virginia Parkways Authority to accept the use of credit and debit cards for paying tolls.

On motion of Delegate Summers, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates D. Jeffries, Hanna and Staggers.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4388, Limiting the Alcohol Beverage Control Commissioner's authority to restrict advertising.

Delegate Summers moved that the House of Delegates refuse to concur in the following amendment of the bill by the Senate, and requested the Senate to recede therefrom:

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

“ARTICLE 16. NONINTOXICATING BEER.

§11-16-2. Declaration of legislative findings, policy and intent; construction.

It is hereby found by the Legislature and declared to be the policy of this state that it is in the public interest to regulate and control the manufacture, sale, distribution, transportation, storage, and consumption of the beverages regulated by this article within this state and that, therefore, the provisions of this article are a necessary, proper, and valid exercise of the police powers of this state and are intended for the protection of the public safety, welfare, health, peace and morals and are further intended to eliminate, or to minimize to the extent practicable, the evils attendant to the unregulated, unlicensed, and unlawful manufacture, sale, distribution, transportation, storage, and consumption of such beverages and are further intended to promote temperance in the use and consumption thereof. In order to further these ends, the provisions of this article and of the rules ~~and regulations~~ promulgated pursuant thereto, shall be construed so that the accomplishment of these stated purposes may be effectuated.

§11-16-18. Unlawful acts of licensees; criminal penalties.

(a) It is unlawful:

(1) For any licensee, his, her, its, or their servants, agents, or employees to sell, give, or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected, nonintoxicating beer or cooler on weekdays between the hours of 2:00 a.m. and 7:00 a.m., or between the hours of 2:00 a.m. and 10:00 a.m., or a Class A retail dealer to sell nonintoxicating beer for on-premises consumption only between the hours of 2:00 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-1-3ss of this code, on any Sunday, except in private clubs licensed under the provisions of §60-7-1 *et seq.* of this code, where the hours shall conform with the hours of sale of alcoholic liquors;

(2) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably intoxicated or to any person known to be insane or known to be a habitual drunkard;

(3) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer as defined in this article to any person who is less than 21 years of age;

(4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer as defined in this article, except for cash and a right of action shall not exist to collect any claims for credit extended contrary to the provisions of this subdivision. Nothing herein contained in this section prohibits a licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid or deposited for the containers when title is retained by the vendor: *Provided*, That a distributor may accept an electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount for the nonintoxicating beer. The cost of the electronic fund transfer shall be borne by the retailer and the distributor shall initiate the transfer no later than noon of one business day after the delivery;

~~(5) For any brewer or distributor or brew pub or his, her, its or their agents to transport or deliver nonintoxicating beer as defined in this article to any retail licensee on Sunday;~~

~~(6) (5) For any brewer or distributor to give, furnish, rent, or sell any equipment, fixtures, signs, supplies, or services directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail or to offer any prize, premium, gift, or other similar inducement, except advertising matter, including indoor electronic or mechanical signs, of nominal value up to \$50.00 as authorized by the commissioner, to either trade or consumer buyers: *Provided*, That a distributor may offer, for sale or rent, tanks of carbonic gas. *Provided however, that, in the interest of public health and safety, a distributor may, independently or through a subsidiary or affiliate, furnish, sell, install, or maintain draught line equipment, supplies, and cleaning services to a licensed retailer so long as the furnishing or sale of draught line services are not provided at a price less than their fair market value. For the purposes of this section, 'equipment, supplies, and cleaning services' means glassware, standards, faucets, cold plates, rods, vents, taps, tap standards, hoses, washers, couplings, gas gauges, vent tongues, shanks, check valves, and carbon dioxide (or other gasses used to dispense nonintoxicating beer), ice, and services related to the installation and maintenance thereof.* Nothing contained in this section prohibits a brewer from sponsoring any professional or amateur athletic event or from providing prizes or awards for participants and winners in any events. *: Provided, however, That no event shall be sponsored which permits actual participation by athletes or other persons who are minors, unless specifically authorized by the commissioner.*~~

~~(5) (6) For any brewer or distributor to sponsor any professional or amateur athletic event or provide prizes or awards for participants and winners when a majority of the athletes participating in the event are minors, unless specifically authorized by the commissioner;~~

~~(6) (7) For any retail licensee to sell or dispense nonintoxicating beer through draught lines where the draught lines have not been cleaned at least every two weeks in accordance with rules promulgated by the commissioner, and where written records of all cleanings are not maintained and available for inspection;~~

~~(7) (8) For any licensee to permit in his or her premises any lewd, immoral, or improper entertainment, conduct, or practice;~~

~~(8) (9) For any licensee except the holder of a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code or a holder of a license or a private wine restaurant issued under the provisions of §60-8-1 *et seq.* of this code to possess a federal license, tax receipt, or other permit entitling, authorizing, or allowing the licensee to sell liquor or alcoholic drinks other than nonintoxicating beer;~~

~~(9) (10) For any licensee to obstruct the view of the interior of his or her premises by enclosure, lattice, drapes, or any means which would prevent plain view of the patrons occupying the premises. The interior of all licensed premises shall be adequately lighted at all times: *Provided*, That provisions of this subdivision do not apply to the premises of a Class B retailer, the premises of a private club licensed under the provisions of §60-7-1 *et seq.* of this code, or the premises of a private wine restaurant licensed under the provisions of §60-8-1 *et seq.* of this code;~~

~~(10) (11) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in the sale, possession, or consumption of any alcoholic liquors on the premises covered by a license or on premises directly or indirectly used in connection with it: *Provided*, That the prohibition contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale,~~

possession, or consumption of alcoholic liquors is not applicable with respect to the holder of a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code nor shall the prohibition be applicable to a private wine restaurant licensed under the provisions of §60-8-1 *et seq.* of this code insofar as the private wine restaurant is authorized to serve wine;

~~(41)~~ (12) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this article, purchased, or acquired from any source other than a distributor, brewer, or manufacturer licensed under the laws of this state;

~~(42)~~ (13) For any licensee to permit loud, boisterous, or disorderly conduct of any kind upon his or her premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community where the business is located: *Provided*, That a licensee may have speaker systems for outside broadcasting as long as the noise levels do not create a public nuisance or violate local noise ordinances;

~~(43)~~ (14) For any person whose license has been revoked, as provided in this article, to obtain employment with any retailer within the period of one year from the date of the revocation, or for any retailer to knowingly employ that person within the specified time;

~~(44)~~ (15) For any distributor to sell, possess for sale, transport, or distribute nonintoxicating beer except in the original container;

~~(45)~~ (16) For any licensee to knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state;

~~(46)~~ (17) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or her licensed premises;

~~(47)~~ (18) For any Class A licensee, his, her, its, or their servants, agents, or employees, or for any licensee by or through any servants, agents, or employees, to allow, suffer, or permit any person less than 18 years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision do not apply where a person under the age of 18 years is in or upon the premises in the immediate company of his or her parent or parents, or where and while a person under the age of 18 years is in or upon the premises for the purpose of and actually making a lawful purchase of any items or commodities sold, or for the purchase of and actually receiving any lawful service rendered in the licensed premises, including the consumption of any item of food, drink, or soft drink lawfully prepared and served or sold for consumption on the premises;

~~(48)~~ (19) For any distributor to sell, offer for sale, distribute, or deliver any nonintoxicating beer outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating beer or to sell, offer for sale, distribute, or deliver nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of the nonintoxicating beer: *Provided*, That nothing in this section is considered to prohibit sales of convenience between distributors licensed in this state where one distributor sells, transfers, or delivers to another distributor a particular brand or brands for sale at wholesale; and

~~(49)~~ (20) For any licensee or any agent, servant, or employee of any licensee to knowingly violate any rule lawfully promulgated by the commissioner in accordance with the provisions of chapter 29A of this code.

(b) Any person who violates any provision of this article, including, but not limited to, any provision of this section, or any rule, or order lawfully promulgated by the commissioner, or who makes any false statement concerning any material fact in submitting an application for a license or for a renewal of a license or in any hearing concerning the revocation of a license, or who commits any of the acts in this section declared to be unlawful is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than \$25, nor more than \$500, or confined in the county or regional jail for not less than 30 days nor more than six months, or by both fine and confinement. Magistrates have concurrent jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for the trial of all misdemeanors arising under this article.

(c) (1) A Class B licensee that:

(A) Has installed a transaction scan device on its licensed premises; and

(B) Can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold, furnished, or given away by the use of the transaction device may not be subject to: (i) Any criminal penalties whatsoever, including those set forth in subsection (b) of this section; (ii) any administrative penalties from the commissioner; or (iii) any civil liability whatsoever for the improper sale, furnishing, or giving away of nonintoxicating beer to an individual who is less than 21 years of age by one of his or her employees, servants, or agents. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to the criminal penalties of subsection (b) of this section. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to termination from employment, and the employer shall have no civil liability for the termination.

(2) For purposes of this section, a Class B licensee can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold by providing evidence: (A) That it has developed a written policy which requires each employee, servant, or agent to verify the age of each individual to whom nonintoxicating beer will be sold, furnished, or given away; (B) that it has communicated this policy to each employee, servant, or agent; and (C) that it monitors the actions of its employees, servants, or agents regarding the sale, furnishing, or giving away of nonintoxicating beer and that it has taken corrective action for any discovered noncompliance with this policy.

(3) 'Transaction scan' means the process by which a person checks, by means of a transaction scan device, the age and identity of the cardholder, and "transaction scan device" means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver's license or other governmental identity card.

(d) Nothing in this article nor any rule or regulation of the commissioner shall prevent or be considered to prohibit any licensee from employing any person who is at least 18 years of age to serve in the licensee's lawful employ, including the sale or delivery of nonintoxicating beer as defined in this article. With the prior approval of the commissioner, a licensee whose principal business is the sale of food or consumer goods, or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores, and convenience stores, may employ persons who are less than 18 years of age but at least 16 years of age: *Provided*, That the person's duties may not include the sale or delivery of nonintoxicating beer or alcoholic liquors: *Provided, however*, That the authorization to employ persons under the age of 18 years shall be clearly indicated on the licensee's license."

And,

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

Com. Sub. for H. B. 4388 – “A Bill to amend and reenact §11-16-2 and §11-16-18 of the Code of West Virginia, 1931, as amended, all relating to amending restrictions on advertising, equipment, and services by licensees; eliminating distributor’s prohibition on delivering nonintoxicating beers to retailers on Sundays; detailing circumstances where a distributor may provide draught line services to a licensed retailer; limiting sponsorship of certain athletic events by distributors and brewers where the majority of athletes are minors; and establishing provisions for the cleaning of draught lines, and maintenance of records.”

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. 4004, Creating the West Virginia Sentencing Commission.

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

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

“ARTICLE 9. GOVERNOR’S COMMITTEE ON CRIME, DELINQUENCY, AND CORRECTION.

§15-9-4. Criminal sentencing research Sentencing Commission Subcommittee.

~~The Governor’s committee on crime, delinquency and correction shall conduct comprehensive research on the state’s criminal sanctioning process for adult offenders. The purpose of the research is to promote a fuller understanding of this state’s criminal justice system, and shall include the review of issues of sentence length imposed, actual sentence length served, parole eligibility, parole revocation, determinate or indeterminate sentences, availability of alternatives to incarceration for certain offenses, and the respective roles that each of these and other criminal sanction issues may play in the increased demand for prison bed space. The committee shall report to the Governor and the Legislature on or before January 1, 2004, and at its discretion thereafter, the findings of its research and make any recommendations for modifications of criminal sentencing laws or procedures provided that no such recommendations or modifications shall become effective without further action of the Legislature~~

Effective July 1, 2020, the Governor’s Committee on Crime, Delinquency, and Correction shall establish a subcommittee to be known as the West Virginia Sentencing Commission. To the extent requested or necessary, the commission shall be staffed and supported by the Division of Administrative Services of the Department of Military Affairs and Public Safety. The commission, by and through the division, may seek and use funding and grants in furtherance of the purposes and mission of the commission.

ARTICLE 9C. WEST VIRGINIA SENTENCING COMMISSION.

§15-9C-1. Legislative findings.

The Legislature finds and declares that there is:

(1) A need for fair and uniform sentencing;

(2) A need for research on issues regarding sentencing in order to promote a fuller understanding of the efficient, just, and fair operation of this state's criminal justice system;

(3) A need for establishing priorities with regard to the severity of the criminal offenses; and

(4) A need to use the limited correctional resources in the state in a manner best able to fulfill the goals of criminal punishment, rehabilitation, and protection of the public while preventing disparate treatment of offenders based on racial, ethnic, cultural, economic, or other factors related to the social status of the offender.

§15-9C-2. Creation of Sentencing Commission; purpose; composition.

(a) The West Virginia Sentencing Commission is hereby created as a subcommittee of the Governor's Committee on Crime, Delinquency, and Correction.

(b) The purpose of the commission is to promote a fuller understanding of this state's criminal justice sentencing system, and shall include the review and research of issues of sentence length imposed, actual sentence length served, parole eligibility, parole revocation, determinate or indeterminate sentences, availability of alternatives to incarceration for certain offenses, and the respective roles that each of these and other criminal sanction issues may play in the increased demand for prison bed space.

(c) The commission consists of the following members, who serve without compensation:

(1) The Secretary of the Department of Military Affairs and Public Safety, or his or her designee;

(2) Two prosecuting attorneys, or assistant prosecuting attorneys, from two different counties chosen by the President of the West Virginia Prosecuting Attorneys Association;

(3) Two public defenders, or assistant public defenders, or panel attorneys who primarily do court-appointed criminal representation, from two different judicial circuits chosen by the Director of the Public Defender Services;

(4) One representative from the West Virginia Chief of Police Association who shall be chosen by the executive director of that organization;

(5) One representative from the West Virginia Sheriff's Association who shall be chosen by the executive director of that organization;

(6) Two representatives from the West Virginia Judicial Association who are current or senior status circuit court judges and chosen by the executive committee of that organization, who shall serve as ex officio members;

(7) One member of the West Virginia Association on Alcoholism and Drug Abuse Counselors who shall be chosen by the president of the organization;

(8) Two members of the West Virginia Legislature, one chosen by the Speaker of the House and one chosen by the President of the Senate, who shall serve as ex officio members of the commission; and

(9) One professor of law with experience in the practice and teaching of criminal law appointed by the Dean of the West Virginia University College of Law.

(d) Each member serves a two-year term, except for the ex officio members who serve as long as they hold their respective offices.

(e) The chairperson of this commission shall be elected by the other members of the commission. The first meeting shall be chaired by the Director of the Division of Administrative Services of the Department of Military Affairs and Public Safety.

(f) Six members of the commission shall constitute a quorum.

(g) The Director of the Division of Administrative Services serves as executive director of the commission and the division shall provide administrative services to the commission.

§15-9C-3. Powers and duties of the commission.

(a) The Sentencing Commission established pursuant to this article:

(1) May request information, data, and reports from any officer or agency of the state government, as required by the commission and as may be produced consistent with other laws;

(2) Issue invitations requesting the attendance and testimony of witnesses and the production of any evidence that relates directly to a matter with respect to which the commission or any member of the commission is empowered to make a determination under this article;

(3) Shall establish a research and development program within the commission for the purpose of:

(A) Serving as a clearinghouse and information center for the collection, preparation, and dissemination of information on sentencing practices; and

(B) Assisting and serving in a consulting capacity to state courts, departments, and agencies in the development, maintenance, and coordination of sound sentencing practices;

(4) Shall collect data obtained from studies, research, and the empirical experience of public and private agencies concerning the sentencing processes;

(5) Shall publish data concerning the sentencing process;

(6) Shall collect and disseminate information concerning sentences actually imposed;

(7) Shall collect and disseminate information regarding effectiveness of sentences imposed;

(8) Shall make recommendations to the Legislature concerning modification or enactment of sentencing and correctional statutes which the commission finds to be necessary and advisable to carry out an effective, humane, and rational sentencing policy;

(9) Shall establish a plan and timetable to collect and disseminate information relating to incapacitation, recidivism, deterrence, and overall effectiveness of sentences imposed;

(10) Shall provide recommendations to the Legislature for the creation of programs and establishment of facilities in the state that provide how the state can best shift its expenditures in a revenue-neutral fashion away from incarceration to treatment programs, facilities, and related services;

(11) Shall conduct a comprehensive review and study of national and local trends and programs that have proven successful in addressing and overcoming addiction and identifying the nature of the causes of addiction and criminal behavior related to drug addiction; and

§15-9C-4. Objectives of the commission.

In performing its powers and duties, the commission shall pursue the following objectives:

(1) Promoting sentencing that more accurately reflects the time that an offender will actually be incarcerated;

(2) Reducing unwarranted disparity in sentences for offenders who have committed similar offenses and have similar criminal histories;

(3) Preserving meaningful judicial discretion in the imposition of sentences and sufficient flexibility to permit individualized sentences;

(4) Ensuring that sentencing judges in every jurisdiction in the state are able to impose the most appropriate criminal penalties, including correctional options programs for appropriate nonviolent offenders; and

(5) Determining whether the state needs to set out all criminal offenses in terms of priority and in order of severity and harm to society, and to provide alternatives to incarceration for certain offenses.

§15-9C-5. Recommendations to Legislature.

(a) In addition to the dissemination of information set forth in §15-9C-3 of this code, the commission shall provide, on or before January 1, 2022, an assessment and report to the Legislature as its findings, analysis, and recommendations, if any, as to the state's sentencing and correctional laws and policies.

(b) As part of the report set forth in subsection (a) of this section, the commission may, or at the request of the President of the Senate and the Speaker of the House of Delegates, shall make recommendations regarding the following issues:

(1) Whether the state should adopt discretionary sentencing guidelines and, if so, what type of discretionary sentencing guidelines should be adopted;

(2) Whether the state should alter the manner in which an inmate obtains credit for good time;

(3) Whether the state needs to take action to ensure that there is a coordinated system of alternatives to incarceration at the state and county levels and, if so, what action should be taken;

(4) Whether the state should establish additional guidelines and procedures to examine or reexamine the reduction of long-term sentences of individuals who are not a danger to public safety; and

(5) Any other matters relating to state and local laws and policies governing sentencing, parole, mandatory supervision, and correctional alternative programs.

§15-9C-6. Sunset.

The Sentencing Commission Subcommittee established in this article terminates on June 30, 2023, unless continued by the Legislature.”

And,

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

Com. Sub. for H. B. 4004 – “A Bill to amend and reenact §15-9-4 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §15-9C-1, §15-9C-2, §15-9C-3, §15-9C-4, §15-9C-5, and §15-9C-9, all relating to creating the West Virginia Sentencing Commission as a subcommittee of the Governor’s Committee on Crime, Delinquency and Correction; authorizing the commission to seek and use funding and grants; setting forth legislative findings; setting forth the purpose of the commission; establishing composition and membership of commission; setting forth the powers and duties of the commission; setting forth objectives for the commission; directing commission provide assessment and recommendations to the Legislature; authorizing the commission to make additional recommendations to the Legislature; and establishing an internal effective date and termination date for the subcommittee.”

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. 700**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Cadle, McGeehan and Wilson.

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4004) passed.

Delegate Kessinger moved that the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 701**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Queen and Steele.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4004) takes effect July 1, 2020.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4017, Establishing country roads accountability and transparency.

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

On page three, section six-b, after line forty-two, by inserting a new subsection, designated subsection (e), to read as follows:

“(e) Nothing in this section may be construed to require the commissioner to provide information in a form that is not already available in the Division of Highways’ accounting system: *Provided*, That when funding action or expenditure is not available separately for a road, the commissioner shall provide available information by county.”

And,

By relettering the remaining subsection.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 702**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4017) 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. 4020, Removing authority of municipalities to require occupational licensure if licensure for the occupation is required by the state.

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

On page one, section three-tt, line one, by striking out the word “chapter” and inserting in lieu thereof the word “code”.

And,

On page one, section twenty, line one, by striking out the word “chapter” and inserting in lieu thereof the word “code”.

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. 703**), and there were—yeas 59, nays 40, absent and not voting 1, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Queen.

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. 4020) 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. 4395, Removing the requirement that a veterinarian access and report to the controlled substance monitoring database.

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

On page seven, section five-a, line twelve, by striking out “§30-7-1” and inserting in lieu thereof “§30-4-1”.

On page seven, section five-a, line fourteen, by striking out the word “and”.

And,

On page seven, section five-a, after the word “code,” by inserting the words “and a pharmacist licensed by the West Virginia Board of Pharmacy as set forth in §30-5-1 *et seq.*”.

And,

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

Com. Sub. for H. B. 4395 – “A Bill amend and reenact §60A-1-101 of the Code of West Virginia, 1931, as amended, relating to the controlled substances monitoring database; removing the requirement that a veterinarian monitor the controlled substance monitoring database; adding the requirement that a pharmacist licensed by the West Virginia Board of Pharmacy monitor the controlled substance database; and updating the code to reflect previous changes.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 704**), and there were—yeas 93, nays 6, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Byrd, Doyle, Fleischauer, Pushkin, Robinson and Rowe.

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4395) 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. 4560, Relating to deliveries by a licensed wine specialty shop.

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

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

“ARTICLE 8. SALES OF WINES.

§60-8-6b. Deliveries by licensed wine specialty shop.

(a) A wine specialty shop with a current active license and in good standing with the commissioner may apply for the additional license privilege of delivering wine with a gift basket, to the purchaser or other person designated by the purchaser, as provided in this section.

(b) The wine specialty shop:

(1) May only deliver in the county where the wine specialty shop is located with all sales and municipal taxes accounted for and paid, as long as such county is not a dry county or such county does not contain dry local option areas. The delivery of wine is not permitted in a dry county or the dry local option areas;

(2) Shall ensure that all wine delivered is sealed in the original container and is clearly and conspicuously labeled with the words ‘CONTAINS ALCOHOL: SIGNATURE OF PERSON 21 OR OLDER REQUIRED FOR DELIVERY’;

(3) Shall provide proof or records to the commissioner by filing monthly returns to the commissioner, on a form as prescribed by the commissioner, and the Tax Commissioner of all deliveries of wine which were purchased by and delivered to a person at least 21 years of age in the wine specialty shop’s county of operation;

(4) Shall only deliver wine with a gift basket to addresses within the State of West Virginia and within the requirements noted in this subsection;

(5) Shall not deliver in excess of two cases of wine with a gift basket per month to any person or address;

(6) Shall not deliver wine to any private club, private wine restaurant, wine retailer, private wine bed and breakfast, or private wine spa; and

(7) May only deliver wine with a gift basket for personal use and not for resale to a person. The wine shall not be delivered and left at any address without verifying a person's age and identification as required in this section.

(c) The nonprorated, nonrefundable fee for the additional wine specialty shop delivery license privilege is \$250.

(d) The wine delivered by the authority of this section ~~must be purchased in person with a face-to-face transaction at the shop;~~ may not be ordered or purchased by telephonic, electronic, mobile, or web-based wine ordering when the purchaser is verified to be 21 years of age or older, and must be delivered by an officer or employee of the wine specialty shop licensee who is 21 years of age or older. If the person receiving the delivery is not the purchaser, the licensee must verify that the person receiving the wine is 21 years of age or older and not noticeably intoxicated prior to completing the delivery. Nonlicensed third parties may not deliver wine with a gift basket on behalf of a licensed wine specialty shop.

(e) Any vehicle delivering wine in a gift basket shall meet the permit requirements set forth in this chapter.

(f) The commissioner may propose rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to effectuate the purposes of this section.”

And,

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

Com. Sub. for H. B. 4560 – “A Bill to amend and reenact §60-8-6b of the Code of West Virginia, 1931, as amended, relating to permitting licensed wine specialty shops to sell wine with a gift basket by telephonic, electronic, or web-based wine ordering; and establishing requirements for lawful delivery.”

With the further amendment, sponsored by Delegate Shott, being as follows:

On page two, section six-b, line twenty-nine, after the word “older”, by inserting the word “and”.

And,

The further title amendment sponsored by Delegate Shott, amending the title of the bill to read as follows:

H. B. 4560 – “A Bill to amend and reenact §60-8-6b of the Code of West Virginia, 1931, as amended, relating to permitting licensed wine specialty shops to sell wine with a gift basket by

telephonic, electronic, mobile, or web-based wine ordering; and establishing requirements for lawful delivery.”

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. 705**), and there were—yeas 86, nays 13, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bartlett, Butler, Cadle, Fast, D. Jeffries, Jennings, Kump, Mandt, C. Martin, P. Martin, Porterfield, Rowan and Toney.

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4560) passed.

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

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. 4619, Approving plans proposed by electric utilities to install middle-mile broadband fiber.

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

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

“CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWER AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1o. Middle-Mile Fiber Broadband Infrastructure Expansion Program.

(a) Legislative findings. The Legislature finds:

(1) That access to broadband services is of critical importance to and a necessary prerequisite for enabling economic development in the state and for improving education, health care, public safety and government services, among other benefits to its citizens;

(2) That broadband expansion into unserved rural areas of the state continues to be an issue of importance to the Legislature, and progress is hindered by lack of full development of middle-mile broadband fiber infrastructure within the state;

(3) That the issues which have hindered the provision of broadband access to rural areas of the state especially disadvantage the elderly and low-income households;

(4) That it continues to be a primary goal of the Legislature to make every municipality, community, and rural area in this state accessible to Internet communications through the expansion, extension, and general availability of broadband services and technology;

(5) That regulated electric utilities have existing distribution infrastructure in place throughout the state, and that their existing and new infrastructure could be utilized in connection with construction of middle-mile broadband fiber assets;

(6) That it is in the public interest to expedite construction of middle-mile broadband fiber infrastructure to provide the necessary architecture to facilitate additional broadband Internet access to individuals and institutions in unserved areas of the state; and

(7) That it is appropriate to establish a program to allow electric utilities to construct middle-mile fiber broadband assets within the power supply zone utilizing existing and new electric utility distribution assets in a manner that addresses the needs of the public and is consistent with the operational concerns of the electric utilities that may participate in this program.

(b) *Definitions.* For purposes of this section:

'Commission' means the Public Service Commission of West Virginia.

'Council' means the Broadband Enhancement Council, as defined in §31G-1-1, *et seq.* of this code.

'Electric utility' means any electric utility operating within this state that is regulated by the commission: *Provided*, That an electric utility that has installed middle-mile fiber broadband infrastructure pursuant to this section shall not be considered a public utility engaged in the transmission of messages by telephone, telegraph or radio for purposes of §24-2-1(a) of this code.

'Program' means the Middle-mile fiber Broadband Expansion Program established pursuant to subsection (c) of this section.

'Project' means one or more middle-mile fiber infrastructure expansion projects, including any portion of such projects to be used for the electric utility's communication needs, proposed by an electric utility and approved by the commission pursuant to subsection (e) of this section as part of the program.

'Served' means any area with broadband service as defined in §31G-1-2 of this code.

'Unserved' means any area without broadband service as defined in §31G-1-2 of this code.

(c) *Establishment of program.* Commencing July 1, 2020, the Middle-Mile Fiber Broadband Infrastructure Expansion Program is hereby authorized and established.

(d) *Authorizing participation.* An electric utility having distribution infrastructure in this state may participate in the program pursuant to the provisions of this section.

(e) *Powers and duties of Public Service Commission to act on written plans and amendments to written plans.* The commission shall have the following powers and duties in connection with the program:

(1) Review, approve, or reject each written plan submitted by an electric utility pursuant to subsection (f) of this section. A written plan shall be approved if the commission determines that the proposed plan is reasonable, prudent, useful, and is not contrary to the public interests, considering the interests of the potential broadband users and the electric utility customers.

(2) Review, approve, or reject amendments to written plans submitted by an electric utility pursuant to subsection (f) of this section. Amendments to a written plan shall be approved if the commission determines that the proposed amendments to a written plan are reasonable, prudent, useful and not contrary to the public interest considering the interests of the potential broadband users and the electric utility customers.

(3) Perform any other duties necessary to effectuate the provisions of this section.

(f) *Written plan.* Following the council's determination that construction, installation, operation, and repair of a middle-mile broadband infrastructure expansion project by an electric utility is feasible pursuant to §31G-4-5 of this code, the electric utility shall file a written plan and application seeking the commission's approval of the project and its associated cost recovery. The written plan and application is in lieu of a proceeding pursuant to §24-2-11 of this code and shall contain the following:

(1) The route of the middle-mile fiber infrastructure proposed for the project, the number of fiber strands that would be utilized in connection with the proposed project and dedicated to serve as the middle-mile, the location of the electric utility's distribution infrastructure that will be utilized in connection with the proposed project, the capacity or number of fiber strands of the middle-mile that will be available to lease to non-governmental last-mile broadband Internet providers and other third parties upon completion of the proposed project, and the commitment of at least one non-governmental last-mile broadband Internet provider that will lease access to the middle-mile fiber assets constructed as part of the proposed project, and an estimate of potential broadband customers, determined in consultation with the council, that would be served by the middle-mile infrastructure;

(2) The estimated cost of the proposed project, including, but not limited to, engineering costs, construction costs, permitting costs, right of way costs and a reasonable allowance for funds used during construction;

(3) Proposed schedule of construction of the proposed project;

(4) Method of attachment and connection of the middle-mile broadband fiber assets to the electric utility's distribution infrastructure;

(5) Testimony, exhibits or other evidence that demonstrates the project is reasonable, prudent, useful and not contrary to the public interest;

(6) A cost recovery mechanism that allocates all net costs to be recovered under this section on a distribution-level basis; and

(7) Other information the applicant considers relevant or the commission requires.

(g) The electric utility shall publish, in the form the commission directs, which form shall include, but not be limited to, the anticipated monthly and yearly electric rate increase, if any, and actual rates under the proposal, by average percentage and dollar amount for customers within a class of service, as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, the publication area to be each county in which service is provided by the electric utility, a notice of the

filing of the application and that the commission shall hold a hearing on the application within 90 days of the notice; unless no opposition to the plan or the rate change is received by the commission within the time limits established by the commission, in which case the hearing can be waived, and the commission shall issue a final order within 150 days of the application filing date: *Provided*: That upon the request of any interested person or entity, the commission shall allow for the submission of comments on the feasibility of the plan.

(h) Upon notice and hearing, if required by the commission, the commission shall approve the plan and allow expedited recovery of costs related to the expenditures as provided in subsection (f) of this section if the commission finds that the expenditures and the associated rate requirements are just, reasonable, not contrary to the public interest, and will allow for the provision and maintenance of adequate, efficient, safe, reliable and reasonably priced middle-mile fiber broadband service.

(i) The council or the commission may not act to limit the number of last-mile broadband Internet providers eligible to be contracted to utilize the middle-mile fiber infrastructure constructed as part of a project proposed pursuant to this section. No board, commission, agency, or other governmental body may regulate the costs extended to a broadband customer from any last-mile broadband Internet service provider. Nothing in this subsection shall prevent the commission from reviewing, modifying, and approving or denying the cost or means of providing a middle-mile fiber proposed project pursuant to this section.

(j) Upon commission approval, an electric utility will be authorized to implement the plan and to recover related project costs, net of any middle-mile broadband revenues or contributions in aid of construction, as provided in the following:

(1) An allowance for return shall be calculated by applying a rate of return to the planned net incremental increase to rate base attributable to the project for the coming year, considering the projected amount and timing of expenditures under the project, plus any expenditures in previous years of the project. The rate of return shall be determined by utilizing the rate of return on equity authorized by the commission in the electric utility's most recent rate case proceeding or in the case of a settled rate case, a rate of return on equity as determined by the commission, and the projected cost of the electric utility's debt during the period of the project to determine the weighted cost of capital based upon the electric utility's capital structure.

(2) Income taxes applicable to the return allowed on the project shall be calculated for inclusion in rates at the federal and state statutory rates.

(3) Depreciation and property tax expenses directly attributable to the project shall be estimated for the upcoming year.

(4) Operation and maintenance expense specifically and directly related to operation and maintenance of the middle-mile fiber broadband facilities.

(5) Following commission approval of the project and related cost recovery mechanism, an electric utility shall place into effect a commission approved reconcilable rate surcharge that recovers the revenue requirement of the allowance for return, related income taxes, operation and maintenance expenses, depreciation, property tax expenses associated with the electric utility's estimated project investments for the upcoming year, net of middle-mile revenue or contributions in aid of construction recovery of those costs provided by last mile broadband Internet providers upon completion of the project, if any ('middle-mile cost recovery rates'). In each year subsequent to the order approving the project and middle-mile cost recovery rates, the electric utility shall file a petition

with the commission setting forth new proposed middle-mile cost recovery rates that recover the revenue requirement of the project investments previously installed and projected costs of the project based on investments to be made in the subsequent year, plus any under-recovery or minus any over-recovery of actual costs attributable to the project, for the preceding year.

(k) The electric utility may make any accounting accruals necessary to establish a regulatory asset or liability through which actual costs incurred and costs recovered through the rate mechanism are tracked.

(l) Construction, installation, operation, maintenance, and repair of middle-mile fiber expansion projects. Subject to continuing authority of the commission to determine the reasonableness of acts and practices, for all projects contained in a written plan approved by the commission pursuant to subsection (e) of this section, and constructed, installed, operated, maintained, and repaired by an electric utility pursuant to this section, the electric utility shall have control of the scope, scheduling and execution of the project to construct, install, operate, maintain and repair middle-mile fiber assets, including fiber build route selection and build and splice schedules. The electric utility shall be entitled to reestablish electric service and assure safety of its workers prior to restoration of middle-mile fiber broadband service in order to ensure operational safety matters of the shared infrastructure. Additionally, the electric utility shall be entitled to use contractors chosen and approved by the electric utility to construct, install, operate, maintain, and repair middle-mile fiber assets pursuant to this section because of its or electric utility's knowledge of hazards in the power supply zone and the associated controls to reduce the risks involved. Nothing in this section confers any rights to work in the power supply space except by the electric utility and its designated contractors.

(m) Attachment and connection of middle-mile fiber assets. An electric utility participating in the program shall have sole control of the location and method of attachment and connection of middle-mile fiber assets to the electric utility's distribution infrastructure, unless otherwise ordered by the commission.

(n) Management of fiber projects. In order to manage operations, an electric utility participating in the program shall manage and document the entities that lease middle-mile fiber assets for last-mile operations, including, but not limited to, outage notification and management.

(o) Notwithstanding anything in this code or in the articles of incorporation of an electric utility to the contrary, an electric utility may, either directly or indirectly or through an affiliate or subsidiary, pursuant to a written plan approved by the commission:

(1) Own, manage or control any broadband capacity, number of fiber strands, equipment and electronics, including any plant, works, system, lines, facilities or properties, or any part or parts thereof, together with all appurtenances thereto, used or useful in connection with the provisions and extension of such broadband services;

(2) Lease such broadband capacity, number of fiber strands, equipment, or electronics to non-governmental Internet service providers and other third parties, on a nonexclusive basis; and

(3) Provide access points that are outside the electric utility's power supply zone to allow connection between the electric utility's broadband capacity system or fiber strands, and any non-governmental Internet service provider's or other third party's system.

CHAPTER 31G. BROADBAND ENHANCEMENT AND EXPANSION POLICIES.

ARTICLE 4. MAKE-READY POLE ACCESS.**§31G-4-5. Electric power utilities; feasibility study for providing broadband services; Public Service Commission to assist; proposed legislation to be developed; report.**

(a) For purposes of this section:

(1) 'Commission' shall mean the West Virginia Public Service Commission.

(2) 'Council' shall mean the Broadband Enhancement Council, as defined in §31G-1-1 of this code.

(3) 'Electric utility' shall mean any electric utility operating within this state that is regulated by the commission.

(4) 'Project' shall mean a middle-mile broadband infrastructure expansion project proposed by an electric utility.

(b) Each electric utility may investigate the feasibility of constructing and operating a project within the electric utility distribution system and, if it so elects, may submit a feasibility study of a proposed project to the council on or before December 1, 2019. Additional feasibility studies may be submitted to the council after December 1, 2019, without penalty.

(c) The council and the commission shall assist each such electric utility in its preparation of such a feasibility study.

(d) The feasibility study shall include an evaluation of the following:

(1) The scope of the proposed project for which the feasibility study is conducted, which shall include, but not be limited to:

(A) The route of the middle-mile infrastructure proposed for the project, the number of fiber strands that would be utilized in connection with the proposed project and dedicated to serve as the middle-mile, the location of the electric utility's distribution infrastructure that will be utilized in connection with the proposed project, the capacity of the middle-mile broadband infrastructure that will be available to lease to last-mile broadband Internet providers upon completion of the proposed project;

(B) The estimated cost of the proposed project, including but not limited to engineering costs, construction costs, permitting costs, materials and labor, right-of-way costs, and a reasonable rate of return to the electric utility;

(C) The proposed schedule of construction of the proposed project; and

(D) The method of attachment and connection of the middle-mile broadband fiber assets to the electric utility's distribution infrastructure;

(2) The regulatory and legal barriers to an electric utility constructing a project and operating middle-mile broadband infrastructure to provide access to unserved areas of the state, as defined in §31G-1-2 of this code, ~~and any underserved areas of the state~~, and proposed legislation to address such regulatory barriers;

(3) Whether it is in the public interest and the interest of the electric utility to make improvements to the distribution grid in furtherance of providing such middle-mile broadband Internet services in conjunction with its program of electric distribution projects;

(4) Whether it is in the public interest and the interest of the electric utility to operate middle-mile broadband Internet assets to provide access to unserved ~~and underserved~~ areas of the state;

(5) Whether it is in the public interest and the interest of the electric utility to permit a third party to lease such capacity to provide last-mile broadband Internet services to unserved ~~and underserved~~ areas of the state;

(6) Whether construction of middle-mile broadband Internet infrastructure utilizing electric utility distribution systems is feasible with respect to the maturity of the relevant technology, the compatibility of such services with existing electric services, and the financial requirements to undertake such project;

(7) The anticipated level of rate adjustment necessary to allow the electric utility to recover its costs associated with the proposed project, and a reasonable rate of return, on an expedited basis, that will be recovered by the electric utility through a rate adjustment at the commission; and

(8) Such other information that is pertinent to the project.

(e) Upon receipt of a feasibility study, the council shall post the same on the council website for written public comment for a period of seven days and then shall render a determination, by a majority vote of the council, as to the feasibility of the proposed project.

(f) In its consideration of the feasibility of a project, the council shall identify one or more last-mile broadband Internet providers that may lease the middle-mile broadband Internet capacity created by the proposed project pursuant to lease terms and conditions set by the council.

(g) The council shall render such feasibility determination within 60 days from the date the feasibility study is submitted to the council.

(h) Commencing January 1, 2020, and each year thereafter, the council shall give a report of its consideration of feasibility studies submitted pursuant to this section to the Governor, the President of the Senate, the Speaker of the House of Delegates, and the Joint Committee on Government and Finance.

§31G-4-5a. Electric Cooperative Providing Broadband Services.

An electric cooperative organized pursuant to state and federal law, including the Rural Electrification Act of 1936, may utilize its distribution system, poles, or rights of way to provide for critical infrastructure, which may include the construction or operation, or both, of a broadband infrastructure project consisting of middle mile or last mile services, or both."

And,

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

Com. Sub. for H. B. 4619 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §24-2-10; to amend and reenact §31G-4-5 of said code; and to amend said code by adding thereto a new section, designated §31G-4-5a, all relating to

broadband enhancement; excepting certain middle-mile fiber broadband infrastructure from consideration as a public utility; making legislative findings; defining terms; establishing the Middle-Mile Fiber Broadband Infrastructure Expansion Program; authorizing certain electric utilities to participate in said program; setting forth powers and duties of the Public Service Commission in reviewing and considering written plans and amendments thereto submitted pursuant to said program; requiring certain electric utilities to file written plans and application with the Public Service Commission upon a determination by the Broadband Enhancement Council that a proposed project is feasible; establishing that such a written plan and application is in lieu of a proceeding pursuant to § 24-2-11; setting forth the required contents of said written plan and application; requiring that an electric utility publish in certain publication areas the anticipated monthly and yearly electric rate increase, if any, and actual rates under the proposal, as a Class I legal advertisement in compliance with the provisions of § 59-3-1, *et seq.* of this code; requiring that a public hearing be held within 90 days of the publication of said notice; setting forth instances when no such public hearing is necessary; requiring that the Public Service Commission issue a final order within 150 days of the application filing date; setting forth instances when the Public Service Commission must approve such a written plan; authorizing an electric utility to implement such a plan upon approval by the Public Service Commission; setting forth project costs that an electric utility is entitled to recover as part of the implementation of an approved project; authorizing an electric utility to make certain accounting accruals; providing that electric utilities shall control the scope, scheduling and execution of a project; authorizing an electric utility to reestablish electric service and assure safety of its workers prior to restoration of middle-mile fiber broadband service; authorizing electric utilities to use contractors chosen by the electric utility to construct, install, operate, maintain and repair middle-mile fiber assets; providing an electric utility with sole control of the location and method of attachment and connection of certain middle-mile fiber infrastructure; requiring electric utilities to manage and document the entities that lease middle-mile fiber assets for last-mile operations; allowing an electric utility to own, manage, or control certain broadband capacity, fiber strands, equipment and electronics; allowing an electric utility to lease certain broadband capacity, fiber strands, equipment and electronics to certain Internet service providers and other third parties; allowing an electric utility to provide access points that are outside the electric utility's power supply zone to allow connection between the electric utility's broadband capacity system or fiber strands and non-governmental Internet service provider's or other third party's system; removing certain references to underserved areas of the state from feasibility studies of proposed broadband projects; and authorizing certain electric cooperatives to utilize their distribution system, poles, or rights of way to provide for critical infrastructure."

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. 706**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4619) passed.

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

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. 4693, Expanding the scope of the Veterans to Agriculture Program.

On motion of Delegate Kessinger, the House refused to concur in the following amendment of the bill by the Senate, and requested the Senate to recede therefrom:

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

“ARTICLE 1. DEPARTMENT OF AGRICULTURE.

§19-1-12. Veterans and Warriors Heroes to Agriculture Program and fund.

(a) *Legislative findings.* —

West Virginians have a longstanding tradition of service in the armed forces of the United States. Many veterans suffer from physical and emotional afflictions and are often unable to find gainful employment upon returning from combat. Exploring opportunities to engage West Virginia’s veterans in agriculture is beneficial to the health and welfare of veterans, as well as to the future of West Virginia’s agricultural economy.

(b) *Veterans and Warriors Heroes to Agriculture Program.* —

The Department of Agriculture shall develop a Veterans and Warriors Heroes to Agriculture Program to integrate veterans into the field of agriculture, and support veterans currently working in agriculture. These programs may include, but are not limited to, using post-mine land for agricultural development, promoting high tunnel crops and production, expanding the apiary industry, developing cottage industries, exploring niche crops, raising more livestock, increasing the aquaculture industry and helping veterans promote their agricultural products through farmers markets and cooperatives. The department may call on the Department of Veterans’ Assistance and the state’s Adjutant General ~~shall work together~~ for assistance to recruit and train eligible veterans, and develop and support the program.

(c) *Veterans and Warriors and Heroes to Agriculture Fund.* — ~~There is hereby created in the State Treasury a special revenue account, designated the Veterans and Warriors to Agriculture Fund~~ The Veterans and Warriors to Agriculture Fund is continued, but is renamed the Veterans and Heroes to Agriculture Fund. The fund shall consist of income from leasing the department’s property for the program, surplus funds which may be transferred from the fund created by §19-12A-6a, gifts, grants and donations, and legislative appropriations which may be made to support the program. Expenditures from the fund shall be used exclusively, in accordance with appropriations by the Legislature, to pay costs, fees and expenses necessary to administer the Veterans and Warriors Heroes to Agriculture Program. *Provided, That for fiscal year ending June 30, 2015, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature*

(d) Notwithstanding any provision in this code to the contrary, should the Department of Agriculture deem it necessary to provide land for activities within this program, it is exempt from the purchasing requirements as they relate to the competitive leasing of state property.

(e) The commissioner may propose emergency or legislative rules for approval in accordance with the provisions of §29A-3-1 *et seq.* to effectuate the provisions of this section.”

And,

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

Com. Sub. for H. B. 4693 – “A Bill to amend and reenact §19-1-12 of the Code of West Virginia, 1931, as amended, relating to renaming the Veteran and Warriors to Agriculture Program to the Veterans and Heroes to Agriculture Program; renaming Veterans and Warriors to Agriculture fund; and eliminating outdated language.”

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

A message from the Senate, by

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

Com. Sub. for H. B. 4852, Relating to the penalties for the manufacture, delivery, possession, or possession with intent to manufacture or deliver methamphetamine.

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

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

“ARTICLE 4. OFFENSES AND PENALTIES.

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

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

Any person who violates this subsection with respect to:

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

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

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

(iv) A substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both fined and confined: *Provided*, That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

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

Any person who violates this subsection with respect to:

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

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

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

(iv) A counterfeit substance classified in Schedule V is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for not less than six months nor more than one year, or fined not more than \$5,000, or both fined and confined: *Provided*, That for offenses relating to any substance classified as Schedule V in §60A-10-1 *et seq.* of this code, the penalties established in said article apply.

(c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this act. Any person who violates this subsection is guilty of a misdemeanor, and disposition may be made under §60A-4-407 of this code, subject to the limitations specified in said section, or upon conviction thereof, ~~said the~~ person may be confined in jail not less than 90 days nor more than six months, or fined not more than \$1,000, or both fined and confined: *Provided*, That notwithstanding any other provision of this act to the contrary, any first offense for possession of synthetic cannabinoids as defined by §60A-1-101(d)(32) of this code; 3,4-methylenedioxypropylone (MPVD) and 3,4-methylenedioxypropylone and/or mephedrone as defined in §60A-1-101(f) of this code; or less than 15 grams of marijuana, shall be disposed of under §60A-4-407 of this code.

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

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

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

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

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

And,

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

Com. Sub. for H. B. 4852 - “A Bill to amend the Code of West Virginia, 1931, as amended, by amending and reenacting §60A-4-401 relating to treating methamphetamine as a Schedule I or II narcotic under the controlled substances act; increasing the criminal penalty for possession with intent to distribute, or distribution of methamphetamine; increasing the penalty for possession with intent to distribute counterfeit methamphetamine; and making technical changes.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 707**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: McGeehan and Rowe.

Absent and Not Voting: Foster and Queen.

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. 4852) 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 amendment and the passage, as amended, of

Com. Sub. for S. B. 136, Prohibiting certain misleading lawsuit advertising practices.

On motion of Delegate Summers, the House of Delegates concurred in the following Senate amendments to the House amendment:

On page one, section two, subdivision (3), by striking out “45 C.F.R. 106.103” and inserting in lieu thereof “45 C.F.R. 160.103”.

And,

On page three, section three, subsection (d), by striking out “§46A-6-1 *et seq.*” and inserting in lieu thereof “§46A-6-101 *et seq.*”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 708**), and there were—yeas 57, nays 42, absent and not voting 1, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Queen.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 136) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

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

On motion of Delegate Summers, the House of Delegates refused to recede from its amendment and requested the Senate to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Capito, Steele, Robinson.

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. 4092, Relating to foster care.

Delegate Summers moved that the House of Delegates concur in the following amendment of the bill by the Senate, with further amendment:

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

“ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

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

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

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

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

‘Child care center’ means a facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, for the care of 13 or more children for child care services in any setting, if the facility is open for more than 30 days per year per child.

‘Child care services’ means direct care and protection of children during a portion of a 24-hour day outside of the child’s own home which provides experiences to children that foster their healthy development and education.

‘Child placing agency’ means a child welfare agency organized for the purpose of placing children in private family homes for foster care or for adoption. The function of a child placing agency may include the investigation and certification of foster family homes and foster family group homes as provided in this chapter. The function of a child placing agency may also include the supervision of children who are 16 or 17 years ~~old~~ of age and living in unlicensed residences.

‘Child welfare agency’ means any agency or facility maintained by the state or any county or municipality thereof, or any agency or facility maintained by an individual, firm, corporation, association, or organization, public or private, to receive children for care and maintenance or for placement in residential care facilities, including, without limitation, private homes or any facility that provides care for unmarried mothers and their children. A child welfare agency does not include juvenile detention facilities or juvenile correctional facilities operated by or under contract with the Division of Corrections and Rehabilitation, pursuant to §49-2-901 *et seq.* of this code, nor any other facility operated by that division for the secure housing or holding of juveniles committed to its custody.

‘Community based’ means a facility, program, or service located near the child’s home or family and involving community participation in planning, operation, and evaluation and which may include, but is not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, substance abuse, and any other treatment or rehabilitation services.

‘Community-based juvenile probation sanctions’ means any of a continuum of nonresidential accountability measures, programs, and sanctions in response to a technical violation of probation, as part of a system of community-based juvenile probation sanctions and incentives, that may include, but are not limited to:

(A) Electronic monitoring;

(B) Drug and alcohol screening, testing, or monitoring;

(C) Youth reporting centers;

(D) Reporting and supervision requirements;

(E) Community service; and

(F) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment.

'Community services' means nonresidential prevention or intervention services or programs that are intended to reduce delinquency and future court involvement.

'Evidence-based practices' means policies, procedures, programs, and practices demonstrated by research to reliably produce reductions in the likelihood of reoffending.

'Facility' means a place or residence, including personnel, structures, grounds, and equipment used for the care of a child or children on a residential or other basis for any number of hours a day in any shelter or structure maintained for that purpose. Facility does not include any juvenile detention facility or juvenile correctional facility operated by or under contract with the Division of Corrections and Rehabilitation for the secure housing or holding of juveniles committed to its custody.

'Family child care facility' means any facility which is used to provide nonresidential child care services for compensation for seven to 12 children, including children who are living in the household, who are under six years of age. A facility may be in a provider's residence or a separate building.

'Family child care home' means a facility which is used to provide nonresidential child care services for compensation in a provider's residence. The provider may care for four to six children at one time, including children who are living in the household, who are under six years of age.

'Family resource network' means:

(A) A local community organization charged with service coordination, needs and resource assessment, planning, community mobilization, and evaluation, and which has met the following criteria:

(i) ~~Agreeing~~ Has agreed to a single governing entity;

(ii) ~~Agreeing~~ Has agreed to engage in activities to improve service systems for children and families within the community;

(iii) ~~Addressing~~ Addresses a geographic area of a county or two or more contiguous counties;

(iv) ~~Having~~ Has, as the majority of the members of the governing body, nonproviders, which ~~include~~ includes family representatives and other members who are not employees of publicly funded agencies, ~~as the majority of the members of the governing body, and having~~ with family representatives as the majority of ~~the~~ those members who are nonproviders;

(v) ~~Having~~ Has members of the governing body who are representatives of local service agencies, including, but not limited to, the public health department, the behavioral health center, the local health and human resources agency, and the county school district; ~~on the governing body;~~ and

(vi) ~~Accepting~~ Adheres to principles consistent with the cabinet's mission as part of its philosophy.

(B) A family resource network may not provide direct services, which means to provide programs or services directly to children and families.

'Family support', for the purposes of §49-2-601 *et seq.* of this code, means goods and services needed by families to care for their family members with developmental disabilities and to enjoy a quality of life comparable to other community members.

'Family support program' means a coordinated system of family support services administered by the Department of Health and Human Resources through contracts with behavioral health agencies throughout the state.

'Fictive kin' means an adult of at least 21 years of age, who is not a relative of the child, as defined herein, but who has an established, substantial relationship with the child, including but not limited to, teachers, coaches, ministers, and parents, or family members of the child's friends.

'Foster family home' means a private residence which is used for the care on a residential basis of no more than ~~five~~ six children who are unrelated, by blood, marriage, or adoption, to any adult member of the household.

'Foster parent' means a person with whom the department has placed a child and who has been certified by the department, a child placing agency, or another agent of the department to provide foster care.

'Health care and treatment' means:

(A) Developmental screening;

(B) Mental health screening;

(C) Mental health treatment;

(D) Ordinary and necessary medical and dental examination and treatment;

(E) Preventive care including ordinary immunizations, tuberculin testing, and well-child care; and

(F) Nonemergency diagnosis and treatment. However, nonemergency diagnosis and treatment does not include an abortion.

'Home-based family preservation services' means services dispensed by the Department of Health and Human Resources or by another person, association, or group who has contracted with that division to dispense services when those services are intended to stabilize and maintain the natural or surrogate family in order to prevent the placement of children in substitute care. There are two types of home-based family preservation services and they are as follows:

(A) Intensive, short-term intervention of four to six weeks; and

(B) Home-based, longer-term after care following intensive intervention.

'Informal family child care' means a home that is used to provide nonresidential child care services for compensation for three or fewer children, including children who are living in the household who are under six years of age. Care is given in the provider's own home to at least one child who is not related to the caregiver.

'Kinship parent' means a person with whom the department has placed a child to provide a kinship placement.

'Kinship placement' means the placement of the child with a relative of the child, as defined herein, or a placement of a child with a fictive kin, as defined herein.

'Needs Assessment' means an evidence-informed assessment which identifies the needs a child or family has, which, if left unaddressed, will likely increase the chance of reoccurring.

'Nonsecure facility' means any public or private residential facility not characterized by construction fixtures designed to physically restrict the movements and activities of individuals held in lawful custody in that facility and which provides its residents access to the surrounding community with supervision.

'Nonviolent misdemeanor offense' means a misdemeanor offense that does not include any of the following:

(A) An act resulting in bodily injury or death;

(B) The use of ~~a weapon~~ firearm or other deadly weapon in the commission of the offense;

(C) A domestic abuse offense involving a significant or likely risk of harm to a family member or household member;

(D) A criminal sexual conduct offense; or

(E) Any offense for driving under the influence of alcohol or drugs.

'Out-of-home placement' means a post-adjudication placement in a foster family home, kinship parent home, group home, nonsecure facility, emergency shelter, hospital, psychiatric residential treatment facility, staff secure facility, hardware secure facility, detention facility, or other residential placement other than placement in the home of a parent, custodian, or guardian.

'Out-of-school time' means a child care service which offers activities to children before and after school, on school holidays, when school is closed due to emergencies, and on school calendar days set aside for teacher activities.

'Placement' means any temporary or permanent placement of a child who is in the custody of the state in any foster home, kinship parent home, group home, or other facility or residence.

'Pre-adjudicatory community supervision' means supervision provided to a youth prior to adjudication, for a period of supervision up to one year for an alleged status or delinquency offense.

'Regional family support council' means the council established by the regional family support agency to carry out the responsibilities specified in §49-2-601 *et seq.* of this code.

'Relative family child care' means a home that provides nonresidential child care services only to children related to the caregiver. The caregiver is a grandparent, great-grandparent, aunt, uncle, great-aunt, great-uncle, or adult sibling of the child or children receiving care. Care is given in the provider's home.

'Relative of the child' means an adult of at least 21 years of age who is related to the child, by blood or marriage, within at least three degrees.

'Residential services' means child care which includes the provision of nighttime shelter and the personal discipline and supervision of a child by guardians, custodians, or other persons or entities on a continuing or temporary basis. It may include care or treatment, or both, for transitioning adults. Residential services does not include or apply to any juvenile detention facility or juvenile correctional facility operated by the Division of Corrections and Rehabilitation, created pursuant to this chapter, for the secure housing or holding of juveniles committed to its custody.

'Risk and needs assessment' means a validated, standardized actuarial tool which identifies specific risk factors that increase the likelihood of reoffending and the factors that, when properly addressed, can reduce the likelihood of reoffending.

'Scattered-site living arrangement' means a living arrangement where youth, 16 to 26 years of age, live in a setting that allows staff to be available as needed, depending on the youth's level of autonomy. Sites for such living arrangements shall be in community environments to allow the youth full access to services and resources in order to fully develop independent living skills.

'Secure facility' means any public or private residential facility which includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility.

'Staff secure facility' means any public or private residential facility characterized by staff restrictions of the movements and activities of individuals held in lawful custody in such facility, and which limits its residents' access to the surrounding community, but is not characterized by construction fixtures designed to physically restrict the movements and activities of residents.

'Standardized screener' means a brief, validated nondiagnostic inventory or questionnaire designed to identify juveniles in need of further assessment for medical, substance abuse, emotional, psychological, behavioral, or educational issues, or other conditions.

'State family support council' means the council established by the Department of Health and Human Resources pursuant to §49-2-601 *et seq.* of this code to carry out the responsibilities specified in §49-2-101 *et seq.* of this code.

'Supervised group setting' means a setting where youth, 16 to 21 years of age, live with staff onsite or are available 24 hours per day and seven days per week. In this setting, staff provide face to face daily contact with youth.

'Time-limited reunification services' means individual, group, and family counseling, inpatient, residential, or outpatient substance abuse treatment services, mental health services, assistance to address domestic violence, services designed to provide temporary child care, and therapeutic services for families, including crisis nurseries and transportation to or from those services, provided during 15 of the most recent 22 months a child or juvenile has been in foster or in a kinship placement,

as determined by the earlier date of the first judicial finding that the child is subjected to abuse or neglect, or the date which is 60 days after the child or juvenile is removed from home.

'Technical violation' means an act that violates the terms or conditions of probation or a court order that does not constitute a new delinquent offense.

'Truancy diversion specialist' means a school-based probation officer or truancy social worker within a school or schools who, among other responsibilities, identifies truants and the causes of the truant behavior, and assists in developing a plan to reduce the truant behavior prior to court involvement.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-102. Minimum staffing complement for child protective services.

[Repealed.]

§49-2-104. Education of the public.

[Repealed.]

§49-2-108. Visits and inspections; records.

The department or its authorized agent shall visit and inspect every certified foster home as often as is necessary to assure proper care is given to the children. Every certified foster home shall maintain a record of the children received. This record shall include information ~~as prescribed by the department in legislative rule and shall be~~ in a type form, and manner as prescribed by the department in legislative rule.

§49-2-110. Development of standards of child care.

The department shall develop standards for the care of children. It shall cooperate with, advise, and assist all child welfare agencies, including state institutions, which care for children who have been neglected, have been adjudicated delinquent, or mentally or physically handicapped children have special needs such as physical, mental, or intellectual disabilities, and shall supervise those agencies. The department, in cooperation with child welfare agencies, shall formulate and make available standards of child care and services for children, to which all child welfare agencies must conform.

§49-2-111. Supervision of child welfare agencies by the department; records and reports.

(a) In order to improve standards of child care, the department shall cooperate with the governing boards of child welfare agencies, assist the ~~staffs~~ personnel of those agencies through advice on progressive methods and procedures of child care and improvement of the service rendered, and assist in the development of community plans of child care. The department, or its duly authorized agent, may visit any child welfare agency to advise the agency on matters affecting the health of children. ~~and to inspect the sanitation of the buildings used for their care.~~

(b) Each child welfare agency shall keep records of each child under its control and care as the department may prescribe, and shall report to the department, whenever requested, facts as may be required with reference to the children, upon forms furnished by the department. All records regarding

children and all facts learned about children and their parents or relatives shall be regarded as confidential and shall be properly safeguarded by the agency and the department.

§49-2-111a. Performance based contracting for child placing agencies.

(a) For purposes of this section:

(1) 'Child' means:

(A) A person of less than 18 years of age; or

(B) A person ~~age~~ 18 to 21 years of age who is eligible to receive the extended foster care services.

(2) 'Child-placing agency' means an agency licensed by the department to place a child in a foster care home.

(3) 'Department' means the Department of Health and Human Resources.

(4) 'Evidence-based' means a program or practice that is cost-effective and includes at least two randomized or statistically controlled evaluations that have demonstrated improved outcomes for its intended population.

(5) 'Performance-based contracting' means structuring all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes and linking payment for services to contractor performance.

(6) 'Promising practice' means a practice that presents, based upon preliminary information, potential for becoming a research-based or consensus-based practice.

(7) 'Research-based' means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(b) No later than December 1, 2020, the department shall enter into performance-based contracts with child placing agencies.

(c) In conducting the procurement, the department shall actively consult with other state agencies and other entities with expertise in performance-based contracting with child placing agencies.

(d) The procurement process shall be developed and implemented in a manner that complies with applicable provisions of this code.

(e) The procurement and resulting contracts shall include, but are not limited to, the following:

(1) Adequate capacity to meet the anticipated service needs in the contracted service area of the child placing agency;

(2) The use of evidence-based, research-based, and promising practices, where appropriate, including fidelity and quality assurance provisions;

(3) Child placing agency data reporting, including data on performance and service outcomes, including, but not limited to:

- (A) Safety outcomes;
 - (B) Permanency outcomes;
 - (C) Well-being outcomes;
 - (D) Incentives earned; and
 - (E) Placement of older children;
 - (F) Placement of children with special needs; and
 - ~~(E)~~ (G) Recruitment and retention of foster parents; and
- (4) A hold harmless period to determine a baseline for evaluation.

(f) As part of the procurement process under this section, the department shall issue the request for proposals no later than July 1, 2020. The department shall notify the apparently successful bidders no later than September 1, 2020.

(g) Performance-based payment methodologies must be used in child placing agency contracting. Performance measures should relate to successful engagement by a child or parent in services included in their case plan, and resulting improvement in identified problem behaviors and interactions. For the first year of implementation of performance-based contracting, the department may transfer financial risk for the provision of services to the child placing agency only to the limited extent necessary to implement a performance-based payment methodology, such as phased payment for services. However, the department may develop a shared savings methodology through which the child placing agency will receive a defined share of any savings that result from improved performance. If the department receives a Title IV-E waiver, the shared savings methodology must be consistent with the terms of the waiver. If a shared savings methodology is adopted, the child placing agency shall reinvest the savings in enhanced services to better meet the needs of the families and children they serve.

(h) The department shall actively monitor the child placing agency's compliance with the terms of contracts executed under this section.

(i) The use of performance-based contracts under this section shall be done in a manner that does not adversely affect the state's ability to continue to obtain federal funding for child welfare-related functions currently performed by the state and with consideration of options to further maximize federal funding opportunities and increase flexibility in the use of such funds, including use for preventive and in-home child welfare services.

(j) The department shall pay child placing agencies contracted to provide adoption services to foster families a minimum of \$1,000 per child for each adoption finalized.

(k) The rate of payment to foster parents and child placing agencies shall be reviewed by the department, at a minimum of every two years, to determine whether the level of foster care payments facilitates or hinders the efficient placement of foster children with West Virginia families. The department shall remit payments to foster parents on the same week each month to facilitate foster parents' ability to budget and appropriately expend payments for the benefit of the children in their custody.

(j) (l) The department shall report the performance of the child placing agency to the Legislative Oversight Commission on Health and Human Resources Accountability by December 31, annually.

§49-2-111c. Priorities for use of funds.

(a) Subject to appropriations by the Legislature, the department is authorized and directed to:

(1) Enhance and increase efforts to provide services to prevent the removal of children from their homes;

(2) Identify relatives and fictive kin of children in need of placement outside of the home;

(3) Train kinship parents to become certified foster parents;

(4) Expand a tiered foster care system that provides higher payments for foster parents providing care to, and child placing agencies providing services to, foster children who have severe emotional, behavioral, or intellectual problems or disabilities, with particular emphasis upon removing children in congregate care and placing them with suitable foster parents. This program shall be operational no later than July 1, 2021; and

(5) Develop a pilot program to increase payment to uncertified kinship parents for the purpose of further helping families who have accepted kinship placements.

(b) During fiscal year 2021, the department shall expend at least \$16,900,000 for the purposes of implementing the priorities and objectives listed in this section.

(c) On or before July 1, 2022 and on or before July 1 of every year thereafter, the secretary of the department shall present a report to the Joint Standing Committee on Government and Finance regarding the expenditures made pursuant to subsection (b) of this section and the department's progress in meeting the priorities and objectives listed in subsection (a) of this section: *Provided*, That the secretary shall provide the information described in this subsection and updates to previous reports at any time, upon request of the Joint Standing Committee on Government and Finance.

§49-2-112. Family homes; approval of incorporation by Secretary of State; approval of articles of incorporation.

~~(a) Before issuing a charter for the incorporation of any organization having as its purpose the receipt of children for care or for placement in family homes, the Secretary of State shall provide a copy of the petition, together with any other information in his or her possession pertaining to the proposed corporation, to the secretary. and no charter for a corporation may be issued unless the secretary shall first certify to the Secretary of State that it has investigated the need for the services proposed and the merits of the proposed charitable corporation and recommends the issuance thereof; applications for amendments of any existing charter shall be similarly referred and shall be granted only upon similar approval.~~

~~(b) A child welfare agency may not be incorporated in this state unless the articles of incorporation have first been examined and approved by the secretary, or his or her designee. Proposed amendments to articles of incorporation shall be subject to the examination and approval of the secretary, or his or her designee.~~

§49-2-118. Closing of facilities by the secretary; placement of children.

When the secretary finds that the operation of a residential care facility constitutes an immediate danger of serious harm to children served by the facility, the secretary shall issue an order of closure terminating operation of the facility. When necessary, the secretary shall place or direct the placement of the children in a residential facility which has been closed into appropriate facilities. A facility closed by the secretary may not operate pending administrative or judicial review without court order.

§49-2-121. Rule-making.

(a) The secretary shall promulgate legislative rules in accordance with ~~chapter twenty-nine-a §29A-3-1 et seq.~~ of this code regarding the licensure, approval, certification, and registration of child care facilities and the implementation of this article. ~~The rules shall provide at a minimum the requirement that every residential child care facility shall be subject to an annual time study regarding the quantification of staff supervision time at each facility. Every residential child care facility shall participate in the time study at the request of the department~~

(b) The secretary shall review the rules promulgated pursuant to this article at least once every five years, making revisions when necessary or convenient.

(c) The rules shall incorporate, by reference, the requirements of the Integrated Pest Management Program established by legislative rule by the Department of Agriculture under §19-16A-4 of this code.

§49-2-124. Certificate of need not required; conditions; review.

~~(a) A certificate of need, as provided in §16-2D-1 et seq. of this code, is not required by an entity proposing behavioral health care facilities or behavioral health care services for children who are placed out of their home, or who are at imminent risk of being placed out of their home. if a summary review is performed in accordance with this section.~~

~~(b) A summary review of proposed health care facilities or health care services for children who are placed out of their home, or who are at imminent risk of being placed out of their home, is initiated when the proposal is recommended to the health care cost review authority by the Secretary of the Department of Health and Human Resources and the secretary has made the following findings:~~

~~(1) That the proposed facility or service is consistent with the state health plan;~~

~~(2) That the proposed facility or service is consistent with the department's programmatic and fiscal plan for behavioral health services for children with mental health and addiction disorders;~~

~~(3) That the proposed facility or service contributes to providing services that are child and family driven, with priority given to keeping children in their own homes;~~

~~(4) That the proposed facility or service will contribute to reducing the number of child placements in out-of-state facilities by making placements available in in-state facilities;~~

~~(5) That the proposed facility or service contributes to reducing the number of child placements in in-state or out-of-state facilities by returning children to their families, placing them in foster care programs or making available school-based and out-patient services; and~~

~~(6) If applicable, that the proposed services will be community based, locally accessible and provided in an appropriate setting consistent with the unique needs and potential of each child and his or her family.~~

~~(c) The secretary's findings required by subsection (b) of this section shall be filed with the secretary's recommendation and appropriate documentation. If the secretary's findings are supported by the accompanying documentation, the proposal shall not require a certificate of need.~~

~~(d) Any entity that does not qualify for summary review shall be subject to certificate of need review.~~

~~(e) Notwithstanding any other provision of law to the contrary, the provision of regular or therapeutic foster care services does not constitute a behavioral health care facility or a behavioral health care service that would subject it to the summary review procedure established in this section or to the certificate of need requirements provided in article two-d, chapter sixteen of this code.~~

§49-2-126. Legislative findings and declaration of intent for goals for foster children The Foster Child Bill of Rights.

~~(a) The Legislature finds and declares that the design and delivery of child welfare services should be directed by the principle that the health and safety of children should be of paramount concern and, therefore, establishes the goals for children in foster care. A child in foster care should have:~~

~~(1) Protection by a family of his or her own, and be provided readily available services and support through care of an adoptive family or by plan, a continuing foster family;~~

~~(2) Nurturing by foster parents who have been selected to meet his or her individual needs, and who are provided services and support, including specialized education, so that the child can grow to reach his or her potential;~~

~~(3) A safe foster home free of violence, abuse, neglect and danger;~~

~~(4) The ability to communicate with the assigned social worker or case worker overseeing the child's case and have calls made to the social worker or case worker returned within a reasonable period of time;~~

~~(5) Permission to remain enrolled in the school the child attended before being placed in foster care, if at all possible;~~

~~(6) Participation in school extracurricular activities, community events, and religious practices;~~

~~(7) Communication with the biological parents. Communication is necessary if the child placed in foster care receives any immunizations and if any additional immunizations are needed, if the child will be transitioning back into a home with his or her biological parents;~~

~~(8) A bank or savings account established in accordance with state laws and federal regulations;~~

~~(9) Identification and other permanent documents, including a birth certificate, social security card and health records by the age of sixteen, to the extent allowed by federal and state law;~~

~~(10) The use of appropriate communication measures to maintain contact with siblings if the child placed in foster care is separated from his or her siblings; and~~

~~(11) Meaningful participation in a transition plan for those phasing out of foster care.~~

~~(b) A person shall not have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. Nothing in this section requires the expenditure of funds to meet the goals established in this section, except funds specifically appropriated for that purpose.~~

~~(c) The West Virginia Department of Health and Human Resources shall propose rules for promulgation in accordance with the provisions of article three, chapter twenty-nine a of this code to ensure that a child has an effective means of being heard if he or she believes the goals of this section are not being met.~~

~~(d) When a child who was previously placed into foster care, but left the custody or guardianship of the department, is again placed into foster care, the department shall notify the foster parents who most recently cared for the child of the child's availability for foster care placement to determine if the foster parents are desirous of seeking a foster care arrangement for the child. The arrangement may only be made if the foster parents are otherwise qualified or can become qualified to enter into the foster care arrangement with the department and if the arrangement is in the best interests of the child: *Provided*, That the department may petition the court to waive notification to the foster parents. This waiver may be granted, *ex parte*, upon a showing of compelling circumstances~~

(a) Foster children and children in a kinship placement are active and participating members of the child welfare system and have the following rights:

(1) The right to live in a safe and healthy environment, and the least restrictive environment possible;

(2) The right to be free from physical, sexual, or psychological abuse or exploitation, including being free from unwarranted physical restraint and isolation.

(3) The right to receive adequate and healthy food, appropriate and seasonally necessary clothing, and an appropriate travel bag;

(4) The right to receive medical, dental, and vision care, mental health services, and substance use treatment services, as needed;

(5) The right to be placed in a kinship placement, when such placement meets the objectives set forth in this article;

(6) The right, when placed with a foster or kinship family, to be matched as closely as possible with a family meeting the child's needs, including, when possible, the ability to remain with siblings;

(7) The right, as appropriate to the child's age and development, to be informed on any medication or chemical substance to be administered to the child;

(8) The right to communicate privately, with caseworkers, guardians ad litem, attorneys, Court Appointed Special Advocates (CASA), the prosecuting attorney, and probation officers;

(9) The right to have and maintain contact with siblings as may be reasonably accommodated, unless prohibited by court order, the case plan, or other extenuating circumstances;

(10) The right to contact the department or the foster care ombudsman, regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats, retaliation, or punishment for making complaints;

(11) The right to maintain contact with all previous caregivers and other important adults in his or her life, if desired, unless prohibited by court order or determined by the parent, according to the reasonable and prudent parent standard, not to be in the best interests of the child;

(12) The right to participate in religious services and religious activities of his or her choice to the extent possible;

(13) The right to attend school, and, consistent with the finances and schedule of the foster or kinship family, to participate in extracurricular, cultural, and personal enrichment activities, as appropriate to the child's age and developmental level;

(14) The right to work and develop job skills in a way that is consistent with the child's age and developmental level;

(15) The right to attend Independent Living Program classes and activities if the child meets the age requirements;

(16) The right to attend court hearings and speak directly to the judge, in the court's discretion;

(17) The right not to be subjected to discrimination or harassment;

(18) The right to have access to information regarding available educational options;

(19) The right to receive a copy of, and receive an explanation of, the rights set forth in this section from the child's guardian ad litem, caseworker, and attorney;

(20) The right to receive care consistent with the reasonable and prudent foster parent standard;
and

(21) The right to meet with the child's department case worker no less frequently than every 30 days.

(b) The rights provided in this section do not create an independent cause of action. Violations of these rights may be reported to and investigated by the foster care ombudsman. On or before December 15, 2021 and on or before December 15 of every year thereafter, the foster care ombudsman shall submit a written summary of the number and nature of reports received, and investigations conducted in response to said reports, to the Joint Standing Committee on Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor: *Provided*, That the summary required by this section may not include any personally identifying information of a person named in a report, or a person submitting a report to, the ombudsman.

§49-2-127. The Foster and Kinship Parent Bill of Rights.

(a) Foster parents and kinship parents play an integral, indispensable, and vital role in the state's effort to care for children displaced from their homes, and such parents and persons have the following rights:

(1) The right to be treated professionally and ethically as the primary provider of foster or kinship care in accordance with the terms of the agreement between the foster or kinship parent and the child placing agency and the department;

(2) The right to maintain the parent's or parents' own family values and beliefs, so long as the values and beliefs of the child are not infringed upon;

(3) The right to receive training, as provided in the agreement with the child placing agency and the department at appropriate intervals;

(4) The right to have an emergency contact 24 hours per day, seven days per week, as set forth in the agreement between the foster or kinship parent and the child placing agency and the department;

(5) The right, prior to the placement of a child, to be notified by the department and the child placing agency of any known issues relative to the child that may jeopardize the health and safety of the foster or kinship family or the child, or alter the manner in which foster or kinship care should be administered;

(6) The right to receive from the department and the child placing agency, prior to placement of a child, all known information relating to the child's behavior, family background, health, history, or special needs and to receive updates relevant to the care of the child as information becomes available;

(7) The right to be provided with a written copy of the individual treatment and service plan concerning the child in the foster or kinship parent's home and to discuss such plan with the case manager, and to receive reasonable notice of any changes to that plan, including timely notice of the need to remove a child from the foster or kinship home and the reasons for the removal;

(8) The right to timely and reasonable notice of the department's case planning and decision-making process regarding the child, as provided in §49-4-101 *et seq.* of this code, and the right to participate in such process, in the discretion of the court;

(9) The right to communicate with professionals who work with the child, including, but not limited to, therapists, physicians, and teachers, as permitted by the case plan or the court;

(10) The right to be notified, in advance, by the department or the court, of any hearing or review where the case plan or permanency of the child is an issue, including initial and periodic reviews held by the court and permanency plan hearings: *Provided*, That the right of a foster or kinship parent to attend any hearing is in the discretion of the court;

(11) The right to be provided information regarding the final outcome of an investigation of complaints concerning the operation of a foster or kinship home and to receive an explanation of a corrective action plan or policy violation relating to foster or kinship parents;

(12) The right to be provided with information on how to contact the foster care ombudsman, and to contact the foster care ombudsman's office, regarding alleged violations of rights, to speak to representatives of these offices confidentially, and to be free from threats, retaliation, or punishment for making complaints;

(13) The right to write a letter or submit a report to the court regarding a violation of the rights provided in this section or §49-2-126 of this code, or any concerns over the conduct or performance

of the guardian ad litem, a representative of the department, or a representative of the child placing agency, which the court may act upon as it deems in its discretion to be appropriate: *Provided*, That the court may require the clerk to send copies of a letter or report, submitted to the court pursuant to this subdivision, to the parties in the case prior to the court's review or consideration of such communications;

(14) The right to be considered, where appropriate and consistent with the best interests of the child, as a permanent parent or parents for a child who is available for adoption or legal guardianship;

(15) The right to move to intervene in the pending case, without fear of retaliation, once parental rights have been terminated; and

(16) The right to receive, from the department and the child placing agency, a written copy of the rights set forth in this section and a copy of the contract between the department and the child placing agency.

(b) The rights provided in this section do not create an independent cause of action. Violations of these rights may be reported to and investigated by the foster care ombudsman. On or before December 15, 2021 and on or before December 15 of every year thereafter, the foster care ombudsman shall submit a written summary of the number and nature of reports received, and investigations conducted in response to said reports, to the Joint Standing Committee on Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor: *Provided*, That the summary required by this section may not include any personally identifying information of a person named in a report or a person submitting a report to the ombudsman.

§49-2-127a. Foster and kinship parent duties; foster parent and kinship parent agreements.

(a) The West Virginia Legislature finds that foster and kinship parents providing care for children who are in the legal custody of the department have duties and contractual rights. The duties and contractual rights shall be set forth in an agreement between the department and the child placing agency and the foster or kinship parent. The duties of the foster or kinship parent shall include, but are not limited to:

(1) The duty not to violate the rights of the child, provided in §49-2-126 of this code;

(2) The duty to provide all children in the parent's or parents' care with appropriate food, clothing, shelter, supervision, medical attention, and educational opportunities using the reasonable and prudent foster parent standard as defined in §49-2-128 of this code;

(3) The duty to complete the training required by the department and the child placing agency and the foster or kinship parent;

(4) The duty to support reunification with the biological family unless it has been determined not to be appropriate by the court;

(5) The duty not to divulge any information concerning the child's case or the child's family to anyone except for the child's caseworker, the child's guardian ad litem, the child's attorney, the child's Court Appointed Special Advocate (CASA) worker, the prosecuting attorney, the probation officer, the multidisciplinary team, the foster care ombudsman, or the child's school or health care provider;

(6) The duty to provide information to the caseworker and the guardian ad litem regarding the child's progress, and to attend multi-disciplinary team meetings, case planning sessions, court hearings, and to advise the court of any issues or concerns, in the court's discretion; and

(7) The duty to teach all children placed in their home age appropriate life skills.

(b) The duties of the department and the child placing agency shall include, but are not limited to:

(1) The duty not to infringe upon the rights of the child, provided in §49-2-126;

(2) The duty not to infringe upon the rights of the kinship or foster parent, provided in in §49-2-127; and

(3) The duty to abide by the provisions of the agreement required by this section.

(c) The terms of the agreement shall include the rights of the foster or kinship parent provided in §49-2-127 of this code. The terms of the agreement shall also include, but not be limited to:

(1) Provisions addressing what child care will be provided while the foster or kinship parent attends required training;

(2) Provisions informing the foster or kinship parent of applicable laws and guidelines regarding the responsibilities of the foster or kinship parent and provisions requiring that the foster or kinship parent receive regular updates on changes to such laws and guidelines in a timely manner;

(3) Provisions regarding required and available training for the foster or kinship parent;

(4) Provisions addressing payment to the foster or kinship parent;

(5) Provisions naming and addressing the emergency 24-hour contact provided by the child placing agency and the department;

(6) Provisions addressing travel, including out-of-state and overnight travel;

(7) Provisions addressing child care for the child;

(8) Provisions addressing when a placement may be terminated by the foster or kinship parent, the child placing agency, or the department;

(9) Provisions addressing medical care for the child, including how to obtain medical consent for procedures; and

(10) Provisions addressing how complaints against the foster or kinship parent will be handled and adjudicated, including provisions for appeal and review of the adjudication.

(d) The agreement may contain such other terms and provisions, not inconsistent with this article, as may be negotiated by the parties and as may be in the best interests of the child.

(e) The requirements of this section apply to agreements, entered into on or after the effective date of this section. Agreements entered into pursuant to this section shall expire on July 1 of each year and shall be renewed by the parties as necessary.

(f) The duties and requirements provided in this section do not create an independent cause of action, including a cause of action for breach of contract. Violations of these rights may be reported to and investigated by the foster care ombudsman. On or before December 15, 2021 and on or before December 15 of every year thereafter, the foster care ombudsman shall submit a written summary of the number and nature of reports received, and investigations conducted in response to said reports, to the Joint Standing Committee on Government and Finance, the West Virginia Supreme Court of Appeals, and the Governor: *Provided*, That the summary required by this section may not include any personally identifying information of a person named in a report or a person submitting a report to the ombudsman.

§49-2-128. Reasonable and prudent foster parent standard.

(a) As used in this section, the following terms have the following meanings:

'Age-appropriate' means activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity. Age-appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for an age or age group.

'Caregiver' means a foster parent, kinship parent, or a designated official in a residential treatment facility.

'Reasonable and prudent foster parent standard' means the standard characterized parental decisions that maintain the child's health, safety, and best interests, while at the same time encouraging the child's emotional and developmental growth, that a caregiver shall use when determining whether to allow a child to participate in extracurricular, enrichment, and social activities.

(b) Each child who comes into care under this chapter is entitled to participate in age-appropriate extracurricular, enrichment, and social activities.

(c) Caregivers shall use a reasonable and prudent foster parent standard in determining whether to give permission for a child in out-of-home care to participate in extracurricular, enrichment, and social activities. When using the reasonable and prudent foster parent standard, the caregiver shall consider:

(1) The child's age, maturity, and developmental level, to maintain the overall health and safety of the child;

(2) The potential risk factors and the appropriateness of the extracurricular, enrichment, and social activity;

(3) The best interest of the child based on information known to the caregiver;

(4) The importance of encouraging the child's emotional and developmental growth;

(5) The importance of providing the child with the most family-like living experience possible; and

(6) The behavioral history of the child and the child's ability to safely participate in the proposed activity, as with any other child.

(d) Child placing agencies and residential treatment facilities shall have policies consistent with this section and shall promote and protect the ability of children to participate in age-appropriate extracurricular, enrichment, and social activities.

(e) A foster or kinship parent may use persons to care for or babysit for the child or permit overnight stays outside of the home using the reasonable and prudent foster parent standard.

(f) There is a rebuttable presumption that a caregiver has acted as a reasonable and prudent foster parent.

(g) A caregiver is not liable for harm caused to a child in his or her care who participates in an activity approved by the caregiver, provided that the caregiver has acted as a reasonable and prudent foster parent, unless the foster parent commits an act or omission that is an intentional tort or conduct that is willful, wanton, grossly negligent, reckless, or criminal.

§49-2-129. Transitional living services, scattered-site living arrangements, and supervised group settings; eligibility criteria.

(a) The department shall establish minimum standards, by legislative rule, for transitional living services, such as scattered-site living arrangements and supervised group settings, to which all child placing agencies or child welfare agencies who provide this service must conform.

(b) Agencies shall establish eligibility criteria for serving transitioning children and adults and shall require, at a minimum, the following:

(1) That a transitioning child or adult receiving a transitional living placement is between 16 and 26 years of age;

(2) Written permission from the child's parents or guardian for a child less than 18 years of age to enter a scattered-site living arrangement;

(3) A written service agreement with a transitioning adult entering a transitional living arrangement;

(4) A determination by an agency that a transitioning child or adult has shown that he or she is stable, mature, and responsible enough for entry into the determined level of transitional living arrangement;

(5) A life skills assessment by an agency of the transitioning child or adult, prior to placing him or her in a transitional living arrangement, and an annual reassessment; and

(6) A written transition plan, developed with the transitioning child or adult, that provides an educational, training, or employment program or a plan for the child or adult to pursue employment while in transitional living.

(c) The agency and transitioning child or adult shall determine if a roommate is appropriate for the child or adult prior to placement in a transitional living setting. The roommate must be able to support himself or herself and contribute at least a pro rata share of the living expenses for the setting.

(d) An agency shall document face-to-face contact and hours spent with a transitioning child or adult in a transitional living setting in the service plan that meet the child's or adult's needs and program level.

(e) After a child or adult is in a transitional living placement, an agency shall assess the child's or adult's progress in acquiring basic living skills at a minimum of once every six months.

(f) An agency shall develop and implement policies and procedures to ensure that any child or adult in a transitional living setting receives training and guidance on appropriate health screening and services, including medical and dental screening and services.

(g) An agency shall develop policies and procedures for assisting a transitioning child or adult in searching for an appropriate dwelling that will be used as a scattered-site living setting, that meets the following criteria:

(1) The dwelling is safe and affordable;

(2) The dwelling has a working telephone or other means of communication in an emergency;

(3) The dwelling has appropriate equipment for indoor cooking; and

(4) The dwelling has an appropriate water source for cooking, cleaning, and bathing.

(h) The department shall promulgate legislative rules, including emergency rules if necessary, to implement the provisions of this section.

ARTICLE 4. COURT ACTIONS.

§49-4-601a. Preference of child placement.

When a child is removed from his or her home, placement preference is to be given to relatives or fictive kin of the child. If a child requires out-of-home care, placement of a child with a relative is the least restrictive alternative living arrangement. The child's caseworker must diligently search for relatives of the child and fictive kin within the first days of a child's removal and must identify and provide notice of the child's need for a placement to relatives and fictive kin who are willing to act as a foster or kinship parent.

(1) After a petition alleging abuse and neglect of a child is filed, the department shall commence a search for every relative and fictive kin of the child.

(2) No later than seven calendar days after the petition for removal has been filed, the department shall file, with the court, a list of all of the relatives and fictive kin of the child known to the department at the time of the filing, whether or not those persons have expressed a willingness to take custody of the child.

(3) Within seven days after the department files the list described in subdivision (2) of this subsection, any party to the case may file, with the court, his or her own list containing names and addresses of relatives and fictive kin of the child.

(4) The department shall investigate and determine whether any of the persons identified in the lists filed pursuant to this section are willing and able to act as foster or kinship parents to the child. The department shall file its determinations with the court within 45 days from the filing of the petition alleging abuse or neglect of a child.

§49-4-601b. Substantiation by the department of abuse and neglect.

(a) Notwithstanding any provision of this code to the contrary, when the department substantiates an allegation of abuse or neglect against a person, but there is no judicial finding of abuse or neglect

as a result of the allegation, the department shall provide written notice of the substantiation to the person by certified mail, return receipt requested.

(b) The individual against whom an abuse or neglect allegation has been substantiated, as described in subsection (a) of this section, has the right to contest the substantiation by filing a grievance with the board of review of the department and has the right to appeal the decision of the board of review to the court, in accordance with the provisions of §29A-5-1 et. seq. of this code regarding administrative appeals.

(c) The secretary of the department shall promulgate legislative rules in accordance with §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 2021, which rules shall include, at a minimum:

(1) Provisions for ensuring that an individual against whom the department has substantiated an allegation of abuse and neglect, but against whom there is no judicial finding of abuse or neglect, receives written notice of the substantiation in a timely manner. The written notice must, at a minimum, state the following:

(A) The name of the child the person is alleged to have abused or neglected, the place or places where the abuse or neglect allegedly occurred, and the date or dates on which the abuse or neglect is alleged to have occurred;

(B) That the person has a right to file a grievance protesting the substantiation of abuse and neglect with the board of review of the department and clear instructions regarding how to file a grievance with the board of review, including a description of any applicable time limits;

(C) That the person has a right to appeal an adverse decision of the board of review of the department to the courts and notice of any applicable time limits; and

(D) A description of any public or nonpublic registry on which the person's name will be included as a result of a substantiated allegation of abuse and neglect and a statement that the inclusion of the person's name on the registry may prevent the person from holding jobs from which child abusers are disqualified, or from providing foster or kinship care to a child in the future;

(2) Provisions for ensuring that a person against whom an allegation of abuse and neglect has been substantiated, but against whom there is no judicial finding of abuse or neglect, may file a grievance with the department and provisions guaranteeing that any such person will have a full and fair opportunity to be heard; and

(3) Provisions requiring the department to remove a person's name from an abuse and neglect registry maintained by the department if a substantiation is successfully challenged in the board of review or in a court.

§49-4-604. Disposition of neglected or abused children; case plans; dispositions; factors to be considered; reunification; orders; alternative dispositions.

(a) *Child and family case plans.* — Following a determination pursuant to §49-4-602 of this code wherein the court finds a child to be abused or neglected, the department shall file with the court a copy of the child's case plan, including the permanency plan for the child. The term 'case plan' means a written document that includes, where applicable, the requirements of the family case plan as provided in §49-4-408 of this code and that also includes, at a minimum, the following:

(1) A description of the type of home or institution in which the child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to assure that the child receives proper care and that services are provided to the parents, child, and foster or kinship parents in order to improve the conditions that made the child unsafe in the care of his or her parent(s), including any reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. §12101 *et seq*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services;

(2) A plan to facilitate the return of the child to his or her own home or the concurrent permanent placement of the child; and address the needs of the child while in relative kinship or foster care, including a discussion of the appropriateness of the services that have been provided to the child.

The term 'permanency plan' refers to that part of the case plan which is designed to achieve a permanent home for the child in the least restrictive setting available. The plan must document efforts to ensure that the child is returned home within approximate time lines for reunification as set out in the plan. Reasonable efforts to place a child for adoption or with a legal guardian should be made at the same time, or concurrent with, reasonable efforts to prevent removal or to make it possible for a child to return to the care of his or her parent(s) safely. If reunification is not the permanency plan for the child, the plan must state why reunification is not appropriate and detail the alternative, concurrent permanent placement plans for the child to include approximate time lines for when the placement is expected to become a permanent placement. This case plan shall serve as the family case plan for parents of abused or neglected children. Copies of the child's case plan shall be sent to the child's attorney and parent, guardian or custodian or their counsel at least five days prior to the dispositional hearing. The court shall forthwith proceed to disposition giving both the petitioner and respondents an opportunity to be heard.

(b) Requirements for a Guardian ad litem. —

A guardian ad litem appointed pursuant to §49-4-601(f)(1) of this code, shall, in the performance of his or her duties, adhere to the requirements of the Rules of Procedure for Child Abuse and Neglect Proceedings and the Rules of Professional Conduct and such other rules as the West Virginia Supreme Court of Appeals may promulgate, and any appendices thereto, and must meet all educational requirements for the guardian ad litem. A guardian ad litem may not be paid for his or her services without meeting the certification and educational requirements of the court. The West Virginia Supreme Court of Appeals is requested to provide guidance to the judges of the circuit courts regarding supervision of said guardians ad litem.

~~(b)~~ (c) Disposition decisions. — The court shall give precedence to dispositions in the following sequence:

(1) Dismiss the petition;

(2) Refer the child, the abusing parent, the battered parent or other family members to a community agency for needed assistance and dismiss the petition;

(3) Return the child to his or her own home under supervision of the department;

(4) Order terms of supervision calculated to assist the child and any abusing parent or battered parent or parents or custodian which prescribe the manner of supervision and care of the child and which are within the ability of any parent or parents or custodian to perform;

(5) Upon a finding that the abusing parent or battered parent or parents are presently unwilling or unable to provide adequately for the child's needs, commit the child temporarily to the care, custody, and control of the state department, a licensed private child welfare agency, or a suitable person who may be appointed guardian by the court. The court order shall state:

(A) That continuation in the home is contrary to the best interests of the child and why;

(B) Whether or not the department has made reasonable efforts, with the child's health and safety being the paramount concern, to preserve the family, or some portion thereof, and to prevent or eliminate the need for removing the child from the child's home and to make it possible for the child to safely return home;

(C) Whether the department has made reasonable accommodations in accordance with the Americans with Disabilities Act of 1990, 42 U. S. C. § 12101 *et seq.*, to parents with disabilities in order to allow them meaningful access to reunification and family preservation services;

(D) What efforts were made or that the emergency situation made those efforts unreasonable or impossible; and

(E) The specific circumstances of the situation which made those efforts unreasonable if services were not offered by the department. The court order shall also determine under what circumstances the child's commitment to the department are to continue. Considerations pertinent to the determination include whether the child should:

(i) Be considered for legal guardianship;

(ii) Be considered for permanent placement with a fit and willing relative; or

(iii) Be placed in another planned permanent living arrangement, but only in cases where the child has attained 16 years of age and the department has documented to the circuit court a compelling reason for determining that it would not be in the best interests of the child to follow one of the options set forth in subparagraphs (i) or (ii) of this paragraph. The court may order services to meet the special needs of the child. Whenever the court transfers custody of a youth to the department, an appropriate order of financial support by the parents or guardians shall be entered in accordance with §49-4-801 through §49-4-803 of this code;

(6) Upon a finding that there is no reasonable likelihood that the conditions of neglect or abuse can be substantially corrected in the near future and, when necessary for the welfare of the child, terminate the parental, custodial and guardianship rights and responsibilities of the abusing parent and commit the child to the permanent sole custody of the nonabusing parent, if there be one, or, if not, to either the permanent guardianship of the department or a licensed child welfare agency. The court may award sole custody of the child to a nonabusing battered parent. If the court shall so find, then in fixing its dispositional order the court shall consider the following factors:

(A) The child's need for continuity of care and caretakers;

(B) The amount of time required for the child to be integrated into a stable and permanent home environment; and

(C) Other factors as the court considers necessary and proper. Notwithstanding any other provision of this article, the court shall give consideration to the wishes of a child 14 years of age or older or otherwise of an age of discretion as determined by the court regarding the permanent

termination of parental rights. No adoption of a child shall take place until all proceedings for termination of parental rights under this article and appeals thereof are final. In determining whether or not parental rights should be terminated, the court shall consider the efforts made by the department to provide remedial and reunification services to the parent. The court order shall state:

(i) That continuation in the home is not in the best interest of the child and why;

(ii) Why reunification is not in the best interests of the child;

(iii) Whether or not the department made reasonable efforts, with the child's health and safety being the paramount concern, to preserve the family, or some portion thereof, and to prevent the placement or to eliminate the need for removing the child from the child's home and to make it possible for the child to safely return home, or that the emergency situation made those efforts unreasonable or impossible; and

(iv) Whether or not the department made reasonable efforts to preserve and reunify the family, or some portion thereof, including a description of what efforts were made or that those efforts were unreasonable due to specific circumstances.

(7) For purposes of the court's consideration of the disposition custody of a child pursuant to this subsection, the department is not required to make reasonable efforts to preserve the family if the court determines:

(A) The parent has subjected the child, another child of the parent or any other child residing in the same household or under the temporary or permanent custody of the parent to aggravated circumstances which include, but are not limited to, abandonment, torture, chronic abuse, and sexual abuse;

(B) The parent has:

(i) Committed murder of the child's other parent, guardian or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(ii) Committed voluntary manslaughter of the child's other parent, guardian, or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent;

(iii) Attempted or conspired to commit murder or voluntary manslaughter, or been an accessory before or after the fact to either crime;

(iv) Committed a malicious assault that results in serious bodily injury to the child, the child's other parent, guardian, or custodian, to another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent; or

(v) Attempted or conspired to commit malicious assault, as outlined in subparagraph (iv), or been an accessory before or after the fact to the same;

~~(v)~~ (vi) Committed sexual assault or sexual abuse of the child, the child's other parent, guardian, or custodian, another child of the parent, or any other child residing in the same household or under the temporary or permanent custody of the parent; or

(vii) Attempted or conspired to commit sexual assault or sexual abuse, as outlined in subparagraph (vi), or been an accessory before or after the fact to the same.

(C) The parental rights of the parent to another child have been terminated involuntarily;

(D) A parent has been required by state or federal law to register with a sex offender registry, and the court has determined in consideration of the nature and circumstances surrounding the prior charges against that parent, that the child's interests would not be promoted by a preservation of the family.

~~(e)~~ (d) As used in this section, 'No reasonable likelihood that conditions of neglect or abuse can be substantially corrected' means that, based upon the evidence before the court, the abusing adult or adults have demonstrated an inadequate capacity to solve the problems of abuse or neglect on their own or with help. Those conditions exist in the following circumstances, which are not exclusive:

(1) The abusing parent or parents have habitually abused or are addicted to alcohol, controlled substances or drugs, to the extent that proper parenting skills have been seriously impaired and the person or persons have not responded to or followed through the recommended and appropriate treatment which could have improved the capacity for adequate parental functioning;

(2) The abusing parent or parents have willfully refused or are presently unwilling to cooperate in the development of a reasonable family case plan designed to lead to the child's return to their care, custody and control;

(3) The abusing parent or parents have not responded to or followed through with a reasonable family case plan or other rehabilitative efforts of social, medical, mental health, or other rehabilitative agencies designed to reduce or prevent the abuse or neglect of the child, as evidenced by the continuation or insubstantial diminution of conditions which threatened the health, welfare, or life of the child;

(4) The abusing parent or parents have abandoned the child;

(5) The abusing parent or parents have repeatedly or seriously injured the child physically or emotionally, or have sexually abused or sexually exploited the child, and the degree of family stress and the potential for further abuse and neglect are so great as to preclude the use of resources to mitigate or resolve family problems, or assist the abusing parent or parents in fulfilling their responsibilities to the child; and

(6) The battered parent's parenting skills have been seriously impaired and the person has willfully refused or is presently unwilling or unable to cooperate in the development of a reasonable treatment plan, or has not adequately responded to or followed through with the recommended and appropriate treatment plan.

~~(e)~~ (e) The court may, as an alternative disposition, allow the parents or custodians an improvement period not to exceed six months. During this period the court shall require the parent to rectify the conditions upon which the determination was based. The court may order the child to be placed with the parents, or any person found to be a fit and proper person, for the temporary care of the child during the period. At the end of the period, the court shall hold a hearing to determine whether the conditions have been adequately improved and at the conclusion of the hearing shall make a further dispositional order in accordance with this section.

(e) (f) The court may not terminate the parental ~~right~~ rights of a parent on the sole basis that the parent is participating in a medication-assisted treatment program, as regulated in §16-5Y-1 *et seq.*, for substance use disorder, as long as the parent is successfully fulfilling his or her treatment obligations in the medication-assisted treatment program.”

And,

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

Com. Sub. for H. B. 4092 – “A Bill to repeal §49-2-102 and §49-2-104 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-1-206 of said code; to amend and reenact §49-2-108, §49-2-110, §49-2-111, §49-2-111a, §49-2-112, §49-2-118, §49-2-121, §49-2-124, and §49-2-126 of said code; to amend said code by adding thereto five new sections, designated §49-2-111c, §49-2-127, §49-2-127a §49-2-128, and §49-2-129; to amend said code by adding thereto two new sections, designated §49-4-601a and §49-4-601b; and to amend and reenact §49-4-604, of said code, all relating generally to the child welfare system; defining terms; increasing the number children allowed in a foster family home; removing authorization for the Secretary of the Department of Health and Human Resources to transfer funds between certain accounts; eliminating requirement that the secretary provide public education; requiring certain information to be included in child placing agency data reports; setting a minimum amount that the Department of Health and Human Resources must pay child placing agencies per child adopted; requiring the department to review the rate of payment to foster parents at certain time intervals; authorizing and directing the department to expend funds to achieve certain priorities and objectives related to child placement and other services; requiring the department to expend an amount of appropriated funds in fiscal year 2021 to achieve certain priorities and objectives; requiring the secretary of the department to report annually, and upon request, to the Joint Standing Committee on Government and Finance regarding expenditures and progress toward meeting certain objectives and priorities; specifying when the department shall remit payments to foster families; eliminating summary review requirements for behavioral health care services and facilities for children in out of home placements; establishing the Foster Child Bill of Rights; establishing the Foster and Kinship Parent Bill of Rights; providing that violations of the rights provided to foster children and parents may be reported to and investigated by the foster care ombudsman; setting forth certain duties of foster parents; requiring a number of provisions to be included in the agreement between the foster parent and the child placing agency and the department; providing that neglect of a foster or kinship parent’s duties and violations of agreements may be reported to and investigated by the foster care ombudsman; requiring the foster care ombudsman to make certain reports; setting forth the reasonable and prudent foster parent standard; providing that children in out-of-home care are entitled to participate in certain activities and requiring caregivers to use the reasonable and prudent foster parent standard to make certain decisions regarding the child; limiting liability of a person adhering to the reasonable and prudent foster parent standard; requiring the department to establish minimum standards for transitional living services by legislative rule; establishing eligibility criteria for children and transitioning adults to participate in transitional living services; providing requirements for transitional living arrangements and the agency’s duties in relation thereto; establishing preference that children removed from the home be placed with relatives and fictive kin; establishing a process by which the department shall, and others may, assist the court in identifying family members and fictive kin; requiring the department to provide notice to a person against whom an allegation of abuse or neglect, that does not result in a finding by a court, is substantiated; providing that a person against whom an allegation of abuse or neglect has been substantiated has a right to contest the substantiation and the right to appeal a decision of the department to the courts; establishing requirements for legislative rules of the department regarding substantiation of abuse and neglect allegations; requiring guardians ad litem to adhere to certain policies and meet certain requirements; clarifying when the department, in an

abuse and neglect case, is not required to make efforts to preserve the family; requiring the department to promulgate legislative rules; requiring the department promulgate emergency rules; making technical corrections; and eliminating obsolete language from the code.”

With the further amendment, sponsored by Delegate Summers, being as follows:

On page eight, line one hundred seventy-four, by striking out the number “16” and inserting the number “17”.

On page thirteen, section 111c, line 11, by striking, “July 1, 2021” and inserting, “December 1, 2021”.

On page twenty-nine, section 601a, line 3, by striking the words, “child’s caseworker” and inserting the word, “department”.

And,

On page thirty-three, line forty-one, after the period, by inserting the following:

“The West Virginia Supreme Court of Appeals is requested to review the Rules of Procedure for Child Abuse and Neglect Proceedings and the Rules of Professional Conduct specific to guardians ad litem.”

And,

The further title amendment, sponsored by Delegate Summers, amending the title of the bill to read as follows:

H. B. 4092 – A bill to repeal §49-2-102 and §49-2-104 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-1-206 of said code; to amend and reenact §49-2-108, §49-2-110, §49-2-111, §49-2-111a, §49-2-112, §49-2-118, §49-2-121, §49-2-124, and §49-2-126 of said code; to amend said code by adding thereto five new sections, designated §49-2-111c, §49-2-127, §49-2-127a, §49-2-128, and §49-2-129; to amend said code by adding thereto two new sections, designated §49-4-601a and §49-4-601b; and to amend and reenact §49-4-604, of said code, all relating generally to the child welfare system; defining terms; increasing the number children allowed in a foster family home; removing authorization for the Secretary of the Department of Health and Human Resources to transfer funds between certain accounts; eliminating requirement that the secretary provide public education; requiring certain information to be included in child placing agency data reports; setting a minimum amount that the Department of Health and Human Resources must pay child placing agencies per child adopted; requiring the department to review the rate of payment to foster parents at certain time intervals; authorizing and directing the department to expend funds to achieve certain priorities and objectives related to child placement and other services; requiring the secretary of the department to report annually, and upon request, to the Joint Standing Committee on Government and Finance regarding expenditures and progress toward meeting certain objectives and priorities; specifying when the department shall remit payments to foster families; eliminating summary review requirements for behavioral health care services and facilities for children in out of home placements; establishing the Foster Child Bill of Rights; establishing the Foster and Kinship Parent Bill of Rights; providing that violations of the rights provided to foster children and parents may be reported to and investigated by the foster care ombudsman; setting forth certain duties of foster parents; requiring a number of provisions to be included in the agreement between the foster parent and the child placing agency and the department; providing that neglect of a foster or kinship parent’s duties and violations of agreements may be reported to and investigated by the foster care

ombudsman; requiring the foster care ombudsman to make certain reports; setting forth the reasonable and prudent foster parent standard; providing that children in out-of-home care are entitled to participate in certain activities and requiring caregivers to use the reasonable and prudent foster parent standard to make certain decisions regarding the child; limiting liability of a person adhering to the reasonable and prudent foster parent standard; requiring the department to establish minimum standards for transitional living services by legislative rule; establishing eligibility criteria for children and transitioning adults to participate in transitional living services; providing requirements for transitional living arrangements and the agency’s duties in relation thereto; establishing preference that children removed from the home be placed with relatives and fictive kin; establishing a process by which the department shall, and others may assist, in identifying family members and fictive kin; requiring the department to provide notice to a person against whom an allegation of abuse or neglect, that does not result in a finding by a court, is substantiated; providing that a person against whom an allegation of abuse or neglect has been substantiated has a right to contest the substantiation and the right to appeal a decision of the department to the courts; establishing requirements for legislative rules of the department regarding substantiation of abuse and neglect allegations; requiring guardians ad litem to adhere to certain policies and meet certain requirements; requesting the supreme court to review certain rules; clarifying when the department, in an abuse and neglect case, is not required to make efforts to preserve the family; requiring the department to promulgate legislative rules; requiring the department promulgate emergency rules; making technical corrections; and eliminating obsolete language from the code.”

Whereupon,

Delegate Summers asked and obtained unanimous consent that the amendment be reformed, as follows:

On page eight, line one hundred seventy-four, by striking out the number “16” and inserting the number “17”.

On page thirteen, section 111c, line 11, by striking, “July 1, 2021” and inserting, “December 1, 2020”.

On page twenty-nine, section 601a, line 3, by striking the words, “child’s caseworker” and inserting the word, “department”.

And,

On page thirty-three, line forty-one, after the period, by inserting the following:

“The West Virginia Supreme Court of Appeals is requested to review the Rules of Procedure for Child Abuse and Neglect Proceedings and the Rules of Professional Conduct specific to guardians ad litem.”

The House then concurred in the amendment of the bill by the Senate with the further reformed amendment and the further title amendment.

At 12:39 p.m., the House of Delegates recessed until 1:30 p.m.

Afternoon Session

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

In the absence of objection, further consideration of Com. Sub. for H. B. 4092 was postponed until after consideration of Com. Sub. for H. B. 4009 was completed.

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

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. 143, Requesting the Joint Committee on Government and Finance study and analyze the continued impact of human trafficking in West Virginia,

And,

H. C. R. 144, Requesting the Joint Committee on Government and Finance study ongoing issues relating to providing resources and processes to support and assist "Grandfamilies" caring for minor children in West Virginia,

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

In the absence of objection, the resolutions (H. C. R. 143 and H. C. R. 144) were each taken up for immediate consideration and adopted.

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

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:

S. C. R. 3, US Army MSG Richard A. "Dick" Smoot Memorial Bridge,

S. C. R. 6, Walter E. Swiger, Jr., Memorial Bridge,

Com. Sub. for S. C. R. 8, US Army 1LT Harold H. Frazier Memorial Bridge,

S. C. R. 9, US Army SSG Nick P. Markos Memorial Bridge,

S. C. R. 12, US Army PFC Gary Alcott Birkhimer Memorial Bridge,

S. C. R. 17, USMC PFC Manuel P. Markos Memorial Bridge,

Com. Sub. for S. C. R. 19, USMC LCpl Fred Michael Kerns Memorial Bridge,

S. C. R. 32, US Marine Corps PFC James R. "Johnny" Corder Memorial Bridge,

S. C. R. 33, US Air Force MSGT Dvon Duncan Memorial Bridge,

S. C. R. 34, US Army CPL Dane Hampton Hamric Memorial Bridge,

S. C. R. 35, Veterans Memorial Drive,

S. C. R. 36, Shafer Brothers US Military Veterans Memorial Bridge,

S. C. R. 39, US Navy PO1 Jeffrey S. Taylor Memorial Bridge,

S. C. R. 42, US Army CPL Richard "Warren" Ellison Memorial Bridge,

S. C. R. 43, US Army 1LT Fred Omar Pratt Memorial Bridge,

And,

S. C. R. 59, Rachel Hershey Smith Memorial Shelter,

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

In the absence of objection, the resolutions (S. C. R. 3, S. C. R. 6, Com. Sub. for S. C. R. 8, S. C. R. 9, S. C. R. 12, S. C. R. 17, Com. Sub. for S. C. R. 19, S. C. R. 32, S. C. R. 33, S. C. R. 34, S. C. R. 35, S. C. R. 36, S. C. R. 39, S. C. R. 42, S. C. R. 43 and S. C. R. 59) were each taken up for immediate consideration and adopted.

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

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

H. B. 4524, Making the entire state "wet" or permitting the sale of alcoholic liquors for off-premises consumption.

On motion of Delegate Summers, the House of Delegates agreed to the appointment of a Committee of Conference from each house on the disagreeing votes of the two houses.

Whereupon,

In the absence of objection, the Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Westfall, Capito and Hartman.

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. 4354, Adding nabiximols to the permitted list of distributed and prescribed drugs.

On motion of Delegate Summers, the House concurred in the following amendment by the Senate, with further title amendment:

On page two, section two hundred one, line forty-one, by striking out the word “nabiximol” and inserting in lieu thereof “nabiximols”.

And,

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

H. B. 4354 – “A Bill to amend and reenact §60A-2-201 of the Code of West Virginia, 1931, as amended, relating to drugs; providing for the sale, wholesale, distribution, or prescribing of nabiximols in a product approved by the Food and Drug Administration; and placing nabiximols on the schedules of controlled substance or descheduled as provided by the Food and Drug Administration.”

And,

The further title amendment, sponsored by Delegate Shott, amending the title of the bill to read as follows:

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

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. 709**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4354) 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. 4362, Relating to penalties for neglect, emotional abuse or death caused by a caregiver.

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

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

“§61-8D-5a. Verbal abuse of noncommunicative child; penalties.

The amendments made to this section during the 2020 Regular Session of the Legislature shall be known as ‘Adri’s, Owen’s, and Emma’s Law’.

(a) Any person, 18 years of age or older, who has supervisory responsibility over a noncommunicative minor child, who repeatedly engages in verbal conduct toward the child in an insulting, demeaning or threatening manner, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$2,500 or confined in jail not more than six months, or both fined and confined.

(b) As used in section (a) of this section:

(1) ‘Noncommunicative child’ means a child who, due to physical or developmental disabilities is unable to communicate verbally, in writing, or through a recognized sign language;

(2) ‘Repeatedly’ means on two or more occasions;

(3) ‘Supervisory responsibility’ means any situation where an adult has direct supervisory decision-making, oversight, instructive, academic, evaluative, or advisory responsibilities regarding the child. Supervisory responsibility can occur in a residence, in or out of a school setting, institutional setting, and in curricular, co-curricular, or extra-curricular settings.”

And,

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

Com. Sub. for H. B. 4362 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-8D-5a, relating to creating the offense of verbal abuse of a noncommunicative child; setting forth elements of the offense; establishing criminal penalties; and defining terms.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 710**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4362) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2020, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 4363, Establishing the West Virginia Division of Natural Resources Police Officer Retirement System.

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

On page twenty-four, section five, line eleven, by striking out the words “plan to the Consolidated Public Retirement Board expense fund” and inserting in lieu thereof “board from funds received by the board through gifts and bequests to the fund and any accretions and accumulations which may properly be paid into and become a part of the fund. The board may receive gifts and bequests for purposes of paying start-up costs as set forth in this subsection”.

On page thirty-two, section ten, line three, after the word “Natural”, by inserting the word “Resources”.

And,

On page forty-four, section fifteen, line fifty-one, by striking out the word “distribute” and inserting in lieu thereof the word “distributee”.

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. 711**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4363) passed.

Delegate Summers moved the bill take effect July 1, 2020.

On the question, the yeas and nays were taken (**Roll No. 712**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4363) takes effect July 1, 2020.

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

A message from the Senate, by

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

H. B. 4375, Speech-Language Pathologists and Audiologists Compact.

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

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

“ARTICLE 32A. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS COMPACT.

§30-32A-1. Purpose.

The purpose of this compact is to facilitate interstate practice of audiology and speech-language pathology with the goal of improving public access to audiology and speech-language pathology services. The practice of audiology and speech-language pathology occurs in the state where the patient, client, or student is located at the time of the patient, client, or student encounter. The compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure. This compact is designed to achieve the following objectives:

(1) Increase public access to audiology and speech-language pathology services by providing for the mutual recognition of other member state licenses;

(2) Enhance the state’s ability to protect the public’s health and safety;

(3) Encourage the cooperation of member states in regulating multistate audiology and speech-language pathology practice;

(4) Support spouses of relocating active duty military personnel;

(5) Enhance the exchange of licensure, investigative, and disciplinary information between member states;

(6) Allow a remote state to hold a provider of services with a compact privilege in that state accountable to that state’s practice standards; and

(7) Allow for the use of telehealth technology to facilitate increased access to audiology and speech-language pathology services.

§30-32A-2. Definitions.

As used in this compact, except as otherwise provided, the following definitions shall apply:

‘Active duty military’ means full-time duty status in the active uniformed service of the

United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

‘Adverse action’ means any administrative, civil, equitable, or criminal action permitted by a state’s laws which is imposed by a licensing board or other authority against an audiologist or speech-language pathologist, including actions against an individual’s license or privilege to practice such as revocation, suspension, probation, monitoring of the licensee, or restriction on the licensee’s practice.

‘Alternative program’ means a nondisciplinary monitoring process approved by an audiology or speech-language pathology licensing board to address impaired practitioners.

‘Audiologist’ means an individual who is licensed by a state to practice audiology.

'Audiology' means the care and services provided by a licensed audiologist as set forth in the member state's statutes and rules.

'Audiology and Speech-Language Pathology Compact Commission' or 'Commission' means the national administrative body whose membership consists of all states that have enacted the compact.

'Audiology and speech-language pathology licensing board', 'audiology licensing board', 'speech-language pathology licensing board', or 'licensing board' means the agency of a state that is responsible for the licensing and regulation of audiologists or speech-language pathologists, or both, which in West Virginia is the West Virginia Board of Examiners for Speech-Language Pathology and Audiology ('board').

'Compact privilege' means the authorization granted by a remote state to allow a licensee from another member state to practice as an audiologist or speech-language pathologist in the remote state under its laws and rules. The practice of audiology or speech-language pathology occurs in the member state where the patient, client, or student is located at the time of the patient, client, or student encounter.

'Current significant investigative information' means investigative information that a licensing board, after an inquiry or investigation that includes notification and an opportunity for the audiologist or speech-language pathologist to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

'Data system' means a repository of information about licensees, including, but not limited to, continuing education, examination, licensure, investigation, compact privilege, and adverse action.

'Encumbered license' means a license in which an adverse action restricts the practice of audiology or speech-language pathology by the licensee and the adverse action has been reported to the National Practitioners Data Bank (NPDB).

'Executive committee' means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.

'Home state' means the member state that is the licensee's primary state of residence.

'Impaired practitioner' means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

'Licensee' means an individual who currently holds an authorization from the state licensing board to practice as an audiologist or speech-language pathologist.

'Member state' means a state that has enacted the compact.

'Privilege to practice' means a legal authorization permitting the practice of audiology or speech-language pathology in a remote state.

'Remote state' means a member state other than the home state where a licensee is exercising or seeking to exercise the compact privilege.

'Rule' means a regulation, principle, or directive promulgated by the commission that has the force of law.

'Single-state license' means an audiology or speech-language pathology license issued by a member state that authorizes practice only within the issuing state and does not include a privilege to practice in any other member state.

'Speech-language pathologist' means an individual who is licensed by a state to practice speech-language pathology.

'Speech-language pathology' means the care and services provided by a licensed speech-language pathologist as set forth in the member state's statutes and rules.

'State' means any state, commonwealth, district, or territory of the United States of America that regulates the practice of audiology and speech-language pathology.

'State practice laws' means a member state's laws, rules, and regulations that govern the practice of audiology or speech-language pathology, define the scope of audiology or speech-language pathology practice, and create the methods and grounds for imposing discipline.

'Telehealth' means the application of telecommunication, audio-visual, or other technologies that meets the applicable standard of care to deliver audiology or speech-language pathology services at a distance for assessment, intervention, or consultation.

§30-32A-3. State participation in the compact.

(a) Upon the grant of the compact privilege, a license issued to an audiologist or speech-language pathologist by a home state to a resident in that state shall be recognized by each member state as authorizing an audiologist or speech-language pathologist to practice audiology or speech-language pathology, under a privilege to practice, in the member state where the licensee obtains this privilege.

(b) A state must implement or use procedures for considering the criminal history records of applicants for initial privilege to practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(1) A member state must fully implement a criminal background check requirement, within a timeframe established by rule, by receiving the results of the Federal Bureau of Investigation record search on criminal background checks and using the results in making licensure decisions.

(2) Communication between a member state, the commission, and among member states regarding the verification of eligibility for licensure through the compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a member state under Public Law 92-544.

(c) Upon application for a privilege to practice, the licensing board in the issuing remote state shall ascertain, through the data system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or privilege to practice held by the applicant, and whether any adverse action has been taken against any license or privilege to practice held by the applicant.

(d) Each member state shall require an applicant to obtain or retain a license in the home

state and meet the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws.

(e) An audiologist:

(1) Must meet one of the following educational requirements:

(A) On or before, December 31, 2007, the applicant graduated with a master's degree or doctorate in audiology, or equivalent degree regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education, and operated by a college or university accredited by a regional or national accrediting organization recognized by the board;

(B) After Jan. 1, 2008, the applicant graduated with a doctoral degree in audiology, or equivalent degree, regardless of degree name, from a program that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, or its successor, or by the United States Department of Education, and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

(C) The applicant graduated from an audiology program that is housed in an institution of higher education outside of the United States: (i) For which the program and institution have been approved by the authorized accrediting body in the applicable country; and (ii) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program;

(2) Completed a supervised clinical practicum experience from an accredited educational institution or its cooperating programs as required by the commission;

(3) Successfully passed a national examination approved by the commission;

(4) Holds an active, unencumbered license;

(5) Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of audiology under applicable state or federal criminal law; and

(6) Has a valid United States Social Security or National Practitioner Identification number.

(f) A speech-language pathologist:

(1) Must meet one of the following educational requirements:

(A) The applicant graduated with a master's degree from a speech-language pathology program that is accredited by an organization recognized by the United States Department of Education and operated by a college or university accredited by a regional or national accrediting organization recognized by the board; or

(B) The applicant graduated from a speech-language pathology program that is housed in an institution of higher education outside of the United States: (i) For which the program and institution have been approved by the authorized accrediting body in the applicable country; and (ii) the degree program has been verified by an independent credentials review agency to be comparable to a state licensing board-approved program.

(2) Completed a supervised clinical practicum experience from an educational institution or its cooperating programs as required by the commission;

(3) Completed a supervised postgraduate professional experience as required by the commission;

(4) Successfully passed a national examination approved by the commission;

(5) Holds an active, unencumbered license;

(6) Has not been convicted or found guilty, and has not entered into an agreed disposition, of a felony related to the practice of speech-language pathology under applicable state or federal criminal law; and

(7) Has a valid United States Social Security or National Practitioner Identification number.

(g) The privilege to practice is derived from the home state license.

(h) An audiologist or speech-language pathologist practicing in a member state must comply with the state practice laws of the state in which the client is located at the time service is provided. The practice of audiology and speech-language pathology shall include all audiology and speech-language pathology practice as defined by the state practice laws of the member state in which the client is located. The practice of audiology and speech-language pathology in a member state under a privilege to practice shall subject an audiologist or speech-language pathologist to the jurisdiction of the licensing board, the courts, and the laws of the member state in which the client is located at the time service is provided.

(i) Individuals not residing in a member state shall continue to be able to apply for a member state's single-state license as provided under the laws of each member state. However, the single-state license granted to these individuals shall not be recognized as granting the privilege to practice audiology or speech-language pathology in any other member state. Nothing in this compact affects the requirements established by a member state for the issuance of a single-state license.

(j) Member states may charge a fee for granting a compact privilege.

(k) Member states must comply with the bylaws and rules and regulations of the commission.

§30-32A-4. Compact privilege.

(a) To exercise the compact privilege under the terms and provisions of the compact, the audiologist or speech-language pathologist shall:

(1) Hold an active license in the home state;

(2) Have no encumbrance on any state license;

(3) Be eligible for a compact privilege in any member state in accordance with §30-32A-3 of this code;

(4) Had no adverse action against any license or compact privilege within the previous two years from date of application;

(5) Notify the Commission that the licensee is seeking the compact privilege within a remote state or states;

(6) Pay any applicable fees, including any state fee, for the compact privilege; and

(7) Report to the commission adverse action taken by any nonmember state within 30 days from the date the adverse action is taken.

(b) For the purposes of the compact privilege, an audiologist or speech-language pathologist may only hold one home state license at a time.

(c) Except as provided in §30-32A-6 of this code, if an audiologist or speech-language pathologist changes primary state of residence by moving between two member states, the audiologist or speech-language pathologist must apply for licensure in the new home state, and the license issued by the prior home state shall be deactivated in accordance with applicable rules adopted by the commission.

(d) The audiologist or speech-language pathologist may apply for licensure in advance of a change in primary state of residence.

(e) A license shall not be issued by the new home state until the audiologist or speech-language pathologist provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a license from the new home state.

(f) If an audiologist or speech-language pathologist changes primary state of residence by moving from a member state to a nonmember state, the license issued by the prior home state shall convert to a single-state license, valid only in the former home state, and the privilege to practice in any member state is deactivated in accordance with the rules promulgated by the commission.

(g) The compact privilege is valid until the expiration date of the home state license. The licensee must comply with the requirements of subsection (a) of this section to maintain the compact privilege in the remote state.

(h) A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

(i) A licensee providing audiology or speech-language pathology services in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the remote state for a specific period of time, impose fines, or take any other necessary actions to protect the health and safety of its citizens.

(j) If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:

(1) The home state license is no longer encumbered; and

(2) Two years have elapsed from the date of the adverse action.

(k) Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of subsection (a) of this section to obtain a compact privilege in any remote state.

§30-32A-5. Compact privilege to practice telehealth.

(a) Member states shall recognize the right of an audiologist or speech-language pathologist, licensed by a home state in accordance with §30-32A-3 of this code and under rules promulgated by the commission, to practice audiology or speech-language pathology in any member state via telehealth under a privilege to practice as provided in the compact and rules promulgated by the commission.

(b) A licensee providing audiology or speech-language pathology services in a remote state under the compact privilege shall function within the laws and regulations of the state where the patient, client, or student is located.

§30-32A-6. Active duty military personnel or their spouses.

Active duty military personnel, or their spouse, shall designate a home state where the individual has a current license in good standing. The individual may retain the home state designation during the period the service member is on active duty. Subsequent to designating a home state, the individual shall only change their home state through application for licensure in the new state.

§30-32A-7. Adverse actions.

(a) In addition to the other powers conferred by state law, a remote state may, in accordance with existing state due process law:

(1) Take adverse action against an audiologist's or speech-language pathologist's privilege to practice within that member state; and

(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a licensing board in a member state for the attendance and testimony of witnesses or the production of evidence from another member state shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses or evidence are located.

(b) Only the home state may take adverse action against an audiologist's or speech-language pathologist's license issued by the home state.

(c) For purposes of taking adverse action, the home state shall give the same priority and effect to reported conduct received from a member state as it would if the conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(d) The home state shall complete any pending investigations of an audiologist or speech-language pathologist who changes primary state of residence during the course of the investigation. The home state may also take appropriate action or actions and shall promptly report the conclusions of the investigations to the administrator of the data system. The administrator of the data system shall promptly notify the new home state of any adverse actions.

(e) If otherwise permitted by state law, the home state may recover from the affected audiologist or speech-language pathologist the costs of investigations and disposition of cases resulting from any adverse action taken against that audiologist or speech-language pathologist.

(f) The home state may take adverse action based on the factual findings of the remote state, provided that the home state follows its own procedures for taking the adverse action.

(g) *Joint Investigations -*

(1) In addition to the authority granted to a member state by its respective audiology or speech-language pathology practice act or other applicable state law, any member state may participate with other member states in joint investigations of licensees.

(2) Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the compact.

(h) If adverse action is taken by the home state against an audiologist's or speech-language pathologist's license, the audiologist's or speech-language pathologist's privilege to practice in all other member states shall be suspended until all encumbrances have been removed from the state license. All home state disciplinary orders that impose adverse action against an audiologist's or speech language pathologist's license shall include a statement that the audiologist's or speech-language pathologist's privilege to practice is deactivated in all member states during the pendency of the order.

(i) If a member state takes adverse action against a licensee, it shall promptly notify the administrator of the data system. The administrator of the data system shall promptly notify the home state and any remote states in which the licensee has the privilege to practice of any adverse actions by the home state or remote states.

(j) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action.

§30-32A-8. Establishment of the Audiology and Speech-Language Pathology Compact Commission.

(a) The compact member states hereby create and establish a joint public agency known as the Audiology and Speech-Language Pathology Compact Commission:

(1) The commission is an instrumentality of the compact states;

(2) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings; and

(3) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(b) *Membership, voting and meetings -*

(1) Each member state shall have two delegates selected by that member state's licensing board. The delegates shall be current members of the licensing board. One shall be an audiologist and one shall be a speech-language pathologist.

(2) An additional five delegates, who are either a public member or board administrators from a state licensing board, shall be chosen by the executive committee from a pool of nominees provided by the commission at large.

(3) Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

(4) The member state board shall fill any vacancy occurring on the commission within 90 days.

(5) Each delegate is entitled to one vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission.

(6) A delegate shall vote in person or by other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(7) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(c) The commission may:

(1) Establish the fiscal year of the commission;

(2) Establish bylaws;

(3) Establish a code of ethics;

(4) Maintain its financial records in accordance with the bylaws;

(5) Meet and take actions as are consistent with the provisions of this compact and the bylaws;

(6) Promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states to the extent and in the manner provided for in the compact;

(7) Bring legal proceedings or prosecute actions in the name of the commission, provided that the standing of any state audiology or speech-language pathology licensing board to sue or be sued under applicable law shall not be affected;

(8) Purchase and maintain insurance and bonds;

(9) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a member state;

(10) Hire employees, elect or appoint officers, fix compensation, define duties, grant individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(11) Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, use, and dispose of the same: *Provided*, That at all times the commission shall avoid any appearance of impropriety or conflict of interest;

(12) Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; *Provided*, That at all times the commission shall avoid any appearance of impropriety;

(13) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(14) Establish a budget and make expenditures;

(15) Borrow money;

(16) Appoint committees, including standing committees composed of members and other interested persons designated in this compact and the bylaws;

(17) Provide and receive information from, and cooperate with, law enforcement agencies;

(18) Establish and elect an executive committee; and

(19) Perform other functions necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of audiology and speech-language pathology licensure and practice.

(d) The commission may not change or modify the laws of the member states which define the practice of audiology and speech-language pathology in the respective states.

(e) The executive committee may act on behalf of the commission, within the powers of the commission, according to the terms of this compact. The executive committee shall be composed of 10 members:

(1) Seven voting members who are elected by the commission from the current membership of the commission;

(2) Two ex officio members, consisting of one nonvoting member from a recognized national audiology professional association and one nonvoting member from a recognized national speech-language pathology association; and

(3) One ex officio, nonvoting member from the recognized membership organization of the audiology and speech-language pathology licensing boards.

(f) The ex officio members shall be selected by their respective organizations.

(1) The commission may remove any member of the executive committee as provided in the bylaws.

(2) The executive committee shall meet at least annually.

(3) The executive committee shall:

(A) Recommend to the entire commission changes to the rules or bylaws, changes to this compact legislation, fees paid by compact member states such as annual dues, and any commission compact fee charged to licensees for the compact privilege;

(B) Ensure compact administration services are appropriately provided, contractual or otherwise;

(C) Prepare and recommend the budget;

(D) Maintain financial records on behalf of the commission;

(E) Monitor compact compliance of member states and provide compliance reports to the commission;

(F) Establish additional committees as necessary; and

(G) Perform duties as provided in rules or bylaws.

(4) All meetings of the commission or the executive committee shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rule-making provisions in §30-32A-10 of this code.

(5) The commission or the executive committee or other committees of the commission may convene in a closed, nonpublic meeting if the commission or executive committee or other committees of the commission must discuss:

(A) Noncompliance of a member state with its obligations under the compact;

(B) The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

(C) Current, threatened, or reasonably anticipated litigation;

(D) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(E) Accusing any person of a crime or formally censuring any person;

(F) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(G) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(H) Disclosure of investigative records compiled for law enforcement purposes;

(I) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with the responsibility of investigation or the determination of compliance issues pursuant to the compact; or

(J) Matters specifically exempted from disclosure by federal or member state statutes.

(6) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(7) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of meetings, other than closed meetings, shall be made available to members of the public upon request. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(8) *Financing of the commission -*

(A) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(B) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(C) The commission may levy on and collect an annual assessment from each member state's licensing board, which in West Virginia is the West Virginia Board of Examiners for Speech-Language Pathology and Audiology Board, or impose fees on parties, other than the member states, to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.

(9) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the obligation; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.

(10) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(g) *Qualified immunity, defense, and indemnification -*

(1) The members, officers, executive director, employees, and representatives of the Commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities: *Provided*, That nothing in this subdivision shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person;

(2) The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual

or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities: *Provided*, That nothing in this subdivision prohibits that person from retaining his or her own counsel: *Provided*, however, That the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct; and

(3) The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities: *Provided*, That the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

§30-32A-9. Data system.

(a) The commission shall provide for the development, maintenance, and use of a coordinated database and reporting system containing licensure, adverse action, and investigative information on all licensed individuals in member states.

(b) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this compact is applicable as required by the rules of the commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Adverse actions against a license or compact privilege;

(4) Nonconfidential information related to alternative program participation;

(5) Any denial of application for licensure, and the reason for denial; and

(6) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(c) Investigative information pertaining to a licensee in any member state shall only be available to other member states.

(d) The commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state shall be available to any other member state.

(e) Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

(f) Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

§30-32A-10. Rulemaking.

(a) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments become binding as of the date specified in each rule or amendment.

(b) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact within four years of the date of adoption of the rule, the rule shall have no further force and effect in any member state.

(c) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(d) Prior to promulgation and adoption of a final rule or rules by the commission, and at least 30 days in advance of the meeting at which the rule shall be considered and voted upon, the commission shall file a Notice of Proposed Rulemaking:

(1) On the website of the commission or other publicly accessible platform; and

(2) On the website of each member state audiology or speech-language pathology licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

(e) The Notice of Proposed Rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the rule shall be considered and voted upon;

(2) The text of the proposed rule or amendment and the reason for the proposed rule or amendment;

(3) A request for comments on the proposed rule from any interested person; and

(4) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(f) Prior to the adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(g) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(1) At least 25 persons;

(2) A state or federal governmental subdivision or agency; or

(3) An association having at least 25 members.

(h) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings shall be recorded. A copy of the recording shall be made available to any person, upon request, at his or her own expense.

(4) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(i) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

(j) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(k) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(l) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rule-making procedures provided in the compact and in this section are retroactively applied to the rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety, or welfare;

(2) Prevent a loss of commission or member state funds; or

(3) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

(m) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision is subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

§30-32A-11. Dispute resolution and enforcement.

(a) Dispute resolution -

(1) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(2) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(b) Enforcement -

(1) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of litigation, including reasonable attorney's fees.

(3) The remedies in this section are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

§30-32A-12. Date of implementation of the interstate commission for audiology and speech-language pathology practice and associated rules, withdrawal, and amendment.

(a) The compact takes effect on the date on which the compact statute is enacted into law in the 10th member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(b) Any state that joins the compact subsequent to the commission's initial adoption of the rules is subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

(c) Any member state may withdraw from this compact by enacting a statute repealing participation in this compact.

(1) A member state's withdrawal shall not take effect until six months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing state's audiology or speech-language pathology licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(d) Nothing contained in this compact shall be construed to invalidate or prevent any audiology or speech-language pathology licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(e) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

§30-32A-13. Construction and severability.

This compact shall be liberally construed so as to effectuate the purposes of the compact. The provisions of this compact are severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of any member state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected. If this compact is held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

§30-32A-14. Binding effect of compact and other laws.

(a) Nothing in this article prevents the enforcement of any other law of a member state that is not inconsistent with the compact.

(b) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.

(c) All lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.

(d) All agreements between the commission and the member states are binding in accordance with their terms.

(e) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state."

And,

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

H. B. 4375 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated §30-32A-1, §30-32A-2, §30-32A-3, §30-32A-4, §30-32A-5, §30-32A-6, §30-32A-7, §30-32A-8, §30-32A-9, §30-32A-10, §30-32A-11, §30-32A-12, §30-32A-13, and §30-32A-14, all relating to joining the Audiology and Speech-Language Pathology Compact Commission; providing for a purpose; providing for definitions; providing for telehealth; requiring criminal background check and setting educational and other requirements for audiologists and speech language pathologists; authorizing member state to charge fee for granting compact privilege; providing for state participation in the compact; establishing the privilege to practice in member states; providing for change in primary state or residence procedures relating to licensing for active duty military personnel and their spouses; providing for procedures relating to duties, meetings, responsibilities, and adverse actions; establishing the Audiology and Speech-Language Pathology Compact Commission and providing for an executive committee; providing for a data system available for use among the member states; providing for rulemaking authority of the commission; providing for dispute resolution, and enforcement provisions of the commission among the member states; providing for date of implementation among the member states; providing for applicability of the existing rules at the time a new member state joins the commission; providing for withdrawal of any member states and conditions that must be met until withdrawal is effective; providing for a six-month period before withdrawal is effective; providing for construction and severability of the

provisions of the compact; and providing for a binding effect of the laws and rules of the compact among the member states.”

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. 713**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4375) 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. 4377, The Protection of Vulnerable Adults from Financial Exploitation Act.

On motion of Delegate Summers, the House concurred in the following amendment by the Senate, with further amendment:

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

“ARTICLE 6. THE PROTECTION OF ELIGIBLE ADULTS FROM FINANCIAL EXPLOITATION.

§32-6-601. Short title.

This article may be cited as ‘The Protection of Eligible Adults from Financial Exploitation Act’.

§32-6-602. Definitions.

In this article, unless the context otherwise requires:

(1) ‘Agencies’ means adult protective services and the Securities Commission, a Division of the State Auditor’s office.

(2) ‘Eligible adult’ means a person 65 years of age or older or a person subject to §9-6-1 *et seq.* of this code.

(3) ‘Financial exploitation’ means:

(A) The wrongful or unauthorized taking, withholding, appropriation, or use of securities, money, assets, or property of an eligible adult; or

(B) Any act or omission taken by a person, including using a power of attorney, guardianship, or conservatorship of an eligible adult to:

(i) Obtain control, through deception, intimidation, or undue influence over the eligible adult's money, assets, or property to deprive the eligible adult of the ownership, use, benefit, or possession of his or her money, assets, or property; or

(ii) Convert money, assets, or property of the eligible adult to deprive the eligible adult of the ownership, use, benefit, or possession of his or her money, assets, or property.

§32-6-603. Governmental Disclosures.

If a broker-dealer or investment adviser reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the broker-dealer or investment adviser shall promptly notify the agencies.

§32-6-604. Immunity for Governmental Disclosures.

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, makes a disclosure of information pursuant to section 603 of this article is immune from administrative or civil liability that might otherwise arise from the disclosure or for any failure to notify the customer of the disclosure.

§32-6-605. Third-Party Disclosures.

If a broker-dealer or investment adviser reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the broker-dealer or investment adviser may notify any reasonably associated individuals. Disclosure may not be made to any third party that is suspected of financial exploitation or other abuse of the eligible adult.

§32-6-606. Immunity for Third-Party Disclosures.

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with §32-6-605 of this code is immune from any administrative or civil liability that might arise from the disclosure.

§32-6-607. Delaying Transactions or Disbursements.

(a) A broker-dealer or investment adviser may delay a transaction or disbursement from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) The broker-dealer or investment adviser reasonably believes, after initiating an internal review of the requested transaction or disbursement and the suspected financial exploitation, that the requested transaction or disbursement may result in financial exploitation of an eligible adult; and

(2) The broker-dealer or investment adviser:

(i) Immediately, but in no event more than two business days after the broker-dealer or investment adviser first delayed the transaction or disbursement, provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless any party is reasonably believed to have engaged in suspected or attempted financial exploitation of the eligible adult;

(ii) Immediately, but in no event more than two business days after the date on which the transaction or disbursement was first delayed, notifies the agencies; and

(iii) Continues its internal review of the suspected or attempted financial exploitation of the eligible adult as necessary and reports the investigation's results to the agencies on a reasonable and periodic basis, up to and including the resolution of the investigation.

(b) Any delay of a transaction or disbursement as authorized by this section expires upon the sooner of:

(1) A determination by the broker-dealer or investment adviser that the disbursement will not result in financial exploitation of the eligible adult; or

(2) Fifteen business days after the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement of the funds, unless either of the agencies requests that the broker-dealer or investment adviser extend the delay, in which case the delay expires when requested by an order of a court of competent jurisdiction.

§32-6-608. Immunity for Delaying Transactions or Disbursements.

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with §32-6-607 of this code is immune from any administrative or civil liability that might otherwise arise from the delay in a transaction or disbursement.

§32-6-609. Records.

A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to agencies charged with administering state adult protective services laws and to law enforcement, either as part of a referral to the agency or to law enforcement, or upon request of the agency or law enforcement pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation of an eligible adult. All records made available to agencies under this section shall not be considered a public record as defined in §29B-1-1 *et seq.* of this code. Nothing in this provision may limit or otherwise impede the authority of the Securities Commission to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

§32-6-610. Immunity for Complying with Records Requests.

A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with §32-6-609 of this code is immune from any administrative or civil liability that might otherwise arise from such disclosure."

And,

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

Com. Sub. for H. B. 4377 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §32-6-601, §32-6-602, §32-6-603, §32-6-604, §32-6-605, §32-6-606, §32-6-607, §32-6-608, §32-6-609, and §32-6-610, all relating to the creation of The Protection of Vulnerable Adults From Financial Exploitation Act; defining terms; establishing the obligations and duties of broker-dealers and investment advisors to notify certain agencies of potential financial exploitation; establishing the rights of broker-dealers and investment advisors to notify certain associated individuals regarding potential financial exploitation; permitting broker-dealers and investment advisors to delay a transaction or disbursement when financial exploitation

is suspected; requiring the retention of records; and providing limited immunity from administrative and civil liability.”

With the further amendment, sponsored by Delegate Shott, being as follows:

On page one, above the article heading, by inserting the following:

“Be it enacted by the Legislature of West Virginia:”.

And,

The further title amendment, sponsored by Delegate Shott, amending the title of the bill to read as follows:

Com. Sub. for H. B. 4377 — “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §32-6-601, §32-6-602, §32-6-603, §32-6-604, §32-6-605, §32-6-606, §32-6-607, §32-6-608, §32-6-609, and §32-6-610, all relating to the creation of The Protection of Eligible Adults From Financial Exploitation Act; defining terms; establishing the obligations and duties of broker-dealers and investment advisors to notify certain agencies of potential financial exploitation; establishing the rights of broker-dealers and investment advisors to notify certain associated individuals regarding potential financial exploitation; permitting broker-dealers and investment advisors to delay a transaction or disbursement when financial exploitation is suspected; requiring the retention of records; and providing limited immunity from administrative and civil liability.”

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. 714**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan, Steele and Wilson.

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4377) passed.

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

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. 4406, Relating to the reproduction of checks and other records.

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

H. B. 4406 – “A Bill to amend and reenact §31A-4-35 of the Code of West Virginia, 1931, as amended, relating to the reproduction of checks and other records; the period for which banks shall

retain or preserve records; providing clarification that an action against a bank for any balance, amount, or proceeds of an account must be brought during the retention or preservation period; providing duties of a bank in possession of records after expiration of the record retention or preservation period; and providing an exception to retention or preservation period limitation for actions brought on behalf of minors.”

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. 715**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4406) 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. 4509, Transferring the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support.

On motion of Delegate Summers, the House concurred in the following amendment by the Senate, with further title amendment:

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

“ARTICLE 12. PROBATION AND PAROLE.

§62-12-12. Parole Board generally.

(a) The West Virginia Parole Board is continued as part of the Division of Corrections and Rehabilitation. The board shall consist of nine members, each of whom shall have been a resident of this state for at least five consecutive years prior to his or her appointment. No more than five of the board members may at any one time belong to the same political party, except as provided in subsection (b) of this section. The board shall be appointed by the Governor, by and with the advice and consent of the Senate and shall serve at the will and pleasure of the Governor.

~~(b)~~ Appointments shall be made in such a manner that each congressional district is represented and so that no more than four and no less than two members of the board reside in any one congressional district. ~~No more than two members of the board may reside in any one county~~

(b) The Governor shall appoint one of the nine members to serve as chairperson at the Governor’s will and pleasure. In addition to all other powers, duties, and responsibilities granted and assigned to the chairperson by law and rule, the chairperson has the following powers and duties:

(1) To provide for the management of facilities and personnel of the board;

(2) To supervise the administration and operation of the board;

(3) To delegate the powers and duties of his or her office to the vice chairperson or other members of the board, who shall act under the direction of the chairperson and for whose acts he or she is responsible: *Provided*, That if the position of chairperson becomes vacant by death, resignation, or otherwise, the vice chairperson shall assume all the powers and duties of the chairperson until such time as a new chairperson is appointed pursuant to the provisions of this subsection;

(4) To employ one full-time administrative employee, who shall be a classified exempt employee;
and

(5) To exercise all other powers and perform all other duties necessary and proper in carrying out his or her responsibilities as chairperson.

(c) The board, from its membership, shall elect a vice chairperson, at least once every year, to serve as chair in the absence of a chairperson. In the absence of or at the direction of the chairperson, the vice chairperson may exercise the powers and duties of the chairperson. The vice chairperson shall, while performing the duties and responsibilities of the chairperson, have all of the statutorily authorized power and duties of the chairperson.

~~(e)~~(d) Any person initially appointed to the board on or after July 1, 2012, shall have a degree from an accredited college or university or at least five years of actual experience in the fields of corrections, law enforcement, sociology, law, education, psychology, social work, or medicine, or a combination thereof, and shall be otherwise competent to perform the duties of his or her office. All members currently serving on the board shall continue the terms they are currently serving, unless otherwise removed. The members shall be appointed for overlapping terms of six years. Members are eligible for reappointment. The members of the board shall devote their full time and attention to their board duties. ~~The Governor shall appoint one of the nine appointed members to serve as chairperson at the Governor's will and pleasure~~

(e) The Governor may, if he or she is informed that a vacancy is imminent, appoint a member to fill the imminent vacancy prior to it becoming vacant: *Provided*, That the new member may be appointed no more than 30 days prior to the vacancy occurring and only for purposes of training. He or she may not assume the powers and duties of the position until the vacancy has actually occurred.

(f) The Governor may appoint no more than five persons to a list of substitute board members. Substitute board members shall meet the qualifications set forth in subsection(d) of this section. The persons on the list shall be used in a rotating fashion. If a full-time board member is unable to serve, a substitute board member may serve in his or her place. These substitute board members shall have the same powers and duties of the fulltime board members while acting as a substitute. These members shall be reimbursed for expenses and paid a per diem rate set by the secretary.

(g) The Division of Corrections and Rehabilitation shall provide administrative and other services to the board as the board requires. Expenses of the board shall be included within the annual budget of the Division of Corrections and Rehabilitation: *Provided*, That the salaries of the members appointed pursuant to subsection (b) of this section are to be included in a separate budget for the Parole Board."

And,

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

Com. Sub. for H. B. 4509 - “A Bill to amend and reenact §62-12-12 of the Code of West Virginia, 1931, as amended, relating to transferring the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support; removing the residency requirements pertaining to counties; continuing terms of current members; removing the work substitution or qualification to serve on the board; specifying the powers and duties of the chairperson; setting forth the process for selecting a vice chairperson; specifying the powers and duties of the vice chairperson; clarifying how a vacancy occurs on the board; creating the position of substitute board member; establishing qualifications, powers and duties of substitute board members; and clarifying how moneys for the board should be appropriated.”

With the further title amendment, sponsored by Delegate Summers, amending the title of the bill to read as follows:

H. B. 4509 - “A Bill to amend and reenact §62-12-12 of the Code of West Virginia, 1931, as amended, relating to transferring the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support; removing the residency requirements pertaining to counties; continuing terms of current members; specifying the powers and duties of the chairperson; setting forth the process for selecting a vice chairperson; specifying the powers and duties of the vice chairperson; clarifying how a vacancy occurs on the board; creating the position of substitute board member; creating a substitute board member list; establishing qualifications, powers and duties of substitute board members; and clarifying how moneys for the board should be appropriated.”

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. 716**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4509) passed.

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

A message from the Senate, by

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

H. B. 4514, Permitting the use of leashed dogs to track mortally wounded deer or bear.

On motion of Delegate Kessinger, the House concurred in the following amendment by the Senate, with further title amendment:

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

“ARTICLE 2. WILDLIFE RESOURCES.

§20-2-5j. Leashed dogs for tracking mortally wounded deer or bear.

(a) Notwithstanding any provision of this chapter to the contrary, a person who is legally hunting and reasonably believes he or she has mortally wounded a deer or bear may use leashed dogs to track and locate the mortally wounded deer or bear. The hunter is also permitted to use a dog handler of leashed dogs to track and locate the mortally wounded deer or bear. The hunter or the dog handler shall maintain physical control of the leashed dogs at all times.

(b) The act of tracking a mortally wounded deer or bear with a dog is hunting and the hunter and handler are subject to all applicable laws and rules. It is unlawful for a hunter or dog handler to track deer or bear with leashed dogs under the provisions of this section unless he or she is in possession of a valid hunting license issued pursuant to this article or is a person excepted from licensing requirements pursuant to this article, and all other lawful authorizations as prescribed in this article. The hunter shall accompany the dog handler and only the hunter may kill a mortally wounded deer or bear. The deer or bear shall count toward the bag limit of the hunter.

(c) Any dog handler providing tracking services for profit must be licensed as an outfitter or guide pursuant to §20-2-23 of this code.

§20-2-16. Dogs chasing deer.

~~No~~ Except as provided in §20-2-5j of this code, no person may permit or use his or her dog to hunt or chase deer. A natural resources police officer shall take into possession any dog known to have unlawfully hunted or chased deer. and the director shall advertise that the dog is in his or her possession, giving a description of the dog and stating the circumstances under which it was taken. The notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for the publication is the county. He or she shall hold the dog for a period of ten days after the date of the publication. If, within ten days, the owner does not claim the dog, the director shall destroy it. In this event the cost of keeping and advertising shall be paid by the director. If, within ten days, the owner claims the dog, he or she may repossess it on the payment of costs of advertising and the cost of keep, not exceeding 50¢ per day. A natural resources police officer, or any officer or employee of the director authorized to enforce the provisions of this section, after a bona fide but unsuccessful effort to capture dogs detected chasing or pursuing deer, may kill the dogs If the owner of the dog can be determined, the dog shall be returned to the owner. If the owner of the dog cannot be determined, the natural resources police officer shall deliver the dog to the appropriate county humane officer or facility consistent with the provisions of this code.

§20-2-22a. Hunting, tagging and reporting bear; procedures applicable to property destruction by bear; penalties.

(a) A person may not hunt, capture, or kill any bear, or have in his or her possession any bear or bear parts, except during the hunting season for bear in the manner designated by rule or law. For the purposes of this section, bear parts include, but are not limited to, the pelt, gallbladder, skull and claws of bear.

(b) A person who kills a bear shall, within twenty-four hours after the killing, electronically register the bear. A game tag number shall be issued to the person and recorded in writing with the person's name and address, or on a field tag and shall remain on the skin until it is tanned or mounted. Any bear or bear parts not properly tagged shall be forfeited to the state for disposal to a charitable institution, school or as otherwise designated by the director.

(c) Training dogs on bears or pursuing bears with dogs is the hunting of bear for all purposes of this chapter, including all applicable regulations and license requirements.

(d) It is unlawful:

(1) To hunt bear without a bear damage stamp, as prescribed in section forty-four-b of this article, in addition to a hunting license as prescribed in this article;

(2) To hunt a bear with:

(A) A shotgun using ammunition loaded with more than one solid ball; or

(B) A rifle of less than twenty-five caliber using rimfire ammunition;

(3) To kill or attempt to kill, or wound or attempt to wound, any bear through the use of bait, poison, explosives, traps or deadfalls or to feed bears at any time. For purposes of this section, bait includes, but is not limited to, corn and other grains, animal carcasses or animal remains, grease, sugars in any form, scent attractants and other edible enticements, and an area is considered baited for ten days after all bait has been removed;

(4) To shoot at or kill:

(A) A bear weighing less than seventy-five pounds live weight or fifty pounds field dressed weight, after removal of all internal organs;

(B) Any bear accompanied by a cub; or

(C) Any bear cub so accompanied, regardless of its weight;

(5) To transport or possess any part of a bear not tagged in accordance with the provisions of this section;

(6) To possess, harvest, sell or purchase bear parts obtained from bear killed in violation of this section; or

(7) Except as provided in §20-2-5j of this code, To organize for commercial purposes or to professionally outfit a bear hunt, or to give or receive any consideration whatsoever or any donation in money, goods or services in connection with a bear hunt, notwithstanding the provisions of sections twenty-three and twenty-four of this article.

(e) The following provisions apply to bear damaging or destroying property:

(1)(A) Any property owner or lessee who has suffered damage to real or personal property, including loss occasioned by the death or injury of livestock or the unborn issue of livestock, caused by an act of a bear may complain to any natural resources police officer of the division for protection against the bear.

(B) Upon receipt of the complaint, the officer shall immediately investigate the circumstances of the complaint. If the officer is unable to personally investigate the complaint, he or she shall designate a wildlife biologist to investigate on his or her behalf.

(C) If the complaint is found to be justified, the officer or designated wildlife biologist may issue a permit to kill the bear that caused the property damage or may authorize the owner and other residents to proceed to hunt, destroy or capture the bear that caused the property damage: *Provided*, That only the natural resources police officer or the wildlife biologist may recommend other measures to end or minimize property damage: *Provided, however*, That, if out-of-state dogs are used in the hunt, the owners of the dogs are the only nonresidents permitted to participate in hunting the bear.

(2)(A) When a property owner has suffered damage to real or personal property as the result of an act by a bear, the owner shall file a report with the director of the division. A bear damage report shall be completed by a representative of the division and shall state whether or not the bear was hunted and destroyed or killed under authorization of a depredation permit and, if so, the sex and weight shall be recorded and a premolar tooth collected from the bear, all of which shall be submitted with the report. The report shall also include an appraisal of the property damage occasioned by the bear fixing the value of the property lost. Bear damage claims will not be accepted for personal and real property which is commonly used for the purposes of feeding, baiting, observing or hunting wildlife, including, but not limited to, hunting blinds, tree stands, artificial feeders, game or trail cameras and crops planted for the purposes of feeding or baiting wildlife.

(B) The report shall be ruled upon and the alleged damages examined by a commission comprised of the complaining property owner, an officer of the division and a person to be jointly selected by the officer and the complaining property owner.

(C) The division shall establish the procedures to be followed in presenting and deciding claims, issuing bear depredation permits and organizing bear hunts under this section in accordance with §29A-3-1 *et seq.* of this code.

(D) All claims shall be paid in the first instance from the Bear Damage Fund provided in section forty-four-b of this article: *Provided*, That the claimant shall submit accurate information as to whether he or she is insured for the damages caused by the acts of bear on forms prescribed by the director, and all damage claims shall first be made by the claimant against any insurance policies before payment may be approved from the Bear Damage Fund. Claims for an award of compensation from the Bear Damage Fund shall be reduced or denied in the amount the claimant is actually reimbursed by insurance for the economic loss upon which the claim is based. In the event the fund is insufficient to pay all claims determined by the commission to be just and proper, the remainder due to owners of lost or destroyed property shall be paid from the special revenue account of the division.

(3) In all cases where the act of the bear complained of by the property owner is the killing of livestock, the value to be established is the fair market value of the livestock at the date of death. In cases where the livestock killed is pregnant, the total value is the sum of the values of the mother and the unborn issue, with the value of the unborn issue to be determined on the basis of the fair market value of the issue had it been born.

(f) *Criminal penalties.* (1) Any person who commits a violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, which is not subject to suspension by the court, confined in jail not less than 10 nor more than 30 days, or both fined and confined. Further, the person's hunting and fishing licenses shall be assigned six points, however, the hunting and fishing licenses of any person convicted of a violation of this section which results in the killing or death of a bear shall be suspended for two years.

(2) Any person who commits a second violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000,

which is not subject to suspension by the court, confined in jail not less than 30 days nor more than 100 days, or both fined and confined. The person's hunting and fishing licenses shall be suspended for five years.

(3) Any person who commits a third or subsequent violation of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$2,500 nor more than \$5,000, which is not subject to suspension by the court, confined in jail not less than six months nor more than one year, or both fined and confined. The person's hunting and fishing licenses shall be suspended for 10 years."

And,

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

H. B. 4514 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §20-2-5j; and to amend and reenact §20-2-16 of said code, all relating to hunting; permitting the use of leashed dogs to track mortally wounded deer or bear; amending protocol for possession of natural resources police officers of dogs known to be unlawfully hunting or chasing deer; and excepting the use of leashed dogs to track mortally wounded deer or bear from statutory prohibition on commercial bear hunts."

With the further title amendment sponsored by Delegate Atkinson, amending the title of the bill to read as follows:

H. B. 4514 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section designated §20-2-5j; and to amend and reenact §20-2-16 and §20-2-22a of said code, all relating to hunting; permitting the use of leashed dogs to track mortally wounded deer or bear; amending protocol for possession by natural resources police officers of dogs known to have unlawfully hunted or chased deer; and excepting the use of leashed dogs to track mortally wounded deer or bear from statutory prohibition on commercial bear hunts."

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. 717**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Dean, J. Jeffries and Paynter.

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4514) passed.

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

A message from the Senate, by

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

H. B. 4715, Authorizing municipalities to take action to grant certain fire department employees limited power of arrest.

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 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS, AUTHORITY, AND DUTIES OF LAW-ENFORCEMENT OFFICIALS AND POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE AND PARKING LOT OR PARKING BUILDING POLICE OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.

§8-14-3. Powers, authority, and duties of law-enforcement officials and policemen.

The chief and any member of the police force or department of a municipality, ~~and~~ any municipal sergeant, and any municipal fire marshal shall have all of the powers, authority, rights, and privileges within the corporate limits of the municipality with regard to the arrest of persons, the collection of claims, and the execution and return of any search warrant, warrant of arrest, or other process, which can legally be exercised or discharged by a deputy sheriff of a county: Provided, That any municipal fire marshal granted authority under this section shall have these powers, authority, rights, and privileges only to the limits described in §8-15-1 of this code. In order to arrest for the violation of municipal ordinances and as to all matters arising within the corporate limits and coming within the scope of his or her official duties, the powers of any chief, policeman, municipal fire marshal, or sergeant shall extend anywhere within the county or counties in which the municipality is located, and any ~~such~~ chief, policeman, municipal fire marshal, or sergeant shall have the same authority of pursuit and arrest beyond his or her normal jurisdiction as has a sheriff. For an offense committed in his or her presence, any such officer may arrest the offender without a warrant and take ~~him~~ the offender before the mayor or police court or municipal court to be dealt with according to law. ~~He and~~ His or her sureties ~~shall be~~ are liable to all the fines, penalties, and forfeitures which a deputy sheriff is liable to, for any failure or dereliction in such office, to be recovered in the same manner and in the same courts in which ~~such~~ the fines, penalties, and forfeitures are recovered against a deputy sheriff. In addition to the mayor, or police court judge or municipal court judge, if any, of a city, the chief of police of any municipality and in the absence from the station house of the chief of police the captains of police and lieutenants of police shall each have authority to administer oaths to complainants and to issue arrest warrants thereon for all violations of the ordinances of ~~such~~ the municipality.

~~It shall be the duty of~~ The mayor and police officers of every municipality and any municipal sergeant ~~to~~ shall aid in the enforcement of the criminal laws of the state within the municipality, independently of any charter provision or any ordinance or lack of an ordinance with respect thereto, and to cause the arrest of, or arrest, any offender and take him or her before a magistrate to be dealt with according to the law. Failure on the part of any such official or officer to discharge any duty imposed by the provisions of this section ~~shall be deemed~~ is official misconduct for which he or she may be removed from office. Any ~~such~~ official or officer ~~shall have~~ has the same authority to execute a warrant issued by a magistrate, and the same authority to arrest without a warrant for offenses committed in his or her presence, as a deputy sheriff.

~~No~~ An officer or member of the police force or department of a municipality may not aid or assist either party in any labor trouble or dispute between employer and employee. They shall in ~~such~~ these cases see that the statutes and laws of this state and municipal ordinances are enforced in a legal

way and manner. Nor shall he or she engage in off-duty police work for any party engaged in or involved in ~~such~~ the labor dispute or trouble between employer and employee.

The chief of police shall be charged with the keeping and security of the jail, and at any time that one or more prisoners are being held in the jail, he or she shall require that the jail be attended by a police officer or other responsible person.

ARTICLE 15. FIREFIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

PART I. FIRE FIGHTING GENERALLY.

§8-15-1. Power and authority of governing body with respect to fires.

The governing body of every municipality shall have plenary power and authority to provide for the prevention and extinguishment of fires and, for this purpose, it may, among other things, regulate how buildings shall be constructed, procure proper engines and implements, provide for the organization, equipment, and government of volunteer fire companies or of a paid fire department, prescribe the powers and duties of ~~such~~ the companies or department, and of the several officers, provide for the appointment of officers to have command of firefighting, prescribe what their powers and duties shall be, and impose on those who fail or refuse to obey any lawful command of ~~such~~ the officers any penalty which the governing body is authorized by law to impose for the violation of an ordinance. It may give authority to any ~~such~~ the officer or officers to direct the pulling down or destroying of any fence, house, building, or other thing, if ~~deemed~~ determined necessary to prevent the spreading of a fire. It may give authority to municipal fire marshals to (1) arrest any individual disobeying lawful orders at the scene of a fire, (2) arrest any individual who violates prohibitions against arson and explosives offenses, malicious burning, obstructing a fire marshal, or failing to obey lawful orders, (3) arrest without a warrant, if the unlawful conduct occurs in their presence, and (4) file criminal complaints with the municipal court or other appropriate judicial officer in order to obtain a warrant for the arrest and initiate a criminal matter: *Provided*, That any officer given this authority shall receive initial and annual training that complies with Law Enforcement Core Training Standards of the West Virginia State Fire Commission and the West Virginia State Fire Marshal."

And,

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

H. B. 4715 – “A Bill to amend and reenact §8-14-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-15-1 of said code, all relating to authorizing municipalities to grant certain fire department employees limited powers of arrest in relation to their duties; setting the limits of their power to arrest; authorizing designated fire department employees to file complaints with appropriate courts; requiring initial and annual training of designated fire department employees as established by the State Fire Commission and the State Fire Marshal.”

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. 718**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4715) 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. 4717, Seizure and Forfeiture Reporting Act.

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

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

“ARTICLE 7. WEST VIRGINIA CONTRABAND FORFEITURE ACT.

§60A-7-708. Bookkeeping procedures and internal controls.

(a) Any law-enforcement agency or office in this state, including, but not limited to, an ‘appropriate person’ as identified in §60A-7-703(b), excluding prosecuting attorneys, who seizes or receives forfeited moneys, securities, negotiable instruments, items subject to forfeiture in accordance with §60A-7-703(a) of this code, or other property under the provisions of this article shall account for the same in the following manner:

(1) Maintain any items of property subject to forfeiture in accordance with §60A-7-704(d) of this code, including, but not limited to, moneys, securities, negotiable instruments, or other items and property identified in the same manner as the agency’s appropriated funds. Bank accounts, checkbooks, purchase cards, and other financial instruments or documents must be maintained in the same manner as appropriated funds;

(2) Establish a segregated account or accounting codes to track both revenues and expenditures for each respective program. No other funds may be commingled in these accounts or with these accounting codes;

(3) Process all expenditures and payments in the same manner as appropriated funds, including procurement and payment transactions;

(4) In accordance with the provisions of §60A-7-704(d)(4) of this code, in the case of seized moneys, securities, or other negotiable instruments, place the assets in an interest-bearing depository insured by an agency of the federal government. Deposit all interest earned on equitable sharing funds into the respective account or accounting code. All interest is subject to the same use restrictions as equitable sharing funds. Losses to funds maintained in investment accounts in accordance with the jurisdiction’s policies may not be allocated to or deducted from the equitable sharing account;

(5) Develop, maintain, and follow written policies for accounting, bookkeeping, inventory control, and procurement that comply with the applicable jurisdiction policies. Ensure distribution of relevant policies to all appropriate personnel;

(6) Maintain records of all revenue and expenditures posted to the account or accounting code, to include bank/ledger statements, invoices, receipts, required jurisdiction approvals, or any other documents used or created during the procurement and disposition process;

(7) Report all transactions using cash-based accounting methods;

(8) Dispose of items purchased with shared funds in accordance with the agency's disposal policies. To the extent practicable and, if consistent with the agency's procurement and disposal policies, deposit proceeds from the sale of such property into the agency's sharing account or accounting code. If an item has minimal or no value, an agency may donate the item to a recipient of its choice if permitted under the agency's disposal policies;

(9) Ensure the agency head, or designee, authorizes all expenditures from the sharing accounts; and

(10) Obtain approval for expenditures from the governing body, such as the county commission, town council, or city manager's office, when required under normal established jurisdiction accounting procedures.

(b) Any law-enforcement agency or office in this state, excluding prosecuting attorneys, receiving forfeited moneys, securities, negotiable instruments, real property, personal property, or other property under the provisions of this article shall report the same to the State Auditor. For each seizure only one report shall be filed by the agency that made the seizure. All agencies receiving forfeited property shall report disposition and expenditures of any proceeds of that property. Reports shall be filed in the following manner:

(1) Name of the law-enforcement agency or office that seized the property, or if seized by a multijurisdictional task force, the name of the lead agency;

(2) The time and date the property was seized;

(3) The type of property seized, whether real or personal;

(4) The actual or estimated value of the property seized;

(5) The property's final disposition, including the amount received if the property was sold, or if the property was put to use on behalf of a law-enforcement agency or office, the identity of the agency or office that took possession and use of the property;

(6) Whether forfeiture was made by settlement agreement;

(7) Whether any procedure for forfeiture was initiated in accordance with the provisions of §60A-7-705 of this code, or other identifying information sufficient to permit acquisition of any available public records related to the forfeiture procedure and disposition of the forfeited property;

(8) The disposition of any action under the provisions of §60A-7-705 of this code;

(9) If an arrest was made;

(10) Whether any charges brought against a defendant in conjunction with a seizure pursuant to this article resulted in deferred action, conviction, plea deal, acquittal, or ongoing criminal case;

(11) When an administrative forfeiture procedure has been initiated pursuant to the provisions of §60A-7-705a of this code, provide designated information contained in the administrative forfeiture notice;

(12) The total value of seized and forfeited or property held by the agency at the end of the reporting period; and

(13) A copy of the United States Department of Justice's Equitable Sharing Agreement and Certification - Annual Certification Report shall be provided to the State Auditor no later than October 31 each calendar year.

(c) The State Auditor shall establish and maintain a searchable public website that includes the aggregate information submitted by any law-enforcement agency or office required under subsection (b) of this section: *Provided*, That the State Auditor's website must not provide individual case details on its public website.

(d) The State Auditor, before December 31 of each year, shall submit to the Speaker of the House of Delegates, the President of the Senate, the Attorney General, and the Governor a written report summarizing activity in the state for the preceding fiscal year on the type, approximate value, and disposition of the property forfeited and/or seized and the amount of any proceeds received or expended at the state and local levels. The report shall provide a categorized accounting of all proceeds expended. Summary data on seizures, forfeitures and expenditures of forfeiture proceeds shall be disaggregated by agency.

(e) In the course of preparing its annual report, the State Auditor may, in its discretion or for good cause shown, perform a financial audit of records related to inventory of seized property and expenditures of forfeiture proceeds by any law-enforcement agency or office in this state. This audit shall be conducted under the Generally Accepted Government Auditing Standards (GAGAS). A copy of the financial audit report shall be submitted to the State Auditor no later than 90 days after its initiation. The State Auditor shall submit a copy of the financial audit report to the Speaker of the House of Delegates, the President of the Senate, the Attorney General and the Governor.

(f) If, in the course of a calendar year, any law enforcement agency or office that secures seized or forfeited assets valued in excess of 50 percent of the prior year's total seized or forfeited assets, or expends more than 50 percent of the prior year's total expenditures of forfeited assets, shall so advise the State Auditor, who shall perform a financial audit under the generally accepted government auditing standards (GAGAS) of records related to inventory of seized property and expenditures of forfeiture proceeds. A copy of the final audit report shall be submitted to the State Auditor no later than 90 days after the end of the fiscal year and shall be made public.

(g) The State Auditor may recoup its costs under this section by charging a fee.

(h) The State Auditor may include in its aggregate report required by subsection (d) of this section recommendations to improve statutes, rules, and policies related to seizure, forfeiture, and expenditures. The aggregate report shall be made available on the State Auditor's website.

(i) If a law-enforcement agency fails to timely file the report identified in subsection (b) of this section the State Auditor shall immediately notify the law-enforcement agency that the report has not been received.

(j) The State Auditor may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to implement this section.

(k) The data and reports compiled and prepared under this section are public information under the West Virginia Freedom of Information Act, chapter 29B of this code.

(l) This section is effective for the reporting period starting January 1, 2021.

(m) Nothing provided in this section would prevent a court of competent jurisdiction from sealing records otherwise made available under the provisions of this section.”

And,

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

Com. Sub. for H. B. 4717 – “A Bill to amend and reenact §60A-7-708 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §60A-7-708, all relating to bookkeeping procedures and internal controls for seized or forfeited property under the West Virginia Contraband Forfeiture Act; providing for record keeping and accounting procedures; providing for a report to the State Auditor from law enforcement agencies excluding prosecuting attorneys; requiring the State Auditor establish a public website for reporting information; providing the State Auditor prepare and disseminate a yearly report; establishing that the State Auditor may perform a financial audit; requiring the State Auditor to conduct an audit when seizure of assets or expenditure of funds from seized assets exceeds a designated amount; permitting the State Auditor to charge a fee; requiring the State Auditor to notify a law enforcement agency for failure to report; providing the State Auditor may promulgate rules; establishing that reported information is subject to the W.Va. Freedom of Information Act; establishing an effective date; and providing that a court may seal records.”

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

Nays: Butler, Byrd, Cadle, Campbell, Canestraro, Doyle, Estep-Burton, Hicks, Hott, D. Kelly, Lavender-Bowe, Lovejoy, P. Martin, Miller, Pack, Robinson, Rodighiero, Skaff, Steele, Summers, Swartzmiller, R. Thompson, Tomblin and Zukoff.

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4717) passed.

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

Pursuant to House Rule 58, Delegate Fast, having voted on the prevailing side when the House of Delegates passed **H. B. 4354**, moved that the vote be reconsidered.

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

The yeas and nays having been ordered, they were taken (**Roll No. 720**), and there were—yeas 55, nays 44, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Barrett, Bates, Boggs, S. Brown, Byrd, Campbell, Canestraro, Capito, Caputo, Diserio, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Higginbotham, Hill, Hornbuckle, Kump, Lavender-Bowe, Longstreth, McGeehan, Miley, Miller, Nelson, Pack, Pethtel, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Steele, Swartzmiller, C. Thompson, Tomblin, Walker and Westfall.

Absent and Not Voting: Queen.

So, a majority of the members present and voting having voted in the affirmative, the motion to reconsider the vote by which the House of Delegates passed H. B. 4354 was adopted.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 721**), and there were—yeas 87, nays 12, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Barnhart, Bartlett, Butler, Cadle, Cooper, Fast, Hardy, D. Jeffries, Jennings, P. Martin and Porterfield.

Absent and Not Voting: Queen.

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

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

A message from the Senate, by

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

H. B. 4797, Authorizing municipalities to enact ordinances that allow the municipal court to place a structure, dwelling or building into receivership.

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 12. GENERAL AND SPECIFIC POWERS, DUTIES, AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES, AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-16. Ordinances regulating the repair, alteration, improvement, closing, demolition, etc., of structures, dwellings, or buildings that are unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare; procedures.

(a) For the purposes of this section:

(1) 'Code enforcement agency' means either a code enforcement department as defined by 87 CSR 7-2, as may be amended, or an enforcement agency as permitted by subsection (c) of this section.

(2) 'Code enforcement agency official' means any lawful agent of a code enforcement agency.

(3) 'Owner' or 'landowner' means a person who individually or jointly with others:

(A) Has legal title to the property, with or without actual possession of the property;

(B) Has charge, care, or control of the property as owner or agent of the owner;

(C) Is an executor, administrator, trustee, or guardian of the estate of the owner;

(D) Is the agent of the owner for the purpose of managing, controlling, or collecting rents; or

(E) May control or direct the management or disposition of the property.

(4) 'Unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare' means:

(A) Any door, aisle, passageway, stairway, exit, or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings;

(B) The walking surface of any aisle, passageway, stairway, exit, or other means of egress is so warped, worn loose, torn, or otherwise unsafe as to not provide safe and adequate means of egress;

(C) Any portion of a dwelling, building, structure, or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism, or by any other cause to an extent that it is likely to partially or completely collapse, or to become detached or dislodged;

(D) Any portion of a structure or building, or any member, appurtenance, or ornamentation on the exterior that is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value;

(E) The dwelling, building, or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the dwelling, building or structure is likely to fail or give way;

(F) The dwelling, building, or structure, or any portion, is clearly unsafe for its use;

(G) The dwelling, building, or structure is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children, becomes a harbor for vagrants, criminals, and criminal activity, or enables persons to resort to the dwelling, building, or structure for committing a nuisance or an unlawful act;

(H) Any dwelling, building, or structure constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to any dwelling, building, or structure provided by the

approved building or fire code of the jurisdiction or of any law or ordinance that presents either a substantial risk of fire, building collapse, or any other threat to life and safety;

(I) A dwelling, building, or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, contamination by any hazardous substance or material, including, but not limited to, substance resulting from the illegal manufacture of drugs, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical, or plumbing system, or otherwise, is determined by the code enforcement agency to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease;

(J) Any dwelling, building, or structure, because of a lack of sufficient or proper fire resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system, or other cause, is determined by the code official to be a threat to life or health; or

(K) Any portion of a building that remains on a site after the demolition or destruction of the building or structure, or whenever any building or structure is abandoned.

(b) Plenary power and authority are hereby conferred upon every municipality to adopt ordinances regulating the repair, alteration, or improvement, or the vacating and closing or removal or demolition, or any combination, of any structure, dwelling, or building, whether used for human habitation or not, that is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare.

(c) ~~The governing body in formally adopting any ordinance under this section~~ In formally adopting any ordinance under this section, the governing body shall designate the enforcement agency, which shall consist of the code enforcement agency as provided by the state building code and authorized by §29-3-5b and §8-12-13 of this code; or municipal officials as may otherwise be authorized by this code; or municipal officials or agents as authorized by rules promulgated by the State Fire Commission and approved by the Legislature; or municipal officials or agents as may otherwise be authorized by the State Fire Commission. Notwithstanding any provision of this code to the contrary, for the purposes of this section any municipality that has not adopted the state building code may designate an enforcement agency consisting of the mayor, the municipal engineer or building inspector, and one member at large, to be selected by and to serve at the will and pleasure of the mayor, and the ranking health officer and fire chief or their designees, who shall serve as ex officio members of the enforcement agency.

(d) Any ordinance adopted under the provisions of this section must provide fair and equitable rules of procedure and any other procedures required by law or necessary and appropriate to guide the code enforcement agency, or its officials, in the investigation of any structure, dwelling, or building conditions, and in any corrective action taken by the code enforcement agency.

(e) When a code enforcement agency official enters the premises of the property for investigating or inspecting any structure, dwelling, or building, the investigation shall be performed to minimize the inconvenience to the owner or persons in possession and shall be consistent with the following:

(1) Except in exigent circumstances and as permitted by law, the enforcement agency shall provide reasonable advance notice to the owner and request permission from the owner to enter the property;

(2) If the owner cannot be located after reasonable inquiry by the code enforcement agency as required by this section, or if the owner refuses entry, the code enforcement agency may obtain an administrative search warrant from either the municipal court or the magistrate court located in the

jurisdiction of the municipality or county where the structure, dwelling, or building is located. Before obtaining an administrative search warrant, a code enforcement agency official is required to make a sworn statement and prima facie case showing that the code enforcement agency was unable to gain access to the structure, dwelling, or building after reasonable and good faith efforts, and that there is a legitimate and substantial safety concern involving the structure, dwelling, or building that supports the requested entry;

(3) If granted by the court, and if the owner can be located, the code enforcement agency shall provide the owner a copy of the administrative search warrant five days before entering the property. If applicable, the code enforcement agency shall also provide the same notice to any tenant or other person in possession of the structure, dwelling, or building; and

(4) Entry is for the sole purpose of inspection of the structure, dwelling, or building for unsafe or unsanitary conditions and not for the purpose of criminal prosecution or gathering evidence for use in any criminal charge or proceeding unrelated to the unsafe or unsanitary condition of the structure, dwelling, or building.

(f) The governing body of every municipality has plenary power and authority to adopt an ordinance providing for the vacating, closing, removal, or demolition of any dwelling, structure or building by the municipality in the absence of owner agreement or court order: *Provided*, That the ordinance requires the code enforcement agency to provide lawful notice to and undertake reasonable efforts to seek agreement from the owner before taking any action permitted by this section and shall comply with the requirements set forth in this subsection:

(1) Any ordinance adopted under this subsection applies only to dwellings, structures, or buildings which meet the definition of unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare as set forth in:

(A) Paragraph (C), (E) or (H), subdivision (4), subsection (a) of this section; or

(B) Paragraph (F), (G), (I) or (K), subdivision (4), subsection (a) of this section: *Provided*, That the dwelling, building, or structure is vacant, abandoned, or has been lawfully declared unfit for human habitation; and the reasonable estimated cost of repair, rehabilitation, or corrective action exceeds the fair market value of the dwelling, building, or structure.

(2) Any ordinance adopted under this subsection must provide for the following:

(A) The code enforcement agency shall produce a written notice containing the date of the last inspection, the name of the inspector, a reasonable description of the unsafe, unsanitary, dangerous, or detrimental ~~condition(s)~~ conditions, the corrective measures required, the allotted time to correct the substandard ~~condition(s)~~ conditions and the allotted time the owner has to apply to the circuit court for a temporary injunction or other similar relief restraining action by the enforcement agency.

(B) The notice shall be served upon the owner or landowner by conspicuously posting and attaching a copy of the notice to the subject property, and by serving the notice on the owner or landowner in the same manner as service of a complaint as set forth in subsection (j) of this section.

(C) If the code enforcement agency cannot effect personal service on the owner, a code enforcement agency official shall subscribe a written affidavit, to be maintained for a minimum of two years, that demonstrates the structure, dwelling, or building falls within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section and sets forth the basis in

reasonable detail, including documentation of same, and memorializes the code enforcement agency official's efforts to contact or get permission for entry and any corrective action from the owner; and the code enforcement agency shall publish notice of its intent to enter the property for the purpose of demolition or correction, along with the address of the property, the name of the ~~owner(s)~~ owners and the date of the proposed action, as a Class II legal advertisement consistent with the requirements of §59-3-2 of this code, the first of which shall run at least 30 days before the date of the proposed action by the enforcement agency, and the last being no later than 20 days before the date of the proposed action by the enforcement agency.

(D) If there is no response to the notice by the owner or landowner in the time specified in the notice, then the municipality ~~shall have the authority to~~ may proceed in correction or demolition of the subject dwelling, building, or structure.

(3) It ~~shall be~~ is an absolute defense to any civil action by an owner, landowner, or tenant for damages resulting from the closure, demolition, or other corrective action taken by a municipality under this section: *Provided*, That the municipality acted in good faith, can demonstrate that the structure, dwelling, or building falls within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section, that the municipality followed the procedures set forth in this subsection, and that the municipality had adopted the state building code at the time of the closure, demolition, or other corrective action occurred.

(4) Any ordinance adopted under this subsection must also provide for notice to the owner of the ~~right of the owner~~ owner's right to apply to the circuit court for a temporary injunction or other similar relief restraining correction or demolition by the enforcement agency. If the application is made by the owner, a hearing shall be had within 20 days of the application, or as soon as reasonably possible.

(A) Continuances of the hearing provided for in this subdivision may be made for cause only. If a continuance is granted upon request by the owner, the owner is required to pay into court, in the form of a bond, any reasonable and necessary costs related to the property likely to be incurred by the municipality during the continuance.

(B) At the conclusion of a hearing held under this subdivision, if the court finds that the property is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, the court shall make and enter an order granting the relief as requested by the municipality. The court may disburse any moneys paid into court by the owner in accordance with this section.

(g)(1) The governing body of every municipality has plenary power and authority to adopt an ordinance requiring the owner of any dwelling or building under determination of the State Fire Marshal, as provided in §29-3-12 of this code, or under order of the code enforcement agency of the municipality, to pay for the costs of repairing, altering, or improving, or of vacating and closing, removing or demolishing any dwelling or building, and may file a lien against the real property in question for an amount that reflects all costs incurred by the municipality for repairing, altering, or improving, or of vacating and closing, removing, or demolishing any dwelling or building, or structure. Any municipality that adopts an ordinance under this section may authorize the municipal court to place a structure, dwelling, or building into receivership when the following circumstances are present:

(A) The owner cannot be located after reasonable inquiry by the code enforcement agency as required by this section or if the owner refuses entry,

(B) The code enforcement agency has obtained an administrative search warrant from either the municipal court or the magistrate court located in the jurisdiction of the municipality or county where the structure, dwelling, or building is located;

(C) Upon entry, the code enforcement agency has determined that the structure, dwelling, or building is salvageable and does not require immediate demolition; and

(D) The code enforcement agency has proffered to the court that the structure, dwelling or building will require demolition or presents a substantial threat to nearby structures, property, or residents due to risk of fire, structural instability, or attractive nuisance if it is not repaired, altered, or improved in the near future.

(2) If all of these circumstances are present, the municipal court may place the structure, dwelling, or building into receivership with the municipality or another entity that is capable of making the necessary repairs, alterations, and improvements to the structure, dwelling or building. Any owner of the structure, dwelling, or building may petition the municipal court to terminate the receivership at any time and, upon showing that the owner will either demolish the structure, dwelling, or building or make the necessary repairs, alterations, and improvements to the satisfaction of the code enforcement agency, the municipal court may terminate the receivership.

(h) Every municipality may also institute a civil action in circuit court against the landowner or other responsible party to ~~get~~ obtain an order allowing the municipality to take corrective action up to and including demolition of any structure, dwelling or building that is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare; and to recover all reasonable costs and expenses incurred by the municipality with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action:

(1) No fewer than 10 days before instituting a civil action as provided in this subsection, the municipality shall send notice to the landowner by certified mail, return receipt requested, advising the landowner of the governing body's intention to institute such action.

(2) The notice shall be sent to the most recent address of the landowner of record in the office of the assessor of the county where the subject property is located and to any other address for the landowner as may exist on record with the municipality. If, for any reason, ~~such the~~ certified mail is returned without evidence of proper receipt, the municipality shall resend the ~~notice(s)~~ notices by first class mail, postage prepaid, and shall also post notice on the front door or other conspicuous location on the subject property.

(i) To the extent not otherwise authorized by state law, all notices of violation or correction for violations that do not fall within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section issued by the enforcement agency of a municipality that has adopted the state building code shall be served in accordance with the process set forth in the state building code. All notices of violation or correction orders for violations that do not fall within one of the categories set forth in paragraph (A) or (B), subdivision (1), subsection (f) of this section issued by a code enforcement agency of a municipality that has not adopted the state building code shall be served in accordance with the law of this state concerning the service of process in civil actions, except that personal service may be made by a code enforcement agency official and the method of service effectuated by mail by the clerk of a court as permitted by Rule 4(d)(1)(D) of the West Virginia Rules of Civil Procedure is effectuated by mailing by a code enforcement agency official and shall be posted in a conspicuous place on the property that is the subject of the notice of violation or correction.

(j) Any violation of an ordinance adopted under this section, may be prosecuted by the municipality consistent with state and local laws. Unless otherwise authorized by state law, prosecution of a violation shall be initiated by a complaint presented to and sworn or affirmed before a municipal judge or other municipal official with lawful authority to hear and determine violations of municipal code in the municipality where the offense is alleged to have occurred. Unless otherwise provided by statute, the presentation and oath or affirmation shall be made by a code enforcement agency official or municipal attorney showing reason to have reliable information and belief. If from the facts stated in the complaint the municipal judge or other municipal official with lawful authority to hear and determine violations of municipal code finds probable cause, the complaint becomes the charging instrument initiating a criminal proceeding. A complaint lawfully authorized by this subsection along with a summons setting forth the date, time, and place of appearance before a municipal judge ~~and~~ or other municipal official with lawful authority to hear and determine violations of municipal code shall be served in accordance with the law of the State of West Virginia concerning the service of process in civil actions, except that personal service of a summons and complaint may be made by a code enforcement agency official. If service is made by certified mail under Rule 4(d)(1)(D) of the West Virginia Rules of Civil Procedure and delivery of the summons and complaint is refused, the code enforcement agency official, promptly upon the receipt of the notice of the refusal, shall mail to the person or entity being noticed, by first class mail, postage prepaid, a copy of the summons and complaint. If the first class mailing is not returned as undeliverable by the U. S. Postal Service, service of the summons and complaint is presumed to have been effectuated. Upon service of the summons and complaint consistent with this subsection, the violation may be prosecuted consistent with state and local law.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 722**), and there were—yeas 90, nays 9, absent and not voting 1, with the yeas and absent and not voting being as follows:

Nays: Bibby, Butler, Cowles, Hanna, McGeehan, Porterfield, Robinson, Waxman and Wilson.

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4797) 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. 4804, Relating to comprehensive systems of support for teacher and leader induction and professional growth.

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

H. B. 4804 – “A Bill to amend and reenact §18-9A-10 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18A-3C-3 of said code, all relating to comprehensive systems of support for teacher and leader induction and professional growth; providing for retention of

\$100,000 of school aid funds for comprehensive systems of support, each year for five-year period, for use by department of education to assist county boards in design and implementation of teacher leader framework to accomplish teacher induction and growth aspects of comprehensive system; clarifying intent of comprehensive systems of support includes meaningful assistance for beginning teachers and leaders; authorizing state board guidelines for design and implementation of comprehensive systems to include design and implementation of teacher leader framework; clarifying references to appropriations supporting county-level implementation of comprehensive systems of support; removing prohibition on specific level of compensation guarantee to employee service or employment as mentor; authorizing county board adoption of teacher leader framework to accomplish purposes of section for teacher induction and professional growth and apply appropriations to support county salary supplement if adopted and meeting qualifications specified for teacher duties; requiring department to assist county boards with design and implementation of teacher leader framework; stating goals of framework; authorizing formation of networks of schools or systems or both for design and implementation of frameworks with certain objectives; providing minimum components of teacher leader frameworks adopted by county boards; and requiring Legislative Oversight Commission on Education Accountability to review the progress of the implementation of the comprehensive systems of support for teacher and leader induction and professional growth.”

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. 723**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4804) 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. 4946, Eliminating the requirement that municipal police civil service commissions certify a list of three individuals for every position vacancy.

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

On page one, section fifteen, line five, by striking out the words “up to” and inserting in lieu thereof the words “at least one but no more than”.

And,

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

Com. Sub. for H. B. 4946 – “A Bill to amend and reenact §8-14-15 of the Code of West Virginia, 1931, as amended, relating to eliminating the requirement that municipal police civil service commissions certify a list of at least one but no more than three individuals for every position vacancy in a municipal police department not filled by promotion, reinstatement, or reduction.”

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. 724**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4946) passed.

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

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, to take effect from passage, as amended, of

Com. Sub. for S. B. 785, Establishing uniform electioneering prohibition area.

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

Com. Sub. for S. B. 785 – “A Bill to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, all relating generally to early voting locations; exempting the county commission from public notice requirements regarding the intent to designate a community voting location under certain circumstances if the location has been previously designated; and prohibiting electioneering activities within 100 feet from the outside entrance of community voting locations during early voting periods.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 725**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 785) passed.

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

On this question, the yeas and nays were taken (**Roll No. 726**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 785) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4009, Relating to the process for involuntary hospitalization.

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. WORDS AND PHRASES DEFINED.

§27-1-11. Addiction.

(a) As used in this chapter, ‘addiction’ or substance use disorder means a maladaptive pattern of substance use leading to clinically significant impairment or distress as manifested by one or more of the following occurring within 30 days prior to the filing of the petition:

(1) Recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home, including, but not limited to, repeated absences or poor work performance related to substance use; substance-related absences, suspensions, or expulsions from school; or neglect of children or household;

(2) Recurrent use in situations in which it is physically hazardous, including, but not limited to, driving while intoxicated or operating a machine when impaired by substance use;

(3) Recurrent substance-related legal problems; or

(4) Continued use despite knowledge or having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance.

(b) As used in this section, ‘substance’ ~~shall mean~~ means alcohol, controlled substances as defined in sections §60A-2-204, §60A-2-206, §60A-2-208, and §60A-2-210 of this code, or anything consumed for its psychoactive effect whether or not designed for human consumption.

ARTICLE 5. INVOLUNTARY HOSPITALIZATION.

§27-5-1. Appointment of mental hygiene commissioner; duties of mental hygiene commissioner; duties of prosecuting attorney; duties of sheriff; duties of Supreme Court of Appeals; use of certified municipal law-enforcement officers.

(a) *Appointment of mental hygiene commissioners.* — The chief judge in each judicial circuit of this state shall appoint a competent attorney and may, if necessary, appoint additional attorneys to serve as mental hygiene commissioners to preside over involuntary hospitalization hearings. Mental hygiene commissioners shall be persons of good moral character and of standing in their profession and they shall, before assuming the duties of ~~such a~~ a commissioner, take the oath required of other special commissioners as provided in §6-1-1 *et seq.* of this code.

Prior to presiding over an involuntary hospitalization hearing, each ~~All persons~~ newly appointed person to serve as a mental hygiene commissioner and all magistrates shall attend and complete

an orientation course ~~that, within one year of their appointment, consisting~~ consists of training provided annually by the Supreme Court of Appeals and complete an orientation program to be developed by the Secretary of the Department of Health and Human Resources. In addition, existing mental hygiene commissioners and ~~any all magistrates designated by the chief judge of a judicial circuit~~ trained to hold probable cause and emergency detention hearings involving involuntary hospitalization shall attend and complete a course provided by the Supreme Court of Appeals and complete an orientation program to be developed by the Secretary of the Department of Health and Human Resources. Persons attending ~~such the~~ the courses outside the county of their residence shall be reimbursed out of the budget of the Supreme Court—General Judicial for reasonable expenses incurred. The Supreme Court of Appeals shall establish curricula and rules for ~~such the~~ the courses, including rules providing for the reimbursement of reasonable expenses as authorized ~~herein in this section.~~ The Secretary of the Department of Health and Human Resources shall consult with the Supreme Court of Appeals regarding the development of the orientation program.

(b) Duties of mental hygiene commissioners. —

(1) Mental hygiene commissioners may sign and issue summonses for the attendance, at any hearing held pursuant to §27-5-4 of this code, of the individual sought to be committed; may sign and issue subpoenas for witnesses, including subpoenas duces tecum; may place any witness under oath; may elicit testimony from applicants, respondents, and witnesses regarding factual issues raised in the petition; and may make findings of fact on evidence and may make conclusions of law, but ~~such the~~ the findings and conclusions ~~shall not be~~ are not binding on the circuit court. All mental hygiene commissioners shall be reasonably compensated at a uniform rate determined by the Supreme Court of Appeals. Mental hygiene commissioners shall submit all requests for compensation to the administrative director of the courts for payment. Mental hygiene commissioners shall discharge their duties and hold their offices at the pleasure of the chief judge of the judicial circuit in which he or she is appointed and may be removed at any time by ~~such the~~ the chief judge. ~~It shall be the duty of a~~ A mental hygiene commissioner ~~to~~ shall conduct orderly inquiries into the mental health of the individual sought to be committed concerning the advisability of committing the individual to a mental health facility. The mental hygiene commissioner shall safeguard, at all times, the rights and interests of the individual as well as the interests of the state. The mental hygiene commissioner shall make a written report of his or her findings to the circuit court. In any proceedings before any court of record as set forth in this article, the court of record shall appoint an interpreter for any individual who is deaf or cannot speak, or who speaks a foreign language, and who may be subject to involuntary commitment to a mental health facility.

(2) A mental hygiene commissioner appointed by the circuit court of one county or multiple county circuits may serve in ~~such that~~ that capacity in a jurisdiction other than that of his or her original appointment if ~~such be~~ it is agreed upon by the terms of a cooperative agreement between the circuit courts and county commissions of two or more counties entered into to provide prompt resolution of mental hygiene matters during ~~noncourt~~ hours when the courthouse is closed or on nonjudicial days.

(c) Duties of prosecuting attorney. — ~~It shall be the duty of the~~ The prosecuting attorney or one of his or her assistants ~~to~~ shall represent the applicants in all final commitment proceedings filed pursuant to the provisions of this article. The prosecuting attorney may appear in any proceeding held pursuant to the provisions of this article if he or she ~~deems~~ determines it to be in the public interest.

(d) Duties of sheriff. — Upon written order of the circuit court, mental hygiene commissioner, or magistrate in the county where the individual formally accused of being mentally ill or ~~addicted~~ having a substance use disorder is a resident or is found, the sheriff of that county shall take ~~said the~~ the individual into custody and transport him or her to and from the place of hearing and the mental health

facility. The sheriff shall also maintain custody and control of the accused individual during the period of time in which the individual is waiting for the involuntary commitment hearing to be convened and while ~~such the~~ hearing is being conducted: *Provided*, That an individual who is a resident of a state other than West Virginia shall, upon a finding of probable cause, be transferred to his or her state of residence for treatment pursuant to §27-5-4(p) of this code: *Provided, however*, That where an individual is a resident of West Virginia but not a resident of the county in which he or she is found and there is a finding of probable cause, the county in which the hearing is held may seek reimbursement from the county of residence for reasonable costs incurred by the county attendant to the mental hygiene proceeding. Notwithstanding any provision of this code to the contrary, sheriffs may enter into cooperative agreements with sheriffs of one or more other counties, with the concurrence of their respective circuit courts and county commissions, ~~whereby~~ by which transportation and security responsibilities for hearings held pursuant to the provisions of this article during ~~noncourt~~ hours when the courthouse is closed or on nonjudicial days may be shared in order to facilitate prompt hearings and to effectuate transportation of persons found in need of treatment. In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff shall contact the state hospital in advance of the transportation to determine if the state hospital has available suitable bed capacity to place the individual.

(e) *Duty of sheriff upon presentment to mental health care facility.* — When a person is brought to a mental health care facility for purposes of evaluation for commitment under this article, if he or she is violent or combative, the sheriff or his or her designee shall maintain custody of the person in the facility until the evaluation is completed, or the county commission shall reimburse the mental health care facility at a reasonable rate for security services provided by the mental health care facility for the period of time the person is at the hospital prior to the determination of mental competence or incompetence.

(f) *Duties of Supreme Court of Appeals.* — The Supreme Court of Appeals shall provide uniform petition, procedure, and order forms which shall be used in all involuntary hospitalization proceedings brought in this state.

(g) *Duties of the Department of Health and Human Resources.* — The secretary shall develop an orientation program as provided in subsection (a) of this section. The orientation program shall include, but not be limited to, instruction regarding the nature and treatment of mental illness and substance use disorder; the goal and purpose of commitment; community-based treatment options; and less restrictive alternatives to inpatient commitment.

§27-5-2. Institution of proceedings for involuntary custody for examination; custody; probable cause hearing; examination of individual.

(a) Any adult person may make an application for involuntary hospitalization for examination of an individual when the person making the application has reason to believe that the individual to be examined ~~is addicted,~~ has a substance use disorder as defined in § 27-1-11 of this code, by the most recent edition of the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, inclusive of substance use withdrawal, or is mentally ill and, because of his or her ~~addiction~~ substance use disorder or mental illness, the individual is likely to cause serious harm to himself, herself, or to others if allowed to remain at liberty while awaiting an examination and certification by a physician, ~~or~~ psychologist, licensed professional counselor, licensed independent social worker, an advanced nurse practitioner, or physician assistant as provided in subsection (e) of this section: *Provided*, That a diagnosis of dementia alone may not serve as a basis for involuntary commitment.

Notwithstanding any language in this subsection to the contrary, if the individual to be examined under the provisions of this section is incarcerated in a jail, prison, or other correctional facility, then only the chief administrative officer of the facility holding the individual may file the application, and the application must include the additional statement that the correctional facility itself cannot reasonably provide treatment and other services for the individual's mental illness or addiction substance use disorder.

(b) The person making the application shall make the application under oath.

(c) Application for involuntary custody for examination may be made to the circuit court, magistrate court, or a mental hygiene commissioner of the county in which the individual resides or of the county in which he or she may be found. ~~When no circuit court judge or mental hygiene commissioner is available for immediate presentation of the application, the application may be made to a magistrate designated by the chief judge of the judicial circuit to accept applications and hold probable cause hearings.~~ A designated magistrate before whom an application or matter is pending may, upon the availability of a mental hygiene commissioner or circuit court judge for immediate presentation of an application or pending matter, transfer the pending matter or application to the mental hygiene commissioner or circuit court judge for further proceedings unless otherwise ordered by the chief judge of the judicial circuit.

(d) The person making the application shall give information and state facts in the application ~~as may be~~ required by the form provided for this purpose by the Supreme Court of Appeals.

(e) The circuit court, mental hygiene commissioner, or ~~designated~~ magistrate may enter an order for the individual named in the application to be detained and taken into custody for the purpose of holding a probable cause hearing as provided in §27-5-2(g) of this code for the purpose of an examination of the individual by a physician, psychologist, a licensed professional counselor practicing in compliance with §30-31-1 *et seq.* of this code, a licensed independent clinical social worker practicing in compliance with §30-30-1 *et seq.* of this code, an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code, a physician's assistant practicing in compliance with §30-3-1 *et seq.* of this code, or a physician's assistant practicing in compliance with §30-3E-1 *et seq.* of this code: *Provided*, That a licensed professional counselor, a licensed independent clinical social worker, a physician's assistant, or an advanced nurse practitioner with psychiatric certification may only perform the examination if he or she has previously been authorized by an order of the circuit court to do so, the order having found that the licensed professional counselor, the licensed independent clinical social worker, physician's assistant, or advanced nurse practitioner with psychiatric certification has particularized expertise in the areas of mental health and mental hygiene or addiction substance use disorder sufficient to make the determinations ~~as are~~ required by the provisions of this section. The examination is to be provided or arranged by a community mental health center designated by the Secretary of the Department of Health and Human Resources to serve the county in which the action takes place. The order is to specify that the hearing be held ~~forthwith~~ immediately and is to provide for the appointment of counsel for the individual: *Provided, however*, That the order may allow the hearing to be held up to 24 hours after the person to be examined is taken into custody rather than ~~forthwith~~ immediately if the circuit court of the county in which the person is found has previously entered a standing order which establishes within that jurisdiction a program for placement of persons awaiting a hearing which assures the safety and humane treatment of persons: *Provided further*, That the time requirements set forth in this subsection only apply to persons who are not in need of medical care for a physical condition or disease for which the need for treatment precludes the ability to comply with the time requirements. During periods of holding and detention authorized by this subsection, upon consent of the individual or in the event of a medical or psychiatric emergency, the individual may receive

treatment. The medical provider shall exercise due diligence in determining the individual's existing medical needs and provide treatment the individual requires, including previously prescribed medications. As used in this section, 'psychiatric emergency' means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others. Where a physician, psychologist, licensed professional counselor, licensed independent clinical social worker, physician's assistant, or advanced nurse practitioner with psychiatric certification has, within the preceding 72 hours, performed the examination required by the provisions of this subsection, the community mental health center may waive the duty to perform or arrange another examination upon approving the previously performed examination. Notwithstanding the provisions of this subsection, §27-5-4(r) of this code applies regarding payment by the county commission for examinations at hearings. If the examination reveals that the individual is not mentally ill or ~~addicted~~ has no substance use disorder, or is determined to be mentally ill or ~~addicted~~ has a substance use disorder but not likely to cause harm to himself, herself, or others, the individual shall be immediately released without the need for a probable cause hearing and the examiner is not civilly liable for the rendering of the opinion absent a finding of professional negligence. The examiner shall immediately provide the mental hygiene commissioner, circuit court, or ~~designated~~ magistrate before whom the matter is pending the results of the examination on the form provided for this purpose by the Supreme Court of Appeals for entry of an order reflecting the lack of probable cause.

(f) A probable cause hearing is to be held before a magistrate, ~~designated by the chief judge of the judicial circuit~~, the mental hygiene commissioner, or circuit judge of the county of which the individual is a resident or where he or she was found. If requested by the individual or his or her counsel, the hearing may be postponed for a period not to exceed 48 hours.

The individual must be present at the hearing and has the right to present evidence, confront all witnesses and other evidence against him or her, and to examine testimony offered, including testimony by representatives of the community mental health center serving the area. Expert testimony at the hearing may be taken telephonically or via videoconferencing. The individual has the right to remain silent and to be proceeded against in accordance with the Rules of Evidence of the Supreme Court of Appeals, except as provided in §27-1-12 of this code. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not it is likely that deterioration will occur without clinically necessary treatment, or there is probable cause to believe that the individual, as a result of mental illness or ~~addiction~~ substance use disorder, is likely to cause serious harm to himself or herself or to others.

(g) Probable cause hearings may occur in the county where a person is hospitalized. The judicial hearing officer may: Use videoconferencing and telephonic technology; permit persons hospitalized for ~~addiction~~ substance use disorder to be involuntarily hospitalized only until detoxification is accomplished; and specify other alternative or modified procedures that are consistent with the purposes and provisions of this article. The alternative or modified procedures shall fully and effectively guarantee to the person who is the subject of the involuntary commitment proceeding and other interested parties due process of the law and access to the least restrictive available treatment needed to prevent serious harm to self or others.

(h) If the magistrate, mental hygiene commissioner, or circuit court judge at a probable cause hearing or a mental hygiene commissioner or circuit judge at a final commitment hearing held pursuant to the provisions of §27-5-4 of this code finds that the individual, as a result of mental illness or ~~addiction~~ substance use disorder, is likely to cause serious harm to himself, herself, or others and because of mental illness or ~~addiction~~ a substance use disorder requires treatment, the magistrate, mental hygiene commissioner, or circuit court judge may consider evidence on the question of

whether the individual's circumstances make him or her amenable to outpatient treatment in a nonresidential or nonhospital setting pursuant to a voluntary treatment agreement. At the conclusion of the hearing, the magistrate, mental hygiene commissioner, or circuit court judge shall find and enter an order stating whether or not it is likely that deterioration will occur without clinically necessary treatment, or there is probable cause to believe that the individual, as a result of mental illness or substance use disorder, is likely to cause serious harm to himself or herself or others. The agreement is to be in writing and approved by the individual, his or her counsel, and the magistrate, mental hygiene commissioner, or circuit court judge. If the magistrate, mental hygiene commissioner, or circuit court judge determines that appropriate outpatient treatment is available in a nonresidential or nonhospital setting, the individual may be released to outpatient treatment upon the terms and conditions of the voluntary treatment agreement. The failure of an individual released to outpatient treatment pursuant to a voluntary treatment agreement to comply with the terms of the voluntary treatment agreement constitutes evidence that outpatient treatment is insufficient and, after a hearing before a magistrate, mental hygiene commissioner, or circuit judge on the issue of whether or not the individual failed or refused to comply with the terms and conditions of the voluntary treatment agreement and whether the individual as a result of mental illness or ~~addiction~~ substance use disorder remains likely to cause serious harm to himself, herself, or others, the entry of an order requiring admission under involuntary hospitalization pursuant to the provisions of §27-5-3 of this code may be entered. ~~In the event a person released pursuant to a voluntary treatment agreement is unable to pay for the outpatient treatment and has no applicable insurance coverage, including, but not limited to, private insurance or Medicaid, the Secretary of the Department of Health and Human Resources may transfer funds for the purpose of reimbursing community providers for services provided on an outpatient basis for individuals for whom payment for treatment is the responsibility of the department: *Provided*, That the department may not authorize payment of outpatient services for an individual subject to a voluntary treatment agreement in an amount in excess of the cost of involuntary hospitalization of the individual. The secretary shall establish and maintain fee schedules for outpatient treatment provided in lieu of involuntary hospitalization.~~ Nothing in the provisions of this article regarding release pursuant to a voluntary treatment agreement or convalescent status may be construed as creating a right to receive outpatient mental health services or treatment, or as obligating any person or agency to provide outpatient services or treatment. Time limitations set forth in this article relating to periods of involuntary commitment to a mental health facility for hospitalization do not apply to release pursuant to the terms of a voluntary treatment agreement: *Provided*, That release pursuant to a voluntary treatment agreement may not be for a period of more than six months if the individual has not been found to be involuntarily committed during the previous two years and for a period of no more than two years if the individual has been involuntarily committed during the preceding two years. If in any proceeding held pursuant to this article the individual objects to the issuance or conditions and terms of an order adopting a voluntary treatment agreement, then the circuit judge, magistrate, or mental hygiene commissioner may not enter an order directing treatment pursuant to a voluntary treatment agreement. If involuntary commitment with release pursuant to a voluntary treatment agreement is ordered, the individual subject to the order may, upon request during the period the order is in effect, have a hearing before a mental hygiene commissioner or circuit judge where the individual may seek to have the order canceled or modified. Nothing in this section affects the appellate and habeas corpus rights of any individual subject to any commitment order.

Notwithstanding anything in this article to the contrary, the commitment of any individual as provided in this article shall be in the least restrictive setting and in an outpatient community-based treatment program to the extent resources and programs are available, unless the clear and convincing evidence of the certifying professional under subsection (e) of this section, who is acting in a manner consistent with the standard of care, establishes that the commitment or treatment of that individual requires an inpatient hospital placement. Outpatient treatment will be based upon a

plan jointly prepared by the department and the comprehensive community mental health center or licensed behavioral health provider.

(i) If the certifying ~~physician or psychologist professional~~ determines that ~~a person~~ an individual requires involuntary hospitalization for a ~~an addiction to a substance~~ substance use disorder which, due to the degree of ~~addiction~~ the disorder, creates a reasonable likelihood that withdrawal or detoxification ~~from the substance of addiction~~ will cause significant medical complications, the person certifying the individual shall recommend that the individual be closely monitored for possible medical complications. If the magistrate, mental hygiene commissioner, or circuit court judge presiding orders involuntary hospitalization, he or she shall include a recommendation that the individual be closely monitored in the order of commitment.

(j) The Supreme Court of Appeals and the Secretary of the Department of Health and Human Resources shall specifically develop and propose a statewide system for evaluation and adjudication of mental hygiene petitions which shall include payment schedules and recommendations regarding funding sources. Additionally, the Secretary of the Department of Health and Human Resources shall also immediately seek reciprocal agreements with officials in contiguous states to develop interstate/intergovernmental agreements to provide efficient and efficacious services to out-of-state residents found in West Virginia and who are in need of mental hygiene services.

§27-5-2a. Process for involuntary hospitalization.

(a) As used in this section:

(1) 'Addiction' has the same meaning as the term is defined in §27-1-11 of this code.

(2) 'Authorized staff physician' means a physician, authorized pursuant to the provisions of §30-3-1 et seq. or §30-14-1 et seq. of this code, who is a bona fide member of the hospital's medical staff.

(3) 'Hospital' means a facility licensed pursuant to the provisions of §16-5b-1 et seq. of this code, and any acute care facility operated by the state government that primarily provides inpatient diagnostic, treatment, or rehabilitative services to injured, disabled, or sick individuals under the supervision of physicians.

(4) 'Psychiatric emergency' means an incident during which an individual loses control and behaves in a manner that poses substantial likelihood of physical harm to himself, herself, or others.

(b)(1) If a mental hygiene commissioner, magistrate, and circuit judge are unavailable or unable to be immediately contacted, an authorized staff physician may order the involuntary hospitalization of an individual who is present at, or presented at, a hospital emergency department in need of treatment, if the authorized staff physician believes, following an examination of the individual, that the individual is addicted or is mentally ill and, because of his or her addiction or mental illness, is likely to cause serious harm to himself, herself or to others if allowed to remain at liberty. The authorized staff physician shall sign a statement attesting to his or her decision that the patient presents a harm to himself, herself or others and needs to be held involuntarily for up to 72 hours. The West Virginia Supreme Court of Appeals is requested to generate a form for the statement to be signed by the authorized staff physician or other person authorized by the hospital and provided to the individual.

(2) Immediately upon admission, or as soon as practicable thereafter, but in no event later than 24 hours after an involuntary hospitalization pursuant to this section, the authorized staff physician or

designated employee shall file a mental hygiene petition in which the authorized staff physician certifies that the individual for whom the involuntary hospitalization is sought is addicted or is mentally ill and, because of his or her addiction or mental illness, is likely to cause serious harm to himself, herself, or to other individuals if allowed to remain at liberty. The authorized staff physician shall also certify the same in the individual's health records. Upon receipt of this filing, the mental hygiene commissioner, a magistrate, or circuit judge shall conduct a hearing pursuant to §27-5-2 of this code.

(3) An individual who is involuntarily hospitalized pursuant to this section shall be released from the hospital within 72 hours, unless further detained under the applicable provisions of this article.

(c) During a period of involuntary hospitalization authorized by this section, upon consent of the individual, or in the event of a medical or psychiatric emergency, the individual may receive treatment. The hospital or authorized staff physician shall exercise due diligence in determining the individual's existing medical needs and provide treatment the individual requires, including previously prescribed medications.

(d) Each hospital or authorized staff physician which provides services under this section shall be paid for the services at the same rate the hospital or authorized staff physician negotiates with the patient's insurer. If the patient is uninsured, the hospital or authorized staff physician may file a claim for payment with the West Virginia Legislative Claims Commission in accordance with §14-2-1 *et seq.* of this code.

(e) Authorized staff physicians and hospitals and their employees carrying out duties or rendering professional opinions as provided in this section shall be free from liability for their actions, if the actions are performed in good faith and within the scope of their professional duties and in a manner consistent with the standard of care.

(f) The West Virginia Supreme Court of Appeals is requested, by no later than July 1, 2020, to provide each hospital with a list of names and contact information of the mental hygiene commissioners, magistrates, and circuit judges to address mental hygiene petitions in the county where the hospital is located. The West Virginia Supreme Court of Appeals is requested to update this list regularly and the list shall reflect on-call information. If a mental hygiene commissioner, county magistrate, or circuit judge does not respond to the request within 24 hours, a report shall be filed to the West Virginia Supreme Court of Appeals.

(g) An action taken against an individual pursuant to this section may not be construed to be an adjudication of the individual, nor shall any action taken pursuant to this section be construed to satisfy the requirements of §61-7-7(a)(4) of this code.

§27-5-3. Admission under involuntary hospitalization for examination; hearing; release.

(a) Admission to a mental health facility for examination. — Any individual may be admitted to a mental health facility for examination and treatment upon entry of an order finding probable cause as provided in §27-5-2 of this code and upon a finding by a licensed physician that the individual is medically stable, and upon certification by a physician, psychologist, licensed professional counselor, licensed independent clinical social worker practicing in compliance with the provisions of §30-30-1 *et seq.* of this code, or an advanced nurse practitioner with psychiatric certification practicing in compliance with §30-7-1 *et seq.* of this code, or a physician's assistant practicing in compliance with §30-3E-1 *et seq.* of this code with advanced duties in psychiatric medicine that he or she has examined the individual and is of the opinion that the individual is mentally ill or addicted ~~has a~~ substance use disorder and, because of ~~such~~ the mental illness or ~~addiction~~ substance use disorder,

is likely to cause serious harm to himself, herself, or to others if not immediately restrained: *Provided*, That the opinions offered by an independent clinical social worker, ~~or an advanced nurse practitioner with psychiatric certification,~~ or a physician's assistant with advanced duties in psychiatric medicine must be within ~~their~~ his or her particular areas of expertise, as recognized by the order of the authorizing court.

(b) *Three-day time limitation on examination.* — If the examination does not take place within three days from the date the individual is taken into custody, the individual shall be released. If the examination reveals that the individual is not mentally ill or addicted has a substance use disorder, the individual shall be released.

(c) *Three-day time limitation on certification.* — The certification required in §27-5-3(a) of this code ~~shall be~~ is valid for three days. Any individual with respect to whom the certification has been issued may not be admitted on the basis of the certification at any time after the expiration of three days from the date of the examination.

(d) *Findings and conclusions required for certification.* — A certification under this section must include findings and conclusions of the mental examination, the date, time, and place of the examination, and the facts upon which the conclusion that involuntary commitment is necessary is based.

(e) *Notice requirements.* — When an individual is admitted to a mental health facility or a state hospital pursuant to the provisions of this section, the chief medical officer of the facility shall immediately give notice of the individual's admission to the individual's spouse, if any, and one of the individual's parents or guardians or if there is no spouse and are no parents or guardians, to one of the individual's adult next of kin if the next of kin is not the applicant. Notice shall also be given to the community mental health facility, if any, having jurisdiction in the county of the individual's residence. The notices other than to the community mental health facility shall be in writing and shall be transmitted to the person or persons at his, her, or their last known address by certified mail, return receipt requested.

(f) ~~Five-day~~ Three-day *time limitation for examination and certification at mental health facility or state hospital.* — After the individual's admission to a mental health facility or state hospital, he or she may not be detained more than ~~five~~ three days, excluding Sundays and holidays, unless, within the period, the individual is examined by a staff physician and the physician certifies that in his or her opinion the patient is mentally ill or addicted has a substance use disorder and is likely to injure himself, herself, or others if allowed to be at liberty. In the event the staff physician determines that the individual does not meet the criteria for continued commitment, that the individual can be treated in an available outpatient community-based treatment program and poses no present danger to himself, herself or others, or that the individual has an underlying medical issue or issues that resulted in a determination that the individual should not have been committed, the staff physician shall release and discharge the individual as appropriate as soon as practicable.

(g) ~~Fifteen-day~~ Ten-day *time limitation for institution of final commitment proceedings.* — If, in the opinion of the examining physician, the patient is mentally ill or addicted has a substance use disorder and because of the mental illness or ~~addiction~~ substance use disorder is likely to injure himself, herself, or others if allowed to be at liberty, the chief medical officer shall, within ~~45~~ 10 days from the date of admission, institute final commitment proceedings as provided in §27-5-4 of this code. If the proceedings are not instituted within ~~such 45-day~~ the 10-day period, the ~~patient~~ individual shall be immediately released. After the request for hearing is filed, the hearing may not be canceled on the

basis that the individual has become a voluntary patient unless the mental hygiene commissioner concurs in the motion for cancellation of the hearing.

(h) ~~Thirty-day~~ Twenty-day *time limitation for conclusion of all proceedings.* — If all proceedings as provided in §27-3-1 *et seq.* and §27-4-1 *et seq.* of this code are not completed within ~~30~~ 20 days from the date of institution of the proceedings, the ~~patient~~ individual shall be immediately released.

§27-5-4. Institution of final commitment proceedings; hearing requirements; release.

(a) *Involuntary commitment.* — Except as provided in §27-5-3 of this code, no individual may be involuntarily committed to a mental health facility or state hospital except by order entered of record at any time by the circuit court of the county in which the person resides or was found, or if the individual is hospitalized in a mental health facility or state hospital located in a county other than where he or she resides or was found, in the county of the mental health facility and then only after a full hearing on issues relating to the necessity of committing an individual to a mental health facility or state hospital. If the individual objects to the hearing being held in the county where the mental health facility is located, the hearing shall be conducted in the county of the individual's residence.

(b) *How final commitment proceedings are commenced.* — Final commitment proceedings for an individual may be commenced by the filing of a written application under oath by an adult person having personal knowledge of the facts of the case. The certificate or affidavit is filed with the clerk of the circuit court or mental hygiene commissioner of the county where the individual is a resident or where he or she may be found, or the county of a mental health facility if he or she is hospitalized in a mental health facility or state hospital located in a county other than where he or she resides or may be found.

(c) *Oath; contents of application; who may inspect application; when application cannot be filed.* —

(1) The person making the application shall do so under oath.

(2) The application shall contain statements by the applicant that the individual is likely to cause serious harm to self or others due to what the applicant believes are symptoms of mental illness or ~~addiction~~ substance use disorder. The applicant shall state in detail the recent overt acts upon which the belief is based.

(3) The written application, certificate, affidavit, and any warrants issued pursuant thereto, including any related documents, filed with a circuit court, mental hygiene commissioner, or ~~designated~~ magistrate for the involuntary hospitalization of an individual are not open to inspection by any person other than the individual, unless authorized by the individual or his or her legal representative or by order of the circuit court. The records may not be published unless authorized by the individual or his or her legal representative. Disclosure of these records may, however, be made by the clerk, circuit court, mental hygiene commissioner, or ~~designated~~ magistrate to provide notice to the Federal National Instant Criminal Background Check System established pursuant to section 103(d) of the Brady Handgun Violence Prevention Act, 18 U.S.C. § 922, and the central state mental health registry, in accordance with §61-7A-1 *et seq.* of this code. Disclosure may also be made to the prosecuting attorney and reviewing court in an action brought by the individual pursuant to §61-7A-5 of this code to regain firearm and ammunition rights.

(4) Applications may not be accepted for individuals who only have epilepsy, ~~a mental deficiency,~~ senility dementia, or an intellectual or developmental disability.

(d) *Certificate filed with application; contents of certificate; affidavit by applicant in place of certificate.* —

(1) The applicant shall file with his or her application the certificate of a physician or a psychologist stating that in his or her opinion the individual is mentally ill or ~~addicted~~ has a substance use disorder and that because of the mental illness or ~~addiction~~ substance use disorder, the individual is likely to cause serious harm to self or others if allowed to remain at liberty and, therefore, should be hospitalized. The certificate shall state in detail the recent overt acts on which the conclusion is based.

(2) A certificate is not necessary when an affidavit is filed by the applicant showing facts and the individual has refused to submit to examination by a physician or a psychologist.

(e) *Notice requirements; eight days' notice required.* — Upon receipt of an application, the mental hygiene commissioner or circuit court shall review the application, and if it is determined that the facts alleged, if any, are sufficient to warrant involuntary hospitalization, ~~forthwith~~ immediately fix a date for and have the clerk of the circuit court give notice of the hearing:

(1) To the individual;

(2) To the applicant or applicants;

(3) To the individual's spouse, one of the parents or guardians, or, if the individual does not have a spouse, parents or parent or guardian, to one of the individual's adult next of kin if the next of kin is not the applicant;

(4) To the mental health authorities serving the area;

(5) To the circuit court in the county of the individual's residence if the hearing is to be held in a county other than that of the individual's residence; and

(6) To the prosecuting attorney of the county in which the hearing is to be held.

(f) The notice shall be served on the individual by personal service of process not less than eight days prior to the date of the hearing and shall specify:

(1) The nature of the charges against the individual;

(2) The facts underlying and supporting the application of involuntary commitment;

(3) The right to have counsel appointed;

(4) The right to consult with and be represented by counsel at every stage of the proceedings; and

(5) The time and place of the hearing.

The notice to the individual's spouse, parents or parent or guardian, the individual's adult next of kin or to the circuit court in the county of the individual's residence may be by personal service of process or by certified or registered mail, return receipt requested, and shall state the time and place of the hearing.

(g) Examination of individual by court-appointed physician, ~~or~~ psychologist, advanced nurse practitioner, or physician's assistant; custody for examination; dismissal of proceedings. —

(1) Except as provided in subdivision (3) of this subsection, within a reasonable time after notice of the commencement of final commitment proceedings is given, the circuit court or mental hygiene commissioner shall appoint a physician, ~~or~~ psychologist, an advanced nurse practitioner with psychiatric certification, or a physician's assistant with advanced duties in psychiatric medicine to examine the individual and report to the circuit court or mental hygiene commissioner his or her findings as to the mental condition or ~~addiction~~ substance use disorder of the individual and the likelihood of causing serious harm to self or others.

(2) If the designated physician, ~~or~~ psychologist, advanced nurse practitioner, or physician assistant reports to the circuit court or mental hygiene commissioner that the individual has refused to submit to an examination, the circuit court or mental hygiene commissioner shall order him or her to submit to the examination. The circuit court or mental hygiene commissioner may direct that the individual be detained or taken into custody for the purpose of an immediate examination by the designated physician, ~~or~~ psychologist, nurse practitioner, or physician's assistant. All ~~such~~ orders shall be directed to the sheriff of the county or other appropriate law-enforcement officer. After the examination has been completed, the individual shall be released from custody unless proceedings are instituted pursuant to §27-5-3 of this code.

(3) If the reports of the appointed physician, ~~or~~ psychologist, nurse practitioner, or physician's assistant do not confirm that the individual is mentally ill or ~~addicted~~ has a substance use disorder and might be harmful to self or others, then the proceedings for involuntary hospitalization shall be dismissed.

(h) Rights of the individual at the final commitment hearing; seven days' notice to counsel required. —

(1) The individual shall be present at the final commitment hearing, and he or she, the applicant and all persons entitled to notice of the hearing shall be afforded an opportunity to testify and to present and cross-examine witnesses.

(2) In the event the individual has not retained counsel, the court or mental hygiene commissioner, at least six days prior to hearing, shall appoint a competent attorney and shall inform the individual of the name, address, and telephone number of his or her appointed counsel.

(3) The individual has the right to have an examination by an independent expert of his or her choice and to present testimony from the expert as a medical witness on his or her behalf. The cost of the independent expert is paid by the individual unless he or she is indigent.

(4) The individual may not be compelled to be a witness against himself or herself.

(i) Duties of counsel representing individual; payment of counsel representing indigent. —

(1) Counsel representing an individual shall conduct a timely interview, make investigation, and secure appropriate witnesses, be present at the hearing, and protect the interests of the individual.

(2) Counsel representing an individual is entitled to copies of all medical reports, psychiatric or otherwise.

(3) The circuit court, by order of record, may allow the attorney a reasonable fee not to exceed the amount allowed for attorneys in defense of needy persons as provided in §29-21-1 *et seq.* of this code.

(j) *Conduct of hearing; receipt of evidence; no evidentiary privilege; record of hearing.* —

(1) The circuit court or mental hygiene commissioner shall hear evidence from all interested parties in chamber, including testimony from representatives of the community mental health facility.

(2) The circuit court or mental hygiene commissioner shall receive all relevant and material evidence which may be offered.

(3) The circuit court or mental hygiene commissioner is bound by the rules of evidence promulgated by the Supreme Court of Appeals except that statements made to ~~physicians or psychologists~~ health care professionals appointed under subsection (g) of this section by the individual may be admitted into evidence by ~~physician's or psychologist's~~ the health care professional's testimony, notwithstanding failure to inform the individual that this statement may be used against him or her. A ~~psychologist or physician~~ health care professional testifying shall bring all records pertaining to the individual to the hearing. The medical evidence obtained pursuant to an examination under this section, or §27-5-2 or §27-5-3 of this code, is not privileged information for purposes of a hearing pursuant to this section.

(4) All final commitment proceedings shall be reported or recorded, whether before the circuit court or mental hygiene commissioner, and a transcript made available to the individual, his or her counsel or the prosecuting attorney within 30 days if requested for the purpose of further proceedings. In any case where an indigent person intends to pursue further proceedings, the circuit court shall, by order entered of record, authorize and direct the court reporter to furnish a transcript of the hearings.

(k) *Requisite findings by the court.* —

(1) Upon completion of the final commitment hearing and the evidence presented in the hearing, the circuit court or mental hygiene commissioner shall make findings as to the following:

(A) Whether the individual is mentally ill or ~~addicted~~ has a substance use disorder;

(B) Whether, because of illness or ~~addiction~~ substance use disorder, the individual is likely to cause serious harm to self or others if allowed to remain at liberty;

(C) Whether the individual is a resident of the county in which the hearing is held or currently is a patient at a mental health facility in the county; and

(D) Whether there is a less restrictive alternative than commitment appropriate for the individual. The burden of proof of the lack of a less restrictive alternative than commitment is on the person or persons seeking the commitment of the individual: Provided, That for any commitment to a state hospital as defined by §27-1-6 of this code, a specific finding shall be made that the commitment of, or treatment for, the individual requires inpatient hospital placement and that no suitable outpatient community-based treatment program exists in the individual's area.

(2) The findings of fact shall be incorporated into the order entered by the circuit court and must be based upon clear, cogent, and convincing proof.

(l) *Orders issued pursuant to final commitment hearing; entry of order; change in order of court; expiration of order.* —

(1) Upon the requisite findings, the circuit court may order the individual to a mental health facility or state hospital for an indeterminate period or for a temporary observatory period not exceeding six months. a period not to exceed 90 days except as otherwise provided in this subdivision. During that period and solely for individuals who are committed under §27-6A-1 et seq. of this code, the chief medical officer of the mental health facility or state hospital shall conduct a clinical assessment of the individual at least every 30 days to determine if the individual requires continued placement at the mental health facility or state hospital and whether the individual is suitable to receive any necessary treatment at an outpatient community-based treatment program. If at any time the chief medical officer, acting in good faith and in a manner consistent with the standard of care, determines that: (i) The individual is suitable for receiving outpatient community-based treatment; (ii) necessary outpatient community-based treatment is available in the individual's area as evidenced by a discharge and treatment plan jointly developed by the department and the comprehensive community mental health center or licensed behavioral health provider; and (iii) the individual's clinical presentation no longer requires inpatient commitment, the chief medical officer shall provide written notice to the court of record and prosecuting attorney as provided in subdivision (2) of this section that the individual is suitable for discharge. The chief medical officer may discharge the patient 30 days after the notice unless the court of record stays the discharge of the individual. In the event the court stays the discharge of the individual, the court shall conduct a hearing within 45 days of the stay, and the individual shall be thereafter discharged unless the court finds by clear and convincing evidence that the individual is a significant and present danger to self or others, and that continued placement at the mental health facility or state hospital is required.

If the chief medical officer determines that the individual requires commitment at the mental health facility or state hospital at any time for a period longer than 90 days, then the individual shall remain at the mental health facility or state hospital until the chief medical officer of the mental health facility or state hospital determines that the individual's clinical presentation no longer requires further commitment. The chief medical officer shall provide notice to the court and the prosecuting attorney that the individual requires commitment for a period in excess of 90 days and, in the notice, the chief medical officer shall describe the reasons for ongoing commitment. In its discretion, the court or prosecuting attorney may request any information from the chief medical officer that the court or prosecuting attorney considers appropriate to justify the need for the individual's ongoing commitment.

(2) Notice to the court of record and prosecuting attorney shall be provided by personal service or certified mail, return receipt requested. The chief medical officer shall make the following findings:

(A) Whether the individual has a mental illness or substance use disorder that does not require inpatient treatment, and the mental illness or serious emotional disturbance is in remission;

(B) Whether the individual's condition resulting from mental illness or substance use disorder is likely to deteriorate to the point that the individual will pose a likelihood of serious harm to self or others unless treatment is continued;

(C) Whether the individual is likely to participate in outpatient treatment with a legal obligation to do so;

(D) Whether the individual is not likely to participate in outpatient treatment unless legally obligated to do so;

(E) Whether the individual is not a danger to self or others; and

(F) Whether mandatory outpatient treatment is a suitable, less restrictive alternative to ongoing commitment.

(2) (3) The individual may not be detained in a mental health facility or state hospital for a period in excess of 10 days after a final commitment hearing pursuant to this section unless an order has been entered and received by the facility.

~~(3) If the order pursuant to a final commitment hearing is for a temporary observation period, the circuit court or mental hygiene commissioner may, at any time prior to the expiration of such period on the basis of a report by the chief medical officer of the mental health facility in which the patient is confined, hold another hearing pursuant to the terms of this section and in the same manner as the hearing was held as if it were an original petition for involuntary hospitalization to determine whether the original order for a temporary observation period should be modified or changed to an order of indeterminate hospitalization of the patient. At the conclusion of the hearing, the circuit court shall order indeterminate hospitalization of the patient or dismissal of the proceedings.~~

~~(4) An order for an indeterminate period expires of its own terms at the expiration of two years from the date of the last order of commitment unless prior to the expiration, the Department of Health and Human Resources, upon findings based on an examination of the patient by a physician or a psychologist, extends the order for indeterminate hospitalization. If the patient or his or her counsel requests a hearing, a hearing shall be held by the mental hygiene commissioner or by the circuit court of the county as provided in subsection (a) of this section.~~

(4) An individual committed pursuant to §27-6A-3 of this code may be committed for the period he or she is determined by the court to remain an imminent danger to self or others.

(5) In the event the commitment of the individual as provided under subdivision (1) of this subsection exceeds two years, the individual or his or her counsel may request a hearing and a hearing shall be held by the mental hygiene commissioner or by the circuit court of the county as provided in subsection (a) of this section.

~~(m) *Dismissal of proceedings.* — In the event the individual is discharged as provided in subsection (l) of this section, if the circuit court or mental hygiene commissioner shall find that the individual is not mentally ill or addicted, the proceedings shall be dismissed. If the circuit court or mental hygiene commissioner finds that the individual is mentally ill or addicted but is not, because of the illness or addiction, likely to cause serious harm to self or others if allowed to remain at liberty, the proceedings shall be dismissed. dismiss the proceedings.~~

~~(n) *Immediate notification of order of hospitalization.* — The clerk of the circuit court in which an order directing hospitalization is entered, if not in the county of the individual's residence, shall immediately upon entry of the order forward a certified copy of the order to the clerk of the circuit court of the county of which the individual is a resident.~~

~~(o) *Consideration of transcript by circuit court of county of individual's residence; order of hospitalization; execution of order.* —~~

(1) If the circuit court or mental hygiene commissioner is satisfied that hospitalization should be ordered but finds that the individual is not a resident of the county in which the hearing is held and the individual is not currently a resident of a mental health facility or state hospital, a transcript of the

evidence adduced at the final commitment hearing of the individual, certified by the clerk of the circuit court, shall ~~forthwith~~ immediately be forwarded to the clerk of the circuit court of the county of which the individual is a resident. The clerk shall immediately present the transcript to the circuit court or mental hygiene commissioner of the county.

(2) If the circuit court or mental hygiene commissioner of the county of the residence of the individual is satisfied from the evidence contained in the transcript that the individual should be hospitalized as determined by the standard set forth ~~above~~ in subdivision one of this subsection, the circuit court shall order the appropriate hospitalization as though the individual had been brought before the circuit court or its mental hygiene commissioner in the first instance.

(3) This order shall be transmitted ~~forthwith~~ immediately to the clerk of the circuit court of the county in which the hearing was held who shall execute the order promptly.

(p) *Order of custody to responsible person.* — In lieu of ordering the ~~patient~~ individual to a mental health facility or state hospital, the circuit court may order the individual delivered to some responsible person who will agree to take care of the individual and the circuit court may take from the responsible person a bond in an amount to be determined by the circuit court with condition to restrain and take proper care of the individual until further order of the court.

(q) *Individual not a resident of this state.* — If the individual is found to be mentally ill or ~~addicted~~ to have a substance use disorder by the circuit court or mental hygiene commissioner is a resident of another state, this information shall be ~~forthwith~~ immediately given to the Secretary of the Department of Health and Human Resources, or to his or her designee, who shall make appropriate arrangements for transfer of the individual to the state of his or her residence conditioned on the agreement of the individual, except as qualified by the interstate compact on mental health.

(r) *Report to the Secretary of the Department of Health and Human Resources.* —

(1) The chief medical officer of a mental health facility or state hospital admitting a patient pursuant to proceedings under this section shall ~~forthwith~~ immediately make a report of the admission to the Secretary of the Department of Health and Human Resources or to his or her designee.

(2) Whenever an individual is released from custody due to the failure of an employee of a mental health facility or state hospital to comply with the time requirements of this article, the chief medical officer of the mental health or state hospital facility shall ~~forthwith~~ immediately, after the release of the individual, make a report to the Secretary of the Department of Health and Human Resources or to his or her designee of the failure to comply.

(s) *Payment of some expenses by the state; mental hygiene fund established; expenses paid by the county commission.* —

(1) The state shall pay the commissioner's fee and the court reporter fees that are not paid and reimbursed under §29-21-1 *et seq.* of this code out of a special fund to be established within the Supreme Court of Appeals to be known as the Mental Hygiene Fund.

(2) The county commission shall pay out of the county treasury all other expenses incurred in the hearings conducted under the provisions of this article whether or not hospitalization is ordered, including any fee allowed by the circuit court by order entered of record for any physician, psychologist, and witness called by the indigent individual. The copying and mailing costs associated

with providing notice of the final commitment hearing and issuance of the final order shall be paid by the county where the involuntary commitment petition was initially filed.

§27-5-10. Transportation for the mentally ill or ~~substance abuser~~ persons with substance use disorder.

(a) Whenever transportation of an individual is required under the provisions of §27-4-1 *et seq.* and §27-5-1 *et seq.* of this code, ~~it shall be the duty of the sheriff to~~ shall provide immediate transportation to or from the appropriate mental health facility or state hospital: *Provided*, That, where hospitalization occurs pursuant to §27-4-1 *et seq.* of this code, the sheriff may permit, upon the written request of a person having proper interest in the individual's hospitalization, for the interested person to arrange for the individual's transportation to the mental health facility or state hospital if the sheriff determines that ~~such~~ those means are suitable given the individual's condition.

(b) Upon written agreement between the county commission on behalf of the sheriff and the directors of the local community mental health center and emergency medical services, an alternative transportation program may be arranged. The agreement shall clearly define the responsibilities of each of the parties, the requirements for program participation, and the persons bearing ultimate responsibility for the individual's safety and well-being.

(c) *Use of certified municipal law-enforcement officers.* — Sheriffs and municipal governments ~~are hereby authorized to~~ may enter into written agreements ~~whereby~~ by which certified municipal law-enforcement officers may perform the duties of the sheriff as described in this article. The agreement shall determine jurisdiction, responsibility of costs, and all other necessary requirements, including training related to the performance of these duties, and shall be approved by the county commission and circuit court of the county in which the agreement is made. For purposes of this subsection, 'certified municipal law-enforcement officer' means any duly authorized member of a municipal law-enforcement agency who is empowered to maintain public peace and order, make arrests, and enforce the laws of this state or any political subdivision thereof, other than parking ordinances, and who is currently certified as a law-enforcement officer pursuant to §30-29-1 *et seq.* of this code.

(d) In the event an individual requires transportation to a state hospital as defined by §27-1-6 of this code, the sheriff or certified municipal law-enforcement officer shall contact the state hospital in advance of the transportation to determine if the state hospital has suitable bed capacity to place the individual.

(e) ~~(d)~~ Nothing in this section is intended to alter security responsibilities for the patient by the sheriff unless mutually agreed upon as provided in subsection (c) of this section.

ARTICLE 6A. COMPETENCY AND CRIMINAL RESPONSIBILITY OF PERSONS CHARGED OR CONVICTED OF A CRIME.

§27-6A-12. Study of adult criminal competency and responsibility issues; requiring and requesting report and proposed legislation; submission to legislature.

(a) The Secretary of the Department of Health and Human Resources shall, in collaboration with designees of the Supreme Court of Appeals, the Prosecuting Attorney's Institute, Prosecuting Attorney's Association, the Public Defender Services, Behavioral Health Providers Association, Disability Rights of West Virginia, and designees of the Board of Medicine, Board of Osteopathy, and the Board Examiners of Psychologists with experience in issues of competence and criminal responsibility, undertake an evaluation of the provisions of this article in the context of current

constitutional requirements related to competency and responsibility issues, best medical practices, and pharmacological developments and draft proposed legislation to update the provisions of this article.

(b) The legislation required by the provisions of subsection (a) of this section shall be submitted to the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2020.”

And,

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

Com. Sub. for H. B. 4009 – “A Bill to amend and reenact §27-1-11 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §27-5-2a; to amend and reenact §27-5-1, §27-5-2, §27-5-3, §27-5-4, and §27-5-10 of said code; and to amend said code by adding thereto a new section, designated §27-6A-12, all relating to involuntary hospitalization and competency and criminal responsibility of persons charged with or convicted of a crime; defining terms; updating outdated language in the code; requiring the development of an orientation program for mental hygiene commissioners and magistrates who preside over involuntary hospitalization hearings; establishing criteria and time frames for the involuntary admission to and discharge of individuals from a mental health facility or state hospital; addressing the transportation of persons to a state hospital; relating to competency and criminal responsibility of persons charged with criminal offenses generally; requiring persons be committed to least restrictive setting; permitting an authorized staff physician, after examination, to order the involuntary hospitalization of an individual whom the physician believes is addicted or mentally ill and likely to cause serious harm to himself or herself or other individuals; setting forth a procedure; providing for payment for services; limiting liability; requesting the Supreme Court of Appeals to generate a statement for the attesting physician; providing the attesting physician statement be provided to the patient; requesting the Supreme Court of Appeals to produce information to hospitals regarding contact information for mental hygiene commissioners, county magistrates, and circuit judges; and establishing that if a mental hygiene commissioner, county magistrate, or circuit judge does not respond to the request within 24 hours, a report shall be filed to the Supreme Court of Appeals; requiring release when staff physicians determine after three days that individual does not meet criteria for continued commitment; requiring specific finding that inpatient hospital treatment is required; directing the Secretary of the Department of Health and Human Resources in collaboration with representatives of the judiciary, representatives of the prosecuting attorneys, the criminal defense bar, and advocates for the disability community to develop legislation to update and modify statutory provisions related to competence and criminal responsibility to ensure protection of constitutional rights and public safety; and requiring that proposed legislation be submitted to the President of the Senate and the Speaker of the House of Delegates on or before July 31, 2020.”

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. 727**), and there were—yeas 82, nays 17, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Angelucci, Bibby, S. Brown, Cadle, Caputo, Dean, Diserio, Fleischauer, Fluharty, Kump, Longstreth, P. Martin, McGeehan, Miller, Phillips, Sponaugle and Walker.

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4009) passed.

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

Having been postponed in earlier proceedings, Com. Sub. for H. B. 4092 was taken up for further consideration.

On motion of Delegate Summers, the House of Delegates reconsidered its action to concur in the amendment of the bill by the Senate with further amendment.

Delegate Summers then asked unanimous consent and, in the absence of objection, the previously offered amendments were withdrawn.

Delegate Summers then moved to concur in the Senate amendment, with further amendment, as follows:

On page eight, line one hundred seventy-four, by striking out "16" and inserting "17".

On page thirteen, section 111c, line eleven, by striking out "July 1, 2021" and inserting "December 1, 2020".

On page twenty-nine, section 601a, line three, by striking out the words "child's caseworker" and inserting the word "department".

And,

On page thirty-three, line forty-one, after the period, by inserting the following:

"The West Virginia Supreme Court of Appeals is requested to review the Rules of Procedure for Child Abuse and Neglect Proceedings and the Rules of Professional Conduct specific to guardians ad litem."

And,

With the further title amendment, sponsored by Delegate Summers being as follows:

H. B. 4092 – A bill to repeal §49-2-102 and §49-2-104 of the Code of West Virginia, 1931, as amended; to amend and reenact §49-1-206 of said code; to amend and reenact §49-2-108, §49-2-110, §49-2-111, §49-2-111a, §49-2-112, §49-2-118, §49-2-121, §49-2-124, and §49-2-126 of said code; to amend said code by adding thereto five new sections, designated §49-2-111c, §49-2-127, §49-2-127a, §49-2-128, and §49-2-129; to amend said code by adding thereto two new sections, designated §49-4-601a and §49-4-601b; and to amend and reenact §49-4-604, of said code, all relating generally to the child welfare system; defining terms; increasing the number children allowed in a foster family home; removing authorization for the Secretary of the Department of Health and Human Resources to transfer funds between certain accounts; eliminating requirement that the secretary provide public education; requiring certain information to be included in child placing agency data reports; setting a minimum amount that the Department of Health and Human Resources must pay child placing agencies per child adopted; requiring the department to review the rate of payment to foster parents at certain time intervals; authorizing and directing the department to expend funds to achieve certain priorities and objectives related to child placement and other services; requiring

the department to expend an amount of appropriated funds in fiscal year 2021 to achieve certain priorities and objectives; requiring the secretary of the department to report annually, and upon request, to the Joint Standing Committee on Government and Finance regarding expenditures and progress toward meeting certain objectives and priorities; specifying when the department shall remit payments to foster families; eliminating summary review requirements for behavioral health care services and facilities for children in out of home placements; establishing the Foster Child Bill of Rights; establishing the Foster and Kinship Parent Bill of Rights; providing that violations of the rights provided to foster children and parents may be reported to and investigated by the foster care ombudsman; setting forth certain duties of foster parents; requiring a number of provisions to be included in the agreement between the foster parent and the child placing agency and the department; providing that neglect of a foster or kinship parent's duties and violations of agreements may be reported to and investigated by the foster care ombudsman; requiring the foster care ombudsman to make certain reports; setting forth the reasonable and prudent foster parent standard; providing that children in out-of-home care are entitled to participate in certain activities and requiring caregivers to use the reasonable and prudent foster parent standard to make certain decisions regarding the child; limiting liability of a person adhering to the reasonable and prudent foster parent standard; requiring the department to establish minimum standards for transitional living services by legislative rule; establishing eligibility criteria for children and transitioning adults to participate in transitional living services; providing requirements for transitional living arrangements and the agency's duties in relation thereto; establishing preference that children removed from the home be placed with relatives and fictive kin; establishing a process by which the department shall, and others may assist, in identifying family members and fictive kin; requiring the department to provide notice to a person against whom an allegation of abuse or neglect, that does not result in a finding by a court, is substantiated; providing that a person against whom an allegation of abuse or neglect has been substantiated has a right to contest the substantiation and the right to appeal a decision of the department to the courts; establishing requirements for legislative rules of the department regarding substantiation of abuse and neglect allegations; requiring guardians ad litem to adhere to certain policies and meet certain requirements; requesting the supreme court to review certain rules; clarifying when the department, in an abuse and neglect case, is not required to make efforts to preserve the family; requiring the department to promulgate legislative rules; requiring the department promulgate emergency rules; making technical corrections; and eliminating obsolete language from the code."

On the passage of the bill, the yeas and nays were taken (**Roll No. 728**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: McGeehan.

Absent and Not Voting: Queen.

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. 4092) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title as follows:

S. C. R. 15 - "Requesting the Division of Highways name bridge number 16-259/00-010.43 (16A088), locally known as Lost City Bridge, carrying West Virginia Route 259 over the Lost River in Hardy County, the 'Kaylee Grace Whetzel Memorial Bridge'."

Whereas, Kaylee Grace was born March 20, 2004, and was the daughter of Michael Whetzel in Lost City, West Virginia; and

Whereas, Kaylee Grace had just started kindergarten in August 2009 and shared her days with her father and paternal grandparents as the joy of their lives; and

Whereas, Kaylee Grace was described as a happy and bubbly girl who enjoyed the time spent with her father and grandparents; and

Whereas, Kaylee Grace was a victim of a horrific crime committed against her; and

Whereas, Kaylee Grace died October 23, 2009, due to the crime committed against her; and

Whereas, Beginning in 2010, Kaylee Grace's surviving family worked with the Hardy County Community Foundation to give scholarships in memory of Kaylee Grace to graduates of Hardy County schools; and

Whereas, A scholarship has been granted to a student every year since 2011; and

Whereas, It is fitting that an enduring memorial be established to commemorate Kaylee Grace Whetzel and the love a community of this state bears for one of its citizens; therefore, be it

Resolved by the Legislature of West Virginia:

That the Division of Highways is hereby requested to name bridge number 16-259/00-010.43 (16A088), locally known as Lost City Bridge, carrying West Virginia Route 259 over the Lost River in Hardy County, the "Kaylee Grace Whetzel Memorial Bridge"; and, be it

Further Resolved, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "Kaylee Grace Whetzel Memorial Bridge"; and, be it

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

Unanimous consent having been obtained, the resolution (S. C. R. 15) was taken up for immediate consideration and adopted.

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

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. 3098, Allowing the same business owner to brew and sell beer to also distill and sell liquor.

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

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

“CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-6. License in one capacity only; no connection between different licensees; when brewer may act as distributor; credit and rebates proscribed; brewer, resident brewer, and brewpub requirements.

(a) ~~No~~ A person shall not be licensed in more than one capacity under the terms of this article, and there shall be no connection whatsoever between any retailer, distributor, resident brewer, or brewer, and ~~no~~ a person shall be interested, directly or indirectly, through the ownership of corporate stock, membership in a partnership, or in any other way in the business of a retailer, if ~~such~~ the person is at the same time interested in the business of a brewer, resident brewer or distributor. A resident brewer may act as distributor in a limited capacity for his or her own product from ~~such~~ the resident brewery or place of manufacture or bottling, but a resident brewer, is not permitted to act as a distributor as defined in §11-16-3 of this code: *Provided*, That nothing in this article may prevent a resident brewer from using the services of licensed distributors as specified in this article. A resident brewer or distributor 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 resident brewer who also has a brewpub license may sell nonintoxicating beer or nonintoxicating craft beer produced by the resident brewer in cans, bottles, or sealed growlers, pursuant to §11-16-6b of this code, for personal consumption off of the brewpub’s licensed premises and not for resale.

(b) It is unlawful for any brewer, resident brewer, manufacturer, or distributor to assist any retailer or for any retailer to accept assistance from any brewer, manufacturer, or distributor, accept any gifts, loans, forbearance of money or property of any kind, nature, or description, or other thing of value, or give any rebates or discounts of any kind whatsoever, except as ~~may be~~ permitted by rule, ~~regulation~~ or order promulgated by the commissioner in accordance with this article.

(c) Notwithstanding subsections (a) and (b) of this section, a brewpub may offer for retail sale nonintoxicating beer or nonintoxicating craft beer so long as the sale of the nonintoxicating beer or nonintoxicating craft beer is limited to the brewpub’s licensed premises, except as provided in §11-16-6b of this code.

(d) A brewer or resident brewer licensed under this section may also be licensed under §60-4-1 et seq. of this code: *Provided*, That the holder of the license meets all the requirements for the additional licenses required by the commissioner and pays all fees related to the license: *Provided*, *however*, That the licensee maintains all the rights and privileges associated with the license.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 4. LICENSES.

§60-4-2. Licenses for manufacture.

(a) The commission may grant licenses for the manufacture of alcoholic liquors. Separate licenses shall be issued to the following classes of manufacturing establishments:

(1) Distilleries in which only alcoholic liquors other than wine or beer is manufactured;

(2) Wineries in which only wines are manufactured;

(3) Breweries in which beer is manufactured;

(4) Bottling plants in which beer only is bottled;

(5) Industrial plants in which alcohol is distilled, manufactured or otherwise produced for scientific, chemical, mechanical or industrial purposes;

(6) Farm wineries in which only wines are manufactured; and

(7) Mini-distilleries in which only alcoholic liquors other than wine, beer or nonintoxicating beer are manufactured.

(b) The commission may grant multiple licenses for the manufacture of alcoholic liquors or non-intoxicating beer to the same person or entity: *Provided*, That such licensure does not violate other provisions of this code, the licensee meets all requirements for the license established by the commissioner, and licensee submits the full payment of all fees required for licensure: *Provided*, *however*, That the licensee maintains all the rights and privileges associated with each license not violative of state or federal law.

And,

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

Com. Sub. for H. B. 3098 – “A Bill to amend and reenact §11-16-6 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-4-2 of said code, all relating to permitting the issuance of multiple licenses for manufacturing alcoholic liquors and nonintoxicating beer; establishing requirements for licenses; and requiring full payment of all fees.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 729**), and there were—yeas 86, nays 10, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Bartlett, Butler, Fast, D. Jeffries, Jennings, Kump, Pack, Porterfield, Rowan and Toney.

Absent and Not Voting: Hartman, J. Kelly, Queen and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3098) 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. 4439, Clarifying the method for calculating the amount of severance tax attributable to the increase in coal production.

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

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

“ARTICLE 13EE. COAL SEVERANCE TAX REBATE.

§11-13EE-1. Findings and purpose.

The Legislature finds that the encouragement of economic growth and development in this state is in the public interest and promotes the general welfare of the people of this state. In order to encourage capital investment in the coal industry in this state and thereby increase economic development, there is hereby provided a coal severance tax rebate.

§11-13EE-2. Definitions.

(a) General. — When used in this article, or in the administration of this article, terms defined in subsection (b) shall have the meanings ascribed to them by this section, unless a different meaning is clearly required by either the context in which the term is used, or by specific definition, in this article.

(b) Terms defined.

(1) ‘Affiliated group’ means one or more chains of corporations, limited liability entities, or partnerships, or any combination thereof, connected through the ownership of stock or ownership interests with a common parent which is a corporation, limited liability entity, or partnership, but only if the common parent owns directly, or indirectly, a controlling interest in each of the members of the group.

(2) ‘Business’ means and is limited to the activity of producing coal for sale, profit or commercial use including coal preparation and processing.

(3) ‘Capital investment in new machinery and equipment’ means:

(A) Tangible personal property in the form of machinery and equipment that is purchased on or after the effective date of this article and placed in service for direct use in the production of coal, when the original or first use of the machinery or equipment commences in this State on or after the effective date of this article; and

(B) Tangible personal property in the form of machinery and equipment that is leased by the taxpayer and placed in service for direct use in the production of coal by the taxpayer on or after the effective date of this article, if the original or first use of the machinery or equipment commences in this State, with the taxpayer, on or after the effective date of this article and the machinery or

equipment is depreciable, or amortizable, for federal income tax purposes and has a useful life of 5 or more years for federal income tax purposes.

(4) 'Coal mine' or 'mine' includes:

(A) A 'surface mine,' or 'surface mining operation' which means:

(i) Activities conducted on the surface of lands for the removal of coal, or, subject to the requirements of §11-13EE-14 of this code, surface operations and surface impacts incident to an underground coal mine, including the drainage and discharge from the mine. The activities include: Excavation for the purpose of obtaining coal, including, but not limited to, common methods as contour, strip, auger, mountaintop removal, box cut, open pit and area mining; the uses of explosives and blasting; reclamation; in situ distillation or retorting, leaching or other chemical or physical processing; the cleaning, concentrating or other processing or preparation and loading of coal for commercial purposes at or near the mine site; and

(ii) The areas upon which the above activities occur or where the activities disturb the natural land surface. The areas also include any adjacent land, the use of which is incidental to the activities; all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage; and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to the activities: *Provided*, That the activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent of the tonnage of minerals removed for purposes of commercial use or sale, or coal prospecting. Surface mining does not include any of the following:

(I) Coal extraction authorized pursuant to a government-financed reclamation contract;

(II) Coal extraction authorized as an incidental part of development of land for commercial, residential, industrial or civic use; or

(III) The reclamation of an abandoned or forfeited mine by a no cost reclamation contract; and

(B) An 'underground mine' which includes the shafts, slopes, drifts or inclines connected with, or intended in the future to be connected with, excavations penetrating coal seams or strata, which excavations are ventilated by one general air current or divisions thereof, and connected by one general system of mine haulage over which coal may be delivered to one or more points outside the mine, and the surface structures or equipment connected or associated therewith which contribute directly or indirectly to the mining, preparation or handling of coal.

(5) 'Coal mining operation' includes the mine and the coal preparation and processing plant.

(6) 'Coal preparation and processing plant' means any facility (excluding underground mining operations) which prepares coal by one or more of the following processes: breaking, crushing, screening, wet or dry cleaning, and thermal drying.

(7) 'Coal production' means the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use and includes the processing of coal at a coal preparation and processing plant.

(8) 'Commissioner' or 'Tax Commissioner' are used interchangeably herein and mean the Tax Commissioner of the State of West Virginia, or his or her delegate.

(9) 'Controlled group' means one or more chains of corporations connected through stock ownership with a common parent corporation if stock possessing at least 50 percent of the voting power of all classes of stock of each of the corporations is owned, directly or indirectly, by one or more of the corporations; and the common parent owns directly stock possessing at least 50 percent of the voting power of all classes of stock of at least one of the other corporations.

(10) 'Controlling interest' means:

(A) For a corporation, either more than 50 percent ownership, directly or indirectly, of the total combined voting power of all classes of stock of the corporation, or more than 50 percent ownership, directly or indirectly, of the beneficial ownership interest in the voting stock of all classes of stock of the corporation;

(B) For a partnership, association, trust or other entity other than a limited liability company, more than 50 percent, ownership, directly or indirectly, of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity;

(C) For a limited liability company, either more than 50 percent ownership, directly or indirectly, of the total membership interest of the limited liability company, or more than 50 percent ownership, directly or indirectly, of the beneficial ownership interest in the membership interest of the limited liability company.

(11) 'Corporation' means any corporation, joint-stock company or association, and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by a certificate of interest or ownership or similar written instrument.

(12) 'Delegate' used in the phrase 'or his delegate,' when used in reference to the Tax Commissioner, means any officer or employee of the State Tax Department duly authorized by the Tax Commissioner directly, or indirectly by one or more redelegations of authority, to perform the functions mentioned or described in this article.

(13) 'Directly used or consumed in the production of coal' means used or consumed in those activities or operations which constitute an integral and essential part of the production of coal, as contrasted with and distinguished from those activities or operations which are simply incidental, convenient or remote to the production of coal.

(A) Uses of tangible personal property which constitute direct use or consumption in the production of coal include only:

(i) New machinery and equipment that is depreciable, or amortizable, for federal income tax purposes, that has a useful life of 5 or more years for federal income tax purposes, and that are directly used in the production of coal in this state;

(ii) Transportation of coal within the coal mine from the coal face or coal deposit to the exterior of the mine or to a point where the extracted coal is transported away from the mine;

(iii) Directly and physically recording the flow of coal during the production of coal including those coal treatment processes specified in §11-13A-4 of this code;

(iv) Safety equipment and apparatus directly used in the production of coal, or to secure the safety of mine personnel is direct use in the production of coal;

(v) Controlling or otherwise regulating atmospheric conditions required for the production of coal;

(vi) Transformers, pumps, rock dusting equipment and other property used to supply electricity or water, or to supply or apply rock dust directly used in the production of coal;

(vii) Storing, removal or transportation of economic waste, including coal gob, resulting from the production of coal;

(viii) Engaging in pollution control or environmental quality or protection activity directly relating to the production of coal; or

(ix) Otherwise using as an integral and essential part of the production of coal.

(B) Uses of tangible personal property which do not constitute direct use or consumption in the production of coal include, but are not limited to:

(i) Heating and illumination of office buildings;

(ii) Janitorial or general cleaning activities;

(iii) Personal comfort of personnel: *Provided*, That safety equipment and apparatus directly used in the production of coal or to secure the safety of mine personnel is direct use in the production of coal when the tangible personal property is depreciable, or amortizable, for federal income tax purposes and has a useful life of 5 or more years for federal income tax purposes when it is placed in service or use;

(iv) Production planning, scheduling of work or inventory control;

(v) Marketing, general management, supervision, finance, training, accounting and administration;

(vi) Measuring or determining weight, and ash content, water content and other physical and chemical characteristics of the coal after production;

(vii) An activity or function incidental or convenient to the production of coal, rather than an integral and essential part of these activities.

(14) 'Eligible taxpayer' means:

(A) Any person who pays the tax imposed by §11-13A-3 of this code on the privilege of producing coal for sale, profit or commercial use for at least 2 years before the capital investment in machinery and equipment is placed in service or use in this state; or

(B) A taxpayer that has experienced a change in business composition through merger, acquisition, split-up, spin-off or other ownership changes or changes in the form of the business organization from limited liability company to C corporation, or partnership, or from one form of business organization to a different form of business organization, may constitute an eligible taxpayer if the entity currently operating in this state was operating in a different form of business organization in this state at least 2 years before the capital investment in new machinery and equipment is placed

in service or use in this state. In the case of business composition change through merger, acquisition, split-up, spin-off or other ownership changes the current business may constitute an eligible taxpayer if at least 50 percent of the business assets of such component were actively and directly used in coal production activity in this state for such two-year period. If less than 50 percent of the assets of the current entity were not actively and directly used in coal production activity in this state for such two-year period, then the current entity resulting from a business composition change through merger, acquisition, split-up, spin-off or other ownership, shall not constitute an eligible taxpayer.

(15) 'Includes' and 'including' when used in a definition contained in this article, shall not be deemed to exclude other things otherwise within the generally understood meaning of the term defined.

(16) 'Original use' means the first use to which the property is put by anyone.

(17) 'Partnership' includes a syndicate, group, pool, joint venture or other unincorporated organization through or by means of which any business, operation or venture is carried on, which is taxed under Subchapter K of the Internal Revenue Code, as defined in §11-24-3 of this code, and which is not a trust or estate, a corporation or a sole proprietorship. The term 'partner' includes a member in such a syndicate, group, pool, joint venture or other unincorporated organization taxed under Subchapter K of the Internal Revenue Code.

(18) 'Person' includes any natural person, corporation, partnership, limited liability company or other business entity.

(19) 'Production of coal' means privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use and includes the processing of coal at the coal preparation and processing plant.

(20) 'Property' means tangible personal property and is limited to new machinery and equipment that is depreciable or amortizable for federal income tax purposes and that has a useful life of 5 or more years for federal income tax purposes.

(21) 'Property purchased or leased for business expansion' means:

(A) *Included property.* — Except as provided in subparagraph (B) of this section, the term 'property purchased or leased for business expansion' means tangible personal property, but only if the tangible personal property was purchased, or leased and placed in service or use by the taxpayer, for use in West Virginia. This term includes only:

(i) Tangible personal property placed in service or use by the taxpayer on or after the effective date of this article, with respect to which depreciation, or amortization in lieu of depreciation, is allowable in determining the personal or corporation net income tax liability of the business, or its equity owners, under §11-21-1 *et seq.* or §11-24-1 *et seq.* of this code, and which has a useful economic life at the time the property is placed in service or use in this state, of 5 or more years.

(ii) Tangible personal property acquired by written lease having a primary term of 5 years or more, that is depreciable or amortizable by the lessor, or lessee, for federal income tax purposes and that has a useful life of 5 or more years for federal income purposes when it is placed in service or use, and when the lease commences and was executed by the parties thereto on or after the effective

date of this article, if used as a component part of a new or expanded coal mining operation in this state shall be included within this definition.

(B) Excluded property. — The term 'property purchased or leased for business expansion' shall not include:

(i) Machinery and equipment owned or leased by the taxpayer and for which credit was taken or is claimed under any other article of this chapter for capital investment in the new machinery and equipment;

(ii) Repair costs, including materials used in the repair, unless for federal income tax purposes, the cost of the repair must be capitalized and not expensed;

(iii) Motor vehicles licensed by the West Virginia Division of Motor Vehicles;

(iv) Airplanes;

(v) Off-premise transportation equipment;

(vi) Machinery and equipment that is primarily used outside this state;

(vii) Machinery and equipment that is acquired incident to the purchase of the stock or assets of the seller; and

(viii) Used machinery and equipment.

(C) Purchase date. — New machinery and equipment shall be deemed to have been purchased prior to a specified date only if:

(i) The machinery or equipment was owned by the taxpayer prior to the effective date of this article or was acquired by the taxpayer pursuant to a binding purchase contract which was in effect prior to the effective date of this article; or

(ii) In the case of leased machinery and equipment, there was a binding written lease or contract to lease identifiable machinery or equipment in effect prior to the effective date of this article.

(22) 'Purchase' means any acquisition of new machinery or equipment, but only if:

(A) The machinery or equipment is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of deductions under Section 267 or 707 (b) of the United States Internal Revenue Code, as defined in §11-24-3 of this code;

(B) The machinery or equipment is not acquired by one component member of a controlled group from another component member of the same controlled group; and

(C) The basis of the machinery or equipment for federal income tax purposes, in the hands of the person acquiring it, is not determined:

(i) In whole or in part by reference to the federal adjusted basis of the machinery or equipment in the hands of the person from whom it was acquired; or

(ii) Under Section 1014 (e) of the United States Internal Revenue Code.

(23) 'Qualified coal mining activity' means any business or other activity subject to the tax imposed by §11-13A-3 of this code on the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use including the treatment process described as mining in §11-13A-4(a)(1) of this code.

(24) 'Qualified investment' means capital investment in new machinery and equipment directly used in the production of coal in this state that is depreciable, or amortizable, for federal income tax purposes and has a useful life for federal income tax purposes of 5 or more years when it is placed in service or use in this state.

(25) 'Rebate' means the amount of rebate allowable under §11-13EE-4 of this article.

(26) 'Related person' means:

(A) A corporation, partnership, association or trust controlled by the taxpayer;

(B) An individual, corporation, partnership, association or trust that is in control of the taxpayer;

(C) A corporation, partnership, association or trust controlled by an individual, corporation, partnership, association or trust that is in control of the taxpayer; or

(D) A member of the same controlled group as the taxpayer.

For purposes of this subdivision, the term 'control,' with respect to a corporation, means ownership, directly or indirectly, of stock possessing 50 percent or more of the total combined voting power of all classes of the stock of the corporation entitled to vote. 'Control,' with respect to a trust, means ownership, directly or indirectly, of 50 percent or more of the beneficial interest in the principal or income of the trust. The ownership of stock in a corporation, of a capital or profits interest in a partnership or association or of a beneficial interest in a trust is determined in accordance with the rules for constructive ownership of stock provided in section 267 (c) of the United States Internal Revenue Code, other than paragraph (3) of that section.

(27) 'State portion of severance taxes paid' means the portion of severance taxes due under §11-13A-3 of this code when computed at the 4.65 percent rate of tax.

(28) 'Tangible personal property' means and is limited to new machinery and equipment that is depreciable, or amortizable, for federal income tax purposes and that has a useful life of 5 or more years for federal income tax purposes when it is placed in service or use in this state.

(29) 'Taxpayer' means any person exercising the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use coal, which privilege is taxable under §11-13A-3 of this code.

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

(31) 'This state' means the State of West Virginia.

(32) 'United States Internal Revenue Code' or 'Internal Revenue Code' means the Internal Revenue Code as defined in §11-24-3 of this code.

§11-13EE-3. Rebate allowable.

(a) *Rebate allowable.* — Eligible taxpayers shall be allowed a rebate for a portion of state severance taxes imposed by §11-13A-3 of this code on the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use that is attributable to the increase in the production of coal that is attributable to and the consequence of the taxpayer's capital investment in new machinery and equipment used at the coal mine, or coal preparation and processing facility. The amount of this rebate shall be determined and applied as hereinafter provided in this article.

(b) *Amount of rebate.* — The amount of rebate allowable is determined by multiplying the amount of the taxpayer's capital investment in new machinery and equipment directly used in the production of coal at a coal mining operation in this state by 35 percent. The product of this computation establishes the maximum amount of rebate allowable under this article for the capital investment in new machinery and equipment.

(c) *Application of rebate amount.* — The amount of rebate allowable is determined by applying the rebate amount determined in subsection (b) of this section against 80 percent of the state portion of the severance tax paid on the privilege of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use that is directly attributable to the increased production of coal at the mine due to taxpayer's capital investment in new machinery and equipment at the mine or coal processing and preparation plant.

(d) The amount of severance tax attributable to the increase in coal production at a mine due to the capital investment in new machinery and equipment shall be determined by comparing (1) the state portion of the severance tax due under §11-13A-3 of this code on coal produced from the mine during calendar year 2018, before allowance of any tax credits, except as provided in subsection (e) of this section (d), (2) with the state severance tax due on coal produced at the mine during the then current calendar year in which the capital investment in new mining machinery and equipment is placed in service or use, before allowance for any tax credits. When the amount in subdivision (2) of this section is greater than the amount in subdivision (1) of this section, the difference is the amount of state severance tax due to the increase in coal production at the mine that is attributable to the capital investment in new machinery and equipment: *Provided*, That when the producer of the coal operates more than one mine in this state, or is a member of a controlled or affiliated group that operates one or more coal mines in this state, no credit shall be allowed unless the total coal production from all mines operated by the taxpayer or by members of the affiliated or controlled group in this state has increased by at least the increase in production at the mine at which the capital investment in new machinery and equipment was made: *Provided, however*, That in no case shall the severance tax attributable to any mine other than the specific mine at which capital investment in new machinery and equipment is directly used in a coal mining operation has been placed in service or use be offset by this rebate.

(e) When the eligible taxpayer is a new business that has produced coal in this state for 2 years before making the capital investment in new machinery and equipment, then, for purposes of item (1) in subsection (d), the base shall be the amount of state severance tax due under §11-13A-3 of this code on coal produced in this state during the second year of this two-year period.

(f) When the operator of the coal mine at which capital investment in new machinery and equipment was made operates one or more other coal mines in this state, the operator may not cease production of coal, or reduce the production of coal, at one or more of those mines during the tax

years for which rebate is allowed under this article. The Tax Commissioner shall promulgate a legislative rule providing exceptions to this subsection.

(g) When the operator of the coal mine at which capital investment in new machinery and equipment was made is a member of a controlled or affiliated group that operates one or more other coal mines in this state, then the controlled or affiliated group, as the case may be, may not cease production of coal, or reduce the production of coal, at one or more of those mines during the tax years for which rebate is allowed under this article. The Tax Commissioner shall promulgate a legislative rule providing exceptions to this subsection.

(h) No rebate shall be allowed under this article when credit is claimed under any other article of this chapter for capital investment in the new machinery and equipment. No credit shall be allowed under any other article of this chapter when rebate is allowed under this article for the capital investment in new machinery and equipment.

§11-13EE-4. Information required to determine amount of rebate allowable.

(a) A taxpayer claiming rebate under this article who operates more than one coal mine in this state shall provide a schedule with the annual severance tax return filed under §11-13A-1 et seq. of this code that shows, for each coal mine, the number of tons of coal produced and the gross value of the coal produced at each mine during the taxable year.

(b) When a taxpayer claiming rebate under this article is a member of an affiliated or controlled group, as the case may be, that operates more than one coal mine in this state the group shall provide a schedule with its annual severance tax return filed under §11-13A-1 et seq. of this code for the taxable year that shows for each coal mine operated in this state by the affiliated or controlled group, as the case may be, the number of tons of coal produced at each mine and the gross value of the coal produced at each mine during the taxable year.

§11-13EE-5. Claim for rebate.

(a) After the severance taxes due for the taxable year are paid, a taxpayer may file a claim under this article for rebate of up to 80 percent of the state portion of the additional severance taxes paid under §11-13A-3 of this code that are directly attributable to taxpayer's capital investment in new machinery and equipment placed in service or use during that taxable year as set forth in §11-13EE-4.

(b) When the amount of rebate claimed exceeds 80 percent of the additional state severance tax paid as provided in subsection (a) of this section, the unused portion of the rebate amount may be carried forward and refunded by the Tax Commissioner after severance taxes due in subsequent years are paid: *Provided*, That the carryforward period may not exceed 10 years from the date the capital investment in new machinery and equipment is placed in service or use in this state.

§11-13EE-6. Suspension of payment of rebate.

(a) No rebate may be paid under this article when the taxpayer, or any member of the taxpayer's combined or affiliated group, as the case may be, is delinquent in the payment of severance taxes imposed pursuant to §11-13A-3 of this code, and any local, state or federal tax or fee, until such time as the delinquency is cured.

(b) For purposes of this section, a taxpayer is not delinquent if the taxpayer is contesting an assessment in the Office of Tax Appeals or in any court of this state, or of the appropriate federal

agency or court, or is complying with the terms of any payment plan agreement with the Tax Commissioner.

(c) In the case of a taxpayer that files a combined tax return as a member of a unitary group, no rebate under this article that is earned by one member of the combined group, but not fully used by or allowed to that member, may be claimed, in whole or in part, by another member of the group.

§11-13EE-7. Burden of proof; application required; failure to make timely application.

(a) *Burden of proof.* — The burden of proof is on the taxpayer to establish by clear and convincing evidence that the taxpayer is entitled to the benefits allowed by this article.

(b) *Application for rebate required.*

(1) Notwithstanding any provision of this article to the contrary, no rebate shall be paid under this article for any capital investment in new machinery and equipment placed in service or use until the person asserting a claim for the allowance of rebate under this article makes written application to the Tax Commissioner for allowance of rebate as provided in this section.

(2) An application for rebate shall be filed, in the form prescribed by the Tax Commissioner, no later than the last day for filing the severance tax return, determined by including any authorized extension of time for filing the return, for the taxable year in which the machinery and equipment to which the rebate relates is placed in service or use and all information required by the form is provided.

(3) A separate application for rebate is required for each taxable year during which the taxpayer places new machinery and equipment in service or use in a mine or coal preparation and processing facility in this state.

(c) *Failure to make timely application.* — The failure to timely apply for the rebate results in the forfeiture of 25 percent of the rebate amount otherwise allowable under this article. This penalty applies annually until the application is filed.

§11-13EE-8. Identification of capital investment property.

Every taxpayer who claims credit under this article shall maintain sufficient records to establish the following facts for each item of qualified investment property:

(1) Its identity;

(2) Its actual or reasonably determined cost;

(3) Its useful life for federal income tax purposes;

(4) The month and taxable year in which it was placed in service;

(5) The amount of credit taken; and

(6) The date it was disposed of or otherwise ceased to be qualified investment property.

§11-13EE-9. Failure to keep records of investment credit property.

A taxpayer who does not keep the records required for identification of investment credit property is subject to the following rules:

(1) A taxpayer is treated as having disposed of, during the taxable year, any machinery and equipment that the taxpayer cannot establish was still on hand, in this state, at the end of that year.

(2) If a taxpayer cannot establish when capital investment in new machinery and equipment property was reported for purposes of claiming this credit during the taxable year the machinery or equipment was placed in service or use, the taxpayer is treated as having placed it in service or use in the most recent prior taxable year in which similar machinery and equipment was placed in service or use, unless the taxpayer can establish that the machinery and equipment placed in service or use in the most recent taxable year is still on hand. In that event, the taxpayer will be treated as having placed the returned machinery and equipment in service or use in the next most recent taxable year.

§11-13EE-10. Transfer of qualified investment property to successors.

(a) Mere change in form of business. – Machinery and equipment may not be treated as disposed of under §11-13EE-9 of this article, by reason of a mere change in the form of conducting the business as long as the machinery and equipment is retained in the successor business in this state, and the transferor business retains a controlling interest in the successor business. In this event, the successor business is allowed to claim the rebate amount of credit still available with respect to the machinery and equipment transferred, and the transferor business may not be required to redetermine the amount of rebate allowed in earlier years.

(b) Transfer or sale to successor. – Machinery and equipment is not treated as disposed of under §11-13EE-11 of this article by reason of any transfer or sale to a successor business which continues to operate machinery and equipment at the mine in this state at which the machinery and equipment was first placed in service or use. Upon transfer or sale, the successor shall acquire the amount of rebate, if any, that remains available under this article, and the transferor business is not required to redetermine the amount of rebate allowed in earlier years.

§11-13EE-11. Recapture of rebate; recapture tax imposed.

(a) When recapture tax applies. —

(1) Any person who places machinery and equipment in service or use for purposes of this credit and who fails to use the machinery and equipment for at least 5 years in the production of coal in this state shall pay the recapture tax imposed by subsection (b) of this section.

(2) This section does not apply when §11-13EE-10 of this article applies. However, the successor, or the successors, and the person, or persons, who previously claimed credit under this article with respect to the machinery and equipment, are jointly and severally liable for payment of any recapture tax subsequently imposed under this section with respect to the machinery and equipment used to qualify for rebate under this article.

(b) Recapture tax imposed. — The recapture tax imposed by this subsection is the amount determined as follows. If the taxpayer prematurely removes machinery and equipment placed in service (when considered as a class) from economic service in the taxpayer's coal production activity in this state, the taxpayer shall recapture the amount of rebate claimed under this article for the taxable year, and all preceding taxable years, attributable to the machinery and equipment which has

been prematurely removed from service. The amount of tax due under this subsection is an amount equal to the amount of rebate that is recaptured under this subsection.

(d) *Payment of recapture tax.* — The amount of tax recaptured under this section is due and payable on the day the person's annual return is due for the taxable year, in which this section applies, under §11-13A-1 *et seq.* of this code. When the employer is a partnership, limited liability company or S corporation for federal income tax purposes, the recapture tax shall be paid by those persons who are partners in the partnership, members in the company, or shareholders in the S corporation, in the taxable year in which recapture tax is imposed under this section.

§11-13EE-12. Interpretation and construction.

(a) No inference, implication or presumption of legislative construction or intent may be drawn or made by reason of the location or grouping of any particular section, provision or portion of this article; and no legal effect may be given to any descriptive matter or heading relating to any section, subsection or paragraph of this article.

(b) The provisions of this article shall be reasonably construed in order to effectuate the legislative intent recited in §11-13EE-1 of this article.

§11-13EE-13. Rebate report.

(a) The Tax Commissioner shall provide to the Joint Committee on Government and Finance by July 1, 2022, and on the first day of July of each year thereafter, a report detailing the amount of rebate claimed pursuant to this article. The report is to include the amount of rebate claimed against the severance tax imposed pursuant to §11-13A-3 of this code.

(b) Taxpayers claiming the rebate shall provide the information the Tax Commissioner may require to prepare the report: *Provided*, That the information provided is subject to the confidentiality and disclosure provisions of §11-10-5d and §11-10-5s of this code.

(c) The Tax Commissioner shall also identify any issues the Tax Commissioner has in the administration and enforcement of this rebate and make suggestions the Commissioner may have for improving the credit or the administration of the rebate.

§11-13EE-14. Rules.

The Tax Commissioner may promulgate such interpretive, legislative and procedural rules as the Commissioner deems to be useful or necessary to carry out the purpose of this article and to implement the intent of the Legislature. The tax commissioner may promulgate emergency rules if they are filed in the West Virginia Register before January 1, 2020. All rules shall be promulgated in accordance with the provisions of §29A-3-1 *et seq.* of this code.

§11-13EE-15. Severability.

(a) If any provision of this article or the application thereof is for any reason adjudged by any court of competent jurisdiction to be invalid, the judgment may not affect, impair or invalidate the remainder of the article, but shall be confined in its operation to the provision thereof directly involved in the controversy in which the judgment shall have been rendered, and the applicability of the provision to other persons or circumstances may not be affected thereby.

(b) If any provision of this article or the application thereof is made invalid or inapplicable by reason of the repeal or any other invalidation of any statute therein addressed or referred to, such invalidation or inapplicability may not affect, impair or invalidate the remainder of the article, but shall be confined in its operation to the provision thereof directly involved with, pertaining to, addressing or referring to the statute, and the application of the provision with regard to other statutes or in other instances not affected by any such repealed or invalid statute may not be abrogated or diminished in any way.

§11-13EE-16. Effective date.

The rebate allowed by this article is allowed for capital investment in new machinery and equipment placed in service or use in this state on or after July 1, 2019.”

And,

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

Com. Sub. for H. B. 4439 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13EE-1, §11-13EE-2, §11-13EE-3, §11-13EE-4, §11-13EE-5, §11-13EE-6, §11-13EE-7, §11-13EE-8, §11-13EE-9, §11-13EE-10, §11-13EE-11, §11-13EE-12, §11-13EE-13, §11-13EE-14, §11-13EE-15, and §11-13EE-16, all relating generally to Coal Severance Tax Rebate; findings and purpose; defining terms; providing for rebate of severance tax when capital investment made in new machinery and equipment directly used in severance of coal, or in coal preparation and processing plants; providing rules and procedures for claiming rebate and transfer to successors; imposing recapture tax in certain circumstance; providing rules for interpretation and construction; requiring periodic rebate reports; authorizing rulemaking; and providing for severability and 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. 730**), and there were—yeas 78, nays 19, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barrett, Bates, S. Brown, Criss, Diserio, Doyle, Fleischauer, Fluharty, Hansen, Hicks, Hornbuckle, Lavender-Bowe, Pushkin, Skaff, Sponaugle, Summers, C. Thompson, Walker and Williams.

Absent and Not Voting: Boggs, Queen and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4439) 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. 4530, Authorizing daily passenger rental car companies to charge reasonable administrative fees.

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 6D. DAILY PASSENGER RENTAL CAR BUSINESS.

§17A-6D-17. Authorized administrative fees.

(a) As used in this section, ‘administrative fees’ means reasonable costs expressly provided for in the master rental agreement pertaining to parking tickets, tolls, citations for other non-moving violations, and other costs incurred by the rental customer and not timely paid by the rental customer and paid by the daily passenger car rental company. Administrative fees may not exceed \$25 per rental agreement or ten percent of the debt owed, whichever is less.

(b) Notwithstanding any provision of this code to the contrary, including, but not limited to §46A-2-128(d) of this code, a daily passenger rental car company may collect or charge administrative fees incidental to, or arising from, the rental transaction when the administrative fees are expressly provided for in the master rental agreement and affirmatively acknowledged by the rental customer.”

And,

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

Com. Sub. for H. B. 4530 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17A-6D-17, relating to fees that may be charged by daily passenger rental car companies pursuant to the master rental agreement; defining a term; authorizing daily passenger rental car companies to charge administrative fees under a certain amount related to certain costs incurred by the rental customer and paid by the daily passenger car rental company; and requiring that the rental customer affirmatively agree to the administrative fees in the master rental agreement.”

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. 731**), and there were—yeas 90, nays 7, absent and not voting 3, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Boggs, Queen and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4530) 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. 4557, Relating to centers and institutions that provide the care and treatment of mentally ill or intellectually disabled individuals.

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

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

“§27-9-1. License from ~~director of health~~ Secretary of Health and Human Resources; regulations.”

And,

On page two, section three, by striking out the section heading and inserting in lieu thereof the following:

“§27-17-3. License from ~~director of health~~ Secretary of Health and Human Resources; regulations; and penalties.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 732**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4557) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2020, a bill of the House of Delegates, as follows:

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

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

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

“ARTICLE 5. MISCELLANEOUS PROVISIONS.

§9-5-11. Definitions; assignment of rights; right of subrogation by the department for third-party liability; notice requirement for claims and civil actions; notice requirement for settlement of third-party claim; penalty for failure to notify the department; provisions

related to trial; attorneys fees; class actions and multiple plaintiff actions not authorized; and secretary's authority to settle.

(a) *Definitions.* — As used in this section, unless the context otherwise requires:

~~(1)~~ 'Bureau' means the Bureau for Medical Services.

~~(2)~~ 'Department' means the West Virginia Department of Health and Human Resources, or its contracted designee.

~~(3)~~ 'Recipient' means a person who applies for and receives assistance under the Medicaid Program.

~~(4)~~ 'Secretary' means the Secretary of the Department of Health and Human Resources.

~~(5)~~ 'Third party' means:

(1) An individual or entity that is alleged to be liable to pay all or part of the costs of recipient's medical treatment and medical-related services for personal injury, disease, illness or disability, as well as any entity including, but not limited to, a business organization, health service organization, insurer, or public or private agency acting by or on behalf of the allegedly liable third party; and

(2) Any insurer that may be liable under an uninsured or underinsured motorist policy covering the injuries to the recipient.

(b) *Assignment of rights.* —

(1) Submission of an application to the department for medical assistance is, as a matter of law, an assignment of the right of the applicant or his or her legal representative to recover from third parties past medical expenses paid for by the Medicaid program.

(2) At the time an application for medical assistance is made, the department shall include a statement along with the application that explains that the applicant has assigned all of his or her rights as provided in this section and the legal implications of making this assignment.

(3) This assignment of rights does not extend to Medicare benefits.

(4) This section does not prevent the recipient or his or her legal representative from maintaining an action for injuries or damages sustained by the recipient against any third party, and from including, as part of the compensatory damages sought to be recovered, the amounts of his or her past medical expenses.

(5) The department shall be legally subrogated to the rights of the recipient against the third party.

(6) The department shall have a priority right to be paid first out of any payments made to the recipient for past medical expenses before the recipient can recover any of his or her own costs for medical care.

(7) A recipient is considered to have authorized all third parties to release to the department information needed by the department to secure or enforce its rights as assignee under this chapter.

(c) *Notice requirement for claims and civil actions; Secretary's authority to intervene and to settle.* —

(1) A recipient's legal representative shall provide notice to the department within 60 days of asserting a claim against a third party. ~~If the claim is asserted in a formal civil action, the recipient's legal representative shall notify the department within 60 days of service of the complaint and summons upon the third party by causing a copy of the summons and a copy of the complaint to be served on the department as though it were named a party defendant.~~

(2) If the recipient has no legal representative, and the third party knows or reasonably should know that a recipient has no representation, then the third party shall provide notice to the department within 60 days of receipt of a claim or within 30 days of receipt of information or documentation reflecting the recipient is receiving Medicaid benefits, whichever is later in time.

(3) In any civil action implicated by this section, the department may file a notice of appearance and shall thereafter have the right to file and receive pleadings, intervene, and take other action permitted by law.

(4) The department shall provide the recipient and the third party, if the recipient is without legal representation, notice of the amount of the purported subrogation lien within 30 days of receipt of notice of the claim. The department shall provide related supplements in a timely manner, but no later than 15 days after receipt of a request for same.

(5) When determined by the department to be cost effective, the secretary or his or her designee may, in his or her discretion, negotiate for a reduction in the lien.

(d) *Notice of settlement requirement.* —

(1) A recipient or his or her representative shall notify the department of a settlement with a third party and retain in escrow an amount equal to the amount of the subrogation lien asserted by the department. The notification shall include the amount of the settlement being allocated for past medical expenses paid for by the Medicaid program. ~~Within 30 days of the receipt of any such notice, the department shall notify the recipient of its consent or rejection of the proposed allocation. If the department consents, the recipient or his or her legal representation shall issue payment out of the settlement proceeds in a manner directed by the secretary or his or her designee within 30 days of consent to the proposed allocation.~~

(2) Within 30 days of the receipt of any such notice of a proposed settlement, the department shall notify the recipient of its consent or rejection of the proposed allocation. If the department consents, the recipient or his or her legal representative shall issue payment out of the settlement proceeds in a manner directed by the secretary or his or her designee within 30 days of consent to the proposed allocation.

(3) If the total amount of the settlement is less than the department's subrogation lien, then the settling parties shall obtain the department's consent to the settlement before finalizing the settlement. The department shall advise the parties within ~~30~~ 60 days and provide a detailed itemization of all past medical expenses paid by the department on behalf of the recipient for which the department seeks reimbursement out of the settlement proceeds.

(4) If the department rejects the proposed allocation, ~~the department recipient or his or her legal representative shall seek a judicial determination within 30 days and provide a detailed itemization of all past medical expenses paid by the department on behalf of the recipient for which the department seeks reimbursement out of the settlement proceeds~~ regarding the appropriateness of the proposed

settlement in the court in which the action is then pending or, in the event no such action is pending, in any court in which the recipient could have filed such action for damages.

(A) If judicial determination becomes necessary, the trial court is required to hold an evidentiary hearing. The recipient and the department shall be provided ample notice of the same and be given just opportunity to present the necessary evidence, including fact witness and expert witness testimony, to establish the amount to which the department is entitled to be reimbursed pursuant to this section.

(B) The department shall have the burden to prove by a preponderance of the evidence the amount of its subrogation lien, and the recipient shall have the burden of proving by a preponderance of the evidence that the allocation agreed to by the parties is proper. The trial court shall give due consideration to the department's interests in being fairly reimbursed for purposes of the operation of the Medicaid program. The trial court's decision should be set forth in a detailed order containing the requisite findings of fact and conclusions of law to support its rulings.

~~(4)~~ (5) Any settlement by a recipient with one or more third parties which would otherwise fully resolve the recipient's claim for an amount collectively If the amount of the department's final subrogation lien does not exceed \$1,500, the settlement not to exceed \$20,000 shall be exempt from the provisions of this section.

~~(5)~~ (6) Nothing herein prevents a recipient from seeking judicial intervention to resolve any dispute as to allocation prior to effectuating a settlement with a third party.

(e) *Department failure to respond to notice of settlement.* — If the department fails to appropriately respond to a notification of settlement, the amount to which the department is entitled to be paid from the settlement shall be limited to the amount of the settlement the recipient has allocated toward past medical expenses.

(f) *Penalty for failure to notify the department.* — A legal representative acting on behalf of a recipient or third party that fails to comply with the provisions of this section is liable to the department for all reimbursement amounts the department would otherwise have been entitled to collect pursuant to this section but for the failure to comply, plus interest at the legal rate from the date of the settlement. Under no circumstances may a pro se recipient be penalized for failing to comply with the provisions of this section.

(g) *Miscellaneous provisions relating to trial.* —

(1) Where an action implicated by this section is tried by a jury, the jury may not be informed at any time as to the subrogation lien of the department.

(2) Where an action implicated by this section is tried by judge or jury, the trial judge shall, or in the instance of a jury trial, require that the jury, identify precisely the amount of the verdict awarded that represents past medical expenses.

(3) Upon the entry of judgment on the verdict, the court shall direct that upon satisfaction of the judgment any damages awarded for past medical expenses be withheld and paid directly to the department, not to exceed the amount of past medical expenses paid by the department on behalf of the recipient.

(h) *Attorneys' fees.* — Irrespective of whether an action or claim is terminated by judgment or settlement without trial, from the amount required to be paid to the department there shall be deducted

the reasonable costs and attorneys' fees attributable to the amount in accordance with and in proportion to the fee arrangement made between the recipient and his or her attorney of record so that the department shall bear the pro-rata share of the reasonable costs and attorneys' fees: *Provided*, That if there is no recovery, the department shall under no circumstances be liable for any costs or attorneys' fees expended in the matter.

(i) *Class actions and multiple plaintiff actions not authorized.* — Nothing in this article shall authorize the department to institute a class action or multiple plaintiff action against any manufacturer, distributor, or vendor of any product to recover medical care expenditures paid for by the Medicaid program.

(j) *Secretary's authority.* — The secretary or his or her designee may, in his or her sole discretion, compromise, settle, and execute a release of any claim relating to the department's right of subrogation, in whole or in part.

(k) *Effective Date.* — The amendments to this section enacted during the 2020 regular session of the West Virginia Legislature shall be effective with respect to claims against third parties arising on or after July 1, 2020."

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. 733**), and there were—yeas 55, nays 44, absent and not voting 1, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4573) passed.

Delegate Summers moved the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 734**), and there were—yeas 59, nays 40, absent and not voting 1, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Queen.

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

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates 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. 4634, Southern West Virginia Lake Development Study Commission Act.

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

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

“ARTICLE 1B. SOUTHERN WEST VIRGINIA LAKE DEVELOPMENT STUDY COMMISSION.

§5B-1B-1. Southern West Virginia Lake Development Study Commission Act.

This article shall be known as the ‘Southern West Virginia Lake Development Study Commission Act.’

§5B-1B-2. Legislative findings.

(a) The Legislature finds that the southern coalfields of West Virginia, long one of the most productive coal producing areas of the world, having provided untold millions of dollars to the state economy, and having been the financial backbone of the state’s economy for over a century, is now in the midst of a long decline in coal production and population, and because of rugged terrain and remoteness from surrounding regions, suffers from high unemployment and deteriorating infrastructure and economic base, and requires innovative and alternative approaches to revitalization; and therefore demands the Legislature look at innovative ideas and alternatives for new industries and businesses that provide sustainable long term development for southern West Virginia.

(b) The natural beauty of the mountainous regions, now popular with outdoor enthusiasts for its Hatfield McCoy Trail System, would be an ideal location for a large recreational lake or lakes, constructed with hundreds of miles of lake front property, tens of thousands of acres of lake surface, near a four lane highway and situated near large tracts of developable property, with carefully considered design and development, could create a new and exciting recreational area of the state, and provide a myriad of opportunities for further development and with creative initiative could revitalize this area of our state. Such a proposal is worthy of careful study and marshalling the forces of our state and federal governments to thoroughly evaluate and consider this development, maximizing the design and use of a lake or lake system to provide a variety of benefits, potentially including hydro-electric generation, resort developments, housing, and economic opportunities that would create diversity and renewal to this long neglected and deserving area of our state.

§5B-1B-3. Commission created; undertake study; report to the Legislature.

(a) There is hereby created the Southern West Virginia Lake Development Study Commission within the West Virginia Development Office. The commission shall consist of the following members:

(1) The president of the West Virginia Economic Development Council, who will serve as chair of the commission;

(2) Six members designated by each of the county commissions of Boone, Logan, McDowell, Mercer, Mingo, and Wyoming Counties;

(3) One member representing the Department of Environmental Protection, to be appointed by the Governor;

(4) One member representing the Division of Natural Resources, to be appointed by the Governor;

(5) One member representing and having expertise in each of the following fields, to be appointed by the Governor:

(A) Geology;

(B) Land use planning;

(C) Law;

(D) Natural resource management;

(E) Tourism development;

(F) Public recreation;

(G) Hydrology; and

(H) Ecology; and

(6) Six citizen members representing Boone, Logan, McDowell, Mercer, Mingo, and Wyoming to be appointed by the Governor.

(b) The West Virginia University Bureau of Business and Economic Research and the Marshall University Center for Business and Economic Research shall assist the commission by undertaking the study of topics as directed by this section and by the commission. Working with the commission, the two research groups shall investigate lake developments across the region and country to identify what makes large lake developments successful, types of unique amenities and development sites that would promote economic growth, alternative uses for the lake and its resources in power generation, regional resource preservation and integration, enhancement of the Hatfield and McCoy ATV Trail System, and other outdoor recreational opportunities.

(c) The commission shall oversee studies that evaluate where a lake can be located to maximize economic benefits and assess environmental impacts, property ownership assessment and purchasing costs, impacts to mineral ownership and development impacts, and other issues as identified by the commission. The commission is empowered to form specialized committees of experts in various fields of law, science, economic development, geological, mineral, and natural resources to make recommendations and provide expertise in their respective fields regarding viability and implications of lake construction, road location, and resource preservation.

(d) The commission is directed to undertake the inclusion of federal resources for assistance in the study of the feasibility and implementation recommendations. The commission shall pursue federal funding for undertaking the study and the subsequent construction of this project upon the finding of viability of the study project.

(e) The commission may call upon other officers, departments, and agencies of state government to assist in its investigation. Upon the request of the commission, the Attorney General of the state shall render legal research and analysis on legal issues associated with developing recommendations for lawful land development construction and compliance with state and federal laws associated with land acquisition and lake construction, to the commission.

(f) All actual and necessary travel expenses of the members of the commission shall be reimbursed by the member's employing agency. All other expenses incurred by the commission shall be paid by the Development Office.

§5B-1B-4. Report to the Legislature.

The commission shall provide regular updates to the Legislature, through the Joint Committee on Government and Finance, and shall complete this study and its recommendations by July 1, 2022. The report shall include at a minimum, recommendations for any necessary legislation, funding recommendations, and analysis of the implications and costs associated with the development project provided in this article."

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. 735**), and there were—yeas 94, nays 5, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bibby, Hardy, Porterfield, Waxman and Wilson.

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4634) 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. 4666, Relating to competitive bids for intergovernmental relations and urban mass transportation.

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

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

"ARTICLE 27. INTERGOVERNMENTAL RELATIONS — URBAN MASS TRANSPORTATION SYSTEMS.

§8-27-23. Competitive bids; publication of solicitation for sealed bids.

(a) Any contract for the construction of facilities by any authority, when the expenditure required exceeds the sum of ~~\$10,000~~ \$25,000, shall be based solely on competitive sealed bids.

(b) Except as provided ~~below~~ in subsections (c) or (d) of this section, the procurement of all supplies, equipment and materials, where the expenditure required exceeds the sum of ~~\$10,000~~ \$25,000, shall be based on the competitive procedure that is best suited under the circumstances of the procurement.

(c) In determining the competitive bid ~~procedures~~ procedure that is best suited under the circumstances, an authority shall conduct:

(1) Competitive sealed bidding if:

(A) Time permits a competitive bid process to be used;

(B) The award of the bid will be made primarily on price and price-related factors;

(C) It is likely to be unnecessary to conduct discussions with suppliers regarding bids, including discussions regarding price; and

(D) There is a reasonable expectation of receiving more than one sealed bid; or

(2) Competitive negotiation where competitive sealed bidding is not best suited under the circumstances.

(d) Notwithstanding the provisions of subsections (b) and (c) of this section, an authority may provide for the procurement of property or services covered by this section using other than competitive procedures only when:

(1) The property or services needed are available only from one responsible source and no other type of property or service will satisfy the authority's needs;

(2) The authority's need for the property or service is urgent, unusual and compelling because the authority would be seriously injured unless the authority is permitted to limit the number of sources from which it solicits;

(3) It is necessary to award a contract to a particular source or sources in order to maintain a facility, producer, manufacturer or other supplier in case of emergency; ~~or~~

(4) It is necessary to establish or maintain an alternative source or sources of supply for the property or service to increase or maintain competition; or

(5) The authority is using the Federal Transit Administration Third Party Procurement Guidance circular, as may be amended by the Federal Transit Administration, when spending federal appropriations as a designated recipient of 49 U.S.C. §5307 and 49 U.S.C. §5340 - Urbanized Area Formula Appropriations - to finance its procurements or contracts.

(e) All sealed bids or competitive negotiated proposals received in response to a solicitation or request for bid may be rejected if an authority determines that the action is in the public interest.

(f) Sealed bids shall be opened publicly at the time and place stated in the solicitation and the authority shall evaluate the bids without discussions with bidders and award a contract with

reasonable promptness to the responsible source whose bid conforms to the solicitation and is most advantageous to the authority, considering only price and other price-related factors included in the solicitation.

(g) The evaluation of competitive proposals may include written or oral discussions conducted with all responsible bidders or suppliers at any time after receipt of the proposals and before the award or may be made without discussions. In either event, the award shall be made to the lowest responsible bidder or supplier.

(h) Adequate public notice of the solicitation of bids and proposals shall be given. Public notice shall be given not less than seven days before the date set for bid opening or, in the case of competitive negotiation, not less than seven days before the due date for receipt of proposals: *Provided*, That bids for the construction of facilities shall be obtained by public notice published as a Class I legal advertisement in compliance with ~~the provisions of~~ §59-3-1 *et seq.* of this code, with ~~such~~ the publication being made at least 14 days before the final date for submitting bids.”

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. 736**), and there were—yeas 92, nays 7, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, Cadle, P. Martin, McGeehan, Paynter and Wilson.

Absent and Not Voting: Queen.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4666) passed.

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

A message from the Senate, by

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

Com. Sub. for S. B. 802, Relating to public utilities generally.

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

On page two, section twenty, subsection (b), subdivision (v), by striking out “100,000” and inserting in lieu thereof “100”.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 737**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Queen.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 802) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

Com. Sub. for H. B. 4388, Limiting the Alcohol Beverage Control Commissioner's authority to restrict advertising.

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

Senators Takubo, Rucker and Romano.

Whereupon,

In the absence of objection, the Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Howell, C. Martin and Staggers.

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. 4558, Creating a personal income tax credit for volunteer firefighters in West Virginia.

On motion of Delegate Kessinger, the House refused to concur in the following amendment of the bill by the Senate, and requested the Senate to recede therefrom:

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

"ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.

§11-10-14a. ~~Expiration of~~ Tax refund check-off programs.

(a) Notwithstanding any other provision of law to the contrary Except as otherwise provided in this section, or in another section of this code enacted after June 30, 1991, all voluntary tax refund check-off programs shall expire and do not apply to any personal income tax returns required to be filed after June 30, 1991: Provided, That if any such program has an earlier expiration date specifically provided by law, such the earlier expiration date shall apply applies.

(b) The Tax Commissioner shall cause each West Virginia personal income tax return form to contain a provision by which a taxpayer, and his or her spouse if a joint return, may donate a portion or all of his or her tax refund to the West Virginia Department of Veterans Assistance for purposes of providing nursing home and health care for aged and disabled veterans in the West Virginia Veterans Home. The total amount of donations received under this subsection shall be deposited in the State Treasury to the credit of the Department of Veterans Assistance to be used exclusively for purposes of providing nursing home and health care for aged and disabled veterans in the West Virginia Veterans Home.

(c) The Tax Commissioner shall cause each West Virginia personal income tax return form to contain a provision by which a taxpayer, and his or her spouse if a joint return, may donate a portion or all of his or her tax refund to the Donel C. Kinnard Memorial State Veterans Cemetery for purposes of operating and maintaining the cemetery. The total amount of donations received under this subsection shall be deposited in the State Treasury to the credit of the Department of Military Affairs and Public Safety to be used exclusively for purposes of operating and maintaining the Donel C. Kinnard Memorial State Veterans Cemetery.

ARTICLE 13FF. THE HIGH-WAGE GROWTH BUSINESS TAX CREDIT ACT.

§11-13FF-1. The High-Wage Growth Business Tax Credit Act.

This article shall be known and may be cited as the High-Wage Growth Business Tax Credit Act.

§11-13FF-2. Definitions.

As used in this article:

'Benefits' means all remuneration for work performed that is provided to an employee in whole or in part by the employer, other than wages, including the employer's contributions to insurance programs, health care, medical, dental and vision plans, life insurance, employer contributions to pensions, such as a 401(k), and employer-provided services, such as child care, offered by an employer to the employee. 'Benefits' does not include the employer's share of payroll taxes, Social Security or Medicare contributions, federal or state unemployment insurance contributions or workers' compensation;

'Consecutive qualifying period' means each of the three qualifying periods successively following the qualifying period in which the new high-wage job was created;

'Division' means the West Virginia State Tax Division;

'Domicile' means the sole place where an individual has a true, fixed, permanent home. It is the place where the individual has a voluntary, fixed habitation of self and family with the intention of making a permanent home;

'Eligible employee' means an individual who is employed in West Virginia by an eligible employer, who is a resident of West Virginia, and 100 percent of the employee's income from such employment is West Virginia income. 'Eligible employee' does not include an individual who:

(1) Bears any of the relationships described in paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation or, if the employer

is an entity other than a corporation, to an individual who owns, directly or indirectly, more than 50 percent of the capital and profits interest in the entity;

(2) If the employer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust or is an individual who bears any of the relationships described in paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust;

(3) Is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of an individual who owns, directly or indirectly, more than 50 percent of the capital and profits interest in the entity or, if the employer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust; or

(4) Is working or has worked as an employee or as an independent contractor for an entity that, directly or indirectly, owns stock in a corporation of the eligible employer or other interest of the eligible employer that represents 50 percent or more of the total voting power of that entity or has a value equal to 50 percent or more of the capital and profits interest in the entity;

‘Eligible employer’ means a person whether organized for profit or not, or headquarters of such entity registered to do business in West Virginia that is the owner or operator of a project facility, that offers health benefits to all full-time eligible employees and certifies that it pays at least 50 percent of such health benefit premiums.

‘Health benefits’ means coverage for basic hospital care, physician care, prescriptions, and shall be the same coverage as is provided to employees employed in a bona fide executive, administrative, or professional capacity by the employer who are exempt from the minimum wage and maximum hour requirements of the federal Fair Labor Standards Act and the employer pays at least 50 percent of such insurance premiums.

‘New high-wage job’ means a new job created in West Virginia by an eligible employer on or after July 1, 2020, that is occupied for at least 48 weeks of a qualifying period by an eligible employee who is paid wages calculated for the qualifying period to be at least two and twenty-five hundredths times the state median salary;

‘New job’ means a job that is occupied by an employee who was not previously on the employer’s payroll in West Virginia, nor previously on the payroll of such employer’s parent entity, subsidiary, alter ego, or affiliate in West Virginia, or previously on the payroll of any business whose physical plant and employees are substantially the same as those of the employer in West Virginia in the three years prior to the date of hire. ‘New job’ does not mean any job that is a result of job shifts due to the gain or loss of an in-state contract to supply goods and services, nor does it mean an employee who is retained following the acquisition of all or part of an in-state business by an employer;

‘Qualifying period’ means the period of 12 months beginning on the day an eligible employee begins working in a new high-wage job or the period of 12 months beginning on the anniversary of the day an eligible employee began working in a new high-wage job;

‘Resident’ means a natural person whose domicile is in West Virginia at the time of hire or within 180 days of the date of hire;

'Threshold job' means a job that is occupied for at least 44 weeks of a calendar year by an eligible employee and that meets the wage requirements for a 'new high-wage job'; and

'Wages' means all compensation paid by an eligible employer to an eligible employee through the employer's payroll system, including those wages that the employee elects to defer or redirect or the employee's contribution to a 401(k) or cafeteria plan program, but 'wages' does not include benefits or the employer's share of payroll taxes, Social Security or Medicare contributions, federal or state unemployment insurance contributions, or workers' compensation.

§11-13FF-3. High-wage growth business tax credit.

(a) The Development Office may authorize no more than \$5 million of the tax credits allowed under this article during any fiscal year and the total amount of tax credit that may be awarded or used in any taxable year by any qualified taxpayer in combination with the owners of the qualified taxpayer may not exceed more than 10 percent of the salaries for the new direct jobs. Depending on the nature of the anticipated benefits to the state, the Development Office may establish a tax credit at a level less than the maximum. Nothing in this article entitles a qualified employer to receive a tax credit under this article and the Development Office has full discretion, subject to annual or ad hoc review, in determining whether and the amount to which to award a tax credit.

(b) A taxpayer that is an eligible employer seeking to obtain a tax credit shall make an application to the Development Office prior to the taxable year in which the eligible employer is seeking the credit. The application shall be on a form prescribed by the Development Office and shall contain such information as may be required by the Development Office to determine if the applicant is qualified. The application shall contain a sworn statement by a duly authorized officer of the employer listing the names of persons or other entities who have received or who will receive any payment or other consideration from the employer for the purpose of representing the employer in applying for or receiving the benefits provided for in this article and shall include a certificate of good standing from the State Tax Department.

(c) The employer shall certify that during the eligible employer's tax year and that at the end of the eligible employer's tax year it will meet or exceed all of the requirements established in §11-13FF-4 of this code;

(d) After the filing of an application by an eligible employer, the Development Office shall undertake an analysis and determine whether, the extent to which, and the conditions upon which an eligible employer may obtain a tax credit if it fulfills the commitments made in the eligible employer's application. In considering whether to approve the eligible employer's application for a tax credit, the Development Office shall consider the following factors:

(1) The significance of the eligible employer's need for the tax credit;

(2) The amount of projected net fiscal benefit to the state of the project and the period in which the state would realize such net fiscal benefit;

(3) The overall size and quality of the proposed project, including the number of new jobs, proposed wages, growth potential of the qualified company, the potential multiplier effect of the project, and similar factors;

(4) The financial stability and creditworthiness of the eligible employer;

(5) The level of economic distress in the area;

(6) An evaluation of the competitiveness of alternative locations for the location of the eligible employer, as applicable;

(7) Whether other state incentives are available and have been awarded to the eligible employer; and

(8) The amount of local incentives committed.

(e) The Development Office may authorize the continued ability to receive the tax credit as long as the employer retains its eligibility by maintaining the number of new direct jobs in successive years, as provided under this article, not to exceed five years.

(f) A qualified employer that has qualified pursuant to this article is eligible to receive tax credits under this article only in accordance with the provisions under which it initially applied and was approved. If a qualified employer that is receiving tax credits and creates new direct jobs, it may apply for additional tax credits based on the new direct jobs anticipated from the expansion only, pursuant to this article.

§11-13FF-4. Obtaining tax credit following tax year.

(a) At the end of the approved employer's tax year, the qualified employer may file an application to use the tax credits previously approved by the Development Office. The application shall contain a sworn statement by a duly authorized officer of the qualified employer concerning with respect to the employer's fiscal year:

(1) That the eligible employer remained a qualified employer under the provisions of this article;

(2) The total number of and the gross payroll of the new direct jobs, with salary information provided by new direct job and that each new direct job was filled for at least 48 weeks during the tax year;

(3) That the employer had or maintained a net overall increase in employment statewide for each new direct job and the number of such net overall increase of at least 10 new direct jobs, in the case where an employer has contracts covering multiple locations;

(4) That employees holding the new direct jobs:

(A) Were residents in the State of West Virginia;

(B) Were not previously on the employer's payroll;

(C) Were not previously on the payroll of the employer's parent entity, subsidiary, or affiliate, alter ego, or previously on the payroll of the business whose physical plant and employees were substantially the same as those of the employer;

(D) Did not exist as of the date the employer filed the application for the tax credit;

(E) Were not jobs created as a result of job shifts due to the gain or loss of an in-state contract to supply goods and services;

(F) Were not jobs retained following the acquisition of all, or part of, an in-state business by the employer;

(5) That the employer has offered the health benefits to the eligible employees it employs in new direct jobs; and

(6) That the employer:

(A) Did not default on or otherwise not repay any loan or other obligation involving public funds;

(B) Has not declared bankruptcy under which an obligation of the employer to pay or repay public funds or moneys was discharged as part of such bankruptcy;

(C) Is not in default on any filing or payment with or to the state or any of its agencies or political subdivisions in which such assessment or judgment is final, not appealable, and remains outstanding.

(b) The division may request such additional information from the employer as may be necessary to determine whether the application is correct and whether the qualified employer is eligible for the annual tax credit for that year, or may request that the qualified employer revise its application.

(c) The tax credits authorized in this article shall be authorized after the qualified employer has filed its application for annual tax credit at the end of the qualified employer's tax year with the Development Office pursuant to this section, and the division has determined from the information submitted along with such application that the employer has fulfilled its obligations in original application.

(d) Upon approval of the application for use of the tax credit, the application shall be forwarded to the Department of Revenue. The eligible employer may then use such tax credit in filing its tax return.

(e) A new high-wage job is not eligible for a credit pursuant to this section for the initial qualifying period unless the eligible employer's total number of employees with threshold jobs on the last day of the initial qualifying period at the location at which the job is performed or based is at least one more than the number of threshold jobs on the day prior to the date the new high-wage job was created. A new high-wage job is not eligible for a credit pursuant to this section for a consecutive qualifying period unless the total number of threshold jobs at a location at which the job is performed or based on the last day of that qualifying period is greater than or equal to the number of threshold jobs at that same location on the last day of the initial qualifying period for the new high-wage job.

(f) If a consecutive qualifying period for a new high-wage job does not meet the wage, occupancy and residency requirements, then the qualifying period is ineligible.

(g) Except as provided in subsection (h) of this section, a new high-wage job is not eligible for a credit pursuant to this section if:

(1) The new high-wage job is created due to a business merger or acquisition or other change in business organization;

(2) The eligible employee was terminated from employment in West Virginia by another employer involved in the business merger or acquisition or other change in business organization with the taxpayer; and

(3) The new high-wage job is performed by:

(A) The person who performed the job or its functional equivalent prior to the business merger or acquisition or other change in business organization; or

(B) A person replacing the person who performed the job or its functional equivalent prior to a business merger or acquisition or other change in business organization.

(h) A new high-wage job that was created by another employer and for which an application for the high-wage growth business tax credit was received and is under review by the division prior to the time of the business merger or acquisition or other change in business organization shall remain eligible for the high-wage growth business tax credit for the balance of the consecutive qualifying periods. The new employer that results from a business merger or acquisition or other change in business organization may only claim the high-wage growth business tax credit for the balance of the consecutive qualifying periods for which the new high-wage job is otherwise eligible.

(i) A new high-wage job is not eligible for a credit pursuant to this section if the job is created due to an eligible employer entering into a contract or becoming a subcontractor to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity unless the job is a new high-wage job that was not being performed by an employee of the replaced entity.

(j) A new high-wage job is not eligible for a credit pursuant to this section if the eligible employer has more than one business location in the state from which it conducts business and the requirements of subsection (e) of this section are satisfied solely by moving the job from one business location of the eligible employer in this state to another business location of the eligible employer in the state.

(k) With respect to each annual application for a high-wage growth business tax credit, the employer shall certify and include:

(1) The responsibilities and amount of wages paid to each eligible employee in a new high-wage job during the qualifying period;

(2) The number of weeks each position was occupied during the qualifying period;

(3) Which qualifying period the application pertains to for each eligible employee;

(4) The total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period;

(5) The total number of threshold jobs performed or based at the eligible employer's location on the day prior to the qualifying period and on the last day of the qualifying period;

(6) For an eligible employer that has more than one business location in the state from which it conducts business, the total number of threshold jobs performed or based at each business location of the eligible employer in the state on the day prior to the qualifying period and on the last day of the qualifying period;

(7) Whether the eligible employer has ceased business operations at any of its business locations in this state; and

(8) Whether the application is precluded by subsection (o) of this section.

(l) Any person who willfully submits a false, incorrect, or fraudulent certification required pursuant to this section shall be subject to all applicable penalties under §11-9-1 *et seq.* and §11-10-1 *et seq.* of

this code, except that the amount on which the penalty is based shall be the total amount of credit requested on the application for approval.

(m) Except as provided in subsection (o) of this section, an approved high-wage growth business tax credit shall be claimed against the taxpayer's taxes imposed by §11-23-1 et seq., §11-24-1 et seq., and §11-21-1 et seq. of this code, in that order, as specified in this subsection:

(1) Business franchise tax. — The credit is first applied to reduce the taxes imposed by §11-23-1 et seq. of this code for the taxable year, determined after application of the credits against tax provided in §11-23-17 of this code, but before application of any other allowable credits against tax.

(2) Corporation net income taxes. — After application of subdivision (1) of this subsection, any unused credit is next applied to reduce the taxes imposed by §11-24-1 et seq. of this code for the taxable year, determined before application of allowable credits against tax.

(A) If the eligible taxpayer is a limited liability company, small business corporation, or a partnership, then any unused credit after application of subdivisions (1) and (2) of this subsection is allowed as a credit against the taxes imposed by §11-24-1 et seq. of this code on owners of the eligible taxpayer on the conduit income directly derived from the eligible taxpayer by its owners. Only those portions of the tax imposed by §11-24-1 et seq. of this code that are imposed on income directly derived by the owner from the eligible taxpayer are subject to offset by this credit.

(B) Small business corporations, limited liability companies, partnerships, and other unincorporated organizations shall allocate the credit allowed by this section among their members in the same manner as profits and losses are allocated for the taxable year.

(3) Personal income tax taxes. — After application of subdivisions (1) and (2) of this subsection, any unused credit is next applied to reduce the taxes imposed by §11-21-1 et seq. of this code for the taxable year determined before application of allowable credits against tax of the eligible taxpayer.

(4) If the eligible taxpayer is a limited liability company, small business corporation, or a partnership, then any unused credit after application of subdivisions (1), (2), and (3) of this subsection is allowed as a credit against the taxes imposed by §11-21-1 et seq. of this code on owners of the eligible taxpayer on the conduit income directly derived from the eligible taxpayer by its owners. Only those portions of the tax imposed by §11-21-1 et seq. of this code that are imposed on income directly derived by the owner from the eligible taxpayer are subject to offset by this credit.

(5) Small business corporations, limited liability companies, partnerships, and other unincorporated organizations shall allocate the credit allowed by this section among their members in the same manner as profits and losses are allocated for the taxable year.

(6) No credit is allowed under this section against any withholding tax imposed by, or payable under, §11-21-1 et seq. of this code.

(7) Unused credit carry forward. — Except to the extent excess credit is refunded as provided in subdivision (8) of this subsection, if the credit allowed under this article in any taxable year exceeds the sum of the taxes enumerated in subdivisions (1), (2), and (3) of this subsection for that taxable year, the eligible taxpayer and owners of eligible taxpayers described in subdivisions (4) and (5) of this subsection may apply the excess as a credit against those taxes, in the order and manner stated in this section, for succeeding taxable years until the earlier of the following:

(A) The full amount of the excess credit is used; or

(B) The expiration of the 10th taxable year after the taxable year in which the annual salaries for the new direct job was paid or incurred. Any credit remaining thereafter is forfeited.

(8) If the credit allowed under this section in any taxable year exceeds the sum of taxes enumerated in subdivisions (1), (2), (3), (4), and (5) of this subsection for that taxable year, the eligible taxpayer and owners of the eligible taxpayers described in subdivisions (4) and (5) of this subsection may claim for that year the excess amount as a refundable credit, not to exceed \$100,000 per taxpayer, including owners and the controlled group, if applicable.

(9) Tax credits provided under this section may not be transferred, sold, or assigned by filing a notarized endorsement thereof with the division that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the division.

(n) If the taxpayer ceases business operations in this state while an application for credit approval is pending or after an application for credit has been approved for any qualifying period for a new high-wage job, the division may not grant an additional high-wage growth business tax credit to that taxpayer except as provided in subsection (m) of this section and shall extinguish any amount of credit approved for that taxpayer that has not already been claimed against the taxpayer's modified combined tax liability.

(o) A taxpayer that has received a high-wage growth business tax credit may not submit a new application for the credit for a minimum of two calendar years from the closing date of the last qualifying period for which the taxpayer received the credit if the taxpayer lost eligibility to claim the credit from a previous application pursuant to subsection (m) of this section.

§11-13FF-5. Rules.

The division shall propose legislative rules implementing this article in accordance with the provisions of §29A-3-1 et seq. of this code.

ARTICLE 13GG. WEST VIRGINIA VOLUNTEER FIREFIGHTER TAX CREDIT ACT.

§11-13GG-1. Findings and Purpose.

The Legislature finds that it is an important public policy to encourage participation in volunteer fire fighting and emergency response by providing tax credits for those who volunteer their time as a vital service to their community.

§11-13GG-2. Definitions.

As used in this article:

'Active member' means an individual that performs the function of fire prevention and suppression, or vehicle and machinery extrications, hazardous materials response and mitigation, technical rescue, emergency medical services, and any other duties that a specialized support member may provide when responding to emergency situations;

'Activities' means responses to emergencies, monthly or quarterly meetings, fund raising activities, and fire department management;

'Chief' means the highest-ranking fire line officer in charge of a volunteer fire department;

'Commission' means the West Virginia State Fire Commission;

'Volunteer fire department' means a volunteer fire department in this state, certified and regulated by the commission, and lawfully formed under §8-15-1 et seq. of this code;

'Volunteer firefighter' means a West Virginia taxpayer who is an active member of a volunteer fire department.

§11-13GG-3. Amount of credit; limitation of credit.

(a) There is allowed to eligible volunteer firefighters in this state a nonrefundable credit against taxes imposed by §11-21-1 et seq. of this code in the amount set forth in subsection (b) of this section.

(b) The amount of the credit is \$1,000 during a taxable year or the total amount of tax imposed by §11-21-1 et seq. of this code in the year of active membership, whichever is less. If both taxpayers filing a joint tax return are eligible for the credit authorized by this article, the amount of the credit is \$2,000, or \$1,000 for each eligible taxpayer, during a taxable year or the total amount of tax imposed by §11-21-1 et seq. of this code in the year of active membership, whichever is less.

(c) If the amount of the credit authorized by this article is unused in any tax year, it may not be applied to any other tax year.

§11-13GG-4. Qualification for credit.

(a) To be an eligible volunteer firefighter under §11-13GG-3 of this code, he or she shall obtain certification from the chief of the volunteer fire department to demonstrate the following:

(1) The volunteer firefighter has been an active member in good standing of the volunteer fire department for the entire year; or

(2) Has been an active member in good standing of the volunteer fire department and another volunteer fire department of this state for the entire year; and

(3) Has participated as an active member as defined in §11-13GG-3 of this code on-site at at least 30 percent of the volunteer fire department activities during the year; and

(4) Has met or exceeded all certification and training for active member firefighters required under the laws of this state.

(b) The certification from the chief of the volunteer firefighter department shall demonstrate, at a minimum:

(1) The rank or position of the volunteer firefighter;

(2) The years of service for the volunteer firefighter;

(3) The number of emergency situations the volunteer firefighter responded in the year of active membership; and

(4) The number of meetings or training attended by the volunteer firefighter in the year of active membership.

(c) To claim the tax credit, a volunteer firefighter shall submit the certification from the chief of the volunteer fire department to the Tax Commissioner.

§11-13GG-5. Legislative rules.

(a) The Tax Commissioner may propose rules for legislative approval in accordance with the provision of §29A-3-1 et seq. of this code as may be necessary to carry out the purposes of this article.

(b) The commission may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code as may be necessary to carry out the purposes of this article.

§11-13GG-6. Tax credit review report.

Beginning on the first day of the second taxable year after the passage of this article and every two years thereafter, the commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Delegates a tax credit review and accountability report evaluating the cost effectiveness of the tax credit and donations during the most recent two-year period for which information is available.

§11-13GG-7. Effective date.

The credit allowed by this article shall be allowed for qualifying volunteer firefighters after December 31, 2022.

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-9. Exemptions.

(a) *Exemptions for which exemption certificate may be issued.* — A person having a right or claim to any exemption set forth in this subsection may, in lieu of paying the tax imposed by this article and filing a claim for refund, execute a certificate of exemption, in the form required by the Tax Commissioner, and deliver it to the vendor of the property or service in the manner required by the Tax Commissioner. However, the Tax Commissioner may, by rule, specify those exemptions authorized in this subsection for which exemption certificates are not required. The following sales of tangible personal property and services are exempt as provided in this subsection:

(1) Sales of gas, steam, and water delivered to consumers through mains or pipes and sales of electricity;

(2) Sales of textbooks required to be used in any of the schools of this state or in any institution in this state which qualifies as a nonprofit or educational institution subject to the West Virginia Department of Education and the Arts, the Higher Education Policy Commission, or the Council for Community and Technical College Education for universities and colleges located in this state;

(3) Sales of property or services to this state, its institutions or subdivisions, governmental units, institutions or subdivisions of other states: *Provided*, That the law of the other state provides the same exemption to governmental units or subdivisions of this state and to the United States, including agencies of federal, state, or local governments for distribution in public welfare or relief work;

(4) Sales of vehicles which are titled by the Division of Motor Vehicles and which are subject to the tax imposed by §11-15-3c of this code or like tax;

(5) Sales of property or services to churches which make no charge whatsoever for the services they render: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, food for meals, and materials directly used or consumed by these organizations and does not apply to purchases of gasoline or special fuel;

(6) Sales of tangible personal property or services to a corporation or organization which has a current registration certificate issued under §11-12-1 *et seq.* of this code, which is exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, and which is:

(A) A church or a convention or association of churches as defined in Section 170 of the Internal Revenue Code of 1986, as amended;

(B) An elementary or secondary school which maintains a regular faculty and curriculum and has a regularly enrolled body of pupils or students in attendance at the place in this state where its educational activities are regularly carried on;

(C) A corporation or organization which annually receives more than one half of its support from any combination of gifts, grants, direct or indirect charitable contributions, or membership fees;

(D) An organization which has no paid employees and its gross income from fundraisers, less reasonable and necessary expenses incurred to raise the gross income (or the tangible personal property or services purchased with the net income), is donated to an organization which is exempt from income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended;

(E) A youth organization, such as the Girl Scouts of the United States of America, the Boy Scouts of America, or the YMCA Indian Guide/Princess Program and the local affiliates thereof, which is organized and operated exclusively for charitable purposes and has as its primary purpose the nonsectarian character development and citizenship training of its members;

(F) For purposes of this subsection:

(i) The term 'support' includes, but is not limited to:

(I) Gifts, grants, contributions, or membership fees;

(II) Gross receipts from fundraisers which include receipts from admissions, sales of merchandise, performance of services or furnishing of facilities in any activity which is not an unrelated trade or business within the meaning of Section 513 of the Internal Revenue Code of 1986, as amended;

(III) Net income from unrelated business activities, whether or not the activities are carried on regularly as a trade or business;

(IV) Gross investment income as defined in Section 509(e) of the Internal Revenue Code of 1986, as amended;

(V) Tax revenues levied for the benefit of a corporation or organization either paid to or expended on behalf of the organization; and

(VI) The value of services or facilities (exclusive of services or facilities generally furnished to the public without charge) furnished by a governmental unit referred to in Section 170(c)(1) of the Internal Revenue Code of 1986, as amended, to an organization without charge. This term does not include any gain from the sale or other disposition of property which would be considered as gain from the sale or exchange of a capital asset or the value of an exemption from any federal, state or local tax or any similar benefit;

(ii) The term 'charitable contribution' means a contribution or gift to, or for the use of, a corporation or organization, described in Section 170(c)(2) of the Internal Revenue Code of 1986, as amended; and

(iii) The term 'membership fee' does not include any amounts paid for tangible personal property or specific services rendered to members by the corporation or organization;

(G) The exemption allowed by this subdivision does not apply to sales of gasoline or special fuel or to sales of tangible personal property or services to be used or consumed in the generation of unrelated business income as defined in Section 513 of the Internal Revenue Code of 1986, as amended. The exemption granted in this subdivision applies only to services, equipment, supplies, and materials used or consumed in the activities for which the organizations qualify as tax-exempt organizations under the Internal Revenue Code and does not apply to purchases of gasoline or special fuel which are taxable as provided in §11-14C-1 *et seq.* of this code;

(7) An isolated transaction in which any taxable service or any tangible personal property is sold, transferred, offered for sale or delivered by the owner of the property or by his or her representative for the owner's account, the sale, transfer, offer for sale, or delivery not being made in the ordinary course of repeated and successive transactions of like character by the owner or on his or her account by the representative: *Provided*, That nothing contained in this subdivision may be construed to prevent an owner who sells, transfers, or offers for sale tangible personal property in an isolated transaction through an auctioneer from availing himself or herself of the exemption provided in this subdivision, regardless of where the isolated sale takes place. The Tax Commissioner may propose a legislative rule for promulgation pursuant to §29A-3-1 *et seq.* of this code which he or she considers necessary for the efficient administration of this exemption;

(8) Sales of tangible personal property or of any taxable services rendered for use or consumption in connection with the commercial production of an agricultural product the ultimate sale of which is subject to the tax imposed by this article or which would have been subject to tax under this article: *Provided*, That sales of tangible personal property and services to be used or consumed in the construction of, or permanent improvement to, real property and sales of gasoline and special fuel are not exempt: *Provided, however*, That nails and fencing may not be considered as improvements to real property;

(9) Sales of tangible personal property to a person for the purpose of resale in the form of tangible personal property: *Provided*, That sales of gasoline and special fuel by distributors and importers is taxable except when the sale is to another distributor for resale: *Provided, however*, That sales of building materials or building supplies or other property to any person engaging in the activity of contracting, as defined in this article, which is to be installed in, affixed to, or incorporated by that person or his or her agent into any real property, building, or structure is not exempt under this subdivision;

(10) Sales of newspapers when delivered to consumers by route carriers;

(11) Sales of drugs, durable medical goods, mobility-enhancing equipment, and prosthetic devices dispensed upon prescription and sales of insulin to consumers for medical purposes;

(12) Sales of radio and television broadcasting time, preprinted advertising circulars, and newspaper and outdoor advertising space for the advertisement of goods or services;

(13) Sales and services performed by day care centers;

(14) Casual and occasional sales of property or services not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of like character by a corporation or organization which is exempt from tax under subdivision (6) of this subsection on its purchases of tangible personal property or services. For purposes of this subdivision, the term 'casual and occasional sales not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of like character' means sales of tangible personal property or services at fundraisers sponsored by a corporation or organization which is exempt, under subdivision (6) of this subsection, from payment of the tax imposed by this article on its purchases when the fundraisers are of limited duration and are held no more than six times during any 12-month period and 'limited duration' means no more than 84 consecutive hours: *Provided*, That sales for volunteer fire departments and volunteer school support groups, with duration of events being no more than 84 consecutive hours at a time, which are held no more than 18 times in a 12-month period for the purposes of this subdivision are considered 'casual and occasional sales not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of a like character';

(15) Sales of property or services to a school which has approval from the Higher Education Policy Commission or the Council for Community and Technical College Education to award degrees, which has its principal campus in this state and which is exempt from federal and state income taxes under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended: *Provided*, That sales of gasoline and special fuel are taxable as provided in §11-15-18, §11-15-18b, and §11-14C-1 *et seq.* of this code;

(16) Sales of lottery tickets and materials by licensed lottery sales agents and lottery retailers authorized by the State Lottery Commission, under the provisions of §29-22-1 *et seq.* of this code;

(17) Leases of motor vehicles titled pursuant to the provisions of §17A-3-1 *et seq.* of this code to lessees for a period of 30 or more consecutive days;

(18) Notwithstanding the provisions of §11-15-18 or §11-15-18b of this code or any other provision of this article to the contrary, sales of propane to consumers for poultry house heating purposes, with any seller to the consumer who may have prior paid the tax in his or her price, to not pass on the same to the consumer, but to make application and receive refund of the tax from the Tax Commissioner pursuant to rules which are promulgated after being proposed for legislative approval in accordance with chapter 29A of this code by the Tax Commissioner;

(19) Any sales of tangible personal property or services purchased and lawfully paid for with food stamps pursuant to the federal food stamp program codified in 7 U. S. C. §2011, *et seq.*, as amended, or with drafts issued through the West Virginia special supplement food program for women, infants, and children codified in 42 U. S. C. §1786;

(20) Sales of tickets for activities sponsored by elementary and secondary schools located within this state;

(21) Sales of electronic data processing services and related software: *Provided*, That, for the purposes of this subdivision, 'electronic data processing services' means:

(A) The processing of another's data, including all processes incident to processing of data such as keypunching, keystroke verification, rearranging or sorting of previously documented data for the purpose of data entry or automatic processing, and changing the medium on which data is sorted, whether these processes are done by the same person or several persons; and

(B) Providing access to computer equipment for the purpose of processing data or examining or acquiring data stored in or accessible to the computer equipment;

(22) Tuition charged for attending educational summer camps;

(23) (A) Dispensing of services performed by one corporation, partnership, or limited liability company for another corporation, partnership, or limited liability company when the entities are members of the same controlled group or are related taxpayers as defined in Section 267 of the Internal Revenue Code of 1986, as amended. 'Control' means ownership, directly or indirectly, of stock, equity interests, or membership interests possessing ~~fifty~~ 50 percent or more of the total combined voting power of all classes of the stock of a corporation, equity interests of a partnership, or membership interests of a limited liability company entitled to vote or ownership, directly or indirectly, of stock, equity interests, or membership interests possessing 50 percent or more of the value of the corporation, partnership, or limited liability company;

(B) Leases of heavy equipment or machinery among corporations with at least 50 percent common ownership;

(24) Food for the following are exempt:

(A) Food purchased or sold by a public or private school, school-sponsored student organizations, or school-sponsored parent-teacher associations to students enrolled in the school or to employees of the school during normal school hours; but not those sales of food made to the general public;

(B) Food purchased or sold by a public or private college or university or by a student organization officially recognized by the college or university to students enrolled at the college or university when the sales are made on a contract basis so that a fixed price is paid for consumption of food products for a specific period of time without respect to the amount of food product actually consumed by the particular individual contracting for the sale and no money is paid at the time the food product is served or consumed;

(C) Food purchased or sold by a charitable or private nonprofit organization, a nonprofit organization or a governmental agency under a program to provide food to low-income persons at or below cost;

(D) Food sold by a charitable or private nonprofit organization, a nonprofit organization or a governmental agency under a program operating in West Virginia for a minimum of five years to provide food at or below cost to individuals who perform a minimum of two hours of community service for each unit of food purchased from the organization;

(E) Food sold in an occasional sale by a charitable or nonprofit organization, including volunteer fire departments and rescue squads, if the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is actually expended for that purpose;

(F) Food sold by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose in selling the food is to obtain revenue for the functions and activities of the organization and the revenue obtained from selling the food is actually used in carrying out those functions and activities: *Provided*, That purchases made by the organizations are not exempt as a purchase for resale; or

(G) Food sold by volunteer fire departments and rescue squads that are exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, when the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is exempt from federal income tax and actually expended for that purpose;

(25) Sales of food by little leagues, midget football leagues, youth football or soccer leagues, band boosters, or other school or athletic booster organizations supporting activities for grades kindergarten through 12 and similar types of organizations, including scouting groups and church youth groups, if the purpose in selling the food is to obtain revenue for the functions and activities of the organization and the revenues obtained from selling the food is actually used in supporting or carrying on functions and activities of the groups: *Provided*, That the purchases made by the organizations are not exempt as a purchase for resale;

(26) Charges for room and meals by fraternities and sororities to their members: *Provided*, That the purchases made by a fraternity or sorority are not exempt as a purchase for resale;

(27) Sales of or charges for the transportation of passengers in interstate commerce;

(28) Sales of tangible personal property or services to any person which this state is prohibited from taxing under the laws of the United States or under the Constitution of this state;

(29) Sales of tangible personal property or services to any person who claims exemption from the tax imposed by this article or §11-15A-1 *et seq.* of this code, or pursuant to the provision of any other chapter of this code;

(30) Charges for the services of opening and closing a burial lot;

(31) Sales of livestock, poultry, or other farm products in their original state by the producer of the livestock, poultry, or other farm products or a member of the producer's immediate family who is not otherwise engaged in making retail sales of tangible personal property; and sales of livestock sold at public sales sponsored by breeders or registry associations or livestock auction markets: *Provided*, That the exemptions allowed by this subdivision may be claimed without presenting or obtaining exemption certificates provided the farmer maintains adequate records;

(32) Sales of motion picture films to motion picture exhibitors for exhibition if the sale of tickets or the charge for admission to the exhibition of the film is subject to the tax imposed by this article and sales of coin-operated video arcade machines or video arcade games to a person engaged in the business of providing the machines to the public for a charge upon which the tax imposed by this article is remitted to the Tax Commissioner: *Provided*, That the exemption provided in this subdivision may be claimed by presenting to the seller a properly executed exemption certificate;

(33) Sales of aircraft repair, remodeling, and maintenance services when the services are to an aircraft operated by a certified or licensed carrier of persons or property, or by a governmental entity, or to an engine or other component part of an aircraft operated by a certified or licensed carrier of persons or property, or by a governmental entity and sales of tangible personal property that is

permanently affixed or permanently attached as a component part of an aircraft owned or operated by a certified or licensed carrier of persons or property, or by a governmental entity, as part of the repair, remodeling, or maintenance service and sales of machinery, tools, or equipment directly used or consumed exclusively in the repair, remodeling or maintenance of aircraft, aircraft engines, or aircraft component parts for a certified or licensed carrier of persons or property or for a governmental entity;

(34) Charges for memberships or services provided by health and fitness organizations relating to personalized fitness programs;

(35) Sales of services by individuals who babysit for a profit: *Provided*, That the gross receipts of the individual from the performance of baby-sitting services do not exceed \$5,000 in a taxable year;

(36) Sales of services by public libraries or by libraries at academic institutions or by libraries at institutions of higher learning;

(37) Commissions received by a manufacturer's representative;

(38) Sales of primary opinion research services when:

(A) The services are provided to an out-of-state client;

(B) The results of the service activities, including, but not limited to, reports, lists of focus group recruits, and compilation of data are transferred to the client across state lines by mail, wire, or other means of interstate commerce, for use by the client outside the state of West Virginia; and

(C) The transfer of the results of the service activities is an indispensable part of the overall service.

For the purpose of this subdivision, the term 'primary opinion research' means original research in the form of telephone surveys, mall intercept surveys, focus group research, direct mail surveys, personal interviews, and other data-collection methods commonly used for quantitative and qualitative opinion research studies;

(39) Sales of property or services to persons within the state when those sales are for the purposes of the production of value-added products: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, and materials directly used or consumed by those persons engaged solely in the production of value-added products: *Provided, however*, That this exemption may not be claimed by any one purchaser for more than five consecutive years, except as otherwise permitted in this section.

For the purpose of this subdivision, the term 'value-added product' means the following products derived from processing a raw agricultural product, whether for human consumption or for other use. For purposes of this subdivision, the following enterprises qualify as processing raw agricultural products into value-added products: Those engaged in the conversion of:

(A) Lumber into furniture, toys, collectibles, and home furnishings;

(B) Fruits into wine;

(C) Honey into wine;

- (D) Wool into fabric;
- (E) Raw hides into semifinished or finished leather products;
- (F) Milk into cheese;
- (G) Fruits or vegetables into a dried, canned or frozen product;
- (H) Feeder cattle into commonly accepted slaughter weights;
- (I) Aquatic animals into a dried, canned, cooked or frozen product; and
- (J) Poultry into a dried, canned, cooked, or frozen product;

(40) Sales of music instructional services by a music teacher and artistic services or artistic performances of an entertainer or performing artist pursuant to a contract with the owner or operator of a retail establishment, restaurant, inn, bar, tavern, sports or other entertainment facility, or any other business location in this state in which the public or a limited portion of the public may assemble to hear or see musical works or other artistic works be performed for the enjoyment of the members of the public there assembled when the amount paid by the owner or operator for the artistic service or artistic performance does not exceed \$3,000: *Provided*, That nothing contained herein may be construed to deprive private social gatherings, weddings or other private parties from asserting the exemption set forth in this subdivision. For the purposes of this exemption, artistic performance or artistic service means and is limited to the conscious use of creative power, imagination, and skill in the creation of aesthetic experience for an audience present and in attendance and includes, and is limited to, stage plays, musical performances, poetry recitations and other readings, dance presentation, circuses, and similar presentations and does not include the showing of any film or moving picture, gallery presentations of sculptural or pictorial art, nude or strip show presentations, video games, video arcades, carnival rides, radio or television shows, or any video or audio-taped presentations or the sale or leasing of video or audio tapes, air shows, or any other public meeting, display, or show other than those specified herein: *Provided, however*, That nothing contained herein may be construed to exempt the sales of tickets from the tax imposed in this article. The State Tax Commissioner shall propose a legislative rule pursuant to §29A-3-1 *et seq.* of this code establishing definitions and eligibility criteria for asserting this exemption which is not inconsistent with the provisions set forth herein: *Provided further*, That nude dancers or strippers may not be considered as entertainers for the purposes of this exemption;

(41) Charges to a member by a membership association or organization which is exempt from paying federal income taxes under Section 501(c)(3) or (c)(6) of the Internal Revenue Code of 1986, as amended, for membership in the association or organization, including charges to members for newsletters prepared by the association or organization for distribution primarily to its members, charges to members for continuing education seminars, workshops, conventions, lectures, or courses put on or sponsored by the association or organization, including charges for related course materials prepared by the association or organization or by the speaker or speakers for use during the continuing education seminar, workshop, convention, lecture, or course, but not including any separate charge or separately stated charge for meals, lodging, entertainment, or transportation taxable under this article: *Provided*, That the association or organization pays the tax imposed by this article on its purchases of meals, lodging, entertainment, or transportation taxable under this article for which a separate or separately stated charge is not made. A membership association or organization which is exempt from paying federal income taxes under Section 501(c)(3) or (c)(6) of the Internal Revenue Code of 1986, as amended, may elect to pay the tax imposed under this article

on the purchases for which a separate charge or separately stated charge could apply and not charge its members the tax imposed by this article or the association or organization may avail itself of the exemption set forth in subdivision (9) of this subsection relating to purchases of tangible personal property for resale and then collect the tax imposed by this article on those items from its member;

(42) Sales of governmental services or governmental materials by county assessors, county sheriffs, county clerks or circuit clerks in the normal course of local government operations;

(43) Direct or subscription sales by the Division of Natural Resources of the magazine currently entitled Wonderful West Virginia and by the Division of Culture and History of the magazine currently entitled Goldenseal and the journal currently entitled West Virginia History;

(44) Sales of soap to be used at car wash facilities;

(45) Commissions received by a travel agency from an out-of-state vendor;

(46) The service of providing technical evaluations for compliance with federal and state environmental standards provided by environmental and industrial consultants who have formal certification through the West Virginia Department of Environmental Protection or the West Virginia Bureau for Public Health or both. For purposes of this exemption, the service of providing technical evaluations for compliance with federal and state environmental standards includes those costs of tangible personal property directly used in providing such services that are separately billed to the purchaser of such services and on which the tax imposed by this article has previously been paid by the service provider;

(47) Sales of tangible personal property and services by volunteer fire departments and rescue squads that are exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, if the sole purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is exempt from federal income tax and actually expended for that purpose;

(48) Lodging franchise fees, including royalties, marketing fees, reservation system fees, or other fees assessed that have been or may be imposed by a lodging franchiser as a condition of the franchise agreement; and

(49) Sales of the regulation size United States flag and the regulation size West Virginia flag for display.

(b) *Refundable exemptions.* — Any person having a right or claim to any exemption set forth in this subsection shall first pay to the vendor the tax imposed by this article and then apply to the Tax Commissioner for a refund or credit, or as provided in §11-15-9d of this code give to the vendor his or her West Virginia direct pay permit number. The following sales of tangible personal property and services are exempt from tax as provided in this subsection:

(1) Sales of property or services to bona fide charitable organizations who make no charge whatsoever for the services they render: *Provided*, That the exemption granted in this subdivision applies only to services, equipment, supplies, food, meals, and materials directly used or consumed by these organizations and does not apply to purchases of gasoline or special fuel;

(2) Sales of services, machinery, supplies, and materials directly used or consumed in the activities of manufacturing, transportation, transmission, communication, production of natural resources, gas storage, generation or production or selling electric power, provision of a public utility

service or the operation of a utility service or the operation of a utility business, in the businesses or organizations named in this subdivision and does not apply to purchases of gasoline or special fuel;

(3) Sales of property or services to nationally chartered fraternal or social organizations for the sole purpose of free distribution in public welfare or relief work: *Provided*, That sales of gasoline and special fuel are taxable;

(4) Sales and services, firefighting or station house equipment, including construction and automotive, made to any volunteer fire department organized and incorporated under the laws of the State of West Virginia: *Provided*, That sales of gasoline and special fuel are taxable; and

(5) Sales of building materials or building supplies or other property to an organization qualified under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended, which are to be installed in, affixed to, or incorporated by the organization or its agent into real property or into a building or structure which is or will be used as permanent low-income housing, transitional housing, an emergency homeless shelter, a domestic violence shelter, or an emergency children and youth shelter if the shelter is owned, managed, developed, or operated by an organization qualified under Section 501(c)(3) or (c)(4) of the Internal Revenue Code of 1986, as amended.

(c) *Effective date.* – The amendments to this section in 2018 shall take effect beginning July 1, 2018, and apply to sales made on and after that date: *Provided*, That the amendments to subdivision (6), subsection (b) of this section take effect upon passage of this act of the Legislature and shall be construed to prohibit on and after January 1, 2018, all transfers to the State Road Fund established in the State Treasury pursuant to section 52, article VI of the Constitution of West Virginia, of the taxes imposed by §11-15-1 *et seq.* and §11-15A-1 *et seq.* of this code.”

And,

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

Com. Sub. for H. B. 4558 – “A Bill to amend and reenact §11-10-14a of the Code of West Virginia, 1931, as amended; to further amend said code by adding thereto a new article, designated §11-13FF-1, §11-13FF-2, §11-13FF-3, §11-13FF-4 and §11-13FF-5; to further amend said code by adding thereto a new article, designated §11-13-GG-1, §11-13GG-2, §11-13GG-3, §11-13GG-4, §11-13GG-5, §11-13GG-6 and §11-13GG-7; and to amend and reenact §11-15-9 of said code, all relating generally to taxation; creating various deductions, exemptions and credits, relating to allowing certain deductions to be made from individual personal income tax refunds for specified purpose; providing check-off for nursing home and health care for aged and disabled veterans in the West Virginia Veterans Home; providing check-off for purposes of operating and maintaining the Donel C. Kinnard Memorial State Veterans Cemetery; creating an exemption for the State Sales and Use Tax for the rental of equipment among corporations with a minimum of 50 percent common ownership; creating the High-Wage Growth Business Tax Credit Act; defining terms; allowing no more than \$5 million in tax credits from the Development Office; setting out an application process; providing for factors to be considered in granting the application; setting out eligibility requirements; creating a personal income tax credit for volunteer firefighters in West Virginia; providing findings and purpose; providing definitions; providing nonrefundable tax credit for a volunteer firefighter against personal income tax in a taxable year; providing for a tax credit limitation of \$1,000 for a single person; providing for a tax credit limitation of \$2,000 for persons filing tax returns jointly under certain conditions; providing that the tax credit for volunteer firefighters must be used in the taxable year and cannot be carried forward; providing for documentation of eligibility for the tax credit; providing requirements for the documentation evidencing eligibility for the tax credit; providing that documentation must be sent to

the Tax Commissioner; providing for reporting at certain time; providing for rule-making authority; and providing an effective date.”

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

Conference Committee Report Availability

At 3:52 p.m., the Clerk announced availability of the report of the Committee of Conference on H. B. 4524, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption.

At 3:52 p.m., the House of Delegates recessed until 5:00 p.m.

* * * * *

Evening Session

* * * * *

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

Conference Committee Report Availability

At 7:08 p.m., the Clerk announced availability of the report of the Committee of Conference on **Com. Sub. for S. B. 529**, Establishing limitations on claims and benefits against state.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

Com. Sub. for H. B. 4558, Creating a personal income tax credit for volunteer firefighters in West Virginia.

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

Senators Sypolt, Weld and Palumbo.

In the objection of objection, the House of Delegates agreed to the appointment of a Committee of Conference from each house on the disagreeing votes of the two houses.

Whereupon,

The Speaker appointed as conferees on the part of the House of Delegates the following:

Delegates Criss, Maynard and Barrett.

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

A message from the Senate, by

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

Com. Sub. for S. B. 150, Budget Bill.

Delegate Summers moved the House of Delegates concur in the following amendment to the House amendment by the Senate:

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

TITLE I – GENERAL PROVISIONS.

1 **Section 1. General policy.** – The purpose of this bill is to appropriate money necessary for
2 the economical and efficient discharge of the duties and responsibilities of the state and its agencies
3 during the fiscal year 2021.

1 **Sec. 2. Definitions.** — For the purpose of this bill:

2 “Governor” shall mean the Governor of the State of West Virginia.

3 “Code” shall mean the Code of West Virginia, one thousand nine hundred thirty-one, as
4 amended.

5 “Spending unit” shall mean the department, bureau, division, office, board, commission,
6 agency or institution to which an appropriation is made.

7 The “fiscal year 2021” shall mean the period from July 1, 2020, through June 30, 2021.

8 “General revenue fund” shall mean the general operating fund of the state and includes all
9 moneys received or collected by the state except as provided in W.Va. Code §12-2-2 or as otherwise
10 provided.

11 “Special revenue funds” shall mean specific revenue sources which by legislative enactments
12 are not required to be accounted for as general revenue, including federal funds.

13 “From collections” shall mean that part of the total appropriation which must be collected by
14 the spending unit to be available for expenditure. If the authorized amount of collections is not
15 collected, the total appropriation for the spending unit shall be reduced automatically by the amount
16 of the deficiency in the collections. If the amount collected exceeds the amount designated “from
17 collections,” the excess shall be set aside in a special surplus fund and may be expended for the
18 purpose of the spending unit as provided by Article 2, Chapter 11B of the Code.

1 **Sec. 3. Classification of appropriations.** — An appropriation for:

2 “Personal services” shall mean salaries, wages and other compensation paid to full-time, part-
3 time and temporary employees of the spending unit but shall not include fees or contractual payments
4 paid to consultants or to independent contractors engaged by the spending unit. “Personal services”

5 shall include "annual increment" for "eligible employees" and shall be disbursed only in accordance
6 with Article 5, Chapter 5 of the Code.

7 Unless otherwise specified, appropriations for "personal services" shall include salaries of
8 heads of spending units.

9 "Employee benefits" shall mean social security matching, workers' compensation,
10 unemployment compensation, pension and retirement contributions, public employees insurance
11 matching, personnel fees or any other benefit normally paid by the employer as a direct cost of
12 employment. Should the appropriation be insufficient to cover such costs, the remainder of such cost
13 shall be paid by each spending unit from its "unclassified" appropriation, or its "current expenses"
14 appropriation or other appropriate appropriation. Each spending unit is hereby authorized and
15 required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the
16 Code.

17 Each spending unit shall be responsible for all contributions, payments or other costs related
18 to coverage and claims of its employees for unemployment compensation and workers
19 compensation. Such expenditures shall be considered an employee benefit.

20 "BRIM Premiums" shall mean the amount charged as consideration for insurance protection
21 and includes the present value of projected losses and administrative expenses. Premiums are
22 assessed for coverages, as defined in the applicable policies, for claims arising from, inter alia,
23 general liability, wrongful acts, property, professional liability and automobile exposures.

24 Should the appropriation for "BRIM Premium" be insufficient to cover such cost, the remainder
25 of such costs shall be paid by each spending unit from its "unclassified" appropriation, its "current
26 expenses" appropriation or any other appropriate appropriation to the Board of Risk and Insurance
27 Management. Each spending unit is hereby authorized and required to make such payments. If there
28 is no appropriation for "BRIM Premium" such costs shall be paid by each spending unit from its
29 "current expenses" appropriation, "unclassified" appropriation or other appropriate appropriation.

30 West Virginia Council for Community and Technical College Education and Higher Education
31 Policy Commission entities operating with special revenue funds and/or federal funds shall pay their
32 proportionate share of the Board of Risk and Insurance Management total insurance premium cost
33 for their respective institutions.

34 "Current expenses" shall mean operating costs other than personal services and shall not
35 include equipment, repairs and alterations, buildings or lands. Each spending unit shall be
36 responsible for and charged monthly for all postage meter service and shall reimburse the appropriate
37 revolving fund monthly for all such amounts. Such expenditures shall be considered a current
38 expense.

39 "Equipment" shall mean equipment items which have an appreciable and calculable period of
40 usefulness in excess of one year.

41 "Repairs and alterations" shall mean routine maintenance and repairs to structures and minor
42 improvements to property which do not increase the capital assets.

43 "Buildings" shall include new construction and major alteration of existing structures and the
44 improvement of lands and shall include shelter, support, storage, protection or the improvement of a
45 natural condition.

46 "Lands" shall mean the purchase of real property or interest in real property.

47 “Capital outlay” shall mean and include buildings, lands or buildings and lands, with such
48 category or item of appropriation to remain in effect as provided by W.Va. Code §12-3-12.

49 From appropriations made to the spending units of state government, upon approval of the
50 Governor there may be transferred to a special account an amount sufficient to match federal funds
51 under any federal act.

52 Appropriations classified in any of the above categories shall be expended only for the
53 purposes as defined above and only for the spending units herein designated: *Provided*, That the
54 secretary of each department shall have the authority to transfer within the department those general
55 revenue funds appropriated to the various agencies of the department: *Provided, however*, That no
56 more than five percent of the general revenue funds appropriated to any one agency or board may
57 be transferred to other agencies or boards within the department: and no funds may be transferred
58 to a “personal services and employee benefits” appropriation unless the source funds are also wholly
59 from a “personal services and employee benefits” line, or unless the source funds are from another
60 appropriation that has exclusively funded employment expenses for at least twelve consecutive
61 months prior to the time of transfer and the position(s) supported by the transferred funds are also
62 permanently transferred to the receiving agency or board within the department: *Provided further*,
63 That the secretary of each department and the director, commissioner, executive secretary,
64 superintendent, chairman or any other agency head not governed by a departmental secretary as
65 established by Chapter 5F of the Code shall have the authority to transfer funds appropriated to
66 “personal services and employee benefits,” “current expenses,” “repairs and alterations,”
67 “equipment,” “other assets,” “land,” and “buildings” to other appropriations within the same account
68 and no funds from other appropriations shall be transferred to the “personal services and employee
69 benefits” or the “unclassified” appropriation: *And provided further*, That no authority exists hereunder
70 to transfer funds into appropriations to which no funds are legislatively appropriated: *And provided*
71 *further*, That if the Legislature consolidates, reorganizes or terminates agencies, boards or functions,
72 within any fiscal year the secretary or other appropriate agency head, or in the case of the termination
73 of a spending unit of the state, the Director of the State Budget Office, in the absence of general law
74 providing otherwise, may transfer the funds formerly appropriated to such agency, board or function,
75 allocating items of appropriation as may be necessary if only part of the item may be allocated, in
76 order to implement such consolidation, reorganization or termination. No funds may be transferred
77 from a Special Revenue Account, dedicated account, capital expenditure account or any other
78 account or fund specifically exempted by the Legislature from transfer, except that the use of the
79 appropriations from the State Road Fund for the office of the Secretary of the Department of
80 Transportation is not a use other than the purpose for which such funds were dedicated and is
81 permitted.

82 Appropriations otherwise classified shall be expended only where the distribution of
83 expenditures for different purposes cannot well be determined in advance or it is necessary or
84 desirable to permit the spending unit the freedom to spend an appropriation for more than one of the
85 above classifications.

1 **Sec. 4. Method of expenditure.** — Money appropriated by this bill, unless otherwise
2 specifically directed, shall be appropriated and expended according to the provisions of Article 3,
3 Chapter 12 of the Code or according to any law detailing a procedure specifically limiting that article.

1 **Sec. 5. Maximum expenditures.** — No authority or requirement of law shall be interpreted
2 as requiring or permitting an expenditure in excess of the appropriations set out in this bill.

TITLE II – APPROPRIATIONS.

ORDER OF SECTIONS

- SECTION 1. Appropriations from general revenue.
- SECTION 2. Appropriations from state road fund.
- SECTION 3. Appropriations from other funds.
- SECTION 4. Appropriations from lottery net profits.
- SECTION 5. Appropriations from state excess lottery revenue.
- SECTION 6. Appropriations of federal funds.
- SECTION 7. Appropriations from federal block grants.
- SECTION 8. Awards for claims against the state.
- SECTION 9. Appropriations from general revenue surplus accrued.
- SECTION 10. Appropriations from lottery net profits surplus accrued.
- SECTION 11. Appropriations from state excess lottery revenue surplus accrued.
- SECTION 12. Special revenue appropriations.
- SECTION 13. State improvement fund appropriations.
- SECTION 14. Specific funds and collection accounts.
- SECTION 15. Appropriations for refunding erroneous payment.
- SECTION 16. Sinking fund deficiencies.
- SECTION 17. Appropriations for local governments.
- SECTION 18. Total appropriations.
- SECTION 19. General school fund.

1 **Section 1. Appropriations from general revenue.** – From the State Fund, General
 2 Revenue, there are hereby appropriated conditionally upon the fulfillment of the provisions set forth
 3 in Article 2, Chapter 11B the following amounts, as itemized, for expenditure during the fiscal year
 4 2021.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2021 Org 2100

	Appro-	General
	priation	Revenue
		Fund
1 Compensation of Members (R)	00300	\$ 1,010,000
2 Compensation and Per Diem of Officers		
3 and Employees (R)	00500	4,011,332
4 Current Expenses and Contingent Fund (R)	02100	276,392
5 Repairs and Alterations (R).....	06400	50,000
6 Computer Supplies (R)	10100	20,000
7 Computer Systems (R)	10200	60,000
8 Printing Blue Book (R)	10300	125,000
9 Expenses of Members (R)	39900	370,000
10 BRIM Premium (R)	91300	<u>29,482</u>
11 Total.....		\$ 5,952,206

12 The appropriations for the Senate for the fiscal year 2020 are to remain in full force and effect
 13 and are hereby reappropriated to June 30, 2021. Any balances so reappropriated may be transferred
 14 and credited to the fiscal year 2020 accounts.

15 Upon the written request of the Clerk of the Senate, the Auditor shall transfer amounts
 16 between items of the total appropriation in order to protect or increase the efficiency of the service.

17 The Clerk of the Senate, with the approval of the President, is authorized to draw his or her
 18 requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund of the
 19 Senate, for any bills for supplies and services that may have been incurred by the Senate and not
 20 included in the appropriation bill, for supplies and services incurred in preparation for the opening,
 21 the conduct of the business and after adjournment of any regular or extraordinary session, and for
 22 the necessary operation of the Senate offices, the requisitions for which are to be accompanied by
 23 bills to be filed with the Auditor.

24 The Clerk of the Senate, with the approval of the President, or the President of the Senate
 25 shall have authority to employ such staff personnel during any session of the Legislature as shall be
 26 needed in addition to staff personnel authorized by the Senate resolution adopted during any such
 27 session. The Clerk of the Senate, with the approval of the President, or the President of the Senate
 28 shall have authority to employ such staff personnel between sessions of the Legislature as shall be
 29 needed, the compensation of all staff personnel during and between sessions of the Legislature,
 30 notwithstanding any such Senate resolution, to be fixed by the President of the Senate. The Clerk is
 31 hereby authorized to draw his or her requisitions upon the Auditor for the payment of all such staff
 32 personnel for such services, payable out of the appropriation for Compensation and Per Diem of
 33 Officers and Employees or Current Expenses and Contingent Fund of the Senate.

34 For duties imposed by law and by the Senate, the Clerk of the Senate shall be paid a monthly
 35 salary as provided by the Senate resolution, unless increased between sessions under the authority
 36 of the President, payable out of the appropriation for Compensation and Per Diem of Officers and
 37 Employees or Current Expenses and Contingent Fund of the Senate.

38 The distribution of the blue book shall be by the office of the Clerk of the Senate and shall
 39 include 75 copies for each member of the Legislature and two copies for each classified and approved
 40 high school and junior high or middle school and one copy for each elementary school within the
 41 state.

42 Included in the above appropriation for Senate (fund 0165, appropriation 02100), an amount
 43 not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians - Doc of the
 44 Day Program.

2 - House of Delegates

Fund 0170 FY 2021 Org 2200

1	Compensation of Members (R)	00300	\$	3,000,000
2	Compensation and Per Diem of Officers			
3	and Employees (R)	00500		575,000
4	Current Expenses and Contingent Fund (R)	02100		4,399,031
5	Expenses of Members (R)	39900		1,350,000
6	BRIM Premium (R)	91300		<u>80,000</u>
7	Total.....		\$	9,404,031

8 The appropriations for the House of Delegates for the fiscal year 2020 are to remain in full
 9 force and effect and are hereby reappropriated to June 30, 2021. Any balances so reappropriated
 10 may be transferred and credited to the fiscal year 2020 accounts.

11 Upon the written request of the Clerk of the House of Delegates, the Auditor shall transfer
 12 amounts between items of the total appropriation in order to protect or increase the efficiency of the
 13 service.

14 The Clerk of the House of Delegates, with the approval of the Speaker, is authorized to draw
 15 his or her requisitions upon the Auditor, payable out of the Current Expenses and Contingent Fund

16 of the House of Delegates, for any bills for supplies and services that may have been incurred by the
 17 House of Delegates and not included in the appropriation bill, for bills for services and supplies
 18 incurred in preparation for the opening of the session and after adjournment, and for the necessary
 19 operation of the House of Delegates' offices, the requisitions for which are to be accompanied by bills
 20 to be filed with the Auditor.

21 The Speaker of the House of Delegates shall have authority to employ such staff personnel
 22 during and between sessions of the Legislature as shall be needed, in addition to personnel
 23 designated in the House resolution, and the compensation of all personnel shall be as fixed in such
 24 House resolution for the session, or fixed by the Speaker during and between sessions of the
 25 Legislature, notwithstanding such House resolution. The Clerk of the House of Delegates is hereby
 26 authorized to draw requisitions upon the Auditor for such services, payable out of the appropriation
 27 for the Compensation and Per Diem of Officers and Employees or Current Expenses and Contingent
 28 Fund of the House of Delegates.

29 For duties imposed by law and by the House of Delegates, including salary allowed by law as
 30 keeper of the rolls, the Clerk of the House of Delegates shall be paid a monthly salary as provided in
 31 the House resolution, unless increased between sessions under the authority of the Speaker and
 32 payable out of the appropriation for Compensation and Per Diem of Officers and Employees or
 33 Current Expenses and Contingent Fund of the House of Delegates.

34 Included in the above appropriation for House of Delegates (fund 0170, appropriation 02100),
 35 an amount not less than \$5,000 is to be used for the West Virginia Academy of Family Physicians -
 36 Doc of the Day Program.

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2021 Org 2300

1	Joint Committee on Government and Finance (R)	10400	\$	6,725,138
2	Legislative Printing (R).....	10500		260,000
3	Legislative Rule-Making Review Committee (R)	10600		147,250
4	Legislative Computer System (R)	10700		1,447,500
5	Legislative Fees & Dues (R)	10701		600,000
6	BRIM Premium (R)	91300		<u>60,569</u>
7	Total.....		\$	9,240,457

8 The appropriations for the Joint Expenses for the fiscal year 2020 are to remain in full force
 9 and effect and are hereby reappropriated to June 30, 2021. Any balances reappropriated may be
 10 transferred and credited to the fiscal year 2020 accounts.

11 Upon the written request of the Clerk of the Senate, with the approval of the President of the
 12 Senate, and the Clerk of the House of Delegates, with the approval of the Speaker of the House of
 13 Delegates, and a copy to the Legislative Auditor, the Auditor shall transfer amounts between items
 14 of the total appropriation in order to protect or increase the efficiency of the service.

JUDICIAL*4 - Supreme Court –**General Judicial*Fund 0180 FY 2021 Org 2400

1	Personal Services and Employee Benefits (R).....	00100	\$	111,440,000
2	Military Service Members Court (R)	09002		300,000
3	Current Expenses (R)	13000		19,911,000
4	Repairs and Alterations (R).....	06400		40,000
5	Equipment (R)	07000		1,950,000
6	Judges' Retirement System (R)	11000		838,000
7	Buildings (R)	25800		10,000
8	Other Assets (R)	69000		200,000
9	BRIM Premium (R)	91300		<u>810,000</u>
10	Total.....		\$	135,499,000

11 The appropriations to the Supreme Court of Appeals for the fiscal years 2018, 2019 and 2020
 12 are to remain in full force and effect and are hereby reappropriated to June 30, 2021. Any balances
 13 so reappropriated may be transferred and credited to the fiscal year 2021 accounts.

14 This fund shall be administered by the Administrative Director of the Supreme Court of
 15 Appeals, who shall draw requisitions for warrants in payment in the form of payrolls, making
 16 deductions there from as required by law for taxes and other items.

17 The appropriation for the Judges' Retirement System (fund 0180, appropriation 11000) is to
 18 be transferred to the Consolidated Public Retirement Board, in accordance with the law relating
 19 thereto, upon requisition of the Administrative Director of the Supreme Court of Appeals.

EXECUTIVE*5 - Governor's Office*

(WV Code Chapter 5)

Fund 0101 FY 2021 Org 0100

1	Personal Services and Employee Benefits.....	00100	\$	3,250,758
2	Current Expenses (R)	13000		800,000
3	Repairs and Alterations.....	06400		25,000

4	National Governors Association.....	12300		60,700
5	Herbert Henderson Office of Minority Affairs.....	13400		396,726
6	Community Food Program.....	18500		1,000,000
7	Office of Resiliency	18600		596,157
8	BRIM Premium	91300		<u>183,645</u>
9	Total.....		\$	6,312,986

10 Any unexpended balances remaining in the appropriations for Unclassified (fund 0101,
 11 appropriation 09900), and Current Expenses (fund 0101, appropriation 13000) at the close of the
 12 fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

13 The above appropriation for Herbert Henderson Office of Minority Affairs (fund 0101,
 14 appropriation 13400) shall be transferred to the Minority Affairs Fund (fund 1058).

6 - Governor's Office –

Custodial Fund

(WV Code Chapter 5)

Fund 0102 FY 2021 Org 0100

1	Personal Services and Employee Benefits.....	00100	\$	381,293
2	Current Expenses (R)	13000		183,158
3	Repairs and Alterations.....	06400		<u>5,000</u>
4	Total.....		\$	569,451

5 Any unexpended balance remaining in the appropriation for Current Expenses (fund 0102,
 6 appropriation 13000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
 7 during the fiscal year 2021.

8 Appropriations are to be used for current general expenses, including compensation of
 9 employees, household maintenance, cost of official functions and additional household expenses
 10 occasioned by such official functions.

7 - Governor's Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2021 Org 0100

1	Milton Flood Wall (R)	75701	\$	6,000,000
---	-----------------------------	-------	----	-----------

2	Public Health Emergency Response Fund.....	xxxxx	2,000,000
3	Total.....		8,000,000

4 Any unexpended balances remaining in the appropriations for Business and Economic
 5 Development Stimulus – Surplus (fund 0105, appropriation 08400), Civil Contingent Fund – Total
 6 (fund 0105, appropriation 11400), 2012 Natural Disasters – Surplus (fund 0105, appropriation 13500),
 7 Civil Contingent Fund – Total – Surplus (fund 0105, appropriation 23800), Civil Contingent Fund –
 8 Surplus (fund 0105, appropriation 26300), Business and Economic Development Stimulus (fund
 9 0105, appropriation 58600), Civil Contingent Fund (fund 0105, appropriation 61400), Milton Flood
 10 Wall (fund 0105, appropriation 75701), and Natural Disasters – Surplus (fund 0105, appropriation
 11 76400) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal
 12 year 2021.

13 From this fund there may be expended, at the discretion of the Governor, an amount not to
 14 exceed \$1,000 as West Virginia’s contribution to the interstate oil compact commission.

15 The above fund is intended to provide contingency funding for accidental, unanticipated,
 16 emergency or unplanned events which may occur during the fiscal year and is not to be expended
 17 for the normal day-to-day operations of the Governor’s Office.

8 - Auditor’s Office –

General Administration

(WV Code Chapter 12)

Fund 0116 FY 2021 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$ 2,797,589
2	Current Expenses (R)	13000	13,429
3	BRIM Premium	91300	12,077
4	Total.....		\$ 2,823,095

5 Any unexpended balance remaining in the appropriation for Current Expenses (fund 0116,
 6 appropriation 13000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
 7 during the fiscal year 2021.

8 Included in the above appropriation to Personal Services and Employee Benefits (fund 0116,
 9 appropriation 00100), is \$95,000 for the Salary of the Auditor.

9 - Treasurer’s Office

(WV Code Chapter 12)

Fund 0126 FY 2021 Org 1300

1	Personal Services and Employee Benefits.....	00100	\$ 2,570,242
2	Unclassified	09900	31,463

3	Current Expenses (R)	13000		772,684
4	Abandoned Property Program	11800		41,794
5	Other Assets	69000		10,000
6	ABLE Program.....	69201		150,000
7	BRIM Premium	91300		<u>59,169</u>
8	Total.....		\$	3,635,352

9 Any unexpended balances remaining in the appropriation for Current Expenses (fund 0126,
10 appropriation 13000) at the close of the fiscal year 2020 are hereby reappropriated for expenditure
11 during the fiscal year 2021.

12 Included in the above appropriation to Personal Services and Employee Benefits (fund 0126,
13 appropriation 00100), is \$95,000 for the Salary of the Treasurer.

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	6,298,229
2	Animal Identification Program	03900		131,942
3	State Farm Museum	05500		87,759
4	Current Expenses (R)	13000		848,115
5	Gypsy Moth Program (R).....	11900		1,003,440
6	WV Farmers Market.....	12801		150,467
7	Black Fly Control.....	13700		453,698
8	HEMP Program.....	13701		350,000
9	Donated Foods Program.....	36300		45,000
10	Veterans to Agriculture Program (R).....	36301		255,624
11	Predator Control (R)	47000		176,400
12	Bee Research	69100		70,634
13	Microbiology Program	78500		99,828
14	Moorefield Agriculture Center	78600		975,284

	2020]	HOUSE OF DELEGATES	1899
15	Chesapeake Bay Watershed	83000	112,427
16	Livestock Care Standards Board	84300	8,820
17	BRIM Premium	91300	138,905
18	State FFA-FHA Camp and Conference Center	94101	738,554
19	Threat Preparedness	94200	73,122
20	WV Food Banks	96900	426,000
21	Senior's Farmers' Market Nutrition Coupon Program	97000	<u>55,835</u>
22	Total		\$ 12,500,083

23 Any unexpended balances remaining in the appropriations for Gypsy Moth Program (fund
24 0131, appropriation 11900), Current Expenses (fund 0131, appropriation 13000), Veterans to
25 Agriculture Program (fund 0131, appropriation 36301), Predator Control (fund 0131, appropriation
26 47000), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, appropriation 85000)
27 at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year
28 2021.

29 Included in the above appropriation to Personal Services and Employee Benefits (fund 0131,
30 appropriation 00100), is \$95,000 for the Salary of the Commissioner.

31 The above appropriation for Predator Control (fund 0131, appropriation 47000) is to be made
32 available to the United States Department of Agriculture, Wildlife Services to administer the Predator
33 Control Program.

34 A portion of the Current Expenses appropriation may be transferred to a special revenue fund
35 for the purpose of matching federal funds for marketing and development activities.

36 From the above appropriation for WV Food Banks (fund 0131, appropriation 96900), \$20,000
37 is for House of Hope and the remainder of the appropriation shall be allocated to the Huntington Food
38 Bank and the Mountaineer Food Bank in Braxton County.

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	794,191
2	Unclassified	09900		77,059
3	Current Expenses (R)	13000		317,848
4	Soil Conservation Projects (R)	12000		9,799,709
5	BRIM Premium	91300		<u>34,428</u>

6 Total..... \$ 11,023,235

7 Any unexpended balances remaining in the appropriations for Soil Conservation Projects
 8 (fund 0132, appropriation 12000), and Current Expenses (fund 0132, appropriation 13000) at the
 9 close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

12 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 0135 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	668,030
2	Unclassified	09900		7,090
3	Current Expenses	13000		<u>82,605</u>
4	Total.....		\$	757,725

5 Any part or all of this appropriation may be transferred to a special revenue fund for the
 6 purpose of matching federal funds for the above-named program.

13 - Department of Agriculture –

Agricultural Awards Fund

(WV Code Chapter 19)

Fund 0136 FY 2021 Org 1400

1	Programs and Awards for 4-H Clubs and FFA/FHA.....	57700	\$	15,000
2	Commissioner’s Awards and Programs	73700		<u>39,250</u>
3	Total.....		\$	54,250

14 - Department of Agriculture –

West Virginia Agricultural Land Protection Authority

(WV Code Chapter 8A)

Fund 0607 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	99,547
2	Unclassified	09900		<u>950</u>
3	Total.....		\$	100,497

15 - Attorney General

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2021 Org 1500

1	Personal Services and Employee Benefits (R).....	00100	\$	2,818,788
2	Unclassified (R)	09900		24,428
3	Current Expenses (R)	13000		762,097
4	Repairs and Alterations.....	06400		1,000
5	Equipment	07000		1,000
6	Criminal Convictions and Habeas Corpus Appeals (R)	26000		946,078
7	Better Government Bureau	74000		279,412
8	BRIM Premium	91300		<u>120,654</u>
9	Total.....		\$	4,953,457

10 Any unexpended balances remaining in the above appropriations for Personal Services and
 11 Employee Benefits (fund 0150, appropriation 00100), Unclassified (fund 0150, appropriation 09900),
 12 Current Expenses (fund 0150, appropriation 13000), Criminal Convictions and Habeas Corpus
 13 Appeals (fund 0150, appropriation 26000), and Agency Client Revolving Liquidity Pool (fund 0150,
 14 appropriation 36200) at the close of the fiscal year 2020 are hereby reappropriated for expenditure
 15 during the fiscal year 2021.

16 Included in the above appropriation to Personal Services and Employee Benefits (fund 0150,
 17 appropriation 00100), is \$95,000 for the Salary of the Attorney General.

18 When legal counsel or secretarial help is appointed by the Attorney General for any state
 19 spending unit, this account shall be reimbursed from such spending units specifically appropriated
 20 account or from accounts appropriated by general language contained within this bill: *Provided*, That
 21 the spending unit shall reimburse at a rate and upon terms agreed to by the state spending unit and
 22 the Attorney General: *Provided, however*, That if the spending unit and the Attorney General are
 23 unable to agree on the amount and terms of the reimbursement, the spending unit and the Attorney
 24 General shall submit their proposed reimbursement rates and terms to the Governor for final
 25 determination.

16 - Secretary of State

(WV Code Chapters 3, 5, and 59)

Fund 0155 FY 2021 Org 1600

1	Personal Services and Employee Benefits.....	00100	\$	118,794
2	Unclassified (R)	09900		8,352

3	Current Expenses (R)	13000		795,948
4	BRIM Premium	91300		<u>34,500</u>
5	Total.....		\$	957,594

6 Any unexpended balances remaining in the appropriations for Unclassified (fund 0155,
7 appropriation 09900) and Current Expenses (fund 0155, appropriation 13000) at the close of the
8 fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

9 Included in the above appropriation to Personal Services and Employee Benefits (fund 0155,
10 appropriation 00100), is \$95,000 for the Salary of the Secretary of State.

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2021 Org 1601

1	Personal Services and Employee Benefits.....	00100	\$	2,477
2	Unclassified	09900		75
3	Current Expenses	13000		<u>4,956</u>
4	Total.....		\$	7,508

DEPARTMENT OF ADMINISTRATION

18 - Department of Administration –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0186 FY 2021 Org 0201

1	Personal Services and Employee Benefits.....	00100	\$	606,584
2	Unclassified	09900		9,177
3	Current Expenses	13000		85,009
4	Repairs and Alterations.....	06400		100
5	Equipment	07000		1,000
6	Financial Advisor (R)	30400		27,546
7	Lease Rental Payments.....	51600		15,000,000
8	Design-Build Board.....	54000		4,000

2020] HOUSE OF DELEGATES 1903

9	Other Assets.....	69000		100
10	BRIM Premium	91300		<u>6,736</u>
11	Total.....		\$	15,740,252

12 Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186,
13 appropriation 30400) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
14 during the fiscal year 2021.

15 The appropriation for Lease Rental Payments (fund 0186, appropriation 51600) shall be
16 disbursed as provided by W.Va. Code §31-15-6b.

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2021 Org 0205

1 The Division of Highways, Division of Motor Vehicles, Public Service Commission and other
2 departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal
3 funds shall pay their proportionate share of the retirement costs for their respective divisions. When
4 specific appropriations are not made, such payments may be made from the balances in the various
5 special revenue funds in excess of specific appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2021 Org 0209

1	Personal Services and Employee Benefits.....	00100	\$	64,696
2	Unclassified	09900		1,400
3	Current Expenses.....	13000		66,721
4	GAAP Project (R).....	12500		612,666
5	BRIM Premium	91300		<u>7,517</u>
6	Total.....		\$	753,000

7 Any unexpended balance remaining in the appropriation for GAAP Project (fund 0203,
8 appropriation 12500) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
9 during the fiscal year 2021.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2021 Org 0211

1	Personal Services and Employee Benefits.....	00100	\$	2,722,499
2	Unclassified	09900		20,000
3	Current Expenses	13000		1,148,349
4	Repairs and Alterations.....	06400		500
5	Equipment	07000		5,000
6	Fire Service Fee	12600		14,000
7	Preservation and Maintenance of Statues and Monuments			
8	on Capitol Grounds	37100		68,000
9	Capital Outlay, Repairs and Equipment (R)	58900		23,660,888
10	BRIM Premium	91300		<u>129,983</u>
11	Total.....		\$	27,769,219

12 Any unexpended balances remaining in the above appropriations for Buildings (fund 0230,
 13 appropriation 25800), Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900),
 14 Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700), and Land (fund
 15 0230, appropriation 73000) at the close of the fiscal year 2020 are hereby reappropriated for
 16 expenditure during the fiscal year 2021.

17 From the above appropriation for Preservation and Maintenance of Statues and Monuments
 18 on Capitol Grounds (fund 0230, appropriation 37100), the Division shall consult the Division of Culture
 19 and History and Capitol Building Commission in all aspects of planning, assessment, maintenance
 20 and restoration.

21 The above appropriation for Capital Outlay, Repairs and Equipment (fund 0230, appropriation
 22 58900) shall be expended for capital improvements, maintenance, repairs and equipment for state-
 23 owned buildings.

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2021 Org 0213

1	Personal Services and Employee Benefits.....	00100	\$	1,055,926
2	Unclassified	09900		144
3	Current Expenses	13000		1,285
4	Repairs and Alterations.....	06400		200
5	BRIM Premium	91300		<u>6,922</u>

2020]

HOUSE OF DELEGATES

1905

6	Total.....		\$	1,064,477
---	------------	--	----	-----------

7 The Division of Highways shall reimburse Fund 2031 within the Division of Purchasing for all
 8 actual expenses incurred pursuant to the provisions of W.Va. Code §17-2A-13.

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2021 Org 0215

1	Personal Services and Employee Benefits.....	00100	\$	802,363
2	Unclassified	09900		12,032
3	Current Expenses	13000		440,247
4	Repairs and Alterations.....	06400		1,000
5	Equipment	07000		5,000
6	Buildings (R)	25800		100
7	Other Assets.....	69000		<u>100</u>
8	Total.....		\$	1,260,842

9 Any unexpended balance remaining in the appropriation for Buildings (fund 0615,
 10 appropriation 25800) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
 11 during the fiscal year 2021.

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2021 Org 0217

1	Current Expenses	13000	\$	45,550
---	------------------------	-------	----	--------

2 To pay expenses for members of the commission on uniform state laws.

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2021 Org 0219

1	Personal Services and Employee Benefits.....	00100	\$	969,627
2	Unclassified	09900		1,000
3	Current Expenses	13000		145,295

4	Equipment	07000		50
5	BRIM Premium	91300		<u>8,740</u>
6	Total.....		\$	1,124,712

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2021 Org 0220

1	Personal Services and Employee Benefits.....	00100	\$	606,969
2	Unclassified	09900		2,200
3	Current Expenses	13000		104,501
4	Repairs and Alterations.....	06400		500
5	Other Assets	69000		100
6	BRIM Premium	91300		<u>5,574</u>
7	Total.....		\$	719,844

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2021 Org 0221

1	Personal Services and Employee Benefits.....	00100	\$	1,899,483
2	Unclassified	09900		314,700
3	Current Expenses	13000		12,740
4	Public Defender Corporations	35200		19,538,435
5	Appointed Counsel Fees (R).....	78800		12,709,713
6	BRIM Premium	91300		<u>10,575</u>
7	Total.....		\$	34,485,646

8 Any unexpended balance remaining in the above appropriation for Appointed Counsel Fees
9 (fund 0226, appropriation 78800) at the close of the fiscal year 2020 is hereby reappropriated for
10 expenditure during the fiscal year 2021.

11 The director shall have the authority to transfer funds from the appropriation to Public
12 Defender Corporations (fund 0226, appropriation 35200) to Appointed Counsel Fees (fund 0226,
13 appropriation 78800).

*28 - Committee for the Purchase of
Commodities and Services from the Handicapped*

(WV Code Chapter 5A)

Fund 0233 FY 2021 Org 0224

1	Personal Services and Employee Benefits.....	00100	\$	3,187
2	Current Expenses	13000		868
3	Total.....		\$	4,055

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2021 Org 0225

1	PEIA Subsidy.....	80100	\$	21,000,000
---	-------------------	-------	----	------------

2 The Division of Highways, Division of Motor Vehicles, Public Service Commission and other
3 departments, bureaus, divisions, or commissions operating from special revenue funds and/or federal
4 funds shall pay their proportionate share of the public employees health insurance cost for their
5 respective divisions.

6 The above appropriation for PEIA Subsidy (fund 0200, appropriation 80100) may be
7 transferred to a special revenue fund and shall be utilized by the West Virginia Public Employees
8 Insurance Agency for the purposes of offsetting benefit changes to offset the aggregate premium
9 cost-sharing percentage requirements between employers and employees. Such amount shall not
10 be included in the calculation of the plan year aggregate premium cost-sharing percentages between
11 employers and employees.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2021 Org 0228

1	Forensic Medical Examinations (R).....	68300	\$	141,579
2	Federal Funds/Grant Match (R)	74900		105,074
3	Total.....		\$	246,653

4 Any unexpended balances remaining in the appropriations for Forensic Medical Examinations
5 (fund 0557, appropriation 68300) and Federal Funds/Grant Match (fund 0557, appropriation 74900)
6 at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year
7 2021.

31 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2021 Org 0233

1	Personal Services and Employee Benefits.....	00100	\$	681,101
2	Unclassified	09900		1,000
3	Current Expenses	13000		137,381
4	Repairs and Alterations.....	06400		100
5	Equipment	07000		2,500
6	BRIM Premium	91300		<u>9,784</u>
7	Total.....		\$	831,866

DEPARTMENT OF COMMERCE*32 - West Virginia Tourism Office*

(WV Code Chapter 5B)

Fund 0246 FY 2021 Org 0304

1	Tourism – Brand Promotion (R)	61803	\$	10,000,000
2	Tourism – Public Relations (R)	61804		1,500,000
3	Tourism – Events and Sponsorships (R).....	61805		500,000
4	Tourism – Industry Development (R)	61806		500,000
5	State Parks and Recreation Advertising (R).....	61900		<u>1,500,000</u>
6	Total.....		\$	14,000,000

7 Any unexpended balances remaining in the appropriations for Tourism – Brand Promotion
8 (fund 0246, appropriation 61803), Tourism – Public Relations (fund 0246, appropriation 61804),
9 Tourism – Events and Sponsorships (fund 0246, appropriation 61805), Tourism – Industry
10 Development (fund 0246, appropriation 61806), and State Parks and Recreation Advertising (fund
11 0246, appropriation 61900) at the close of the fiscal year 2020 are hereby reappropriated for
12 expenditure during the fiscal year 2021.

13 The Executive Director of the West Virginia Tourism Office, with approval from the Secretary
14 of Commerce, shall have the authority to transfer between the above items of appropriation.

33 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2021 Org 0305

2020] HOUSE OF DELEGATES 1909

1	Personal Services and Employee Benefits.....	00100	\$	2,881,455
2	Unclassified	09900		21,435
3	Current Expenses	13000		338,953
4	Repairs and Alterations.....	06400		80,000
5	Equipment (R)	07000		2,061
6	BRIM Premium	91300		<u>98,754</u>
7	Total.....		\$	3,422,658

8 Any unexpended balance remaining in the appropriation for Equipment (fund 0250,
 9 appropriation 07000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
 10 during the fiscal year 2021.

11 Out of the above appropriations a sum may be used to match federal funds for cooperative
 12 studies or other funds for similar purposes.

34 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2021 Org 0306

1	Personal Services and Employee Benefits.....	00100	\$	1,678,448
2	Unclassified	09900		27,678
3	Current Expenses	13000		51,524
4	Repairs and Alterations.....	06400		968
5	Mineral Mapping System (R).....	20700		1,134,143
6	BRIM Premium	91300		<u>24,486</u>
7	Total.....		\$	2,917,247

8 Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund
 9 0253, appropriation 20700) at the close of the fiscal year 2020 is hereby reappropriated for
 10 expenditure during the fiscal year 2021.

11 The above Unclassified and Current Expense appropriations include funding to secure federal
 12 and other contracts and may be transferred to a special revolving fund (fund 3105) for the purpose
 13 of providing advance funding for such contracts.

35 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2021 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$	4,500,420
2	Unclassified	09900		108,055
3	Current Expenses	13000		5,815,277
4	National Youth Science Camp	13200		241,570
5	Local Economic Development Partnerships (R).....	13300		1,250,000
6	ARC Assessment.....	13600		152,585
7	Guaranteed Work Force Grant (R).....	24200		976,579
8	Mainstreet Program	79400		167,467
9	Local Economic Development Assistance (R).....	18900		1,750,000
10	BRIM Premium	91300		3,157
11	Hatfield McCoy Recreational Trail.....	96000		<u>198,415</u>
12	Total.....		\$	15,163,525

13 Any unexpended balances remaining in the appropriations for Sales and Marketing
 14 Enhancement – Surplus (fund 0256, appropriation 05099), Unclassified – Surplus (fund 0256,
 15 appropriation 09700), Partnership Grants (fund 0256, appropriation 13100), Local Economic
 16 Development Partnerships (fund 0256, appropriation 13300), Guaranteed Work Force Grant (fund
 17 0256, appropriation 24200), Industrial Park Assistance (fund 0256, appropriation 48000), and Local
 18 Economic Development Assistance (fund 0256, appropriation 81900) at the close of the fiscal year
 19 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

20 From the above appropriation for Current Expenses (fund 0256, appropriation 13000),
 21 \$1,800,000 shall be used for the Eastern West Virginia Regional Airport; \$50,000 shall be used for
 22 the Western Potomac Economic Partnership;\$100,000 shall be used for Techconnect West Virginia
 23 and \$100,000 shall be used for Advantage Valley.

24 The above appropriation to Local Economic Development Partnerships (fund 0256,
 25 appropriation 13300) shall be used by the West Virginia Development Office for the award of funding
 26 assistance to county and regional economic development corporations or authorities participating in
 27 the Certified Development Community Program developed under the provisions of W.Va. Code §5B-
 28 2-14. The West Virginia Development Office shall award the funding assistance through a matching
 29 grant program, based upon a formula whereby funding assistance may not exceed \$34,000 per
 30 county served by an economic development or redevelopment corporation or authority.

36 - Division of Labor

(WV Code Chapters 21, and 47)

Fund 0260 FY 2021 Org 0308

2020] HOUSE OF DELEGATES 1911

1	Personal Services and Employee Benefits.....	00100	\$	1,564,676
2	Current Expenses	13000		227,000
3	Repairs and Alterations.....	06400		28,000
4	Equipment	07000		15,000
5	BRIM Premium	91300		<u>8,500</u>
6	Total.....		\$	1,843,176

37 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2021 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$	16,956,925
2	Unclassified	09900		184,711
3	Current Expenses	13000		196,302
4	Repairs and Alterations.....	06400		100
5	Equipment	07000		100
6	Buildings (R).....	25800		100
7	Capital Outlay – Parks (R)	28800		3,000,000
8	Litter Control Conservation Officers	56400		146,986
9	Upper Mud River Flood Control	65400		164,791
10	Other Assets.....	69000		100
11	Land (R)	73000		100
12	Law Enforcement.....	80600		2,552,994
13	BRIM Premium	91300		<u>45,141</u>
14	Total.....		\$	23,248,350

15 Any unexpended balances remaining in the appropriations for Buildings (fund 0265,
 16 appropriation 25800), Capital Outlay – Parks (fund 0265, appropriation 28800), Land (fund 0265,
 17 appropriation 73000), and State Park Improvements – Surplus (fund 0265, appropriation 76300) at
 18 the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year
 19 2021.

20 Any revenue derived from mineral extraction at any state park shall be deposited in a special
 21 revenue account of the Division of Natural Resources, first for bond debt payment purposes and with
 22 any remainder to be for park operation and improvement purposes.

38 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2021 Org 0314

1	Personal Services and Employee Benefits.....	00100	\$	9,450,243
2	Unclassified	09900		111,016
3	Current Expenses	13000		1,396,141
4	Coal Dust and Rock Dust Sampling	27000		487,752
5	BRIM Premium	91300		<u>80,668</u>
6	Total.....		\$	11,525,820

7 Included in the above appropriation for Current Expenses (fund 0277, appropriation 13000) is
 8 \$500,000 to be used for coal mine training activities at an established mine training facility in southern
 9 West Virginia.

39 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2021 Org 0319

1	Personal Services and Employee Benefits.....	00100	\$	233,981
2	Unclassified	09900		3,480
3	Current Expenses	13000		<u>118,138</u>
4	Total.....		\$	355,599

5 Included in the above appropriation for Current Expenses (fund 0280, appropriation 13000)
 6 up to \$29,000 shall be used for the Coal Mine Safety and Technical Review Committee.

40 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2021 Org 0323

1	Personal Services and Employee Benefits.....	00100	\$	51,433
2	Unclassified	09900		593

2020] HOUSE OF DELEGATES 1913

3	Current Expenses	13000	<u>7,337</u>
4	Total.....		\$ 59,363

41 - Department of Commerce –

Office of the Secretary

(WV Code Chapter 19)

Fund 0606 FY 2021 Org 0327

1	Personal Services and Employee Benefits.....	00100	\$ 588,872
2	Unclassified	09900	1,490
3	Current Expenses	13000	17,099
4	Directed Transfer	70000	<u>500,000</u>
5	Total.....		\$ 1,107,461

6 The above appropriation for Directed Transfer (fund 0606, appropriation 70000) shall be
7 transferred to the Broadband Enhancement Fund (fund 3013).

42 - Office of Energy

(WV Code Chapter 5B)

Fund 0612 FY 2021 Org 0328

1	Personal Services and Employee Benefits.....	00100	\$ 198,299
2	Unclassified	09900	12,395
3	Current Expenses	13000	1,029,679
4	BRIM Premium	91300	<u>3,894</u>
5	Total.....		\$ 1,244,267

6 From the above appropriation for Current Expenses (fund 0612, appropriation 13000)
7 \$558,247 is for West Virginia University and \$308,247 is for Southern West Virginia Community and
8 Technical College for the Mine Training and Energy Technologies Academy.

43 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 0310 FY 2021 Org 0932

1	Personal Services and Employee Benefits.....	00100	\$	11,459,977
2	Independent Living Services	00900		429,418
3	Current Expenses	13000		558,815
4	Workshop Development.....	16300		1,817,427
5	Supported Employment Extended Services	20600		77,960
6	Ron Yost Personal Assistance Fund.....	40700		333,828
7	Employment Attendant Care Program	59800		131,575
8	BRIM Premium	91300		<u>77,464</u>
9	Total.....		\$	14,886,464

10 From the above appropriation for Workshop Development (fund 0310, appropriation 16300),
 11 fund shall be used exclusively with the private nonprofit community rehabilitation program
 12 organizations known as work centers or sheltered workshops. The appropriation shall also be used
 13 to continue the support of the program, services, and individuals with disabilities currently in place at
 14 those organizations.

DEPARTMENT OF EDUCATION

44 - State Board of Education –

School Lunch Program

(WV Code Chapters 18, and 18A)

Fund 0303 FY 2021 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	348,042
2	Current Expenses	13000		<u>2,118,865</u>
3	Total.....		\$	2,466,907

45 - State Board of Education –

State Department of Education

(WV Code Chapters 18, and 18A)

Fund 0313 FY 2021 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	4,598,523
2	Teachers' Retirement Savings Realized	09500		33,028,000
3	Unclassified (R)	09900		500,000

	2020]	HOUSE OF DELEGATES	1915
4	Current Expenses (R)	13000	5,330,000
5	Center for Professional Development (R).....	11500	150,000
6	Increased Enrollment.....	14000	5,090,000
7	Safe Schools	14300	5,104,544
8	Attendance Incentive Bonus	15001	2,056,717
9	National Teacher Certification (R).....	16100	300,000
10	Jobs & Hope – Childhood Drug Prevention Education	21901	5,000,000
11	Allowance for County Transfer.....	26400	238,174
12	Technology Repair and Modernization.....	29800	951,003
13	HVAC Technicians.....	35500	516,791
14	Early Retirement Notification Incentive	36600	300,000
15	MATH Program.....	36800	336,532
16	Assessment Programs.....	39600	1,339,588
17	Benedum Professional Development Collaborative (R).....	42700	429,775
18	Governor’s Honors Academy (R)	47800	1,059,270
19	21 st Century Fellows	50700	274,899
20	English as a Second Language	52800	96,000
21	Teacher Reimbursement	57300	297,188
22	Hospitality Training	60000	272,775
23	Youth in Government.....	61600	100,000
24	High Acuity Special Needs (R).....	63400	1,500,000
25	Foreign Student Education	63600	100,294
26	State Board of Education Administrative Costs.....	68400	277,403
27	IT Academy (R).....	72100	500,000
28	Early Literacy Program	75600	5,705,624
29	School Based Truancy Prevention (R).....	78101	2,032,238
30	Mastery Based Education	78104	125,000

31	Communities in Schools (R).....	78103	4,900,000
32	21 st Century Learners (R)	88600	1,756,470
33	BRIM Premium	91300	342,859
34	21 st Century Assessment and Professional Development.....	93100	2,006,978
35	21 st Century Technology Infrastructure Network		
36	Tools and Support.....	93300	7,636,586
37	Mountain State Digital Literacy Program.....	xxxxx	415,500
38	Special Olympic Games.....	96600	25,000
39	Educational Program Allowance	99600	<u>516,250</u>
40	Total.....		\$ 95,209,981

41 The above appropriations include funding for the state board of education and their executive
 42 office.

43 From the above appropriation for Unclassified (fund 0313, appropriation 09900) \$80,000 shall
 44 be used for creating a career exploration tool for students.

45 From the above appropriation for Current Expenses (fund 0313, appropriation 13000),
 46 \$2,000,000 shall be used for the Department of Education Child Nutrition Program – Non-traditional
 47 Child Hunger Solutions, \$750,000 shall be used for Local Education Projects.

48 Any unexpended balances remaining in the appropriations for Unclassified (fund 0313,
 49 appropriation 09900), Current Expenses (fund 0313, appropriation 13000), Center for Professional
 50 Development (fund 0313, appropriation 11500), National Teacher Certification (fund 0313,
 51 appropriation 16100), Benedum Professional Development Collaborative (fund 0313, appropriation
 52 42700), Governor’s Honors Academy (fund 0313, appropriation 47800), High Acuity Special Needs
 53 (fund 0313, appropriation 63400), IT Academy (fund 0313, appropriation 72100), School Based
 54 Truancy Prevention (fund 0313, appropriation 78101), Communities in Schools (fund 0313,
 55 appropriation 78103), and 21st Century Learners (fund 0313, appropriation 88600) at the close of the
 56 fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

57 The above appropriation for Teachers’ Retirement Savings Realized (fund 0313,
 58 appropriation 09500) shall be transferred to the Employee Pension and Health Care Benefit Fund
 59 (fund 2044).

60 From the above appropriation for Unclassified (fund 0313, appropriation 09900), \$120,000
 61 shall be for assisting low income students with AP exam fees.

62 The above appropriation for Hospitality Training (fund 0313, appropriation 60000), shall be
 63 allocated only to entities that have a plan approved for funding by the Department of Education, at
 64 the funding level determined by the State Superintendent of Schools. Plans shall be submitted to the
 65 State Superintendent of Schools to be considered for funding.

66 From the above appropriation for Educational Program Allowance (fund 0313, appropriation
 67 99600), \$100,000 shall be expended for Morgan County Board of Education for Paw Paw Schools;
 68 \$150,000 shall be for the Randolph County Board of Education for Pickens School; \$100,000 shall
 69 be for the Preston County Board of Education for the Aurora School; \$100,000 shall be for the Fayette
 70 County Board of Education for Meadow Bridge and \$66,250 is for Project Based Learning in STEM
 71 fields.

46 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18, and 18A)

Fund 0314 FY 2021 Org 0402

1	Special Education – Counties	15900	\$	7,271,757
2	Special Education – Institutions	16000		3,968,631
3	Education of Juveniles Held in Predispositional			
4	Juvenile Detention Centers	30200		657,858
5	Education of Institutionalized Juveniles and Adults (R)	47200		<u>20,325,353</u>
6	Total.....		\$	32,223,599

7 Any unexpended balance remaining in the appropriation for Education of Institutionalized
 8 Juveniles and Adults (fund 0314, appropriation 47200) at the close of the fiscal year 2020 is hereby
 9 reappropriated for expenditure during the fiscal year 2021.

10 From the above appropriations, the superintendent shall have authority to expend funds for
 11 the costs of special education for those children residing in out-of-state placements.

47 - State Board of Education –

State Aid to Schools

(WV Code Chapters 18, and 18A)

Fund 0317 FY 2021 Org 0402

1	Other Current Expenses	02200	\$	170,216,073
2	Advanced Placement.....	05300		734,729
3	Professional Educators	15100		897,576,715
4	Service Personnel.....	15200		301,789,240
5	Fixed Charges	15300		106,219,537
6	Transportation	15400		78,177,730

1918

JOURNAL OF THE

[MARCH 7

7	Professional Student Support Services.....	65500	62,148,699
8	Improved Instructional Programs	15600	51,956,792
9	21 st Century Strategic Technology Learning Growth	93600	26,408,349
10	Teacher and Leader Induction	93601	<u>5,443,468</u>
11	Basic Foundation Allowances		1,700,671,332
12	Less Local Share		(476,083,702)
13	Adjustments		<u>(2,716,826)</u>
14	Total Basic State Aid		1,221,870,804
15	Public Employees' Insurance Matching.....	01200	222,461,499
16	Teachers' Retirement System.....	01900	66,511,000
17	School Building Authority	45300	24,000,000
18	Retirement Systems – Unfunded Liability.....	77500	<u>304,728,000</u>
19	Total.....		\$ 1,839,571,303

48 - State Board of Education –

Vocational Division

(WV Code Chapters 18, and 18A)

Fund 0390 FY 2021 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$ 1,339,713
2	Unclassified	09900	268,800
3	Current Expenses	13000	883,106
4	Wood Products – Forestry Vocational Program	14600	79,873
5	Albert Yanni Vocational Program	14700	132,123
6	Vocational Aid.....	14800	24,229,691
7	Adult Basic Education	14900	5,271,228
8	Jobs & Hope	14902	3,100,000
9	Program Modernization.....	30500	884,313
10	High School Equivalency Diploma Testing (R).....	72600	803,397

2020]	HOUSE OF DELEGATES		1919
11	FFA Grant Awards.....	83900	11,496
12	Pre-Engineering Academy Program.....	84000	<u>265,294</u>
13	Total.....		\$ 37,269,034
14	Any unexpended balances remaining in the appropriations for Jim's Dream (fund 0390,		
15	appropriation 14901) and High School Equivalency Diploma Testing (fund 0390, appropriation 72600)		
16	at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year		
17	2021.		

*49 - State Board of Education –
West Virginia Schools for the Deaf and the Blind
(WV Code Chapters 18, and 18A)*

Fund 0320 FY 2021 Org 0403

1	Personal Services and Employee Benefits.....	00100	\$ 11,379,675
2	Unclassified	09900	110,000
3	Current Expenses.....	13000	2,250,696
4	Repairs and Alterations.....	06400	164,675
5	Equipment	07000	77,000
6	Buildings (R).....	25800	45,000
7	Capital Outlay and Maintenance (R).....	75500	520,000
8	BRIM Premium	91300	<u>130,842</u>
9	Total.....		\$ 14,677,888

10 Any unexpended balances remaining in the appropriations for Buildings (fund 0320,
11 appropriation 25800) and Capital Outlay and Maintenance (fund 0320, appropriation 75500) at the
12 close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

50 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2021 Org 0432

1	Personal Services and Employee Benefits.....	00100	\$ 3,463,493
2	Current Expenses.....	13000	610,843

3	Repairs and Alterations.....	06400	1,000
4	Equipment	07000	1
5	Unclassified (R)	09900	28,483
6	WV Humanities Council	16800	250,000
7	Buildings (R).....	25800	1
8	Other Assets.....	69000	1
9	Educational Enhancements	69500	573,500
10	Land (R)	73000	1
11	Culture and History Programming.....	73200	231,573
12	Capital Outlay and Maintenance (R).....	75500	19,600
13	Historical Highway Marker Program.....	84400	57,548
14	BRIM Premium	91300	<u>39,337</u>
15	Total.....		\$ 5,275,381

16 Any unexpended balances remaining in the appropriations for Unclassified (fund 0293,
 17 appropriation 09900), Buildings (fund 0293, appropriation 25800), Capital Outlay, Repairs and
 18 Equipment (fund 0293, appropriation 58900), Capital Improvements – Surplus (fund 0293,
 19 appropriation 66100), Capital Outlay, Repairs and Equipment – Surplus (fund 0293, appropriation
 20 67700), Land (fund 0293, appropriation 73000), and Capital Outlay and Maintenance (fund 0293,
 21 appropriation 75500) at the close of the fiscal year 2020 are hereby reappropriated for expenditure
 22 during the fiscal year 2021.

23 The Current Expense appropriation includes funding for the arts funds, department
 24 programming funds, grants, fairs and festivals and Camp Washington Carver and shall be expended
 25 only upon authorization of the Division of Culture and History and in accordance with the provisions
 26 of Chapter 5A, Article 3, and Chapter 12 of the Code.

27 From the above appropriation for Educational Enhancements (fund 0293, appropriation
 28 69500), \$500,000 shall be used for Save the Children and \$73,500 shall be used for the Clay Center.

51 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2021 Org 0433

1	Personal Services and Employee Benefits.....	00100	\$ 1,314,744
2	Current Expenses	13000	139,624
3	Repairs and Alterations.....	06400	6,500

2020]	HOUSE OF DELEGATES		1921
4	Services to Blind & Handicapped	18100	161,717
5	BRIM Premium	91300	<u>18,205</u>
6	Total.....		\$ 1,640,790

52 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2021 Org 0439

1	Personal Services and Employee Benefits.....	00100	\$ 3,312,092
2	Current Expenses	13000	120,146
3	Mountain Stage.....	24900	300,000
4	Capital Outlay and Maintenance (R).....	75500	50,000
5	BRIM Premium	91300	<u>48,453</u>
6	Total.....		\$ 3,830,691

7 Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance
8 (fund 0300, appropriation 75500) at the close of the fiscal year 2020 is hereby reappropriated for
9 expenditure during the fiscal year 2021.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

53 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2021 Org 0311

1	Personal Services and Employee Benefits.....	00100	\$ 82,539
2	Current Expenses	13000	28,453
3	Repairs and Alterations.....	06400	800
4	Equipment	07000	500
5	Other Assets.....	69000	400
6	BRIM Premium	91300	<u>791</u>
7	Total.....		\$ 113,483

54 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	4,207,200
2	Water Resources Protection and Management.....	06800		576,278
3	Current Expenses.....	13000		86,116
4	Repairs and Alterations.....	06400		1,500
5	Unclassified	09900		14,825
6	Dam Safety.....	60700		237,824
7	West Virginia Stream Partners Program	63700		77,396
8	Meth Lab Cleanup	65600		139,000
9	WV Contributions to River Commissions.....	77600		148,485
10	Office of Water Resources Non-Enforcement Activity	85500		<u>1,009,855</u>
11	Total.....		\$	6,498,479

55 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2021 Org 0325

1	Personal Services and Employee Benefits.....	00100	\$	60,737
2	Current Expenses.....	13000		11,612
3	Repairs and Alterations.....	06400		800
4	Equipment	07000		400
5	Other Assets.....	69000		200
6	BRIM Premium	91300		<u>2,304</u>
7	Total.....		\$	76,053

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

56 - Department of Health and Human Resources –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0400 FY 2021 Org 0501

2020] HOUSE OF DELEGATES 1923

1	Personal Services and Employee Benefits.....	00100	\$	384,638
2	Unclassified	09900		6,459
3	Current Expenses	13000		50,613
4	Commission for the Deaf and Hard of Hearing.....	70400		<u>225,534</u>
5	Total.....		\$	667,244

6 Any unexpended balance remaining in the appropriation for the Women's Commission (fund
7 0400, appropriation 19100) at the close of the fiscal year 2020 is hereby reappropriated for
8 expenditure during the fiscal year 2021.

57 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 0407 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	12,544,773
2	Chief Medical Examiner	04500		8,714,647
3	Unclassified	09900		671,795
4	Current Expenses	13000		5,588,459
5	State Aid for Local and Basic Public Health Services.....	18400		14,160,490
6	Safe Drinking Water Program (R)	18700		1,891,323
7	Women, Infants and Children.....	21000		38,621
8	Early Intervention.....	22300		8,134,060
9	Cancer Registry	22500		206,306
10	Office of Drug Control Policy (R).....	35401		545,153
11	Statewide EMS Program Support (R)	38300		1,695,271
12	Office of Medical Cannabis (R)	42001		1,459,989
13	Black Lung Clinics	46700		170,885
14	Vaccine for Children	55100		338,235
15	Tuberculosis Control.....	55300		329,256
16	Maternal and Child Health Clinics, Clinicians			

17	Medical Contracts and Fees (R).....	57500	5,892,707
18	Epidemiology Support.....	62600	1,497,192
19	Primary Care Support	62800	4,263,706
20	Sexual Assault Intervention and Prevention.....	72300	250,000
21	Health Right Free Clinics	72700	3,750,000
22	Capital Outlay and Maintenance (R)	75500	70,000
23	Healthy Lifestyles.....	77800	890,000
24	Maternal Mortality Review.....	83400	49,933
25	Diabetes Education and Prevention	87300	97,125
26	BRIM Premium	91300	169,791
27	State Trauma and Emergency Care System.....	91800	1,921,322
28	WVU Charleston Poison Control Hotline	94400	<u>712,942</u>
29	Total.....		\$ 76,053,981

30 Any unexpended balances remaining in the appropriations for Safe Drinking Water Program
 31 (fund 0407, appropriation 18700), Office of Drug Control Policy (fund 0407, appropriation 35401),
 32 Office of Drug Control Policy – Surplus (fund 0407, appropriation 35402), Statewide EMS Program
 33 Support (fund 0407, appropriation 38300), Office of Medical Cannabis (fund 0407, appropriation
 34 42001), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407,
 35 appropriation 57500), Capital Outlay and Maintenance (fund 0407, appropriation 75500), Emergency
 36 Response Entities – Special Projects (fund 0407, appropriation 82200), and Tobacco Education
 37 Program (fund 0407, appropriation 90600) at the close of the fiscal year 2020 are hereby
 38 reappropriated for expenditure during the fiscal year 2021.

39 From the above appropriation for Current Expenses (fund 0407, appropriation 13000), an
 40 amount not less than \$100,000 is for the West Virginia Cancer Coalition; \$50,000 shall be expended
 41 for the West Virginia Aids Coalition; \$100,000 is for Adolescent Immunization Education; \$73,065 is
 42 for informal dispute resolution relating to nursing home administrative appeals; \$50,000 is for Hospital
 43 Hospitality House of Huntington; \$200,000 is for Potomac Center Inc. of Romney, West Virginia; and
 44 \$1,000,000 shall be used for the administration of the Telestroke program.

45 From the above appropriation for Maternal and Child Health Clinics, Clinicians and Medical
 46 Contracts and Fees (fund 0407, appropriation 57500) up to \$400,000 may be transferred to the Breast
 47 and Cervical Cancer Diagnostic Treatment Fund (fund 5197) and \$11,000 is for the Marshall County
 48 Health Department for dental services.

58 - Consolidated Medical Services Fund

(WV Code Chapter 16)

Fund 0525 FY 2021 Org 0506

2020]	HOUSE OF DELEGATES	1925
1	Personal Services and Employee Benefits.....	00100 \$ 1,632,588
2	Current Expenses	13000 14,113
3	Behavioral Health Program (R)	21900 68,613,953
4	Jobs & Hope	14902 200,000
5	Family Support Act	22100 251,226
6	Institutional Facilities Operations (R).....	33500 147,729,180
7	Substance Abuse Continuum of Care (R).....	35400 1,840,000
8	Capital Outlay and Maintenance (R).....	75500 2,875,000
9	Renaissance Program	80400 165,996
10	BRIM Premium	91300 <u>1,296,098</u>
11	Total.....	\$ 224,618,154

12 Any unexpended balances remaining in the appropriations for Jim’s Dream (fund 0525,
13 appropriation 14901), Behavioral Health Program (fund 0525, appropriation 21900), Institutional
14 Facilities Operations (fund 0525, appropriation 33500), Substance Abuse Continuum of Care (fund
15 0525, appropriation 35400), and Capital Outlay and Maintenance (fund 0525, appropriation 75500)
16 at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year
17 2021.

18 Notwithstanding the provisions of Title I, section three of this bill, the secretary of the
19 Department of Health and Human Resources shall have the authority to transfer funds within the
20 above appropriations: *Provided*, That no more than five percent of the funds appropriated to one
21 appropriation may be transferred to other appropriations: *Provided, however*, That no funds from
22 other appropriations shall be transferred to the personal services and employee benefits
23 appropriation.

24 Included in the above appropriation for Behavioral Health Program (fund 0525, appropriation
25 21900) is \$100,000 for the Healing Place of Huntington.

26 The above appropriation for Institutional Facilities Operations (fund 0525, appropriation
27 33500) contains prior year salary increases due to the Hartley court order in the amount of \$2,202,013
28 for William R. Sharpe Jr. Hospital, and \$2,067,984 for Mildred Mitchel-Bateman Hospital.

29 From the above appropriation for Substance Abuse Continuum of Care (fund 0525,
30 appropriation 35400), the funding will be consistent with the goal areas outlined in the Comprehensive
31 Substance Abuse Strategic Action Plan.

32 Additional funds have been appropriated in fund 5156, fiscal year 2021, organization 0506,
33 for the operation of the institutional facilities. The secretary of the Department of Health and Human
34 Resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities
35 Operations appropriation to facilitate cost effective and cost saving services at the community level.

West Virginia Drinking Water Treatment

(WV Code Chapter 16)

Fund 0561 FY 2021 Org 0506

1 West Virginia Drinking Water Treatment

2 Revolving Fund-Transfer..... 68900 \$ 647,500

3 The above appropriation for Drinking Water Treatment Revolving Fund – Transfer shall be
 4 transferred to the West Virginia Drinking Water Treatment Revolving Fund or appropriate bank
 5 depository and the Drinking Water Treatment Revolving – Administrative Expense Fund as provided
 6 by Chapter 16 of the Code.

60 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2021 Org 0510

1 Personal Services and Employee Benefits..... 00100 \$ 1,073,553

2 Unclassified 09900 4,024

3 Current Expenses 13000 331,304

4 BRIM Premium 91300 10,764

5 Total..... \$ 1,419,645

61 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 0403 FY 2021 Org 0511

1 Personal Services and Employee Benefits..... 00100 \$ 50,356,249

2 Unclassified 09900 5,688,944

3 Current Expenses 13000 11,708,336

4 Child Care Development..... 14400 3,102,718

5 Medical Services..... 18900 297,855,264

6 Social Services 19500 226,476,781

7 Family Preservation Program..... 19600 1,565,000

8 Family Resource Networks 27400 1,762,464

	HOUSE OF DELEGATES	1927	
9	Domestic Violence Legal Services Fund.....	38400	400,000
10	James "Tiger" Morton Catastrophic Illness Fund.....	45500	105,695
11	I/DD Waiver	46600	108,541,736
12	Child Protective Services Case Workers.....	46800	27,843,073
13	Title XIX Waiver for Seniors	53300	13,593,620
14	WV Teaching Hospitals Tertiary/Safety Net	54700	6,356,000
15	In-Home Family Education.....	68800	1,000,000
16	WV Works Separate State Program.....	69800	135,000
17	Child Support Enforcement.....	70500	6,458,806
18	Temporary Assistance for Needy Families/ Maintenance of Effort	70700	25,819,096
19	Child Care – Maintenance of Effort Match.....	70800	5,693,743
21	Grants for Licensed Domestic Violence Programs and Statewide Prevention	75000	2,500,000
22	Capital Outlay and Maintenance (R)	75500	11,875
23	Community Based Services and Pilot Programs for Youth.....	75900	1,000,000
24	Medical Services Administrative Costs	78900	38,234,761
25	Traumatic Brain Injury Waiver	83500	800,000
26	Indigent Burials (R)	85100	1,550,000
27	CHIP Administrative Costs.....	85601	700,000
28	CHIP Services	85602	6,390,665
29	BRIM Premium	91300	892,642
30	Rural Hospitals Under 150 Beds.....	94000	2,596,000
31	Children's Trust Fund – Transfer	95100	220,000
32	PATH	95400	<u>7,162,452</u>
33	Total.....	\$	856,520,920

35 Any unexpended balances remaining in the appropriations for Capital Outlay and
36 Maintenance (fund 0403, appropriation 75500) and Indigent Burials (fund 0403, appropriation 85100)
37 at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year
38 2021.

39 Notwithstanding the provisions of Title I, section three of this bill, the secretary of the
40 Department of Health and Human Resources shall have the authority to transfer funds within the
41 above appropriations: *Provided*, That no more than five percent of the funds appropriated to one
42 appropriation may be transferred to other appropriations: *Provided, however*, That no funds from
43 other appropriations shall be transferred to the personal services and employee benefits
44 appropriation.

45 The secretary shall have authority to expend funds for the educational costs of those children
46 residing in out-of-state placements, excluding the costs of special education programs.

47 Included in the above appropriation for Social Services (fund 0403, appropriation 19500) is
48 funding for continuing education requirements relating to the practice of social work.

49 The above appropriation for Domestic Violence Legal Services Fund (fund 0403,
50 appropriation 38400) shall be transferred to the Domestic Violence Legal Services Fund (fund 5455).

51 The above appropriation for James "Tiger" Morton Catastrophic Illness Fund (fund 0403,
52 appropriation 45500) shall be transferred to the James "Tiger" Morton Catastrophic Illness Fund (fund
53 5454) as provided by Article 5Q, Chapter 16 of the Code.

54 The above appropriation for WV Works Separate State Program (fund 0403, appropriation
55 69800), shall be transferred to the WV Works Separate State College Program Fund (fund 5467),
56 and the WV Works Separate State Two-Parent Program Fund (fund 5468) as determined by the
57 secretary of the Department of Health and Human Resources.

58 From the above appropriation for Child Support Enforcement (fund 0403, appropriation
59 70500) an amount not to exceed \$300,000 may be transferred to a local banking depository to be
60 utilized to offset funds determined to be uncollectible.

61 From the above appropriation for the Grants for Licensed Domestic Violence Programs and
62 Statewide Prevention (fund 0403, appropriation 75000), 50% of the total shall be divided equally and
63 distributed among the fourteen (14) licensed programs and the West Virginia Coalition Against
64 Domestic Violence (WVCADV). The balance remaining in the appropriation for Grants for Licensed
65 Domestic Violence Programs and Statewide Prevention (fund 0403, appropriation 75000), shall be
66 distributed according to the formula established by the Family Protection Services Board.

67 The above appropriation for Children's Trust Fund – Transfer (fund 0403, appropriation
68 95100) shall be transferred to the Children's Trust Fund (fund 5469, org 0511).

DEPARTMENT OF HOMELAND SECURITY

62 - Department of Homeland Security –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0430 FY 2021 Org 0601

2020]	HOUSE OF DELEGATES	1929
1	Personal Services and Employee Benefits.....	00100 \$ 684,426
2	Unclassified (R)	09900 16,386
3	Current Expenses	13000 168,968
4	Repairs and Alterations.....	06400 1,500
5	Equipment	07000 1,500
6	Fusion Center (R)	46900 2,724,000
7	Other Assets.....	69000 2,500
8	Directed Transfer	70000 32,000
9	BRIM Premium	91300 22,563
10	WV Fire and EMS Survivor Benefit (R)	93900 <u>200,000</u>
11	Total.....	\$ 3,853,843

12 Any unexpended balances remaining in the appropriations for Unclassified (fund 0430,
13 appropriation 09900), Fusion Center (fund 0430, appropriation 46900), Justice Reinvestment
14 Training – Surplus (fund 0430, appropriation 69900), WV Fire and EMS Survivor Benefit (fund 0430,
15 appropriation 93900), and Homeland State Security Administrative Agency (fund 0430, appropriation
16 95300) at the close of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal
17 year 2021.

18 The above appropriation for Directed Transfer (fund 0430, appropriation 70000) shall be
19 transferred to the Law-Enforcement, Safety and Emergency Worker Funeral Expense Payment Fund
20 (fund 6003).

63 - West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2021 Org 0605

1	Personal Services and Employee Benefits.....	00100 \$ 405,066
2	Current Expenses	13000 355,234
3	Unclassified	09900 10,000
4	Salaries of Members of West Virginia Parole Board.....	22700 609,833
5	BRIM Premium	91300 <u>6,149</u>
6	Total.....	\$ 1,386,282

7 The above appropriation for Salaries of Members of West Virginia Parole Board (fund 0440,
 8 appropriation 22700) includes funding for salary, annual increment (as provided for in W.Va. Code
 9 §5-5-1), and related employee benefits of board members.

64 - Division of Emergency Management

(WV Code Chapter 15)

Fund 0443 FY 2021 Org 0606

1	Personal Services and Employee Benefits.....	00100	\$	2,189,894
2	Unclassified	09900		25,022
3	Current Expenses	13000		57,314
4	Repairs and Alterations.....	06400		600
5	Radiological Emergency Preparedness	55400		17,052
6	SIRN.....	55401		600,000
7	Federal Funds/Grant Match (R)	74900		1,409,145
8	Mine and Industrial Accident Rapid			
9	Response Call Center	78100		469,911
10	Early Warning Flood System (R).....	87700		1,284,448
11	BRIM Premium	91300		<u>96,529</u>
12	Total.....		\$	6,149,915

13 Any unexpended balances remaining in the appropriations for Federal Funds/Grant Match
 14 (fund 0443, appropriation 74900), Early Warning Flood System (fund 0443, appropriation 87700),
 15 and Disaster Mitigation (fund 0443, appropriation 95200) at the close of the fiscal year 2020 are
 16 hereby reappropriated for expenditure during the fiscal year 2021.

65 - Division of Corrections and Rehabilitation –

Central Office

(WV Code Chapter 15A)

Fund 0446 FY 2021 Org 0608

1	Personal Services and Employee Benefits.....	00100	\$	576,577
2	Current Expenses	13000		<u>2,400</u>
3	Total.....		\$	578,977

*66 - Division of Corrections and Rehabilitation –**Correctional Units*

(WV Code Chapter 15A)

Fund 0450 FY 2021 Org 0608

1	Employee Benefits.....	01000	\$	1,258,136
2	Children's Protection Act (R).....	09000		838,437
3	Unclassified	09900		1,578,800
4	Current Expenses (R)	13000		52,016,936
5	Facilities Planning and Administration (R).....	38600		1,274,200
6	Charleston Correctional Center	45600		3,400,402
7	Beckley Correctional Center	49000		2,518,874
8	Anthony Correctional Center.....	50400		6,096,779
9	Huttonsville Correctional Center	51400		21,920,001
10	Northern Correctional Center	53400		8,018,685
11	Inmate Medical Expenses (R).....	53500		21,226,064
12	Pruntytown Correctional Center	54300		8,597,911
13	Corrections Academy.....	56900		1,925,980
14	Information Technology Services.....	59901		2,759,052
15	Martinsburg Correctional Center	66300		4,348,990
16	Parole Services.....	68600		5,850,564
17	Special Services	68700		6,477,777
18	Investigative Services	71600		3,394,070
19	Capital Outlay and Maintenance (R).....	75500		2,000,000
20	Salem Correctional Center.....	77400		11,455,381
21	McDowell County Correctional Center	79000		2,542,590
22	Stevens Correctional Center	79100		7,863,195
23	Parkersburg Correctional Center	82800		3,927,845

24	St. Mary's Correctional Center	88100		14,497,534
25	Denmar Correctional Center	88200		5,189,043
26	Ohio County Correctional Center	88300		2,147,492
27	Mt. Olive Correctional Complex	88800		22,357,432
28	Lakin Correctional Center	89600		10,711,864
29	BRIM Premium	91300		<u>2,527,657</u>
30	Total.....		\$	238,721,691

31 Any unexpended balances remaining in the appropriations for Children's Protection Act (fund
 32 0450, appropriation 09000), Unclassified – Surplus (fund 0450, appropriation 09700), Current
 33 Expenses (fund 0450, appropriation 13000), Facilities Planning and Administration (fund 0450,
 34 appropriation 38600), Inmate Medical Expenses (fund 0450, appropriation 53500), Capital
 35 Improvements – Surplus (fund 0450, appropriation 66100), Capital Outlay, Repairs and Equipment –
 36 Surplus (fund 0450, appropriation 67700), Capital Outlay and Maintenance (fund 0450, appropriation
 37 75500), Security System Improvements – Surplus (fund 0450, appropriation 75501), and Roof
 38 Repairs and Mechanical System Upgrades (fund 0450, appropriation 75502) at the close of the fiscal
 39 year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

40 The Commissioner of Corrections and Rehabilitation shall have the authority to transfer
 41 between individual correctional unit appropriations as specified above and may transfer funds from
 42 the individual correctional unit appropriations as specified above to Current Expenses (fund 0450,
 43 appropriation 13000) or Inmate Medical Expenses (fund 0450, appropriation 53500).

44 From the above appropriation to Current Expenses (fund 0450, appropriation 13000) payment
 45 shall be made to house Division of Corrections and Rehabilitation inmates in federal, county, and /or
 46 regional jails.

47 Any realized savings from Energy Savings Contract may be transferred to Facilities Planning
 48 and Administration (fund 0450, appropriation 38600).

67 - Division of Corrections and Rehabilitation –

Bureau of Juvenile Services

(WV Code Chapter 15A)

Fund 0570 FY 2021 Org 0608

1	Statewide Reporting Centers	26200	\$	7,358,529
2	Robert L. Shell Juvenile Center	26700		2,519,068
3	Resident Medical Expenses (R).....	53501		3,604,999
4	Central Office.....	70100		2,167,320
5	Capital Outlay and Maintenance (R)	75500		250,000

2020]	HOUSE OF DELEGATES	1933	
6	Gene Spadaro Juvenile Center	79300	2,692,984
7	BRIM Premium	91300	115,967
8	Kenneth Honey Rubenstein Juvenile Center (R).....	98000	5,808,523
9	Vicki Douglas Juvenile Center	98100	2,389,494
10	Northern Regional Juvenile Center	98200	2,876,302
11	Lorrie Yeager Jr. Juvenile Center	98300	2,422,880
12	Sam Perdue Juvenile Center	98400	2,614,497
13	Tiger Morton Center.....	98500	2,633,060
14	Donald R. Kuhn Juvenile Center.....	98600	5,060,657
15	J.M. "Chick" Buckbee Juvenile Center	98700	<u>2,527,617</u>
16	Total.....		\$ 45,041,897

17 Any unexpended balances remaining in the appropriations for Resident Medical Expenses
18 (fund 0570, appropriation 53501), Capital Outlay and Maintenance (fund 0570, appropriation 75500),
19 Roof Repairs and Mechanical System Upgrades (fund 0570, appropriation 75502), and Kenneth
20 Honey Rubenstein Juvenile Center (fund 0570, appropriation 98000) at the close of the fiscal year
21 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

22 The Director of Juvenile Services shall have the authority to transfer between appropriations
23 to the individual juvenile centers above including statewide reporting centers and central office and
24 may transfer funds from the individual juvenile centers to Resident Medical Expenses (fund 0570,
25 appropriation 53501).

68 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2021 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$	62,255,235
2	Children's Protection Act.....	09000		1,009,529
3	Current Expenses	13000		10,384,394
4	Repairs and Alterations.....	06400		450,523
5	Trooper Class	52100		3,207,832
6	Barracks Lease Payments	55600		237,898
7	Communications and Other Equipment (R).....	55800		1,070,968

8	Trooper Retirement Fund.....	60500		11,487,590
9	Handgun Administration Expense.....	74700		77,892
10	Capital Outlay and Maintenance (R).....	75500		250,000
11	Retirement Systems – Unfunded Liability.....	77500		16,648,000
12	Automated Fingerprint Identification System.....	89800		2,211,693
13	BRIM Premium	91300		<u>5,743,921</u>
14	Total.....		\$	115,035,475

15 Any unexpended balances remaining in the appropriations for Communications and Other
 16 Equipment (fund 0453, appropriation 55800), and Capital Outlay and Maintenance (fund 0453,
 17 appropriation 75500) at the close of the fiscal year 2020 are hereby reappropriated for expenditure
 18 during the fiscal year 2021.

19 From the above appropriation for Personal Services and Employee Benefits (fund 0453,
 20 appropriation 00100), an amount not less than \$25,000 shall be expended to offset the costs
 21 associated with providing police services for the West Virginia State Fair.

69 - Fire Commission

(WV Code Chapter 29)

Fund 0436 FY 2021 Org 0619

1	Current Expenses.....	13000	\$	64,021
---	-----------------------	-------	----	--------

70 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2021 Org 0622

1	Personal Services and Employee Benefits.....	00100	\$	3,029,459
2	Unclassified (R)	09900		21,991
3	Current Expenses.....	13000		422,981
4	Repairs and Alterations.....	06400		8,500
5	Equipment (R)	07000		64,171
6	BRIM Premium	91300		<u>32,602</u>
7	Total.....		\$	3,579,704

8 Any unexpended balances remaining in the appropriations for Equipment (fund 0585,
9 appropriation 07000), and Unclassified (fund 0585, appropriation 09900) at the close of the fiscal
10 year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

71 - Division of Administrative Services

(WV Code Chapter 15A)

Fund 0619 FY 2021 Org 0623

1	Personal Services and Employee Benefits.....	00100	\$	2,306,255
2	Current Expenses	13000		<u>305,000</u>
3	Total.....		\$	2,611,255

72 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2021 Org 0623

1	Personal Services and Employee Benefits.....	00100	\$	570,979
2	Current Expenses	13000		133,360
3	Repairs and Alterations.....	06400		1,804
4	Child Advocacy Centers (R).....	45800		2,206,954
5	Community Corrections (R)	56100		4,595,222
6	Justice Reinvestment Initiative.....	89501		2,332,101
7	Statistical Analysis Program.....	59700		49,819
8	Sexual Assault Forensic Examination Commission (R).....	71400		77,525
9	Qualitative Analysis and Training for Youth Services (R)	76200		332,446
10	Law Enforcement Professional Standards	83800		164,272
11	BRIM Premium	91300		<u>2,123</u>
12	Total.....		\$	10,466,605

13 Any unexpended balances remaining in the appropriations for Child Advocacy Centers (fund
14 0546, appropriation 45800), Community Corrections (fund 0546, appropriation 56100), Sexual
15 Assault Forensic Examination Commission (fund 0546 appropriation 71400), Qualitative Analysis and
16 Training for Youth Services (fund 0546, appropriation 76200), and Law Enforcement Training –
17 Surplus (fund 0546, appropriation 83899) at the close of the fiscal year 2020 are hereby
18 reappropriated for expenditure during the fiscal year 2021.

19 From the above appropriation for Child Advocacy Centers (fund 0546, appropriation 45800),
 20 the division may retain an amount not to exceed four percent of the appropriation for administrative
 21 purposes.

DEPARTMENT OF REVENUE

73 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2021 Org 0701

1	Personal Services and Employee Benefits.....	00100	\$	516,906
2	Unclassified	09900		5,837
3	Current Expenses	13000		81,594
4	Repairs and Alterations.....	06400		1,262
5	Equipment	07000		8,000
6	Other Assets.....	69000		<u>500</u>
7	Total.....		\$	614,099

8 Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465,
 9 appropriation 09600) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
 10 during the fiscal year 2021.

74 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2021 Org 0702

1	Personal Services and Employee Benefits (R).....	00100	\$	19,272,541
2	Unclassified (R)	09900		224,578
3	Current Expenses (R)	13000		5,873,635
4	Repairs and Alterations.....	06400		10,150
5	Equipment	07000		54,850
6	Tax Technology Upgrade.....	09400		3,700,000
7	Integrated Tax Assessment System (R).....	29200		1,100,000
8	Multi State Tax Commission	65300		77,958
9	Other Assets.....	69000		10,000

10	BRIM Premium	91300	<u>15,579</u>
11	Total.....		\$ 30,339,291

12 Any unexpended balances remaining in the appropriations for Personal Services and
 13 Employee Benefits (fund 0470, appropriation 00100), Unclassified (fund 0470, appropriation 09900),
 14 Current Expenses (fund 0470, appropriation 13000), and Integrated Tax Assessment System (fund
 15 0470, appropriation 29200) at the close of the fiscal year 2020 are hereby reappropriated for
 16 expenditure during the fiscal year 2021.

75 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2021 Org 0703

1	Personal Services and Employee Benefits.....	00100	\$ 794,942
2	Unclassified (R)	09900	1,199
3	Current Expenses	13000	<u>127,450</u>
4	Total.....		\$ 923,591

5 Any unexpended balance remaining in the appropriation for Unclassified (fund 0595,
 6 appropriation 09900) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
 7 during the fiscal year 2021.

76 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2021 Org 0709

1	Personal Services and Employee Benefits.....	00100	\$ 452,106
2	Current Expenses (R)	13000	97,622
3	Unclassified	09900	5,255
4	BRIM Premium	91300	<u>3,062</u>
5	Total.....		\$ 558,045

6 Any unexpended balance remaining in the appropriation for Current Expenses (fund 0593,
 7 appropriation 13000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
 8 during the fiscal year 2021.

77 - Division of Professional and Occupational Licenses –

State Athletic Commission

(WV Code Chapter 29)

Fund 0523 FY 2021 Org 0933

1	Personal Services and Employee Benefits.....	00100	\$	7,200
2	Current Expenses	13000		<u>29,611</u>
3	Total.....		\$	36,811

DEPARTMENT OF TRANSPORTATION*78 - State Rail Authority*

(WV Code Chapter 29)

Fund 0506 FY 2021 Org 0804

1	Personal Services and Employee Benefits.....	00100	\$	361,627
2	Current Expenses	13000		3,087,707
3	Other Assets (R)	69000		1,270,019
4	BRIM Premium	91300		<u>201,541</u>
5	Total.....		\$	4,920,894

6 From the above appropriation for Current Expenses (fund 0506, appropriation 13000),
 7 \$2,800,000 shall be transferred to the State Rail Authority – Commuter Rail Access Fund (fund
 8 8402).

9 Any unexpended balance remaining in the appropriation Other Assets (fund 0506,
 10 appropriation 69000) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
 11 during the fiscal year 2021.

79 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2021 Org 0805

1	Equipment (R)	07000	\$	25,000
2	Current Expenses (R)	13000		<u>2,237,989</u>
3	Total.....		\$	2,262,989

4 Any unexpended balances remaining in the appropriations for Equipment (fund 0510,
 5 appropriation 07000), Current Expenses (fund 0510, appropriation 13000), Buildings (fund 0510,
 6 appropriation 25800), and Other Assets (fund 0510, appropriation 69000) at the close of the fiscal
 7 year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

80 - Aeronautics Commission

2020]

HOUSE OF DELEGATES

1939

(WV Code Chapter 29)

Fund 0582 FY 2021 Org 0807

1	Personal Services and Employee Benefits.....	00100	\$	223,740
2	Current Expenses (R)	13000		591,839
3	Repairs and Alterations.....	06400		100
4	BRIM Premium	91300		<u>4,438</u>
5	Total.....		\$	820,117

6 Any unexpended balances remaining in the appropriations for Unclassified (fund 0582,
7 appropriation 09900) and Current Expenses (fund 0582, appropriation 13000) at the close of the
8 fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

DEPARTMENT OF VETERANS' ASSISTANCE

81 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2021 Org 0613

1	Personal Services and Employee Benefits.....	00100	\$	1,987,212
2	Unclassified	09900		20,000
3	Current Expenses	13000		161,450
4	Repairs and Alterations.....	06400		5,000
5	Veterans' Field Offices.....	22800		405,550
6	Veterans' Nursing Home (R).....	28600		6,916,912
7	Veterans' Toll Free Assistance Line.....	32800		2,015
8	Veterans' Reeducation Assistance (R).....	32900		40,000
9	Veterans' Grant Program (R)	34200		560,000
10	Veterans' Grave Markers	47300		10,000
11	Veterans Outreach Programs	61700		200,740
12	Veterans Cemetery.....	80800		389,215
13	BRIM Premium	91300		<u>50,000</u>
14	Total.....		\$	10,748,094

15 Any unexpended balances remaining in the appropriations for Veterans’ Nursing Home (fund
 16 0456, appropriation 28600), Veterans’ Reeducation Assistance (fund 0456, appropriation 32900),
 17 Veterans’ Grant Program (fund 0456, appropriation 34200), Veterans’ Bonus – Surplus (fund 0456,
 18 appropriation 34400), and Educational Opportunities for Children of Deceased Veterans (fund 0456,
 19 appropriation 85400) at the close of the fiscal year 2020 are hereby reappropriated for expenditure
 20 during the fiscal year 2021.

82 - Department of Veterans’ Assistance –

Veterans’ Home

(WV Code Chapter 9A)

Fund 0460 FY 2021 Org 0618

1	Personal Services and Employee Benefits.....	00100	\$	1,217,096
2	Current Expenses	13000		<u>46,759</u>
3	Total.....		\$	1,263,855

BUREAU OF SENIOR SERVICES

83 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2021 Org 0508

1	Current Expenses	13000	\$	500,000
2	Transfer to Division of Human Services for Health Care			
3	and Title XIX Waiver for Senior Citizens.....	53900		<u>29,950,955</u>
4	Total.....		\$	30,450,955

5 From the above appropriation for Current Expenses (fund 0420, appropriation 13000),
 6 \$500,000 shall be used for Local Senior Citizens Projects.

7 The above appropriation for Transfer to Division of Human Services for Health Care and Title
 8 XIX Waiver for Senior Citizens (fund 0420, appropriation 53900) along with the federal moneys
 9 generated thereby shall be used for reimbursement for services provided under the program.

10 The above appropriation is in addition to funding provided in fund 5405 for this program.

WEST VIRGINIA COUNCIL FOR COMMUNITY

AND TECHNICAL COLLEGE EDUCATION

84 - West Virginia Council for

Community and Technical College Education –

Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2021 Org 0420

1	West Virginia Council for Community			
2	and Technical Education (R)	39200	\$	738,955
3	Transit Training Partnership.....	78300		34,293
4	Community College Workforce Development (R).....	87800		2,786,925
5	College Transition Program	88700		278,222
6	West Virginia Advance Workforce Development (R).....	89300		3,118,960
7	Technical Program Development (R).....	89400		1,800,735
8	WV Invests Grant Program	89401		<u>7,034,748</u>
9	Total.....		\$	15,792,838

10 Any unexpended balances remaining in the appropriations for West Virginia Council for
 11 Community and Technical Education (fund 0596, appropriation 39200), Capital Improvements –
 12 Surplus (fund 0596, appropriation 66100), Community College Workforce Development (fund 0596,
 13 appropriation 87800), West Virginia Advance Workforce Development (fund 0596, appropriation
 14 89300), and Technical Program Development (fund 0596, appropriation 89400) at the close of the
 15 fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

16 From the above appropriation for the Community College Workforce Development (fund 0596,
 17 appropriation 87800), \$200,000 shall be expended on the Mine Training Program in Southern West
 18 Virginia.

19 Included in the above appropriation for West Virginia Advance Workforce Development (fund
 20 0596, appropriation 89300) is \$200,000 to be used exclusively for advanced manufacturing and
 21 energy industry specific training programs.

85 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2021 Org 0444

1	Mountwest Community and Technical College	48700	\$	6,489,307
---	---	-------	----	-----------

86 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2021 Org 0445

1	New River Community and Technical College	35800	\$	5,864,886
	<i>87 - Pierpont Community and Technical College</i>			
	(WV Code Chapter 18B)			
	Fund <u>0597</u> FY <u>2021</u> Org <u>0446</u>			
1	Pierpont Community and Technical College	93000	\$	7,820,129
	<i>88 - Blue Ridge Community and Technical College</i>			
	(WV Code Chapter 18B)			
	Fund <u>0601</u> FY <u>2021</u> Org <u>0447</u>			
1	Blue Ridge Community and Technical College	88500	\$	7,830,842
	<i>89 - West Virginia University at Parkersburg</i>			
	(WV Code Chapter 18B)			
	Fund <u>0351</u> FY <u>2021</u> Org <u>0464</u>			
1	West Virginia University – Parkersburg.....	47100	\$	10,319,284
	<i>90 - Southern West Virginia Community and Technical College</i>			
	(WV Code Chapter 18B)			
	Fund <u>0380</u> FY <u>2021</u> Org <u>0487</u>			
1	Southern West Virginia Community and Technical College	44600	\$	8,241,823
	<i>91 - West Virginia Northern Community and Technical College</i>			
	(WV Code Chapter 18B)			
	Fund <u>0383</u> FY <u>2021</u> Org <u>0489</u>			
1	West Virginia Northern Community and Technical College	44700	\$	7,285,825
	<i>92 - Eastern West Virginia Community and Technical College</i>			
	(WV Code Chapter 18B)			
	Fund <u>0587</u> FY <u>2021</u> Org <u>0492</u>			
1	Eastern West Virginia Community and Technical College.....	41200	\$	2,179,912
	<i>93 - BridgeValley Community and Technical College</i>			
	(WV Code Chapter 18B)			

Fund 0618 FY 2021 Org 0493

1	BridgeValley Community and Technical College.....	71700	\$	8,098,811
---	---	-------	----	-----------

HIGHER EDUCATION POLICY COMMISSION*94 - Higher Education Policy Commission –**Administration –**Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2021 Org 0441

1	Personal Services and Employee Benefits.....	00100	\$	2,710,154
2	Current Expenses	13000		1,113,606
3	Higher Education Grant Program	16400		40,619,864
4	Tuition Contract Program (R)	16500		1,225,120
5	Underwood-Smith Scholarship Program-Student Awards	16700		628,349
6	Facilities Planning and Administration.....	38600		1,760,254
7	Higher Education System Initiatives.....	48801		1,630,000
8	PROMISE Scholarship – Transfer	80000		18,500,000
9	HEAPS Grant Program (R)	86700		5,014,728
10	Mental Health Provider Loan Repayment.....	XXXXX		330,000
11	RHI Program and Site Support –			
12	RHEP Program Administration.....	03700		80,000
13	Health Professionals' Student Loan Program.....	86701		400,000
14	BRIM Premium	91300		<u>17,817</u>
15	Total.....		\$	74,029,892

16 Any unexpended balances remaining in the appropriations for Tuition Contract Program (fund
 17 0589, appropriation 16500), Capital Improvements – Surplus (fund 0589, appropriation 66100), and
 18 HEAPS Grant Program (fund 0589, appropriation 86700) at the close of the fiscal year 2020 are
 19 hereby reappropriated for expenditure during the fiscal year 2021.

20 The above appropriation for Facilities Planning and Administration (fund 0589, appropriation
 21 38600) is for operational expenses of the West Virginia Education, Research and Technology Park
 22 between construction and full occupancy.

23 The above appropriation for Higher Education Grant Program (fund 0589, appropriation
 24 16400) shall be transferred to the Higher Education Grant Fund (fund 4933, org 0441) established by
 25 W.Va. Code §18C-5-3.

26 The above appropriation for Underwood-Smith Scholarship Program-Student Awards (fund
 27 0589, appropriation 16700) shall be transferred to the Underwood-Smith Teacher Scholarship and
 28 Loan Assistance Fund (fund 4922, org 0441) established by W.Va. Code §18C-4-1.

29 The above appropriation for PROMISE Scholarship – Transfer (fund 0589, appropriation
 30 80000) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by
 31 W.Va. Code §18C-7-7.

95 - Higher Education Policy Commission –

Administration -

West Virginia Network for Educational Telecomputing (WVNET)

(WV Code Chapter 18B)

Fund 0551 FY 2021 Org 0495

1	WVNET	16900	\$	1,747,826
---	-------------	-------	----	-----------

96 - West Virginia University –

School of Medicine

Medical School Fund

(WV Code Chapter 18B)

Fund 0343 FY 2021 Org 0463

1	WVU School of Health Science – Eastern Division	05600	\$	2,235,352
2	WVU – School of Health Sciences	17400		15,056,370
3	WVU – School of Health Sciences – Charleston Division.....	17500		2,286,711
4	Rural Health Outreach Programs	37700		164,517
5	West Virginia University School of Medicine			
6	BRIM Subsidy	46000		1,203,087
7	Total.....		\$	20,946,037

8 The above appropriation for Rural Health Outreach Programs (fund 0343, appropriation
9 37700) includes rural health activities and programs; rural residency development and education; and
10 rural outreach activities.

11 The above appropriation for West Virginia University School of Medicine BRIM Subsidy (fund
12 0343, appropriation 46000) shall be paid to the Board of Risk and Insurance Management as a
13 general revenue subsidy against the "Total Premium Billed" to the institution as part of the full cost of
14 their malpractice insurance coverage.

97 - West Virginia University –

General Administrative Fund

(WV Code Chapter 18B)

Fund 0344 FY 2021 Org 0463

1	West Virginia University	45900	\$	97,017,960
2	Jackson's Mill	46100		491,458
3	West Virginia University Institute of Technology.....	47900		8,020,938
4	State Priorities – Brownfield Professional Development.....	53100		316,556
5	Energy Express	86100		382,935
6	West Virginia University – Potomac State	99400		<u>4,512,711</u>
7	Total.....		\$	110,742,558

8 From the above appropriation for Jackson's Mill (fund 0344, appropriation 46100) \$250,000
9 shall be used for the West Virginia State Fire Training Academy.

98 - Marshall University –

School of Medicine

(WV Code Chapter 18B)

Fund 0347 FY 2021 Org 0471

1	Marshall Medical School	17300	\$	12,235,068
2	Rural Health Outreach Programs (R).....	37700		156,022
3	Forensic Lab.....	37701		227,415
4	Center for Rural Health.....	37702		157,096
5	Marshall University Medical School BRIM Subsidy	44900		<u>872,612</u>
6	Total.....		\$	13,648,213

7 Any unexpended balance remaining in the appropriation for Rural Health Outreach Program
 8 (fund 0347, appropriation 37700) at the close of the fiscal year 2020 is hereby reappropriated for
 9 expenditure during the fiscal year 2021.

10 The above appropriation for Rural Health Outreach Programs (fund 0347, appropriation
 11 37700) includes rural health activities and programs; rural residency development and education; and
 12 rural outreach activities.

13 The above appropriation for Marshall University Medical School BRIM Subsidy (fund 0347,
 14 appropriation 44900) shall be paid to the Board of Risk and Insurance Management as a general
 15 revenue subsidy against the "Total Premium Billed" to the institution as part of the full cost of their
 16 malpractice insurance coverage.

99 - Marshall University –

General Administration Fund

(WV Code Chapter 18B)

Fund 0348 FY 2021 Org 0471

1	Marshall University	44800	\$	46,761,199
2	Luke Lee Listening Language and Learning Lab.....	44801		149,015
3	Vista E-Learning (R)	51900		229,019
4	State Priorities – Brownfield Professional Development (R)....	53100		309,606
5	Marshall University Graduate College Writing Project (R).....	80700		25,412
6	WV Autism Training Center (R).....	93200		<u>1,808,381</u>
7	Total.....		\$	49,282,632

8 Any unexpended balances remaining in the appropriations for Vista E-Learning (fund 0348,
 9 appropriation 51900), State Priorities – Brownfield Professional Development (fund 0348,
 10 appropriation 53100), Marshall University Graduate College Writing Project (fund 0348, appropriation
 11 80700), and WV Autism Training Center (fund 0348, appropriation 93200) at the close of the fiscal
 12 year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

100 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2021 Org 0476

1	West Virginia School of Osteopathic Medicine	17200	\$	8,879,296
2	Rural Health Outreach Programs (R).....	37700		166,111
3	West Virginia School of Osteopathic Medicine			

4	BRIM Subsidy	40300		153,405
5	Rural Health Initiative – Medical Schools Support.....	58100		<u>397,592</u>
6	Total.....		\$	9,596,404

7 Any unexpended balance remaining in the appropriation for Rural Health Outreach Programs
 8 (fund 0336, appropriation 37700) at the close of fiscal year 2020 is hereby reappropriated for
 9 expenditure during the fiscal year 2021.

10 The above appropriation for Rural Health Outreach Programs (fund 0336, appropriation
 11 37700) includes rural health activities and programs; rural residency development and education; and
 12 rural outreach activities.

13 The above appropriation for West Virginia School of Osteopathic Medicine BRIM Subsidy
 14 (fund 0336, appropriation 40300) shall be paid to the Board of Risk and Insurance Management as
 15 a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost
 16 of their malpractice insurance coverage.

101 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2021 Org 0482

1	Bluefield State College.....	40800	\$	6,383,221
---	------------------------------	-------	----	-----------

102 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2021 Org 0483

1	Concord University	41000	\$	10,476,415
---	--------------------------	-------	----	------------

103 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2021 Org 0484

1	Fairmont State University.....	41400	\$	18,600,341
---	--------------------------------	-------	----	------------

104 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2021 Org 0485

1	Glenville State College.....	42800	\$	6,446,942
---	------------------------------	-------	----	-----------

105 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2021 Org 0486

1	Shepherd University	43200	\$	12,683,829
---	---------------------------	-------	----	------------

106 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2021 Org 0488

1	West Liberty University	43900	\$	9,102,662
---	-------------------------------	-------	----	-----------

107 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2021 Org 0490

	West Virginia State University	44100	\$	11,342,512
--	--------------------------------------	-------	----	------------

	West Virginia State University Land Grant Match.....	95600		<u>2,950,192</u>
--	--	-------	--	------------------

	Total.....		\$	14,292,704
--	------------	--	----	------------

From the above appropriation for West Virginia State University (fund 0373, appropriation 44100), \$300,000 shall be for the Healthy Grandfamilies program.

MISCELLANEOUS BOARDS AND COMMISSIONS

108 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 0433 FY 2021 Org 0603

1	Unclassified (R)	09900	\$	106,798
---	------------------------	-------	----	---------

2	College Education Fund.....	23200		4,000,000
---	-----------------------------	-------	--	-----------

3	Civil Air Patrol	23400		249,664
---	------------------------	-------	--	---------

4	Mountaineer ChalleNGe Academy.....	70900		4,800,000
---	------------------------------------	-------	--	-----------

5	Armory Board Transfer	70015		2,317,555
---	-----------------------------	-------	--	-----------

6	Military Authority (R)	74800		6,260,251
---	------------------------------	-------	--	-----------

7	Drug Enforcement and Support	74801		<u>1,500,000</u>
---	------------------------------------	-------	--	------------------

8 Total..... \$ 19,234,268

9 Any unexpended balances remaining in the appropriations for Unclassified (fund 0433,
10 appropriation 09900), Military Authority (fund 0433, appropriation 74800), and Military Authority –
11 Surplus (fund 0433, appropriation 74899) at the close of the fiscal year 2020 is hereby reappropriated
12 for expenditure during the fiscal year 2021.

13 From the above appropriations an amount approved by the Adjutant General may be
14 transferred to the State Armory Board for operation and maintenance of National Guard Armories.

15 The adjutant general shall have the authority to transfer between appropriations.

16 From the above appropriation and other state and federal funding, the Adjutant General shall
17 provide an amount not less than \$4,800,000 to the Mountaineer ChalleNGe Academy to meet
18 anticipated program demand.

109 - Adjutant General –

Military Fund

(WV Code Chapter 15)

Fund 0605 FY 2021 Org 0603

1	Personal Services and Employee Benefits.....	00100	\$	100,000
2	Current Expenses	13000		<u>57,775</u>
3	Total.....		\$	157,775

4 Total TITLE II, Section 1 – General Revenue

5 (Including claims against the state) \$ 4,574,513,367

1 **Sec. 2. Appropriations from state road fund.** — From the state road fund there are hereby
2 appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of
3 the Code the following amounts, as itemized, for expenditure during the fiscal year 2021.

DEPARTMENT OF TRANSPORTATION

110 - Division of Motor Vehicles

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20, and 24A)

Fund 9007 FY 2021 Org 0802

				State
				Road
				Fund
1	Personal Services and Employee Benefits.....	00100	\$	25,977,939

1950

JOURNAL OF THE

[MARCH 7

2	Current Expenses	13000		16,175,840
3	Repairs and Alterations.....	06400		144,000
4	Equipment	07000		1,080,000
5	Buildings	25800		10,000
6	Other Assets	69000		2,600,000
7	BRIM Premium	91300		<u>89,940</u>
8	Total.....		\$	46,077,719

111 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2021 Org 0803

1	Debt Service	04000	\$	150,000,000
2	Maintenance	23700		489,932,854
3	Inventory Revolving	27500		4,000,000
4	Equipment Revolving.....	27600		18,000,000
5	General Operations	27700		80,000,000
6	Interstate Construction.....	27800		90,000,000
7	Other Federal Aid Programs	27900		370,000,000
8	Appalachian Programs.....	28000		100,000,000
9	Highway Litter Control.....	28200		1,650,000
10	Courtesy Patrol	28201		<u>5,000,000</u>
11	Total.....		\$	1,308,582,854

12 The above appropriations are to be expended in accordance with the provisions of Chapters
13 17 and 17C of the code.

14 The Commissioner of Highways shall have the authority to operate revolving funds within the
15 State Road Fund for the operation and purchase of various types of equipment used directly and
16 indirectly in the construction and maintenance of roads and for the purchase of inventories and
17 materials and supplies.

18 There is hereby appropriated in addition to the above appropriations, sufficient money for the
19 payment of claims, accrued or arising during this budgetary period, to be paid in accordance with
20 Sections 17 and 18, Article 2, Chapter 14 of the code.

21 It is the intent of the Legislature to capture and match all federal funds available for
 22 expenditure on the Appalachian highway system at the earliest possible time. Therefore, should
 23 amounts in excess of those appropriated be required for the purposes of Appalachian programs,
 24 funds in excess of the amount appropriated may be made available upon recommendation of the
 25 commissioner and approval of the Governor. Further, for the purpose of Appalachian programs, funds
 26 appropriated by appropriation may be transferred to other appropriations upon recommendation of
 27 the commissioner and approval of the Governor.

112 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2021 Org 0808

1	Personal Services and Employee Benefits.....	00100	\$	1,698,752
2	Current Expenses	13000		338,278
3	Repairs and Alterations.....	06400		3,000
4	Equipment	07000		15,500
5	BRIM Premium	91300		<u>10,000</u>
6	Total.....		\$	2,065,530
7	Total TITLE II, Section 2 – State Road Fund			
8	(Including claims against the state)		\$	<u><u>1,357,570,267</u></u>

1 **Sec. 3. Appropriations from other funds.** — From the funds designated there are hereby
 2 appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of
 3 the Code the following amounts, as itemized, for expenditure during the fiscal year 2021.

LEGISLATIVE

113 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2021 Org 2300

		Appro-		Other
		priation		Funds
1	Personal Services and Employee Benefits.....	00100	\$	498,020
2	Current Expenses	13000		133,903
3	Repairs and Alterations.....	06400		1,000
4	Economic Loss Claim Payment Fund	33400		2,000,000

5	Other Assets.....	69000		3,700
6	Total.....		\$	2,636,623

JUDICIAL

114 - Supreme Court –

Family Court Fund

(WV Code Chapter 51)

Fund 1763 FY 2021 Org 2400

1	Current Expenses.....	13000		\$ 1,150,000
---	-----------------------	-------	--	--------------

2 From the above appropriation for Current Expenses (fund 1763, appropriation 13000),
3 \$100,000 shall be used for the West Virginia CASA Association.

115 - Supreme Court –

Court Advanced Technology Subscription Fund

(WV Code Chapter 51)

Fund 1704 FY 2021 Org 2400

1	Current Expenses.....	13000		\$ 100,000
---	-----------------------	-------	--	------------

116 - Supreme Court –

Adult Drug Court Participation Fund

(WV Code Chapter 62)

Fund 1705 FY 2021 Org 2400

1	Current Expenses.....	13000		\$ 200,000
---	-----------------------	-------	--	------------

EXECUTIVE

117 - Governor's Office –

Minority Affairs Fund

(WV Code Chapter 5)

Fund 1058 FY 2021 Org 0100

1	Personal Services and Employee Benefits.....	00100		\$ 177,737
---	--	-------	--	------------

2	Current Expenses.....	13000		503,200
---	-----------------------	-------	--	---------

3	Martin Luther King, Jr. Holiday Celebration.....	03100		<u>8,926</u>
4	Total.....		\$	689,863

118 - Auditor's Office –

Land Operating Fund

(WV Code Chapters 11A, 12, and 36)

Fund 1206 FY 2021 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$	799,211
2	Unclassified	09900		15,139
3	Current Expenses	13000		715,291
4	Repairs and Alterations.....	06400		2,600
5	Equipment	07000		426,741
6	Cost of Delinquent Land Sales.....	76800		<u>1,841,168</u>
7	Total.....		\$	3,800,150

8 There is hereby appropriated from this fund, in addition to the above appropriations if needed,
 9 the necessary amount for the expenditure of funds other than Personal Services and Employee
 10 Benefits to enable the division to pay the direct expenses relating to land sales as provided in Chapter
 11 11A of the West Virginia Code.

12 The total amount of these appropriations shall be paid from the special revenue fund out of
 13 fees and collections as provided by law.

119 - Auditor's Office –

Local Government Purchasing Card Expenditure Fund

(WV Code Chapter 6)

Fund 1224 FY 2021 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$	627,779
2	Current Expenses	13000		282,030
3	Repairs and Alterations.....	06400		6,000
4	Equipment	07000		10,805
5	Other Assets.....	69000		50,000
6	Statutory Revenue Distribution	74100		<u>3,500,000</u>

7 Total..... \$ 4,476,614

8 There is hereby appropriated from this fund, in addition to the above appropriations if needed,
 9 the amount necessary to meet the transfer of revenue distribution requirements to provide a
 10 proportionate share of rebates back to the general fund of local governments based on utilization of
 11 the program in accordance with W.Va. Code §6-9-2b.

120 - Auditor's Office –

Securities Regulation Fund

(WV Code Chapter 32)

Fund 1225 FY 2021 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$	2,487,017
2	Unclassified	09900		31,866
3	Current Expenses	13000		1,463,830
4	Repairs and Alterations.....	06400		12,400
5	Equipment	07000		394,700
6	Other Assets.....	69000		<u>900,000</u>
7	Total.....		\$	5,289,813

121 - Auditor's Office – Technology Support and Acquisition Fund

(WV Code Chapter 12)

Fund 1233 FY 2021 Org 1200

1	Current Expenses	13000	\$	10,000
2	Other Assets.....	69000		<u>5,000</u>
3	Total.....		\$	15,000

4 Fifty percent of the deposits made into this fund shall be transferred to the Treasurer's Office
 5 – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the purposes
 6 described in W.Va. Code §12-3-10c.

122 - Auditor's Office –

Purchasing Card Administration Fund

(WV Code Chapter 12)

Fund 1234 FY 2021 Org 1200

2020] HOUSE OF DELEGATES 1955

1	Personal Services and Employee Benefits.....	00100	\$	2,824,837
2	Current Expenses	13000		2,303,622
3	Repairs and Alterations.....	06400		5,500
4	Equipment	07000		650,000
5	Other Assets	69000		308,886
6	Statutory Revenue Distribution	74100		<u>8,000,000</u>
7	Total.....		\$	14,092,845

8 There is hereby appropriated from this fund, in addition to the above appropriations if needed,
 9 the amount necessary to meet the transfer and revenue distribution requirements to the Purchasing
 10 Improvement Fund (fund 2264), the Hatfield-McCoy Regional Recreation Authority, and the State
 11 Park Operating Fund (fund 3265) per W.Va. Code §12-3-10d.

123 - Auditor's Office –

Chief Inspector's Fund

(WV Code Chapter 6)

Fund 1235 FY 2021 Org 1200

1	Personal Services and Employee Benefits.....	00100	\$	3,583,096
2	Current Expenses	13000		765,915
3	Equipment	07000		<u>50,000</u>
4	Total.....		\$	4,399,011

124 - Auditor's Office –

Volunteer Fire Department Workers'

Compensation Premium Subsidy Fund

(WV Code Chapters 12 and 33)

Fund 1239 FY 2021 Org 1200

1	Volunteer Fire Department			
2	Workers' Compensation Subsidy	83200	\$	2,500,000

125 - Treasurer's Office

College Prepaid Tuition and Savings Program

Administrative Account

(WV Code Chapter 18)

Fund 1301 FY 2021 Org 1300

1	Personal Services and Employee Benefits.....	00100	\$	810,372
2	Unclassified	09900		14,000
3	Current Expenses	13000		<u>897,559</u>
4	Total.....		\$	1,721,931

*126 - Department of Agriculture –**Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	2,425,446
2	Unclassified	09900		37,425
3	Current Expenses	13000		1,856,184
4	Repairs and Alterations.....	06400		158,500
5	Equipment	07000		436,209
6	Other Assets.....	69000		<u>10,000</u>
7	Total.....		\$	4,923,764

*127 - Department of Agriculture –**West Virginia Rural Rehabilitation Program*

(WV Code Chapter 19)

Fund 1408 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	78,251
2	Unclassified	09900		10,476
3	Current Expenses	13000		<u>963,404</u>
4	Total.....		\$	1,052,131

128 - Department of Agriculture –

General John McCausland Memorial Farm Fund

(WV Code Chapter 19)

Fund 1409 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	71,937
2	Unclassified	09900		2,100
3	Current Expenses	13000		89,500
4	Repairs and Alterations.....	06400		36,400
5	Equipment	07000		<u>15,000</u>
6	Total.....		\$	214,937

7 The above appropriations shall be expended in accordance with Article 26, Chapter 19 of the
8 Code.

129 - Department of Agriculture –

Farm Operating Fund

(WV Code Chapter 19)

Fund 1412 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	868,492
2	Unclassified	09900		15,173
3	Current Expenses	13000		1,367,464
4	Repairs and Alterations.....	06400		388,722
5	Equipment	07000		399,393
6	Other Assets.....	69000		<u>20,000</u>
7	Total.....		\$	3,059,244

130 - Department of Agriculture –

Capital Improvements Fund

(WV Code Chapter 19)

Fund 1413 FY 2021 Org 1400

1	Unclassified	09900		10,000
---	--------------------	-------	--	--------

1958

JOURNAL OF THE

[MARCH 7

2	Current Expenses	13000		10,000
3	Repairs and Alterations.....	06400		250,000
4	Equipment	07000		350,000
5	Building Improvements	25800		370,000
6	Other Assets.....	69000		<u>10,000</u>
7	Total.....		\$	1,000,000

131 - Department of Agriculture –

Donated Food Fund

(WV Code Chapter 19)

Fund 1446 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	1,030,451
2	Unclassified	09900		45,807
3	Current Expenses	13000		3,410,542
4	Repairs and Alterations.....	06400		128,500
5	Equipment	07000		10,000
6	Other Assets.....	69000		27,000
7	Land	73000		<u>250,000</u>
8	Total.....		\$	4,902,300

132 - Department of Agriculture –

Integrated Predation Management Fund

(WV Code Chapter 7)

Fund 1465 FY 2021 Org 1400

1	Current Expenses	13000	\$	112,500
---	------------------------	-------	----	---------

133 - Department of Agriculture –

West Virginia Spay Neuter Assistance Fund

(WV Code Chapter 19)

Fund 1481 FY 2021 Org 1400

2020] HOUSE OF DELEGATES 1959

1 Current Expenses 13000 \$ 500,000

*134 - Department of Agriculture –
Veterans and Warriors to Agriculture Fund
(WV Code Chapter 19)*

Fund 1483 FY 2021 Org 1400

1 Current Expenses 13000 \$ 7,500

*135 - Department of Agriculture –
State FFA-FHA Camp and Conference Center
(WV Code Chapters 18 and 18A)*

Fund 1484 FY 2021 Org 1400

1 Personal Services and Employee Benefits..... 00100 \$ 1,218,564

2 Unclassified 09900 17,000

3 Current Expenses 13000 1,143,306

4 Repairs and Alterations..... 06400 82,500

5 Equipment 07000 76,000

6 Buildings 25800 1,000

7 Other Assets 69000 10,000

8 Land 73000 1,000

9 Total..... \$ 2,549,370

*136 - Attorney General –
Antitrust Enforcement Fund
(WV Code Chapter 47)*

Fund 1507 FY 2021 Org 1500

1 Personal Services and Employee Benefits..... 00100 \$ 363,466

2 Current Expenses 13000 148,803

3 Repairs and Alterations..... 06400 1,000

4 Equipment 07000 1,000

5 Total..... \$ 514,269

137 - Attorney General –

Preneed Burial Contract Regulation Fund

(WV Code Chapter 47)

Fund 1513 FY 2021 Org 1500

1	Personal Services and Employee Benefits.....	00100	\$	222,569
2	Current Expenses	13000		54,615
3	Repairs and Alterations.....	06400		1,000
4	Equipment	07000		<u>1,000</u>
5	Total.....		\$	279,184

138 - Attorney General –

Preneed Funeral Guarantee Fund

(WV Code Chapter 47)

Fund 1514 FY 2021 Org 1500

1	Current Expenses	13000	\$	901,135
---	------------------------	-------	----	---------

139 - Secretary of State –

Service Fees and Collection Account

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2021 Org 1600

1	Personal Services and Employee Benefits.....	00100	\$	1,065,106
2	Unclassified	09900		4,524
3	Current Expenses	13000		<u>8,036</u>
4	Total.....		\$	1,077,666

140 - Secretary of State –

General Administrative Fees Account

(WV Code Chapters 3, 5, and 59)

Fund 1617 FY 2021 Org 1600

2020]	HOUSE OF DELEGATES		1961
1	Personal Services and Employee Benefits.....	00100	\$ 2,947,630
2	Unclassified	09900	25,529
3	Current Expenses	13000	976,716
4	Technology Improvements.....	59900	<u>570,000</u>
5	Total.....		\$ 4,519,875

DEPARTMENT OF ADMINISTRATION

141 - Department of Administration –

Office of the Secretary –

Tobacco Settlement Fund

(WV Code Chapter 4)

Fund 2041 FY 2021 Org 0201

1	Tobacco Settlement Securitization Trustee Pass Thru.....	65000	\$ 80,000,000
---	--	-------	---------------

142 - Department of Administration –

Office of the Secretary –

Employee Pension and Health Care Benefit Fund

(WV Code Chapter 18)

Fund 2044 FY 2021 Org 0201

1	Current Expenses	13000	\$ 33,028,000
---	------------------------	-------	---------------

2 The above appropriation for Current Expenses (fund 2044, appropriation 13000) shall be
3 transferred to the Consolidated Public Retirement Board – Teachers’ Accumulation Fund (fund 2600).

143 - Department of Administration –

Division of Finance –

Shared Services Section Fund

(WV Code Chapter 5A)

Fund 2020 FY 2021 Org 0209

1	Personal Services and Employee Benefits.....	00100	\$ 1,500,000
2	Current Expenses	13000	<u>500,000</u>

3 Total..... \$ 2,000,000

144 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2021 Org 0210

1	Personal Services and Employee Benefits.....	00100	\$	22,464,463
2	Unclassified	09900		382,354
3	Current Expenses	13000		13,378,766
4	Repairs and Alterations.....	06400		1,000
5	Equipment	07000		2,050,000
6	Other Assets.....	69000		<u>1,045,000</u>
7	Total.....		\$	39,321,583

8 The total amount of these appropriations shall be paid from a special revenue fund out of
 9 collections made by the Division of Information Services and Communications as provided by law.

10 Each spending unit operating from the General Revenue Fund, from special revenue funds
 11 or receiving reimbursement for postage from the federal government shall be charged monthly for all
 12 postage meter service and shall reimburse the revolving fund monthly for all such amounts.

145 - Division of Purchasing –

Vendor Fee Fund

(WV Code Chapter 5A)

Fund 2263 FY 2021 Org 0213

1	Personal Services and Employee Benefits.....	00100	\$	741,589
2	Unclassified	09900		2,382
3	Current Expenses	13000		208,115
4	Repairs and Alterations.....	06400		5,000
5	Equipment	07000		2,500
6	Other Assets.....	69000		2,500
7	BRIM Premium	91300		<u>810</u>
8	Total.....		\$	962,896

*146 - Division of Purchasing –
Purchasing Improvement Fund
(WV Code Chapter 5A)
Fund 2264 FY 2021 Org 0213*

1	Personal Services and Employee Benefits.....	00100	\$	778,176
2	Unclassified	09900		5,562
3	Current Expenses	13000		393,066
4	Repairs and Alterations.....	06400		500
5	Equipment	07000		500
6	Other Assets	69000		500
7	BRIM Premium	91300		<u>850</u>
8	Total.....		\$	1,179,154

*147 - Travel Management –
Aviation Fund
(WV Code Chapter 5A)
Fund 2302 FY 2021 Org 0215*

1	Unclassified	09900	\$	1,000
2	Current Expenses	13000		149,700
3	Repairs and Alterations.....	06400		1,175,237
4	Equipment	07000		1,000
5	Buildings	25800		100
6	Other Assets	69000		100
7	Land	73000		<u>100</u>
8	Total.....		\$	1,327,237

*148 - Fleet Management Division Fund
(WV Code Chapter 5A)
Fund 2301 FY 2021 Org 0216*

1964

JOURNAL OF THE

[MARCH 7

1	Personal Services and Employee Benefits.....	00100	\$	757,145
2	Unclassified	09900		4,000
3	Current Expenses	13000		8,130,614
4	Repairs and Alterations.....	06400		12,000
5	Equipment	07000		800,000
6	Other Assets.....	69000		<u>2,000</u>
7	Total.....		\$	9,705,759

149 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2021 Org 0222

1	Personal Services and Employee Benefits.....	00100	\$	4,760,683
2	Unclassified	09900		51,418
3	Current Expenses	13000		1,262,813
4	Repairs and Alterations.....	06400		5,000
5	Equipment	07000		20,000
6	Other Assets.....	69000		<u>60,000</u>
7	Total.....		\$	6,159,914

8 The total amount of these appropriations shall be paid from a special revenue fund out of fees
9 collected by the Division of Personnel.

150 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2021 Org 0228

1	Personal Services and Employee Benefits.....	00100	\$	251,663
2	Unclassified	09900		4,023
3	Current Expenses	13000		297,528
4	Repairs and Alterations.....	06400		600
5	Equipment	07000		500

2020] HOUSE OF DELEGATES 1965

6	Other Assets.....	69000	<u>500</u>
7	Total.....		\$ 554,814

*151 - Office of Technology –
Chief Technology Officer Administration Fund
(WV Code Chapter 5A)*

Fund 2531 FY 2021 Org 0231

1	Personal Services and Employee Benefits.....	00100	\$ 414,722
2	Unclassified	09900	6,949
3	Current Expenses	13000	227,116
4	Repairs and Alterations.....	06400	1,000
5	Equipment	07000	50,000
6	Other Assets.....	69000	<u>10,000</u>
7	Total.....		\$ 709,787

8 From the above fund, the provisions of W.Va. Code §11B-2-18 shall not operate to permit
9 expenditures in excess of the funds authorized for expenditure herein.

DEPARTMENT OF COMMERCE

152 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2021 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$ 1,574,177
2	Current Expenses	13000	282,202
3	Repairs and Alterations.....	06400	53,000
4	Equipment	07000	<u>300,000</u>
5	Total.....		\$ 2,209,379

*153 - Division of Forestry –
Timbering Operations Enforcement Fund
(WV Code Chapter 19)*

Fund 3082 FY 2021 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$	239,244
2	Current Expenses	13000		87,036
3	Repairs and Alterations.....	06400		<u>11,250</u>
4	Total.....		\$	337,530

*154 - Division of Forestry –
Severance Tax Operations
(WV Code Chapter 11)*

Fund 3084 FY 2021 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$	859,626
2	Current Expenses	13000		<u>435,339</u>
3	Total.....		\$	1,294,965

*155 - Geological and Economic Survey –
Geological and Analytical Services Fund
(WV Code Chapter 29)*

Fund 3100 FY 2021 Org 0306

1	Personal Services and Employee Benefits.....	00100	\$	37,966
2	Unclassified	09900		2,182
3	Current Expenses	13000		141,631
4	Repairs and Alterations.....	06400		50,000
5	Equipment	07000		20,000
6	Other Assets.....	69000		<u>10,000</u>
7	Total.....		\$	261,779

8 The above appropriations shall be used in accordance with W.Va. Code §29-2-4.

*156 - West Virginia Development Office –
Department of Commerce –
Marketing and Communications Operating Fund*

2020]

HOUSE OF DELEGATES

1967

(WV Code Chapter 5B)

Fund 3002 FY 2021 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$	1,724,082
2	Equipment	07000		36,000
3	Unclassified	09900		30,000
4	Current Expenses	13000		<u>1,315,078</u>
5	Total.....		\$	3,105,160

157 - West Virginia Development Office –

Office of Coalfield Community Development

(WV Code Chapter 5B)

Fund 3162 FY 2021 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$	435,661
2	Unclassified	09900		8,300
3	Current Expenses	13000		<u>399,191</u>
4	Total.....		\$	843,152

158 - West Virginia Development Office

Entrepreneurship and Innovation Investment Fund

(WV Code Chapter 5B)

Fund 3014 FY 2021 Org 0307

	Entrepreneurship and Innovation Investment Fund.....	70301	\$	500,000
--	--	-------	----	---------

159 - Division of Labor –

West Virginia Jobs Act Fund

(WV Code Chapter 21)

Fund 3176 FY 2021 Org 0308

1	Current Expenses	13000		75,000
2	Equipment	07000		<u>25,500</u>
3	Total.....		\$	100,000

160 - Division of Labor –

HVAC Fund

(WV Code Chapter 21)

Fund 3186 FY 2021 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	300,000
2	Unclassified	09900		4,000
3	Current Expenses	13000		85,000
4	Repairs and Alterations.....	06400		1,500
5	Buildings	25800		1,000
6	BRIM Premium	91300		<u>8,500</u>
7	Total.....		\$	400,000

161 - Division of Labor –

Contractor Licensing Board Fund

(WV Code Chapter 21)

Fund 3187 FY 2021 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	2,532,000
2	Unclassified	09900		21,000
3	Current Expenses	13000		500,000
4	Repairs and Alterations.....	06400		5,000
5	Buildings	25800		5,000
6	BRIM Premium	91300		<u>8,500</u>
7	Total.....		\$	3,071,500

162 - Division of Labor –

Elevator Safety Fund

(WV Code Chapter 21)

Fund 3188 FY 2021 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	397,862
---	--	-------	----	---------

2020]	HOUSE OF DELEGATES		1969
2	Unclassified	09900	2,261
3	Current Expenses	13000	44,112
4	Repairs and Alterations.....	06400	2,000
5	Buildings	25800	1,000
6	BRIM Premium	91300	<u>8,500</u>
7	Total.....		\$ 455,735

163 - Division of Labor –

Steam Boiler Fund

(WV Code Chapter 21)

Fund 3189 FY 2021 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$ 82,716
2	Unclassified	09900	1,000
3	Current Expenses	13000	15,000
4	Repairs and Alterations.....	06400	2,000
5	Buildings	25800	1,000
6	BRIM Premium	91300	<u>1,000</u>
7	Total.....		\$ 102,716

164 - Division of Labor –

Crane Operator Certification Fund

(WV Code Chapter 21)

Fund 3191 FY 2021 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$ 191,899
2	Unclassified	09900	1,380
3	Current Expenses	13000	49,765
4	Repairs and Alterations.....	06400	1,500
5	Buildings	25800	1,000
6	BRIM Premium	91300	<u>8,500</u>

7 Total..... \$ 254,044

165 - Division of Labor –

Amusement Rides and Amusement Attraction Safety Fund

(WV Code Chapter 21)

Fund 3192 FY 2021 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	187,462
2	Unclassified	09900		1,281
3	Current Expenses	13000		44,520
4	Repairs and Alterations.....	06400		2,000
5	Buildings	25800		1,000
6	BRIM Premium	91300		<u>8,500</u>
7	Total.....		\$	244,763

166 - Division of Labor –

State Manufactured Housing Administration Fund

(WV Code Chapter 21)

Fund 3195 FY 2021 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	289,199
2	Unclassified	09900		1,847
3	Current Expenses	13000		43,700
4	Repairs and Alterations.....	06400		1,000
5	Buildings	25800		1,000
6	BRIM Premium	91300		<u>3,404</u>
7	Total.....		\$	340,150

167 - Division of Labor –

Weights and Measures Fund

(WV Code Chapter 47)

Fund 3196 FY 2021 Org 0308

2020] HOUSE OF DELEGATES 1971

1	Personal Services and Employee Benefits.....	00100	\$	0
2	Current Expenses	13000		100,000
3	Unclassified	09900		1,200
4	Repairs and Alterations.....	06400		10,000
5	Equipment	07000		10,000
6	BRIM Premium	91300		<u>0</u>
7	Total.....		\$	121,200

168 - Division of Labor –

Bedding and Upholstery Fund

(WV Code Chapter 21)

Fund 3198 FY 2021 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	150,000
2	Unclassified	09900		2,000
3	Current Expenses	13000		43,000
4	Repairs and Alterations.....	06400		2,000
5	Buildings	25800		1,000
6	BRIM Premium	91300		<u>2,000</u>
7	Total.....		\$	200,000

169 - Division of Labor –

Psychophysiological Examiners Fund

(WV Code Chapter 21)

Fund 3199 FY 2021 Org 0308

1	Current Expenses	13000	\$	4,000
---	------------------------	-------	----	-------

170 - Division of Natural Resources –

License Fund – Wildlife Resources

(WV Code Chapter 20)

Fund 3200 FY 2021 Org 0310

1	Wildlife Resources	02300	\$	5,200,996
2	Administration	15500		1,300,249
3	Capital Improvements and Land Purchase (R)	24800		1,300,248
4	Law Enforcement.....	80600		<u>5,200,996</u>
5	Total.....		\$	13,002,489

6 The total amount of these appropriations shall be paid from a special revenue fund out of fees
 7 collected by the Division of Natural Resources.

8 Any unexpended balance remaining in the appropriation for Capital Improvements and Land
 9 Purchase (fund 3200, appropriation 24800) at the close of the fiscal year 2020 is hereby
 10 reappropriated for expenditure during the fiscal year 2021.

*171 - Division of Natural Resources –
 Natural Resources Game Fish and Aquatic Life Fund
 (WV Code Chapter 22)
 Fund 3202 FY 2021 Org 0310*

1	Current Expenses	13000	\$	125,000
---	------------------------	-------	----	---------

*172 - Division of Natural Resources –
 Nongame Fund
 (WV Code Chapter 20)
 Fund 3203 FY 2021 Org 0310*

1	Personal Services and Employee Benefits.....	00100	\$	688,103
2	Current Expenses	13000		201,810
3	Equipment	07000		<u>106,615</u>
4	Total.....		\$	996,528

*173 - Division of Natural Resources –
 Planning and Development Division
 (WV Code Chapter 20)
 Fund 3205 FY 2021 Org 0310*

1	Personal Services and Employee Benefits.....	00100	\$	457,738
---	--	-------	----	---------

2020]	HOUSE OF DELEGATES		1973
2	Current Expenses	13000	257,864
3	Repairs and Alterations.....	06400	15,016
4	Equipment	07000	8,300
5	Buildings	25800	8,300
6	Other Assets	69000	1,900,000
7	Land	73000	<u>31,700</u>
8	Total.....		\$ 2,678,918

174 - Division of Natural Resources –

Whitewater Study and Improvement Fund

(WV Code Chapter 20)

Fund 3253 FY 2021 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$ 67,641
2	Current Expenses	13000	64,778
3	Equipment	07000	1,297
4	Buildings	25800	<u>6,969</u>
5	Total.....		\$ 140,685

175 - Division of Natural Resources –

Whitewater Advertising and Promotion Fund

(WV Code Chapter 20)

Fund 3256 FY 2021 Org 0310

1	Unclassified	09900	\$ 200
2	Current Expenses	13000	<u>19,800</u>
3	Total.....		\$ 20,000

176 - Division of Miners' Health, Safety and Training –

Special Health, Safety and Training Fund

(WV Code Chapter 22A)

Fund 3355 FY 2021 Org 0314

1974

JOURNAL OF THE

[MARCH 7

1	Personal Services and Employee Benefits.....	00100	\$	501,228
2	WV Mining Extension Service	02600		150,000
3	Unclassified	09900		40,985
4	Current Expenses	13000		1,954,557
5	Buildings	25800		2,481,358
6	Land	73000		<u>1,000,000</u>
7	Total.....		\$	6,128,128

177 - Department of Commerce –

Office of the Secretary –

Broadband Enhancement Fund

Fund 3013 FY 2021 Org 0327

1	Personal Services and Employee Benefits.....	00100	\$	131,682
2	Current Expenses	13000	\$	<u>1,648,318</u>
3	Total.....			1,780,000

178 - Office of Energy –

Energy Assistance

(WV Code Chapter 5B)

Fund 3010 FY 2021 Org 0328

1	Energy Assistance – Total	64700	\$	7,211
---	---------------------------------	-------	----	-------

179 - State Board of Rehabilitation –

Division of Rehabilitation Services –

West Virginia Rehabilitation Center Special Account

(WV Code Chapter 18)

Fund 8664 FY 2021 Org 0932

1	Personal Services and Employee Benefits.....	00100	\$	119,738
2	Current Expenses	13000		1,180,122
3	Repairs and Alterations.....	06400		85,500

	2020]	HOUSE OF DELEGATES		1975
4	Equipment	07000		220,000
5	Buildings	25800		150,000
6	Other Assets	69000		<u>150,000</u>
7	Total		\$	1,905,360

DEPARTMENT OF EDUCATION

180 - State Board of Education –

Strategic Staff Development

(WV Code Chapter 18)

Fund 3937 FY 2021 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	134,000
2	Unclassified	09900		1,000
3	Current Expenses	13000		<u>765,000</u>
4	Total		\$	900,000

181 - State Board of Education –

School Construction Fund

(WV Code Chapters 18 and 18A)

Fund 3952 FY 2021 Org 0402

1	SBA Construction Grants	24000	\$	35,845,818
2	Directed Transfer	70000		<u>1,371,182</u>
3	Total		\$	37,217,000

4 The above appropriation for Directed Transfer (fund 3951, appropriation 70000) shall be
5 transferred to the School Building Authority Fund (fund 3959) for the administrative expenses of the
6 School Building Authority.

182 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2021 Org 0404

1	Personal Services and Employee Benefits.....	00100	\$	1,134,522
2	Current Expenses	13000		244,100

1976

JOURNAL OF THE

[MARCH 7

3	Repairs and Alterations.....	06400		13,150
4	Equipment	07000		<u>26,000</u>
5	Total.....		\$	1,417,772

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

183 - Division of Culture and History –

Public Records and Preservation Revenue Account

(WV Code Chapter 5A)

Fund 3542 FY 2021 Org 0432

1	Personal Services and Employee Benefits.....	00100	\$	226,624
2	Current Expenses	13000		862,241
3	Equipment	07000		75,000
4	Buildings.....	25800		1,000
5	Other Assets.....	69000		52,328
6	Land	73000		<u>1,000</u>
7	Total.....		\$	1,218,193

DEPARTMENT OF ENVIRONMENTAL PROTECTION

184 - Solid Waste Management Board

(WV Code Chapter 22C)

Fund 3288 FY 2021 Org 0312

1	Personal Services and Employee Benefits.....	00100	\$	842,305
2	Current Expenses	13000		2,060,457
3	Repairs and Alterations.....	06400		1,000
4	Equipment	07000		5,000
5	Other Assets.....	69000		<u>4,403</u>
6	Total.....		\$	2,913,165

185 - Division of Environmental Protection –

Hazardous Waste Management Fund

(WV Code Chapter 22)

Fund 3023 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	779,766
2	Current Expenses	13000		155,969
3	Repairs and Alterations.....	06400		500
4	Equipment	07000		1,505
5	Unclassified	09900		8,072
6	Other Assets.....	69000		<u>2,000</u>
7	Total.....		\$	947,812

*186 - Division of Environmental Protection –**Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	950,135
2	Current Expenses	13000		1,026,863
3	Repairs and Alterations.....	06400		13,000
4	Equipment	07000		53,105
5	Unclassified	09900		14,647
6	Other Assets.....	69000		<u>20,000</u>
7	Total.....		\$	2,077,750

*187 - Division of Environmental Protection –**Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	1,627,573
2	Current Expenses	13000		16,185,006
3	Repairs and Alterations.....	06400		79,950

1978

JOURNAL OF THE

[MARCH 7

4	Equipment	07000		130,192
5	Other Assets	69000		<u>32,000</u>
6	Total.....		\$	18,054,721

188 - Division of Environmental Protection –

Oil and Gas Reclamation Fund

(WV Code Chapter 22)

Fund 3322 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	143,906
2	Current Expenses	13000		<u>356,094</u>
3	Total.....		\$	500,000

189 - Division of Environmental Protection –

Oil and Gas Operating Permit and Processing Fund

(WV Code Chapter 22)

Fund 3323 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	3,486,896
2	Current Expenses	13000		1,249,758
3	Repairs and Alterations.....	06400		40,600
4	Equipment	07000		8,000
5	Unclassified	09900		44,700
6	Other Assets	69000		<u>15,000</u>
7	Total.....		\$	4,844,954

190 - Division of Environmental Protection –

Mining and Reclamation Operations Fund

(WV Code Chapter 22)

Fund 3324 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	3,566,280
2	Current Expenses	13000		2,202,231

2020]	HOUSE OF DELEGATES		1979
3	Repairs and Alterations.....	06400	60,260
4	Equipment	07000	83,000
5	Unclassified	09900	920
6	Other Assets.....	69000	<u>57,500</u>
7	Total.....		\$ 5,970,191

191 - Division of Environmental Protection –

Underground Storage Tank

Administrative Fund

(WV Code Chapter 22)

Fund 3325 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$ 476,417
2	Current Expenses	13000	318,420
3	Repairs and Alterations.....	06400	5,350
4	Equipment	07000	3,610
5	Unclassified	09900	7,520
6	Other Assets.....	69000	<u>3,500</u>
7	Total.....		\$ 814,817

192 - Division of Environmental Protection –

Hazardous Waste Emergency Response Fund

(WV Code Chapter 22)

Fund 3331 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$ 598,154
2	Current Expenses	13000	767,905
3	Repairs and Alterations.....	06400	7,014
4	Equipment	07000	9,000
5	Unclassified	09900	10,616
6	Other Assets.....	69000	<u>3,500</u>

7 Total..... \$ 1,396,189

193 - Division of Environmental Protection –

Solid Waste Reclamation and

Environmental Response Fund

(WV Code Chapter 22)

Fund 3332 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	825,811
2	Current Expenses	13000		3,604,737
3	Repairs and Alterations.....	06400		25,000
4	Equipment	07000		31,500
5	Unclassified	09900		22,900
6	Buildings.....	25800		500
7	Other Assets.....	69000		<u>1,000</u>
8	Total.....		\$	4,511,448

194 - Division of Environmental Protection –

Solid Waste Enforcement Fund

(WV Code Chapter 22)

Fund 3333 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	3,274,054
2	Current Expenses	13000		940,229
3	Repairs and Alterations.....	06400		30,930
4	Equipment	07000		23,356
5	Unclassified	09900		31,145
6	Other Assets.....	69000		<u>25,554</u>
7	Total.....		\$	4,325,268

195 - Division of Environmental Protection –

Air Pollution Control Fund

2020]

HOUSE OF DELEGATES

1981

(WV Code Chapter 22)

Fund 3336 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	5,934,859
2	Current Expenses	13000		1,469,467
3	Repairs and Alterations.....	06400		84,045
4	Equipment	07000		103,601
5	Unclassified	09900		70,572
6	Other Assets.....	69000		<u>52,951</u>
7	Total.....		\$	7,715,495

196 - Division of Environmental Protection –

Environmental Laboratory

Certification Fund

(WV Code Chapter 22)

Fund 3340 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	352,834
2	Current Expenses	13000		201,146
3	Repairs and Alterations.....	06400		1,000
4	Unclassified	09900		1,120
5	Other Assets.....	69000		<u>163,000</u>
6	Total.....		\$	719,100

197 - Division of Environmental Protection –

Stream Restoration Fund

(WV Code Chapter 22)

Fund 3349 FY 2021 Org 0313

1	Current Expenses	13000	\$	5,182,076
---	------------------------	-------	----	-----------

198 - Division of Environmental Protection –

Litter Control Fund

(WV Code Chapter 22)

Fund 3486 FY 2021 Org 0313

1	Current Expenses	13000	\$	60,000
---	------------------------	-------	----	--------

199 - Division of Environmental Protection –

Recycling Assistance Fund

(WV Code Chapter 22)

Fund 3487 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	660,575
2	Current Expenses	13000		2,754,258
3	Repairs and Alterations.....	06400		800
4	Equipment	07000		500
5	Unclassified	09900		400
6	Other Assets.....	69000		<u>2,500</u>
7	Total.....		\$	3,419,033

200 - Division of Environmental Protection –

Mountaintop Removal Fund

(WV Code Chapter 22)

Fund 3490 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	1,250,562
2	Current Expenses	13000		642,934
3	Repairs and Alterations.....	06400		30,112
4	Equipment	07000		23,500
5	Unclassified	09900		1,180
6	Other Assets.....	69000		<u>11,520</u>
7	Total.....		\$	1,959,808

201 - Oil and Gas Conservation Commission –

Special Oil and Gas Conservation Fund

(WV Code Chapter 22C)

Fund 3371 FY 2021 Org 0315

1	Personal Services and Employee Benefits.....	00100	\$	162,161
2	Current Expenses.....	13000		161,225
3	Repairs and Alterations.....	06400		1,000
4	Equipment.....	07000		9,481
5	Other Assets.....	69000		<u>1,500</u>
6	Total.....		\$	335,367

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

202 - Division of Health –

Ryan Brown Addiction Prevention and Recovery Fund

(WV Code Chapter 19)

Fund 5111 FY 2021 Org 0506

1	Current Expenses.....	13000	\$	10,667,392
---	-----------------------	-------	----	------------

203 - Division of Health –

The Vital Statistics Account

(WV Code Chapter 16)

Fund 5144 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	938,484
2	Unclassified.....	09900		15,500
3	Current Expenses.....	13000		<u>2,757,788</u>
4	Total.....		\$	3,711,772

204 - Division of Health –

Hospital Services Revenue Account

Special Fund

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2021 Org 0506

1	Institutional Facilities Operations	33500	\$	35,555,221
2	Medical Services Trust Fund – Transfer	51200		<u>27,800,000</u>
3	Total.....		\$	63,355,221

4 The total amount of these appropriations shall be paid from the Hospital Services Revenue
 5 Account Special Fund created by W.Va. Code §16-1-13, and shall be used for operating expenses
 6 and for improvements in connection with existing facilities.

7 Additional funds have been appropriated in fund 0525, fiscal year 2021, organization 0506,
 8 for the operation of the institutional facilities. The Secretary of the Department of Health and Human
 9 Resources is authorized to utilize up to ten percent of the funds from the appropriation for Institutional
 10 Facilities Operations to facilitate cost effective and cost saving services at the community level.

11 Necessary funds from the above appropriation may be used for medical facilities operations,
 12 either in connection with this fund or in connection with the appropriation designated Institutional
 13 Facilities Operations in the Consolidated Medical Service Fund (fund 0525, organization 0506).

205 - Division of Health –

Laboratory Services Fund

(WV Code Chapter 16)

Fund 5163 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	936,712
2	Unclassified	09900		18,114
3	Current Expenses	13000		<u>1,803,327</u>
4	Total.....		\$	2,758,153

206 - Division of Health –

The Health Facility Licensing Account

(WV Code Chapter 16)

Fund 5172 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	645,446
2	Unclassified	09900		7,113
3	Current Expenses	13000		<u>98,247</u>
4	Total.....		\$	750,806

207 - Division of Health –

Hepatitis B Vaccine

(WV Code Chapter 16)

Fund 5183 FY 2021 Org 0506

1	Current Expenses	13000	\$	9,740
---	------------------------	-------	----	-------

208 - Division of Health –

Lead Abatement Account

(WV Code Chapter 16)

Fund 5204 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	19,100
---	--	-------	----	--------

2	Unclassified	09900		373
---	--------------------	-------	--	-----

3	Current Expenses	13000		<u>17,875</u>
---	------------------------	-------	--	---------------

4	Total.....		\$	37,348
---	------------	--	----	--------

209 - Division of Health –

West Virginia Birth-to-Three Fund

(WV Code Chapter 16)

Fund 5214 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	691,978
---	--	-------	----	---------

2	Unclassified	09900		223,999
---	--------------------	-------	--	---------

3	Current Expenses	13000		<u>30,134,400</u>
---	------------------------	-------	--	-------------------

4	Total.....		\$	31,050,377
---	------------	--	----	------------

210 - Division of Health –

Tobacco Control Special Fund

(WV Code Chapter 16)

Fund 5218 FY 2021 Org 0506

1	Current Expenses	13000	\$	7,579
---	------------------------	-------	----	-------

211 - Division of Health –

Medical Cannabis Program Fund

(WV Code Chapter 16A)

Fund 5420 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	509,658
2	Current Expenses	13000		<u>2,046,040</u>
3	Total.....		\$	2,555,698

212 - West Virginia Health Care Authority –

Health Care Cost Review Fund

(WV Code Chapter 16)

Fund 5375 FY 2021 Org 0507

1	Personal Services and Employee Benefits.....	00100	\$	1,345,380
2	Unclassified	09900		20,100
3	Current Expenses	13000		<u>785,445</u>
4	Total.....		\$	2,150,925

5 The above appropriation is to be expended in accordance with and pursuant to the provisions
 6 of W.Va. Code §16-29B and from the special revolving fund designated Health Care Cost Review
 7 Fund.

213 - West Virginia Health Care Authority –

Certificate of Need Program Fund

(WV Code Chapter 16)

Fund 5377 FY 2021 Org 0507

1	Personal Services and Employee Benefits.....	00100	\$	829,798
2	Current Expenses	13000		<u>474,967</u>
3	Total.....		\$	1,304,765

214 - Division of Human Services –

Health Care Provider Tax –

Medicaid State Share Fund

(WV Code Chapter 11)

Fund 5090 FY 2021 Org 0511

1	Medical Services.....	18900	\$	213,594,315
2	Medical Services Administrative Costs	78900		<u>242,287</u>
3	Total.....		\$	213,836,602

4 The above appropriation for Medical Services Administrative Costs (fund 5090, appropriation
 5 78900) shall be transferred to a special revenue account in the treasury for use by the Department
 6 of Health and Human Resources for administrative purposes. The remainder of all moneys deposited
 7 in the fund shall be transferred to the Medical Services Program Fund (fund 5084).

215 - Division of Human Services –

Child Support Enforcement Fund

(WV Code Chapter 48A)

Fund 5094 FY 2021 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$	24,809,509
2	Unclassified	09900		380,000
3	Current Expenses	13000		<u>12,810,491</u>
4	Total.....		\$	38,000,000

216 - Division of Human Services –

Medical Services Trust Fund

(WV Code Chapter 9)

Fund 5185 FY 2021 Org 0511

1	Medical Services.....	18900	\$	83,168,707
2	Medical Services Administrative Costs	78900		<u>602,486</u>
3	Total.....		\$	83,771,193

4 The above appropriation to Medical Services shall be used to provide state match of Medicaid
 5 expenditures as defined and authorized in subsection (c) of W.Va. Code §9-4A-2a. Expenditures from
 6 the fund are limited to the following: payment of backlogged billings, funding for services to future
 7 federally mandated population groups and payment of the required state match for Medicaid
 8 disproportionate share payments. The remainder of all moneys deposited in the fund shall be
 9 transferred to the Division of Human Services accounts.

217 - Division of Human Services –

James “Tiger” Morton Catastrophic Illness Fund

(WV Code Chapter 16)

Fund 5454 FY 2021 Org 0511

1	Unclassified	09900	\$	7,000
2	Current Expenses	13000		393,000
3	Total		\$	400,000

218 - Division of Human Services –

Domestic Violence Legal Services Fund

(WV Code Chapter 48)

Fund 5455 FY 2021 Org 0511

1	Current Expenses	13000	\$	900,000
---	------------------------	-------	----	---------

219 - Division of Human Services –

West Virginia Works Separate State College Program Fund

(WV Code Chapter 9)

Fund 5467 FY 2021 Org 0511

1	Current Expenses	13000	\$	500,000
---	------------------------	-------	----	---------

220 - Division of Human Services –

West Virginia Works Separate State Two-Parent Program Fund

(WV Code Chapter 9)

Fund 5468 FY 2021 Org 0511

1	Current Expenses	13000	\$	1,500,000
---	------------------------	-------	----	-----------

221 - Division of Human Services –

Marriage Education Fund

(WV Code Chapter 9)

Fund 5490 FY 2021 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$	10,000
2	Current Expenses	13000		25,000
3	Total		\$	35,000

DEPARTMENT OF HOMELAND SECURITY

222 - Department of Homeland Security –

Office of the Secretary –

Law-Enforcement, Safety and Emergency Worker

Funeral Expense Payment Fund

(WV Code Chapter 15)

Fund 6003 FY 2021 Org 0601

1	Current Expenses	13000	\$	32,000
---	------------------------	-------	----	--------

1

223 - Division of Emergency Management –

Statewide Interoperable Radio Network Account

(WV Code Chapter 15)

Fund 6208 FY 2021 Org 0606

1	Current Expenses	13000	\$	80,000
---	------------------------	-------	----	--------

224 - Division Emergency Management –

West Virginia Interoperable Radio Project

(WV Code Chapter 24)

Fund 6295 FY 2021 Org 0606

1	Current Expenses	13000	\$	2,000,000
---	------------------------	-------	----	-----------

2 Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 6295,
 3 appropriation 09600) at the close of fiscal year 2020 is hereby reappropriated for expenditure during
 4 the fiscal year 2021.

225 - Division of Corrections and Rehabilitation –

Parolee Supervision Fees

(WV Code Chapter 15A)

Fund 6362 FY 2021 Org 0608

1	Personal Services and Employee Benefits.....	00100	\$	1,118,697
---	--	-------	----	-----------

2	Unclassified	09900		9,804
---	--------------------	-------	--	-------

1990

JOURNAL OF THE

[MARCH 7

3	Current Expenses	13000		758,480
4	Equipment	07000		30,000
5	Other Assets	69000		<u>40,129</u>
6	Total.....		\$	1,957,110

226 - Division of Corrections and Rehabilitation –

Regional Jail and Correctional Facility Authority

(WV Code Chapter 15A)

Fund 6675 FY 2021 Org 0608

1	Personal Services and Employee Benefits.....	00100	\$	544,798
2	Debt Service	04000		9,000,000
3	Current Expenses	13000		<u>245,472</u>
4	Total.....		\$	9,790,270

227 - West Virginia State Police –

Motor Vehicle Inspection Fund

(WV Code Chapter 17C)

Fund 6501 FY 2021 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$	1,907,726
2	Current Expenses	13000		1,488,211
3	Repairs and Alterations.....	06400		204,500
4	Equipment	07000		3,770,751
5	Buildings	25800		534,000
6	Other Assets	69000		5,000
7	BRIM Premium	91300		<u>302,432</u>
8	Total.....		\$	8,212,620

9 The total amount of these appropriations shall be paid from the special revenue fund out of
10 fees collected for inspection stickers as provided by law.

*228 - West Virginia State Police –**Forensic Laboratory Fund*

(WV Code Chapter 15)

Fund 6511 FY 2021 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$	1,600,000
2	Current Expenses	13000		90,000
3	Repairs and Alterations.....	06400		5,000
4	Equipment	07000		<u>545,000</u>
5	Total.....		\$	2,240,000

*229 - West Virginia State Police –**Drunk Driving Prevention Fund*

(WV Code Chapter 15)

Fund 6513 FY 2021 Org 0612

1	Current Expenses	13000	\$	1,327,000
2	Equipment	07000		3,491,895
3	BRIM Premium	91300		<u>154,452</u>
4	Total.....		\$	4,973,347

5 The total amount of these appropriations shall be paid from the special revenue fund out of
6 receipts collected pursuant to W.Va. Code §11-15-9a and 16 and paid into a revolving fund account
7 in the State Treasury.

*230 - West Virginia State Police –**Surplus Real Property Proceeds Fund*

(WV Code Chapter 15)

Fund 6516 FY 2021 Org 0612

1	Buildings.....	25800	\$	1,022,778
2	Land	73000		1,000
3	BRIM Premium	91300		<u>77,222</u>
4	Total.....		\$	1,101,000

231 - West Virginia State Police –

Surplus Transfer Account

(WV Code Chapter 15)

Fund 6519 FY 2021 Org 0612

1	Current Expenses	13000	\$	225,000
2	Repairs and Alterations.....	06400		20,000
3	Equipment	07000		250,000
4	Buildings	25800		40,000
5	Other Assets	69000		45,000
6	BRIM Premium	91300		<u>5,000</u>
7	Total.....		\$	585,000

232 - West Virginia State Police –

Central Abuse Registry Fund

(WV Code Chapter 15)

Fund 6527 FY 2021 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$	256,629
2	Current Expenses	13000		51,443
3	Repairs and Alterations.....	06400		500
4	Equipment	07000		300,500
5	Other Assets	69000		300,500
6	BRIM Premium	91300		<u>18,524</u>
7	Total.....		\$	928,096

233 - West Virginia State Police –

Bail Bond Enforcer Account

(WV Code Chapter 15)

Fund 6532 FY 2021 Org 0612

1	Current Expenses	13000	\$	8,300
---	------------------------	-------	----	-------

*234 - West Virginia State Police –**State Police Academy Post Exchange*

(WV Code Chapter 15)

Fund 6544 FY 2021 Org 0612

1	Current Expenses	13000	\$	160,000
2	Repairs and Alterations.....	06400		<u>40,000</u>
3	Total.....		\$	200,000

*235 - Fire Commission –**Fire Marshal Fees*

(WV Code Chapter 29)

Fund 6152 FY 2021 Org 0619

1	Personal Services and Employee Benefits.....	00100	\$	3,480,533
2	Unclassified	09900		3,800
3	Current Expenses	13000		1,246,550
4	Repairs and Alterations.....	06400		58,500
5	Equipment	07000		140,800
6	BRIM Premium	91300		<u>65,000</u>
7	Total.....		\$	4,995,183

*236 - Division of Administrative Services –**WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2021 Org 0623

1	Personal Services and Employee Benefits.....	00100	\$	161,923
2	Unclassified	09900		750
3	Current Expenses	13000		1,846,250
4	Repairs and Alterations.....	06400		<u>1,000</u>
5	Total.....		\$	2,009,923

237 - Division of Administrative Services –

Court Security Fund

(WV Code Chapter 51)

Fund 6804 FY 2021 Org 0623

1	Personal Services and Employee Benefits.....	00100	\$	23,840
2	Current Expenses	13000		<u>1,478,135</u>
3	Total.....		\$	1,501,975

238 - Division of Administrative Services –

Second Chance Driver's License Program Account

(WV Code Chapter 17B)

Fund 6810 FY 2021 Org 0623

1	Current Expenses	13000	\$	125,000
---	------------------------	-------	----	---------

DEPARTMENT OF REVENUE

239 - Division of Financial Institutions

(WV Code Chapter 31A)

Fund 3041 FY 2021 Org 0303

1	Personal Services and Employee Benefits.....	00100	\$	2,703,057
2	Current Expenses	13000		650,475
3	Equipment	07000		<u>8,500</u>
4	Total.....		\$	3,362,032

240 - Office of the Secretary –

State Debt Reduction Fund

(WV Code Chapter 29)

Fund 7007 FY 2021 Org 0701

1	Retirement Systems – Unfunded Liability.....	77500	\$	20,000,000
---	--	-------	----	------------

2 The above appropriation for Retirement System – Unfunded Liability shall be transferred to
 3 the Consolidated Public Retirement Board – West Virginia Teachers Retirement System Employers
 4 School Aid Formula Funds Holding Account Fund (fund 2606).

241 - Home Rule Board Operations

(WV Code Chapter 8)

Fund 7010 FY 2021 Org 0701

1	Personal Services and Employee Benefits.....	00100	\$	25,000
2	Unclassified	09900		680
3	Current Expenses	13000		42,000
4	Repairs and Alterations.....	06400		120
5	Equipment	07000		<u>200</u>
6	Total.....		\$	68,000

*242 - Tax Division –**Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2021 Org 0702

1	Personal Services and Employee Benefits.....	00100	\$	25,928
2	Current Expenses	13000		<u>7,717</u>
3	Total.....		\$	33,645

*243 - Tax Division –**Special Audit and Investigative Unit*

(WV Code Chapter 11)

Fund 7073 FY 2021 Org 0702

1	Personal Services and Employee Benefits.....	00100	\$	696,428
2	Unclassified	09900		8,500
3	Current Expenses	13000		273,297
4	Repairs and Alterations.....	06400		7,000
5	Equipment	07000		<u>5,000</u>
6	Total.....		\$	990,225

244 - Tax Division –

Wine Tax Administration Fund

(WV Code Chapter 60)

Fund 7087 FY 2021 Org 0702

1	Personal Services and Employee Benefits.....	00100	\$	268,973
2	Current Expenses	13000		<u>5,406</u>
3	Total.....		\$	274,379

245 - Tax Division –

Reduced Cigarette Ignition Propensity

Standard and Fire Prevention Act Fund

(WV Code Chapter 47)

Fund 7092 FY 2021 Org 0702

1	Current Expenses	13000	\$	35,000
2	Equipment	07000		<u>15,000</u>
3	Total.....		\$	50,000

246 - Tax Division –

Local Sales Tax and Excise Tax

Administration Fund

(WV Code Chapter 11)

Fund 7099 FY 2021 Org 0702

1	Personal Services and Employee Benefits.....	00100	\$	1,543,527
2	Unclassified	09900		10,000
3	Current Expenses	13000		784,563
4	Repairs and Alterations.....	06400		1,000
5	Equipment	07000		<u>5,000</u>
6	Total.....		\$	2,344,090

247 - State Budget Office –

Public Employees Insurance Reserve Fund

(WV Code Chapter 11B)

Fund 7400 FY 2021 Org 0703

1	Public Employees Insurance Reserve Fund – Transfer.....	90300	\$	6,800,000
---	---	-------	----	-----------

2 The above appropriation for Public Employees Insurance Reserve Fund – Transfer shall be
3 transferred to the Medical Services Trust Fund (fund 5185, org 0511) for expenditure.

248 - State Budget Office –

Public Employees Insurance Agency Financial Stability Fund

(WV Code Chapter 11B)

Fund 7401 FY 2021 Org 0703

1	Retiree Premium Offset	80101	\$	5,000,000
2	PEIA Reserve	80102		<u>10,000,000</u>
3	Total.....		\$	15,000,000

4 The above appropriation shall be transferred to special revenue funds to be utilized by the
5 West Virginia Public Employees Insurance Agency for the purposes of permitting the PEIA Finance
6 Board to offset \$5 million in retiree premium increases. Additionally, \$10 million will be put into a
7 reserve fund to stabilize and preserve the future solvency of PEIA. Such amount shall not be included
8 in the calculation of the plan year aggregate premium cost-sharing percentages between employers
9 and employees.

249 - Insurance Commissioner –

Examination Revolving Fund

(WV Code Chapter 33)

Fund 7150 FY 2021 Org 0704

1	Personal Services and Employee Benefits.....	00100	\$	748,764
2	Current Expenses	13000		1,357,201
3	Repairs and Alterations.....	06400		3,000
4	Equipment	07000		81,374
5	Buildings	25800		8,289
6	Other Assets	69000		<u>11,426</u>

7 Total..... \$ 2,210,054

250 - Insurance Commissioner –

Consumer Advocate

(WV Code Chapter 33)

Fund 7151 FY 2021 Org 0704

1	Personal Services and Employee Benefits.....	00100	\$	571,976
2	Current Expenses	13000		202,152
3	Repairs and Alterations.....	06400		5,000
4	Equipment	07000		34,225
5	Buildings	25800		4,865
6	Other Assets	69000		<u>19,460</u>
7	Total.....		\$	837,678

251 - Insurance Commissioner –

Insurance Commission Fund

(WV Code Chapter 33)

Fund 7152 FY 2021 Org 0704

1	Personal Services and Employee Benefits.....	00100	\$	24,169,021
2	Current Expenses	13000		8,797,758
3	Repairs and Alterations.....	06400		68,614
4	Equipment	07000		1,728,240
5	Buildings	25800		25,000
6	Other Assets	69000		<u>340,661</u>
7	Total.....		\$	35,129,294

252 - Insurance Commissioner –

Workers' Compensation Old Fund

(WV Code Chapter 23)

Fund 7162 FY 2021 Org 0704

2020]	HOUSE OF DELEGATES		1999
1	Employee Benefits.....	01000	\$ 50,000
2	Current Expenses.....	13000	<u>250,500,000</u>
3	Total.....		\$ 250,550,000

*253 - Insurance Commissioner –
Workers' Compensation Uninsured Employers' Fund
(WV Code Chapter 23)*

Fund 7163 FY 2021 Org 0704

1	Current Expenses.....	13000	\$ 15,000,000
---	-----------------------	-------	---------------

*254 - Insurance Commissioner –
Self-Insured Employer Guaranty Risk Pool
(WV Code Chapter 23)*

Fund 7164 FY 2021 Org 0704

1	Current Expenses.....	13000	\$ 9,000,000
---	-----------------------	-------	--------------

*255 - Insurance Commissioner –
Self-Insured Employer Security Risk Pool
(WV Code Chapter 23)*

Fund 7165 FY 2021 Org 0704

1	Current Expenses.....	13000	\$ 14,000,000
---	-----------------------	-------	---------------

*256 - Municipal Bond Commission
(WV Code Chapter 13)*

Fund 7253 FY 2021 Org 0706

1	Personal Services and Employee Benefits.....	00100	\$ 282,589
2	Current Expenses.....	13000	144,844
3	Equipment.....	07000	<u>100</u>
4	Total.....		\$ 427,533

*257 - Racing Commission –
Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2021 Org 0707

1	Medical Expenses – Total.....	24500	\$	57,000
---	-------------------------------	-------	----	--------

2 The total amount of this appropriation shall be paid from the special revenue fund out of
3 collections of license fees and fines as provided by law.

4 No expenditures shall be made from this fund except for hospitalization, medical care and/or
5 funeral expenses for persons contributing to this fund.

*258 - Racing Commission –**Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2021 Org 0707

1	Personal Services and Employee Benefits.....	00100	\$	264,564
2	Current Expenses.....	13000		85,433
3	Other Assets.....	69000		<u>5,000</u>
4	Total.....		\$	354,997

*259 - Racing Commission –**General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2021 Org 0707

1	Personal Services and Employee Benefits.....	00100	\$	2,352,306
2	Current Expenses.....	13000		497,284
3	Repairs and Alterations.....	06400		5,000
4	Other Assets.....	69000		<u>40,000</u>
5	Total.....		\$	2,894,590

*260 - Racing Commission –**Administration, Promotion, Education, Capital Improvement**and Greyhound Adoption Programs**to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2021 Org 0707

1	Personal Services and Employee Benefits.....	00100	\$	918,781
2	Current Expenses.....	13000		160,099
3	Other Assets.....	69000		<u>200,000</u>
4	Total.....		\$	1,278,880

*261 - Alcohol Beverage Control Administration –**Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2021 Org 0708

1	Personal Services and Employee Benefits.....	00100	\$	147,213
2	Unclassified.....	09900		30,750
3	Current Expenses.....	13000		54,186
4	Repairs and Alterations.....	06400		7,263
5	Equipment.....	07000		10,000
6	Buildings.....	25800		100,000
7	Other Assets.....	69000		<u>100</u>
8	Total.....		\$	349,512

9 To the extent permitted by law, four classified exempt positions shall be provided from
 10 Personal Services and Employee Benefits appropriation for field auditors.

262 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2021 Org 0708

1	Personal Services and Employee Benefits.....	00100	\$	5,790,574
2	Current Expenses.....	13000		2,890,577
3	Repairs and Alterations.....	06400		91,000
4	Equipment.....	07000		108,000

5	Buildings	25800		375,100
6	Purchase of Supplies for Resale	41900		76,500,000
7	Transfer Liquor Profits and Taxes	42500		21,200,000
8	Other Assets	69000		125,100
9	Land	73000		<u>100</u>
10	Total.....		\$	107,080,451

11 The total amount of these appropriations shall be paid from a special revenue fund out of
 12 liquor revenues and any other revenues available.

13 The above appropriations include the salary of the commissioner and the salaries, expenses,
 14 and equipment of administrative offices, warehouses, and inspectors.

15 The above appropriations include funding for the Tobacco/Alcohol Education Program.

16 There is hereby appropriated from liquor revenues, in addition to the above appropriations as
 17 needed, the necessary amount for the purchase of liquor as provided by law and the remittance of
 18 profits and taxes to the General Revenue Fund.

263 - State Athletic Commission Fund

(WV Code Chapter 29)

Fund 7009 FY 2021 Org 0933

1	Personal Services and Employee Benefits.....	00100	\$	10,500
2	Current Expenses	13000		<u>29,500</u>
3	Total.....		\$	40,000

DEPARTMENT OF TRANSPORTATION

264 - Division of Motor Vehicles –

Dealer Recovery Fund

(WV Code Chapter 17)

Fund 8220 FY 2021 Org 0802

1	Current Expenses	13000	\$	189,000
---	------------------------	-------	----	---------

265 - Division of Motor Vehicles –

Motor Vehicle Fees Fund

(WV Code Chapter 17B)

2020]

HOUSE OF DELEGATES

2003

Fund 8223 FY 2021 Org 0802

1	Personal Services and Employee Benefits.....	00100	\$	3,733,074
2	Current Expenses	13000		4,357,773
3	Repairs and Alterations.....	06400		16,000
4	Equipment	07000		75,000
5	Other Assets	69000		10,000
6	BRIM Premium	91300		<u>89,939</u>
7	Total.....		\$	8,281,786

266 - Division of Highways –

A. James Manchin Fund

(WV Code Chapter 22)

Fund 8319 FY 2021 Org 0803

1	Current Expenses	13000	\$	2,500,000
---	------------------------	-------	----	-----------

267 - State Rail Authority -

West Virginia Commuter Rail Access Fund

(WV Code Chapter 29)

Fund 8402 FY 2021 Org 0804

1	Current Expenses	13000	\$	2,800,000
---	------------------------	-------	----	-----------

DEPARTMENT OF VETERANS' ASSISTANCE

268 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2021 Org 0613

1	Current Expenses	13000	\$	1,654,234
2	Other Assets	69000		<u>10,000</u>
3	Total.....		\$	1,664,234

269 - Department of Veterans' Assistance –

WV Veterans' Home –

Special Revenue Operating Fund

(WV Code Chapter 9A)

Fund 6754 FY 2021 Org 0618

1	Current Expenses	13000	\$	289,400
2	Repairs and Alterations.....	06400		<u>10,600</u>
3	Total.....		\$	300,000

BUREAU OF SENIOR SERVICES

270 - Bureau of Senior Services –

Community Based Service Fund

(WV Code Chapter 29)

Fund 5409 FY 2021 Org 0508

1	Personal Services and Employee Benefits.....	00100	\$	160,883
2	Current Expenses	13000		<u>10,348,710</u>
3	Total.....		\$	10,509,593

4 The total amount of these appropriations are funded from annual table game license fees to
 5 enable the aged and disabled citizens of West Virginia to stay in their homes through the provision
 6 of home and community-based services.

HIGHER EDUCATION POLICY COMMISSION

271 - Higher Education Policy Commission –

System –

Tuition Fee Capital Improvement Fund

(Capital Improvement and Bond Retirement Fund)

Control Account

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2021 Org 0442

1	Debt Service	04000	\$	27,713,123
2	General Capital Expenditures	30600		5,000,000
3	Facilities Planning and Administration.....	38600		<u>441,111</u>

4	Total.....	\$	33,154,234
---	------------	----	------------

5 The total amount of these appropriations shall be paid from the Special Capital Improvement
6 Fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available
7 on July 1.

8 The above appropriations, except for Debt Service, may be transferred to special revenue
9 funds for capital improvement projects at the institutions.

272 - Tuition Fee Revenue Bond Construction Fund

(WV Code Chapters 18 and 18B)

Fund 4906 FY 2021 Org 0442

1 Any unexpended balance remaining in the appropriation for Capital Outlay (fund 4906,
2 appropriation 51100) at the close of the fiscal year 2020 is hereby reappropriated for expenditure
3 during the fiscal year 2021.

4 The appropriation shall be paid from available unexpended cash balances and interest
5 earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher
6 Education Policy Commission and the funds may be allocated to any institution within the system.

7 The total amount of this appropriation shall be paid from the unexpended proceeds of revenue
8 bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.

273 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2021 Org 0442

1 Any unexpended balance remaining in the appropriation for Capital Improvements – Total
2 (fund 4908, appropriation 95800) at the close of fiscal year 2020 is hereby reappropriated for
3 expenditure during the fiscal year 2021.

4 The total amount of this appropriation shall be paid from the sale of the Series 2017
5 Community and Technical College Capital Improvement Refunding Revenue Bonds and anticipated
6 interest earnings.

274 - West Virginia University –

West Virginia University Health Sciences Center

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2021 Org 0463

1	Personal Services and Employee Benefits.....	00100	\$	10,764,347
2	Current Expenses	13000		4,524,300

3	Repairs and Alterations.....	06400	425,000
4	Equipment	07000	512,000
5	Buildings.....	25800	150,000
6	Other Assets.....	69000	<u>50,000</u>
7	Total.....		\$ 16,425,647

MISCELLANEOUS BOARDS AND COMMISSIONS

275 - Board of Barbers and Cosmetologists –

Barbers and Beauticians Special Fund

(WV Code Chapters 16 and 30)

Fund 5425 FY 2021 Org 0505

1	Personal Services and Employee Benefits.....	00100	\$ 543,993
2	Current Expenses	13000	234,969
3	Repairs and Alterations.....	06400	<u>5,000</u>
4	Total.....		\$ 783,962

5 The total amount of these appropriations shall be paid from a special revenue fund out of
6 collections made by the Board of Barbers and Cosmetologists as provided by law.

276 - Hospital Finance Authority –

Hospital Finance Authority Fund

(WV Code Chapter 16)

Fund 5475 FY 2021 Org 0509

1	Personal Services and Employee Benefits.....	00100	\$ 93,279
2	Unclassified	09900	1,501
3	Current Expenses	13000	<u>55,328</u>
4	Total.....		\$ 150,108

5 The total amount of these appropriations shall be paid from the special revenue fund out of
6 fees and collections as provided by Article 29A, Chapter 16 of the Code.

277 - WV State Board of Examiners for Licensed Practical Nurses –

Licensed Practical Nurses

2020]

HOUSE OF DELEGATES

2007

(WV Code Chapter 30)

Fund 8517 FY 2021 Org 0906

1	Personal Services and Employee Benefits.....	00100	\$	495,505
2	Current Expenses	13000		<u>107,700</u>
3	Total.....		\$	603,205

278 - WV Board of Examiners for Registered Professional Nurses –

Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2021 Org 0907

1	Personal Services and Employee Benefits.....	00100	\$	1,300,612
2	Current Expenses	13000		312,655
3	Repairs and Alterations.....	06400		3,000
4	Equipment	07000		25,000
5	Other Assets.....	69000		<u>4,500</u>
6	Total.....		\$	1,645,767

279 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2021 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$	12,481,921
2	Unclassified	09900		147,643
3	Current Expenses	13000		2,572,202
4	Repairs and Alterations.....	06400		55,000
5	Equipment	07000		160,000
6	Buildings.....	25800		10
7	PSC Weight Enforcement.....	34500		4,605,652
8	Debt Payment/Capital Outlay.....	52000		350,000
9	Land	73000		10

10	BRIM Premium	91300	<u>172,216</u>
11	Total.....		\$ 20,544,654

12 The total amount of these appropriations shall be paid from a special revenue fund out of
13 collections for special license fees from public service corporations as provided by law.

14 The Public Service Commission is authorized to transfer up to \$500,000 from this fund to
15 meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the
16 amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular
17 Session, 1997.

280 - Public Service Commission –

Gas Pipeline Division –

Public Service Commission Pipeline Safety Fund

(WV Code Chapter 24B)

Fund 8624 FY 2021 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$ 294,658
2	Unclassified	09900	3,851
3	Current Expenses	13000	93,115
4	Repairs and Alterations.....	06400	<u>4,000</u>
5	Total.....		\$ 395,624

6 The total amount of these appropriations shall be paid from a special revenue fund out of
7 receipts collected for or by the Public Service Commission pursuant to and in the exercise of
8 regulatory authority over pipeline companies as provided by law.

281 - Public Service Commission –

Motor Carrier Division

(WV Code Chapter 24A)

Fund 8625 FY 2021 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$ 2,377,514
2	Unclassified	09900	29,233
3	Current Expenses	13000	577,557
4	Repairs and Alterations.....	06400	23,000
5	Equipment	07000	<u>50,000</u>

2020]

HOUSE OF DELEGATES

2009

6	Total.....		\$	3,057,304
---	------------	--	----	-----------

7 The total amount of these appropriations shall be paid from a special revenue fund out of
8 receipts collected for or by the Public Service Commission pursuant to and in the exercise of
9 regulatory authority over motor carriers as provided by law.

282 - Public Service Commission –

Consumer Advocate Fund

(WV Code Chapter 24)

Fund 8627 FY 2021 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$	876,994
2	Current Expenses	13000		386,472
3	Equipment	07000		9,872
4	BRIM Premium	91300		<u>4,660</u>
5	Total.....		\$	1,277,998

6 The total amount of these appropriations shall be supported by cash from a special revenue
7 fund out of collections made by the Public Service Commission.

283 - Real Estate Commission –

Real Estate License Fund

(WV Code Chapter 30)

Fund 8635 FY 2021 Org 0927

1	Personal Services and Employee Benefits.....	00100	\$	607,098
2	Current Expenses	13000		293,122
3	Repairs and Alterations.....	06400		2,500
4	Equipment	07000		<u>5,000</u>
5	Total.....		\$	907,720

6 The total amount of these appropriations shall be paid out of collections of license fees as
7 provided by law.

284 - WV Board of Examiners for Speech-Language

Pathology and Audiology –

Speech-Language Pathology and Audiology Operating Fund

(WV Code Chapter 30)

Fund 8646 FY 2021 Org 0930

1	Personal Services and Employee Benefits.....	00100	\$	91,513
2	Current Expenses	13000		<u>63,499</u>
3	Total.....		\$	155,012

285 - WV Board of Respiratory Care –

Board of Respiratory Care Fund

(WV Code Chapter 30)

Fund 8676 FY 2021 Org 0935

1	Personal Services and Employee Benefits.....	00100	\$	94,050
2	Current Expenses	13000		54,137
3	Repairs and Alterations.....	06400		<u>400</u>
4	Total.....		\$	148,587

286 - WV Board of Licensed Dietitians –

Dietitians Licensure Board Fund

(WV Code Chapter 30)

Fund 8680 FY 2021 Org 0936

1	Personal Services and Employee Benefits.....	00100	\$	20,219
2	Current Expenses	13000		<u>20,250</u>
3	Total.....		\$	40,469

287 - Massage Therapy Licensure Board –

Massage Therapist Board Fund

(WV Code Chapter 30)

Fund 8671 FY 2021 Org 0938

1	Personal Services and Employee Benefits.....	00100	\$	109,555
2	Current Expenses	13000		<u>42,448</u>
3	Total.....		\$	152,003

*288 - Board of Medicine –**Medical Licensing Board Fund*

(WV Code Chapter 30)

Fund 9070 FY 2021 Org 0945

1	Personal Services and Employee Benefits.....	00100	\$	1,378,807
2	Current Expenses	13000		1,108,789
3	Repairs and Alterations.....	06400		<u>8,000</u>
4	Total.....		\$	2,495,596

*289 - West Virginia Enterprise Resource Planning Board –**Enterprise Resource Planning System Fund*

(WV Code Chapter 12)

Fund 9080 FY 2021 Org 0947

1	Personal Services and Employee Benefits.....	00100	\$	6,856,239
2	Unclassified	09900		232,000
3	Current Expenses	13000		13,662,210
4	Repairs and Alterations.....	06400		300
5	Equipment	07000		302,000
6	Buildings	25800		2,000
7	Other Assets.....	69000		<u>203,500</u>
8	Total.....		\$	21,258,249

*290 - Board of Treasury Investments –**Board of Treasury Investments Fee Fund*

(WV Code Chapter 12)

Fund 9152 FY 2021 Org 0950

1	Personal Services and Employee Benefits.....	00100	\$	832,889
2	Unclassified	09900		14,850
3	Current Expenses	13000		605,714

4	BRIM Premium	91300		31,547
5	Fees of Custodians, Fund Advisors and Fund Managers.....	93800		<u>3,500,000</u>
6	Total.....		\$	4,985,000

7 There is hereby appropriated from this fund, in addition to the above appropriation if needed,
 8 an amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses
 9 of custodians, fund advisors and fund managers for the consolidated fund of the State as provided in
 10 Article 6C, Chapter 12 of the Code.

11 The total amount of these appropriations shall be paid from the special revenue fund out of
 12 fees and collections as provided by law.

291 - State Armory Board –

General Armory Fund

(WV Code Chapter 15)

Fund 6057 FY 2021 Org 0603

1	Personal Services and Employee Benefits.....	00100	\$	1,681,247
2	Current Expenses	13000		650,000
3	Repairs and Alterations.....	06400		385,652
4	Equipment	07000		250,000
5	Buildings	25800		520,820
6	Other Assets.....	69000		350,000
7	Land	73000		<u>200,000</u>
8	Total.....		\$	4,037,719

9 From the above appropriations, the Adjutant General may receive and expend funds to
 10 conduct operations and activities to include functions of the Military Authority. The Adjutant General
 11 may transfer funds between appropriations, except no funds may be transferred to Personal Services
 12 and Employee Benefits (fund 6057, appropriation 00100).

13 Total TITLE II, Section 3 – Other Funds
 14 (Including claims against the state) \$ 1,513,410.079

1 **Sec. 4. Appropriations from lottery net profits.** — Net profits of the lottery are to be
 2 deposited by the Director of the Lottery to the following accounts in the amounts indicated. The
 3 Director of the Lottery shall prorate each deposit of net profits in the proportion the appropriation for
 4 each account bears to the total of the appropriations for all accounts.

5 After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to
 6 W.Va. Code §29-22-18, the Director of the Lottery shall make available from the remaining net profits

7 of the lottery any amounts needed to pay debt service for which an appropriation is made for Fund
 8 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 and is authorized to transfer
 9 any such amounts to Fund 9065, Fund 4297, Fund 3390, Fund 3514, Fund 9067, and Fund 9068 for
 10 that purpose. Upon receipt of reimbursement of amounts so transferred, the Director of the Lottery
 11 shall deposit the reimbursement amounts to the following accounts as required by this section.

292 - Education, Arts, Sciences and Tourism –

Debt Service Fund

(WV Code Chapter 5)

Fund 2252 FY 2021 Org 0211

	Appro-		Lottery
	priation		Funds
1 Debt Service – Total	31000	\$	10,000,000

293 - West Virginia Development Office –

West Virginia Tourism Office

(WV Code Chapter 5B)

Fund 3067 FY 2021 Org 0304

1 Tourism – Telemarketing Center.....	46300	\$	82,080
2 Tourism – Advertising (R)	61800		2,422,407
3 Tourism – Operations (R)	66200		<u>4,227,938</u>
4 Total.....		\$	6,732,425

5 Any unexpended balances remaining in the appropriations for Tourism – Advertising (fund
 6 3067, appropriation 61800), and Tourism – Operations (fund 3067, appropriation 66200) at the close
 7 of the fiscal year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

294 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2021 Org 0310

1 Personal Services and Employee Benefits.....	00100	\$	2,428,178
2 Current Expenses	13000		26,900
3 Pricketts Fort State Park	32400		106,560
4 Non-Game Wildlife (R).....	52700		386,935

5	State Parks and Recreation Advertising (R).....	61900		<u>494,578</u>
6	Total.....		\$	3,443,151

7 Any unexpended balances remaining in the appropriations for Unclassified (fund 3267,
8 appropriation 09900), Capital Outlay – Parks (fund 3267, appropriation 28800), Non-Game Wildlife
9 (fund 3267, appropriation 52700), and State Parks and Recreation Advertising (fund 3267,
10 appropriation 61900) at the close of the fiscal year 2020 are hereby reappropriated for expenditure
11 during the fiscal year 2021.

295 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2021 Org 0402

1	FBI Checks	37200	\$	116,548
2	Vocational Education Equipment Replacement	39300		800,000
3	Assessment Program (R).....	39600		3,016,444
4	Literacy Project.....	89900		350,000
5	21 st Century Technology Infrastructure			
6	Network Tools and Support (R).....	93300		<u>14,600,383</u>
7	Total.....		\$	18,883,375

8 Any unexpended balances remaining in the appropriations for Unclassified (fund 3951,
9 appropriation 09900), Current Expenses (fund 3951, appropriation 13000), Assessment Program
10 (fund 3951, appropriation 39600), and 21st Century Technology Infrastructure Network Tools and
11 Support (fund 3951, appropriation 93300) at the close of the fiscal year 2020 are hereby
12 reappropriated for expenditure during the fiscal year 2021.

296 - State Department of Education –

School Building Authority –

Debt Service Fund

(WV Code Chapter 18)

Fund 3963 FY 2021 Org 0404

1	Debt Service – Total	31000	\$	15,320,363
2	Directed Transfer	70000		<u>2,679,637</u>
3	Total.....		\$	18,000,000

4 The School Building Authority shall have the authority to transfer between the above
5 appropriations in accordance with W.Va. Code §29-22-18.

6 The above appropriation for Directed Transfer (fund 3963, appropriation 70000) may be
7 transferred to the Department of Education, State Board of Education, School Building Authority,
8 School Construction Fund, fund 3952, organization 0404 to be used for school construction and
9 maintenance projects.

297 - Division of Culture and History –

Lottery Education Fund

(WV Code Chapter 29)

Fund 3534 FY 2021 Org 0432

1	Huntington Symphony.....	02700	\$	59,058
2	Preservation WV (R).....	09200		491,921
3	Fairs and Festivals (R).....	12200		1,346,814
4	Commission for National and Community Service (R)	19300		374,980
5	Archeological Curation/Capital Improvements (R).....	24600		36,276
6	Historic Preservation Grants (R)	31100		368,428
7	West Virginia Public Theater.....	31200		120,019
8	Greenbrier Valley Theater.....	42300		115,000
9	Theater Arts of West Virginia	46400		90,000
10	Marshall Artists Series	51800		36,005
11	Grants for Competitive Arts Program (R)	62400		726,000
12	West Virginia State Fair	65700		31,241
13	Save the Music	68000		24,000
14	Contemporary American Theater Festival.....	81100		57,281
15	Independence Hall.....	81200		27,277
16	Mountain State Forest Festival	86400		38,187
17	WV Symphony.....	90700		59,058
18	Wheeling Symphony.....	90800		59,058
19	Appalachian Children's Chorus.....	91600		<u>54,554</u>

20	Total.....	\$ 4,115,157
21	From the above appropriation for Preservation West Virginia (fund 3534, appropriation 09200)	
22	funding shall be provided to the African-American Heritage Family Tree Museum (Fayette) \$2,673,	
23	Arts Monongahela (Monongalia) \$11,881, Barbour County Arts and Humanities Council \$891,	
24	Beckley Main Street (Raleigh) \$2,970, Buffalo Creek Memorial (Logan) \$2,970, Carnegie Hall	
25	(Greenbrier) \$46,899, Ceredo Historical Society (Wayne) \$1,188, Ceredo Kenova Railroad Museum	
26	(Wayne) \$1,188, Ceredo Museum (Wayne) \$720, Children's Theatre of Charleston (Kanawha)	
27	\$3,127, Chuck Mathena Center (Mercer) \$62,532, Collis P. Huntington Railroad Historical Society	
28	(Cabell) \$5,941, Country Music Hall of Fame and Museum (Marion) \$4,159, First Stage Children's	
29	Theater Company \$1,188, Flannigan Murrell House (Summers) \$3,781, Fort Ashby Fort (Mineral)	
30	\$891, Fort New Salem (Harrison) \$2,198, Fort Randolph (Mason) \$2,970, General Adam Stephen	
31	Memorial Foundation (Berkeley) \$11,006, Grafton Mother's Day Shrine Committee (Taylor) \$8,749,	
32	Hardy County Tour and Crafts Association \$11,881, Heartwood in the Hills (Calhoun) \$5,040,	
33	Heritage Farm Museum & Village (Cabell) \$29,703, Historic Fayette Theater (Fayette) \$3,267,	
34	Historic Middleway Conservancy (Jefferson) \$594, Jefferson County Black History Preservation	
35	Society \$2,970, Jefferson County Historical Landmark Commission \$4,753, Maddie Carroll House	
36	(Cabell) \$4,455, Marshall County Historical Society \$5,049, McCoy Theater (Hardy) \$11,881,	
37	Memorial Day Patriotic Exercise (Taylor) \$20,000, Morgantown Theater Company (Monongalia)	
38	\$11,881, Mountaineer Boys' State (Lewis) \$5,941, Nicholas Old Main Foundation (Nicholas) \$1,188,	
39	Norman Dillon Farm Museum (Berkeley) \$5,941, Old Opera House Theater Company (Jefferson)	
40	\$8,911, Parkersburg Arts Center (Wood) \$11,881, Pocahontas Historic Opera House \$3,564,	
41	Raleigh County All Wars Museum \$5,941, Rhododendron Girl's State (Ohio) \$5,941, Roane County	
42	4-H and FFA Youth Livestock Program \$2,970, Society for the Preservation of McGrew House	
43	(Preston) \$2,079, Southern West Virginia Veterans' Museum \$3,393, Summers County Historic	
44	Landmark Commission \$2,970, Those Who Served War Museum (Mercer) \$2,376, Three Rivers	
45	Avian Center (Summers) \$5,311, Veterans Committee for Civic Improvement of Huntington (Wayne)	
46	\$2,970, West Virginia Museum of Glass (Lewis) \$2,970, West Virginia Music Hall of Fame (Kanawha)	
47	\$20,792, Camp Horseshoe (Tucker) \$59,406, Youth Museum of Southern West Virginia (Raleigh)	
48	\$7,129, Z. D. Ramsdell House (Wayne) \$720.	
49	From the above appropriation for Fairs and Festivals (fund 3534, appropriation 12200) funding	
50	shall be provided to the A Princeton 4th (Mercer) \$1,800, African-American Cultural Heritage Festival	
51	(Jefferson) \$2,970, Alderson 4th of July Celebration (Greenbrier) \$2,970, Allegheny Echo	
52	(Pocahontas) \$4,456, Alpine Festival/Leaf Peepers Festival (Tucker) \$6,683, American Civil War	
53	(Grant) \$3,127, American Legion Post 8 Veterans Day Parade (McDowell) \$1,250, Angus Beef and	
54	Cattle Show (Lewis) \$891, Annual Don Redman Heritage Concert & Awards (Jefferson) \$938,	
55	Annual Ruddle Park Jamboree (Pendleton) \$4,690, Antique Market Fair (Lewis) \$1,188, Apple	
56	Butter Festival (Morgan) \$3,564, Arkansas Homemaker's Heritage Weekend (Hardy) \$2,079,	
57	Armed Forces Day-South Charleston (Kanawha) \$1,782, Arthurdale Heritage New Deal Festival	
58	(Preston) \$2,970, Athens Town Fair (Mercer) \$1,188, Augusta Fair (Randolph) \$2,970, Autumn	
59	Harvest Fest (Monroe) \$2,448, Barbour County Fair \$14,851, Barboursville Octoberfest (Cabell)	
60	\$2,970, Battelle District Fair (Monongalia) \$2,970, Battle of Dry Creek (Greenbrier) \$891, Battle of	
61	Point Pleasant Memorial Committee (Mason) \$2,970, Belle Town Fair (Kanawha) \$2,673, Belleville	
62	Homecoming (Wood) \$11,881, Bergoo Down Home Days (Webster) \$1,485, Berkeley County Youth	
63	Fair \$10,990, Black Bear 4K Mountain Bike Race (Kanawha) \$684, Black Heritage Festival	
64	(Harrison) \$3,564, Black Walnut Festival (Roane) \$5,940, Blast from the Past (Upshur) \$1,440,	
65	Blue-Gray Reunion (Barbour) \$2,079, Boone County Fair \$5,940, Boone County Labor Day	
66	Celebration \$2,376, Bradshaw Fall Festival (McDowell) \$1,188, Brandonville Heritage Day (Preston)	
67	\$1,048, Braxton County Fair \$6,832, Braxton County Monster Fest / West Virginia Autumn Festival	
68	\$1,485, Brooke County Fair \$2,079, Bruceton Mills Good Neighbor Days (Preston) \$1,188,	
69	Buckwheat Festival (Preston) \$5,050, Buffalo 4th of July Celebration (Putnam) \$400, Buffalo	

70 October Fest (Putnam) \$3,240, Burlington Apple Harvest Festival (Mineral) \$17,821, Burlington
 71 Pumpkin Harvest Festival (Raleigh) \$2,970, Burnsville Freedom Festival (Braxton) \$1,407, Cabell
 72 County Fair \$5,940, Calhoun County Wood Festival \$1,188, Campbell's Creek Community Fair
 73 (Kanawha) \$1,485, Cape Coalwood Festival Association (McDowell) \$1,485, Capon Bridge
 74 Founders Day Festival (Hampshire) \$1,188, Capon Springs Ruritan 4th of July (Hampshire) \$684,
 75 Cass Homecoming (Pocahontas) \$1,188, Cedarville Town Festival (Gilmer) \$684, Celebration of
 76 America (Monongalia) \$3,564, Chapmanville Apple Butter Festival (Logan) \$684, Chapmanville Fire
 77 Department 4th of July (Logan) \$1,782, Charles Town Christmas Festival (Jefferson) \$2,970,
 78 Charles Town Heritage Festival (Jefferson) \$2,970, Cherry River Festival (Nicholas) \$3,861, Chester
 79 Fireworks (Hancock) \$891, Chester 4th of July Festivities (Hancock) \$2,970, Chief Logan State
 80 Park-Civil War Celebration (Logan) \$4,752, Chilifest West Virginia State Chili Championship (Cabell)
 81 \$1,563, Christmas In Our Town (Marion) \$3,127, Christmas in Shepherdstown (Jefferson) \$2,376,
 82 Christmas in the Park (Brooke) \$2,970, Christmas in the Park (Logan) \$14,851, City of Dunbar
 83 Critter Dinner (Kanawha) \$5,940, City of Logan Polar Express (Logan) \$4,456, City of New
 84 Martinsville Festival of Memories (Wetzel) \$6,534, Clay County Golden Delicious Apple Festival
 85 \$4,158, Clay District Fair (Monongalia) \$1,080, Coal Field Jamboree (Logan) \$20,792, Coalton Days
 86 Fair (Randolph) \$4,158, Craigsville Fall Festival (Nicholas) \$2,079, Cruise into Princeton (Mercer)
 87 \$2,160, Culturefest World Music & Arts Festival (Mercer) \$4,690, Delbarton Homecoming (Mingo)
 88 \$2,079, Doddridge County Fair \$4,158, Durbin Days (Pocahontas) \$2,970, Elbert/Filbert Reunion
 89 Festival (McDowell) \$891, Fairview 4th of July Celebration (Marion) \$684, Farm Safety Day
 90 (Preston) \$1,188, Farmer's Day Festival (Monroe) \$2,330, Fenwick Mountain Old Time Community
 91 Festival (Nicholas) \$2,880, FestivALL Charleston (Kanawha) \$11,881, Flemington Day Fair and
 92 Festival (Taylor) \$2,379, Follansbee Community Days (Brooke) \$4,900, Fort Gay Mountain Heritage
 93 Days (Wayne) \$2,970, Fort Henry Days (Ohio) \$3,148, Fort Henry Living History (Ohio) \$1,563,
 94 Fort New Salem Spirit of Christmas Festival (Harrison) \$2,432, Frankford Autumnfest (Greenbrier)
 95 \$2,970, Franklin Fishing Derby (Pendleton) \$4,456, Freshwater Folk Festival (Greenbrier) \$2,970,
 96 Friends Auxiliary of W.R. Sharpe Hospital (Lewis) \$2,970, Frontier Days (Harrison) \$1,782, Fund
 97 for the Arts-Wine & All that Jazz Festival (Kanawha) \$1,485, Gassaway Days Celebration (Braxton)
 98 \$2,970, Gilbert Elementary Fall Blast (Mingo) \$2,188, Gilbert Spring Fling (Mingo) \$3,595, Gilmer
 99 County Farm Show \$2,376, Grant County Arts Council \$1,188, Great Greenbrier River Race
 100 (Pocahontas) \$5,940, Greater Quinwood Days (Greenbrier) \$781, Guyandotte Civil War Days
 101 (Cabell) \$5,941, Hamlin 4th of July Celebration (Lincoln) \$2,970, Hampshire Civil War Celebration
 102 Days (Hampshire) \$684, Hampshire County 4th of July Celebration \$11,881, Hampshire County
 103 Fair \$5,002, Hancock County Oldtime Fair \$2,970, Hardy County Commission - 4th of July \$5,940,
 104 Hatfield McCoy Matewan Reunion Festival (Mingo) \$12,330, Hatfield McCoy Trail National ATV and
 105 Dirt Bike Weekend (Wyoming) \$2,970, Heat'n the Hills Chilifest (Lincoln) \$2,970, Heritage Craft
 106 Festival (Monroe) \$1,044, Heritage Days Festival (Roane) \$891, Hilltop Festival (Cabell) \$684,
 107 Hilltop Festival of Lights (McDowell) \$1,188, Hinton Railroad Days (Summers) \$4,347, Holly River
 108 Festival (Webster) \$891, Hometown Mountain Heritage Festival (Fayette) \$2,432, Hundred 4th of
 109 July (Wetzel) \$4,307, Hurricane 4th of July Celebration (Putnam) \$2,970, Jaeger Town Fair
 110 (McDowell) \$891, Irish Heritage Festival of West Virginia (Raleigh) \$2,970, Irish Spring Festival
 111 (Lewis) \$684, Italian Heritage Festival-Clarksburg (Harrison) \$17,821, Jackson County Fair \$2,970,
 112 Jamboree (Pocahontas) \$2,970, Jane Lew Arts and Crafts Fair (Lewis) \$684, Jefferson County Fair
 113 Association \$14,851, Jersey Mountain Ruritan Pioneer Days (Hampshire) \$684, John Henry Days
 114 Festival (Monroe) \$4,698, Johnnie Johnson Blues and Jazz Festival (Marion) \$2,970, Johnstown
 115 Community Fair (Harrison) \$1,485, Junior Heifer Preview Show (Lewis) \$1,188, Kanawha Coal
 116 Riverfest-St. Albans 4th of July Festival (Kanawha) \$2,970, Keeper of the Mountains-Kayford
 117 (Kanawha) \$1,485, Kenova Autumn Festival (Wayne) \$4,377, Kermit Fall Festival (Mingo) \$1,782,
 118 Keystone Reunion Gala (McDowell) \$1,563, King Coal Festival (Mingo) \$2,970, Kingwood
 119 Downtown Street Fair and Heritage Days (Preston) \$1,188, L.Z. Rainelle West Virginia Veterans
 120 Reunion (Greenbrier) \$2,970, Lady of Agriculture (Preston) \$684, Larry Joe Harless Center
 121 Octoberfest Hatfield McCoy Trail (Mingo) \$5,940, Larry Joe Harless Community Center Spring

122 Middle School Event (Mingo) \$2,970, Last Blast of Summer (McDowell) \$2,970, Lewisburg Shanghai
 123 (Greenbrier) \$1,188, Lincoln County Fall Festival \$4,752, Lincoln County Winterfest \$2,970,
 124 Lindside Veterans' Day Parade (Monroe) \$720, Little Levels Heritage Festival (Pocahontas) \$1,188,
 125 Lost Creek Community Festival (Harrison) \$4,158, Main Street Arts Festival (Upshur) \$3,127, Main
 126 Street Martinsburg Chocolate Fest and Book Fair (Berkeley) \$2,813, Mannington District Fair
 127 (Marion) \$3,564, Maple Syrup Festival (Randolph) \$684, Marion County FFA Farm Fest \$1,485,
 128 Marmet Labor Day Celebration (Kanawha) \$3,078, Marshall County Antique Power Show \$1,485,
 129 Mason County Fair \$2,970, , Matewan Massacre Reenactment (Mingo) \$5,004, Matewan-Magnolia
 130 Fair (Mingo) \$15,932, McARTS-McDowell County \$11,881, McGrew House History Day (Preston)
 131 \$1,188, McNeill's Rangers (Mineral) \$4,752, Meadow Bridge Hometown Festival (Fayette) \$743,
 132 Meadow River Days Festival (Greenbrier) \$1,782, Mercer Bluestone Valley Fair (Mercer) \$1,188,
 133 Mercer County Fair \$1,188, Mercer County Heritage Festival \$3,474, Milton Christmas in the Park
 134 (Cabell) \$1,485, Milton Old Timey Days (Cabell) \$1,485, Mineral County Veterans Day Parade
 135 \$891, Molasses Festival (Calhoun) \$1,188, Monongahfest (Marion) \$3,752, Moon Over Mountwood
 136 Fishing Festival (Wood) \$1,782, Morgan County Fair-History Wagon \$891, Moundsville Bass
 137 Festival (Marshall) \$2,376, Moundsville July 4th Celebration (Marshall) \$2,970, Mount Liberty Fall
 138 Festival (Barbour) \$1,485, Mountain Fest (Monongalia) \$11,881, Mountain Festival (Mercer)
 139 \$2,747, Mountain Heritage Arts and Crafts Festival (Jefferson) \$2,970, Mountain Music Festival
 140 (McDowell) \$1,485, Mountain State Apple Harvest Festival (Berkeley) \$4,456, Mountain State Arts
 141 & Crafts Fair Cedar Lakes (Jackson) \$26,732, Mullens Dogwood Festival (Wyoming) \$4,158, Multi-
 142 Cultural Festival of West Virginia (Kanawha) \$11,881, Music and Barbecue - Banks District VFD
 143 (Upshur) \$1,278, New Cumberland Christmas Parade (Hancock) \$1,782, New Cumberland 4th of
 144 July (Hancock) \$2,970, New River Bridge Day Festival (Fayette) \$23,762, Nicholas County Fair
 145 \$2,970, Nicholas County Potato Festival \$2,079, Oak Leaf Festival (Fayette) \$6,253, Oceana
 146 Heritage Festival (Wyoming) \$3,564, Oglebay City Park - Festival of Lights (Ohio) \$47,524, Oglebay
 147 Festival (Ohio) \$5,940, Ohio County Country Fair \$5,346, Ohio River Fest (Jackson) \$4,320, Ohio
 148 Valley Beef Association (Wood) \$1,485, Ohio Valley Black Heritage Festival (Ohio) \$3,267, Old
 149 Central City Fair (Cabell) \$2,970, Old Tyme Christmas (Jefferson) \$1,425, Paden City Labor Day
 150 Festival (Wetzel) \$3,861, Parkersburg Homecoming (Wood) \$8,754, Patty Fest (Monongalia)
 151 \$1,188, Paw Paw District Fair (Marion) \$2,079, Pax Reunion Committee (Fayette) \$2,970, Pendleton
 152 County 4-H Weekend \$1,188, Pendleton County Committee for Arts \$8,910, Pendleton County Fair
 153 \$6,253, Pennsboro Country Road Festival (Ritchie) \$1,188, Petersburg 4th of July Celebration
 154 (Grant) \$11,881, Petersburg HS Celebration (Grant) \$5,940, Piedmont-Annual Back Street Festival
 155 (Mineral) \$2,376, Pinch Reunion (Kanawha) \$891, Pine Bluff Fall Festival (Harrison) \$2,376, Pine
 156 Grove 4th of July Festival (Wetzel) \$4,158, Pineville Festival (Wyoming) \$3,564, Pleasants County
 157 Agriculture Youth Fair \$2,970, Poca Heritage Days (Putnam) \$1,782, Pocahontas County Pioneer
 158 Days \$4,159, Point Pleasant Stern Wheel Regatta (Mason) \$2,970, Pratt Fall Festival (Kanawha)
 159 \$1,485, Princeton Autumnfest (Mercer) \$1,563, Princeton Street Fair (Mercer) \$2,970, Putnam
 160 County Fair \$2,970, Quartets on Parade (Hardy) \$2,376, Rainelle Fall Festival (Greenbrier) \$3,127,
 161 Rand Community Center Festival (Kanawha) \$1,485, Randolph County Community Arts Council
 162 \$1,782, Randolph County Fair \$4,158, Randolph County Ramp and Rails \$1,188, Ranson Christmas
 163 Festival (Jefferson) \$2,970, Ranson Festival (Jefferson) \$2,970, Renick Liberty Festival (Greenbrier)
 164 \$684, Ripley 4th of July (Jackson) \$8,910, Ritchie County Fair and Exposition \$2,970, Ritchie County
 165 Pioneer Days \$684, River City Festival (Preston) \$684, Roane County Agriculture Field Day \$1,782,
 166 Rock the Park (Kanawha) \$3,240, Rocket Boys Festival (Raleigh) \$1,710, Romney Heritage Days
 167 (Hampshire) \$1,876, Ronceverte River Festival (Greenbrier) \$2,970, Rowlesburg Labor Day Festival
 168 (Preston) \$684, Rupert Country Fling (Greenbrier) \$1,876, Saint Spyridon Greek Festival (Harrison)
 169 \$1,485, Salem Apple Butter Festival (Harrison) \$2,376, Sistersville 4th of July (Tyler) \$3,267,
 170 Skirmish on the River (Mingo) \$1,250, Smoke on the Water (Wetzel) \$1,782, South Charleston
 171 Summerfest (Kanawha) \$5,940, Southern Wayne County Fall Festival \$684, Spirit of Grafton
 172 Celebration (Taylor) \$6,240, St. Albans City of Lights - December (Kanawha) \$2,970, Sternwheel
 173 Festival (Wood) \$1,782, Stoco Reunion (Raleigh) \$1,485, Stonewall Jackson Heritage Arts & Crafts

174 Jubilee (Lewis) \$6,534, Stonewall Jackson’s Roundhouse Raid (Berkeley) \$7,200, Strawberry
 175 Festival (Upshur) \$17,821, Sylvester Big Coal River Festival (Boone) \$1,944, Tacy Fair (Barbour)
 176 \$684, Taste of Parkersburg (Wood) \$2,970, Taylor County Fair \$3,567, The Gathering at Sweet
 177 Creek (Wood) \$1,782, Three Rivers Coal Festival (Marion) \$4,604, Thunder on the Tygart - Mothers’
 178 Day Celebration (Taylor) \$7,300, Town of Delbarton 4th of July Celebration (Mingo) \$1,782, Town
 179 of Fayetteville Heritage Festival (Fayette) \$4,456, Town of Rivesville 4th of July Festival (Marion)
 180 \$3,127, Town of Winfield - Putnam County Homecoming \$3,240, St. Albans Train Fest (Kanawha)
 181 \$6,120, Treasure Mountain Festival (Pendleton) \$14,851, Tri-County Fair (Grant) \$22,548, Tucker
 182 County Arts Festival and Celebration \$10,692, Tucker County Fair \$2,821, Tucker County Health
 183 Fair \$1,188, Turkey Festival (Hardy) \$1,782, Tyler County Fair \$3,088, Union Community Irish
 184 Festival (Barbour) \$648, Upper Kanawha Valley Oktoberfest (Kanawha) \$1,485, Upper Ohio Valley
 185 Italian Festival (Ohio) \$7,128, Valley District Fair (Preston) \$2,079, Veterans Welcome Home
 186 Celebration (Cabell) \$938, Vietnam Veterans of America # 949 Christmas Party (Cabell) \$684,
 187 Volcano Days at Mountwood Park (Wood) \$2,970, War Homecoming Fall Festival (McDowell) \$891,
 188 Wardensville Fall Festival (Hardy) \$2,970, Wayne County Fair \$2,970, Wayne County Fall Festival
 189 \$2,970, Webster County Fair \$3,600, Webster County Wood Chopping Festival \$8,910, Webster
 190 Wild Water Weekend (Webster) \$1,188, Weirton July 4th Celebration (Hancock) \$11,881, Welcome
 191 Home Family Day (Wayne) \$1,900, Wellsburg 4th of July Celebration (Brooke) \$4,456, Wellsburg
 192 Apple Festival of Brooke County \$2,970, West Virginia Blackberry Festival (Harrison) \$2,970, West
 193 Virginia Chestnut Festival (Preston) \$684, West Virginia Coal Festival (Boone) \$5,940, West Virginia
 194 Coal Show (Mercer) \$1,563, West Virginia Dairy Cattle Show (Lewis) \$5,940, West Virginia
 195 Dandelion Festival (Greenbrier) \$2,970, West Virginia Day at the Railroad Museum (Mercer) \$1,800,
 196 West Virginia Fair and Exposition (Wood) \$4,812, West Virginia Fireman’s Rodeo (Fayette) \$1,485,
 197 West Virginia Oil and Gas Festival (Tyler) \$6,534, West Virginia Peach Festival (Hampshire) \$3,240,
 198 West Virginia Polled Hereford Association (Braxton) \$891, West Virginia Pumpkin Festival (Cabell)
 199 \$5,940, West Virginia Water Festival - City of Hinton (Summers) \$9,144, Weston VFD 4th of July
 200 Firemen Festival (Lewis) \$1,188, Wetzel County Autumnfest \$3,267, Wetzel County Town and
 201 Country Days \$10,098, Wheeling Celtic Festival (Ohio) \$1,166, Wheeling City of Lights (Ohio)
 202 \$4,752, Wheeling Sternwheel Regatta (Ohio) \$5,940, Wheeling Vintage Raceboat Regatta (Ohio)
 203 \$11,881, Whipple Community Action (Fayette) \$1,485, Wine Festival and Mountain Music Event
 204 (Harrison) \$2,970, Wirt County Fair \$1,485, Wirt County Pioneer Days \$1,188, Wyoming County
 205 Civil War Days \$1,296, Youth Stockman Beef Expo (Lewis) \$1,188.

206 Any unexpended balances remaining in the appropriations for Commission for National and
 207 Community Service (fund 3534, appropriation 19300), Archeological Curation/Capital Improvements
 208 (fund 3534, appropriation 24600), Historic Preservation Grants (fund 3534, appropriation 31100),
 209 Grants for Competitive Arts Program (fund 3534, appropriation 62400), and Project ACCESS (fund
 210 3534, appropriation 86500) at the close of the fiscal year 2020 are hereby reappropriated for
 211 expenditure during the fiscal year 2021.

298 - Library Commission –

Lottery Education Fund

(WV Code Chapter 10)

Fund 3559 FY 2021 Org 0433

1	Books and Films	17900	\$	360,784
2	Services to Libraries	18000		550,000

3	Grants to Public Libraries.....	18200		9,439,571
4	Digital Resources.....	30900		219,992
5	Infomine Network.....	88400		<u>943,353</u>
6	Total.....		\$	11,513,700

7 Any unexpended balance remaining in the appropriation for Libraries – Special Projects (fund
 8 3559, appropriation 62500) at the close of fiscal year 2020 is hereby reappropriated for expenditure
 9 during the fiscal year 2021.

299 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 3587 FY 2021 Org 0439

1 Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance
 2 (fund 3587, appropriation 75500) at the close of fiscal year 2020 is hereby reappropriated for
 3 expenditure during the fiscal year 2021.

300 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2021 Org 0508

1	Personal Services and Employee Benefits.....	00100	\$	209,640
2	Current Expenses.....	13000		332,284
3	Repairs and Alterations.....	06400		1,000
4	Local Programs Service Delivery Costs.....	20000		2,435,250
5	Silver Haired Legislature.....	20200		18,500
6	Transfer to Division of Human Services for Health Care			
7	and Title XIX Waiver for Senior Citizens.....	53900		4,615,503
8	Roger Tompkins Alzheimer’s Respite Care.....	64300		2,302,016
9	WV Alzheimer’s Hotline.....	72400		45,000
10	Regional Aged and Disabled Resource Center.....	76700		425,000
11	Senior Services Medicaid Transfer.....	87100		16,400,070
12	Legislative Initiatives for the Elderly.....	90400		9,671,239

2020]	HOUSE OF DELEGATES	2021	
13	Long Term Care Ombudsman	90500	297,226
14	BRIM Premium	91300	7,718
15	In-Home Services and Nutrition for Senior Citizens	91700	<u>6,095,941</u>
16	Total.....	\$	42,856,387

17 Any unexpended balance remaining in the appropriation for Senior Citizen Centers and
18 Programs (fund 5405, appropriation 46200) at the close of the fiscal year 2020 is hereby
19 reappropriated for expenditure during the fiscal year 2021.

20 Included in the above appropriation for Current Expenses (fund 5405, appropriation 13000),
21 is funding to support an in-home direct care workforce registry.

22 The above appropriation for Transfer to Division of Human Services for Health Care and Title
23 XIX Waiver for Senior Citizens (appropriation 53900) along with the federal moneys generated
24 thereby shall be used for reimbursement for services provided under the program.

301 - Higher Education Policy Commission –

Lottery Education –

Higher Education Policy Commission –

Control Account

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2021 Org 0441

1	RHI Program and Site Support (R).....	03600	\$	1,912,491
2	RHI Program and Site Support –			
3	RHEP Program Administration	03700		146,653
4	RHI Program and Site Support – Grad Med			
5	Ed and Fiscal Oversight (R)	03800		88,913
6	Minority Doctoral Fellowship (R)	16600		129,604
7	Health Sciences Scholarship (R)	17600		225,527
8	Vice Chancellor for Health Sciences –			
9	Rural Health Residency Program (R)	60100		62,725
10	WV Engineering, Science, and			
11	Technology Scholarship Program	86800		<u>452,831</u>

12 Total..... \$ 3,018,744

13 Any unexpended balances remaining in the appropriations for RHI Program and Site Support
 14 (fund 4925, appropriation 03600), RHI Program and Site Support – Grad Med Ed and Fiscal Oversight
 15 (fund 4925, appropriation 03800), Minority Doctoral Fellowship (fund 4925, appropriation 16600),
 16 Health Sciences Scholarship (fund 4925, appropriation 17600), and Vice Chancellor for Health
 17 Sciences – Rural Health Residency Program (fund 4925, appropriation 60100) at the close of fiscal
 18 year 2020 are hereby reappropriated for expenditure during the fiscal year 2021.

19 The above appropriation for WV Engineering, Science, and Technology Scholarship Program
 20 (fund 4925, appropriation 86800) shall be transferred to the West Virginia Engineering, Science and
 21 Technology Scholarship Fund (fund 4928, org 0441) established by W.Va. Code §18C-6-1.

302 - Community and Technical College –

Capital Improvement Fund

(WV Code Chapter 18B)

Fund 4908 FY 2021 Org 0442

1 Debt Service – Total 31000 \$ 5,000,000

2 Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements
 3 – Total (fund 4908, appropriation 84700) at the close of fiscal year 2020 is hereby reappropriated for
 4 expenditure during the fiscal year 2021.

303 - Higher Education Policy Commission –

Lottery Education –

West Virginia University – School of Medicine

(WV Code Chapter 18B)

Fund 4185 FY 2021 Org 0463

1 WVU Health Sciences –

2 RHI Program and Site Support (R)..... 03500 \$ 1,181,728

3 MA Public Health Program and

4 Health Science Technology (R)..... 62300 52,445

5 Health Sciences Career Opportunities Program (R)..... 86900 336,987

6 HSTA Program (R) 87000 1,761,948

7 Center for Excellence in Disabilities (R) 96700 313,517

8 Total..... \$ 3,646,625

9 Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI
 10 Program and Site Support (fund 4185, appropriation 03500), MA Public Health Program and Health
 11 Science Technology (fund 4185, appropriation 62300), Health Sciences Career Opportunities
 12 Program (fund 4185, appropriation 86900), HSTA Program (fund 4185, appropriation 87000), and
 13 Center for Excellence in Disabilities (fund 4185, appropriation 96700) at the close of fiscal year 2020
 14 are hereby reappropriated for expenditure during the fiscal year 2021.

304 - Higher Education Policy Commission –

Lottery Education –

Marshall University – School of Medicine

(WV Code Chapter 18B)

Fund 4896 FY 2021 Org 0471

1	Marshall Medical School –			
2	RHI Program and Site Support (R).....	03300	\$	427,075
3	Vice Chancellor for Health Sciences –			
4	Rural Health Residency Program (R).....	60100		<u>171,361</u>
5	Total.....		\$	598,436

6 Any unexpended balances remaining in the appropriations for Marshall Medical School – RHI
 7 Program and Site Support (fund 4896, appropriation 03300) and Vice Chancellor for Health Sciences
 8 – Rural Health Residency Program (fund 4896, appropriation 60100) at the close of fiscal year 2020
 9 are hereby reappropriated for expenditure during the fiscal year 2021.

10 Total TITLE II, Section 4 – Lottery Revenue \$ 127,808,000

1 **Sec. 5. Appropriations from state excess lottery revenue fund.** — In accordance with
 2 W.Va. Code §29-22-18a, §29-22A-10d, §29-22A-10e, §29-22C-27a and §29-25-22b, the following
 3 appropriations shall be deposited and disbursed by the Director of the Lottery to the following
 4 accounts in this section in the amounts indicated.

5 After first funding the appropriations required by W.Va. Code §29-22-18a, §29-22A-10d, §29-
 6 22A-10e, §29-22C-27a and §29-25-22b, the Director of the Lottery shall provide funding from the
 7 State Excess Lottery Revenue Fund for the remaining appropriations in this section to the extent that
 8 funds are available. In the event that revenues to the State Excess Lottery Revenue Fund are
 9 sufficient to meet all the appropriations required made pursuant to this section, then the Director of
 10 the Lottery shall then provide the funds available for fund 5365, appropriation 18900.

305 - Lottery Commission –

Refundable Credit

Fund 7207 FY 2021 Org 0705

		Excess			
			Lottery		
			Funds		
		Appro-			
		priation			
1	Directed Transfer	70000	\$	10,000,000	

2 The above appropriation shall be transferred to the General Revenue Fund to provide
3 reimbursement for the refundable credit allowable under W.Va. Code §11-21-21. The amount of the
4 required transfer shall be determined solely by the State Tax Commissioner and shall be completed
5 by the Director of the Lottery upon the commissioner’s request.

306 - Lottery Commission –

General Purpose Account

Fund 7206 FY 2021 Org 0705

1	General Revenue Fund – Transfer.....	70011	\$	65,000,000	
---	--------------------------------------	-------	----	------------	--

2 The above appropriation shall be transferred to the General Revenue Fund as determined by
3 the Director of the Lottery in accordance with W.Va. Code §29-22-18a.

307 - Higher Education Policy Commission –

Education Improvement Fund

Fund 4295 FY 2021 Org 0441

1	PROMISE Scholarship – Transfer	80000	\$	29,000,000	
---	--------------------------------------	-------	----	------------	--

2 The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296,
3 org 0441) established by W.Va. Code §18C-7-7.

4 The Legislature has explicitly set a finite amount of available appropriations and directed the
5 administrators of the Program to provide for the award of scholarships within the limits of available
6 appropriations.

308 - Economic Development Authority –

Economic Development Project Fund

Fund 9065 FY 2021 Org 0944

1	Debt Service – Total	31000	\$	19,000,000	
---	----------------------------	-------	----	------------	--

2 Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized
3 to be transferred to the lottery fund as reimbursement of amounts transferred to the economic
4 development project fund pursuant to section four of this title and W.Va. Code §29-22-18, subsection
5 (f).

309 - Department of Education –

School Building Authority

Fund 3514 FY 2021 Org 0404

1	Debt Service – Total	31000	\$	19,000,000
2	Direct Transfer	70000		<u>100</u>
3	Total		\$	19,000,100

4 The School Building Authority shall have the authority to transfer between the above
5 appropriations in accordance with W. Va. Code §29-22-18a

6 The above appropriation for Directed Transfer (fund 3514, appropriation 70000) may be
7 transferred to the Department of Education, State Board of Education, School Building Authority,
8 School Construction Fund, fund 3952, organization 0404 to be used for school construction and
9 maintenance projects.

310 - West Virginia Infrastructure Council –

West Virginia Infrastructure Transfer Fund

Fund 3390 FY 2021 Org 0316

1	Directed Transfer	70000	\$	46,000,000
---	-------------------------	-------	----	------------

2 The above appropriation shall be allocated pursuant to W.Va. Code §29-22-18d and §31-15-
3 9.

311 - Higher Education Policy Commission –

Higher Education Improvement Fund

Fund 4297 FY 2021 Org 0441

1	Directed Transfer	70000	\$	15,000,000
---	-------------------------	-------	----	------------

2 The above appropriation shall be transferred to fund 4903, org 0442 as authorized by Senate
3 Concurrent Resolution No. 41.

312 - Division of Natural Resources –

State Park Improvement Fund

Fund 3277 FY 2021 Org 0310

1	Current Expenses (R)	13000	\$	23,300
2	Repairs and Alterations (R).....	06400		161,200
3	Equipment (R)	07000		200,000

2026

JOURNAL OF THE

[MARCH 7

4	Buildings (R)	25800		100,000
5	Other Assets (R)	69000		<u>1,020,500</u>
6	Total		\$	1,505,000

7 Any unexpended balances remaining in the above appropriations for Repairs and Alterations
8 (fund 3277, appropriation 06400), Equipment (fund 3277, appropriation 07000), Unclassified – Total
9 (fund 3277, appropriation 09600), Unclassified (fund 3277, appropriation 09900), Current Expenses
10 (fund 3277, appropriation 13000), Buildings (fund 3277, appropriation 25800), and Other Assets (fund
11 3277, appropriation 69000) at the close of the fiscal year 2020 are hereby reappropriated for
12 expenditure during the fiscal year 2021.

313 - Economic Development Authority –

Cacapon and Beech Fork State Parks –

Lottery Revenue Debt Service

Fund 9067 FY 2021 Org 0944

1	Debt Service	04000	\$	2,032,000
---	--------------------	-------	----	-----------

314 - Economic Development Authority –

State Parks Lottery Revenue Debt Service Fund

Fund 9068 FY 2021 Org 0944

1	Debt Service	04000	\$	4,395,000
---	--------------------	-------	----	-----------

315 - Racing Commission –

Fund 7308 FY 2021 Org 0707

1 Special Breeders Compensation

2	(WVC §29-22-18a, subsection (l))	21800	\$	2,000,000
---	--	-------	----	-----------

316 - Lottery Commission –

Distributions to Statutory Funds and Purposes

Fund 7213 FY 2021 Org 0705

1	Parking Garage Fund – Transfer	70001	\$	500,000
2	2004 Capitol Complex Parking Garage Fund – Transfer	70002		216,478
3	Capitol Dome and Improvements Fund – Transfer	70003		1,796,256
4	Capitol Renovation and Improvement Fund – Transfer	70004		2,381,252

2020]	HOUSE OF DELEGATES	2027	
5	Development Office Promotion Fund – Transfer	70005	1,298,864
6	Research Challenge Fund – Transfer	70006	1,731,820
7	Tourism Promotion Fund – Transfer	70007	4,808,142
8	Cultural Facilities and Capitol Resources Matching		
9	Grant Program Fund – Transfer	70008	1,250,535
10	State Debt Reduction Fund – Transfer.....	70010	20,000,000
11	General Revenue Fund – Transfer.....	70011	1,167,799
12	West Virginia Racing Commission Racetrack		
13	Video Lottery Account	70012	3,463,637
14	Historic Resort Hotel Fund.....	70013	24,010
15	Licensed Racetrack Regular Purse Fund.....	70014	<u>22,383,247</u>
16	Total.....		\$ 61,022,040

317 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2021 Org 0100

1 Any unexpended balance remaining in the appropriation for Publication of Papers and
2 Transition Expenses – Lottery Surplus (fund 1046, appropriation 06600) at the close of the fiscal
3 year 2020 is hereby reappropriated for expenditure during the fiscal year 2021.

318 - Office of Technology

(WV Code Chapter 5A)

Fund 2532 FY 2021 Org 0231

1 Any unexpended balances remaining in the appropriations for Cyber Security (fund 2532,
2 appropriation 99001), Enterprise Data Center (fund 2532, appropriation 99002), and Enterprise
3 Telephony Modernization (fund 2532, appropriation 99003) at the close of the fiscal year 2020 is
4 hereby reappropriated for expenditure during the fiscal year 2021.

319 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2021 Org 0307

1 Any unexpended balances remaining in the appropriations for Unclassified – Total (fund 3170,
2 appropriation 09600), Recreational Grants or Economic Development Loans (fund 3170,

3 appropriation 25300), and Connectivity Research and Development – Lottery Surplus (fund 3170,
 4 appropriation 92300) at the close of the fiscal year 2020 are hereby reappropriated for expenditure
 5 during the fiscal year 2021.

320 - Higher Education Policy Commission –

Administration –

Control Account

(WV Code Chapter 18B)

Fund 4932 FY 2021 Org 0441

1 Any unexpended balance remaining in the appropriation for Advanced Technology Centers
 2 (fund 4932, appropriation 02800) at the close of the fiscal year 2020 is hereby reappropriated for
 3 expenditure during the fiscal year 2021.

321 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2021 Org 0511

1	Medical Services.....	18900	\$	66,302,960
---	-----------------------	-------	----	------------

322 - Division of Corrections and Rehabilitation –

Correctional Units

(WV Code Chapter 15A)

Fund 6283 FY 2021 Org 0608

1 Any unexpended balance remaining in the appropriation for Capital Outlay and Maintenance
 2 (fund 6283, appropriation 75500) at the close of the fiscal year 2020 is hereby reappropriated for
 3 expenditure during the fiscal year 2021.

4	Total TITLE II, Section 5 – Excess Lottery Funds		\$	<u>340,257,000</u>
---	--	--	----	--------------------

1 **Sec. 6. Appropriations of federal funds.** — In accordance with Article 11, Chapter 4 of the
 2 Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the
 3 provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for
 4 expenditure during the fiscal year 2021.

LEGISLATIVE

323 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2021 Org 2300

2020]

HOUSE OF DELEGATES

2029

**Appro-
piation**

**Federal
Funds**

1 Economic Loss Claim Payment Fund 33400 \$ 1,400,000

JUDICIAL

324 - Supreme Court

Fund 8867 FY 2021 Org 2400

1 Personal Services and Employee Benefits..... 00100 \$ 1,813,000

2 Current Expenses 13000 1,557,000

3 Repairs and Alterations..... 06400 100,000

4 Equipment 07000 250,000

5 Other Assets 69000 280,000

6 Total..... \$ 4,000,000

EXECUTIVE

325 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2021 Org 1400

1 Personal Services and Employee Benefits..... 00100 \$ 2,628,780

2 Unclassified 09900 50,534

3 Current Expenses 13000 3,828,661

4 Repairs and Alterations..... 06400 650,000

5 Equipment 07000 910,500

6 Buildings..... 25800 1,000,000

7 Other Assets 69000 50,000

8 Land 73000 500,000

9 Total..... \$ 9,618,475

326 - Department of Agriculture –

Meat Inspection Fund

(WV Code Chapter 19)

Fund 8737 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	658,571
2	Unclassified	09900		8,755
3	Current Expenses	13000		136,012
4	Repairs and Alterations.....	06400		5,500
5	Equipment	07000		<u>114,478</u>
6	Total.....		\$	923,316

*327 - Department of Agriculture –**State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	97,250
2	Current Expenses	13000		<u>15,599,974</u>
3	Total.....		\$	15,697,224

*328 - Department of Agriculture –**Land Protection Authority*Fund 8896 FY 2021 Org 1400

1	Personal Services and Employee Benefits.....	00100	\$	46,526
2	Unclassified	09900		5,004
3	Current Expenses	13000		<u>448,920</u>
4	Total.....		\$	500,450

*329 - Attorney General –**Medicaid Fraud Unit*Fund 8882 FY 2021 Org 1500

1	Personal Services and Employee Benefits.....	00100	\$	1,038,458
2	Unclassified	09900		15,336

2020]	HOUSE OF DELEGATES	2031	
3	Current Expenses	13000	456,638
4	Repairs and Alterations.....	06400	4,313
5	Equipment	07000	7,500
6	Other Assets.....	69000	<u>11,336</u>
7	Total.....		\$ 1,533,581

330 - Secretary of State –

State Election Fund

(WV Code Chapter 3)

Fund 8854 FY 2021 Org 1600

1	Personal Services and Employee Benefits.....	00100	\$ 210,240
2	Unclassified	09900	7,484
3	Current Expenses	13000	415,727
4	Repairs and Alterations.....	06400	15,000
5	Other Assets.....	69000	<u>100,000</u>
6	Total.....		\$ 748,451

DEPARTMENT OF COMMERCE

331 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2021 Org 0305

1	Personal Services and Employee Benefits.....	00100	\$ 1,640,060
2	Unclassified	09900	51,050
3	Current Expenses	13000	5,232,560
4	Repairs and Alterations.....	06400	155,795
5	Equipment	07000	100,000
6	Other Assets.....	69000	<u>1,808,300</u>
7	Total.....		\$ 8,987,765

332 - *Geological and Economic Survey*

(WV Code Chapter 29)

Fund 8704 FY 2021 Org 0306

1	Personal Services and Employee Benefits.....	00100	\$	54,432
2	Unclassified	09900		2,803
3	Current Expenses	13000		195,639
4	Repairs and Alterations.....	06400		5,000
5	Equipment	07000		7,500
6	Other Assets.....	69000		<u>15,000</u>
7	Total.....		\$	280,374

333 - *West Virginia Development Office*

(WV Code Chapter 5B)

Fund 8705 FY 2021 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$	1,039,921
2	Unclassified	09900		50,000
3	Current Expenses	13000		<u>4,504,019</u>
4	Total.....		\$	5,593,940

334 - *West Virginia Development Office –**Office of Economic Opportunity*

(WV Code Chapter 5)

Fund 8901 FY 2021 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$	497,289
2	Repairs and Alterations.....	06400		250
3	Equipment	07000		6,000
4	Unclassified	09900		106,795
5	Current Expenses	13000		<u>10,069,166</u>
6	Total.....		\$	10,679,500

335 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2021 Org 0308

1	Personal Services and Employee Benefits.....	00100	\$	409,251
2	Unclassified	09900		5,572
3	Current Expenses	13000		167,098
4	Repairs and Alterations.....	06400		<u>500</u>
5	Total.....		\$	582,421

336 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2021 Org 0310

1	Personal Services and Employee Benefits.....	00100	\$	10,064,006
2	Unclassified	09900		107,693
3	Current Expenses	13000		7,887,660
4	Repairs and Alterations.....	06400		566,250
5	Equipment	07000		2,126,141
6	Administration.....	15500		50,325
7	Buildings	25800		951,000
8	Other Assets.....	69000		7,088,880
9	Land	73000		<u>2,893,920</u>
10	Total.....		\$	31,735,875

*337 - Division of Miners' Health,**Safety and Training*

(WV Code Chapter 22)

Fund 8709 FY 2021 Org 0314

1	Personal Services and Employee Benefits.....	00100	\$	642,799
2	Current Expenses	13000		<u>150,000</u>

3	Total.....		\$	792,799
---	------------	--	----	---------

338 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2021 Org 0323

1	Unclassified	09900	\$	5,127
2	Current Expenses	13000		507,530
3	Reed Act 2002 – Unemployment Compensation.....	62200		2,850,000
4	Reed Act 2002 – Employment Services.....	63000		<u>1,650,000</u>
5	Total.....		\$	5,012,657

6 Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as
 7 amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and
 8 Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration
 9 of the state's unemployment insurance program or job service activities, subject to each and every
 10 restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

339 - Office of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2021 Org 0328

1	Personal Services and Employee Benefits.....	00100	\$	426,385
2	Unclassified	09900		7,350
3	Current Expenses	13000		<u>2,816,076</u>
4	Total.....		\$	3,249,811

340 - State Board of Rehabilitation –

Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 8734 FY 2021 Org 0932

1	Personal Services and Employee Benefits.....	00100	\$	11,863,244
2	Current Expenses	13000		34,440,940
3	Repairs and Alterations.....	06400		350,400
4	Equipment	07000		<u>1,275,870</u>

2020]

HOUSE OF DELEGATES

2035

5	Total.....		\$	47,930,454
<i>341 - State Board of Rehabilitation –</i>				
<i>Division of Rehabilitation Services –</i>				
<i>Disability Determination Services</i>				
(WV Code Chapter 18)				
Fund <u>8890</u> FY <u>2021</u> Org <u>0932</u>				
1	Personal Services and Employee Benefits.....	00100	\$	12,476,122
2	Current Expenses	13000		13,383,206
3	Repairs and Alterations.....	06400		1,100
4	Equipment	07000		<u>83,350</u>
5	Total.....		\$	25,943,778

DEPARTMENT OF EDUCATION

342 - State Board of Education –

State Department of Education

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2021 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	5,785,359
2	Unclassified	09900		2,000,000
3	Current Expenses	13000		222,367,820
4	Repairs and Alterations.....	06400		10,000
5	Equipment	07000		10,000
6	Other Assets.....	69000		<u>10,000</u>
7	Total.....		\$	230,183,179

343 - State Board of Education –

School Lunch Program

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2021 Org 0402

2036

JOURNAL OF THE

[MARCH 7

1	Personal Services and Employee Benefits.....	00100	\$	1,881,766
2	Unclassified	09900		1,150,500
3	Current Expenses	13000		148,281,265
4	Repairs and Alterations.....	06400		20,000
5	Equipment	07000		100,000
6	Other Assets.....	69000		<u>25,000</u>
7	Total.....		\$	151,458,531

344 - State Board of Education –

Vocational Division

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2021 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	1,896,249
2	Unclassified	09900		155,000
3	Current Expenses	13000		15,820,081
4	Repairs and Alterations.....	06400		10,000
5	Equipment	07000		10,000
6	Other Assets.....	69000		<u>10,000</u>
7	Total.....		\$	17,901,330

345 - State Board of Education –

Aid for Exceptional Children

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2021 Org 0402

1	Personal Services and Employee Benefits.....	00100	\$	3,477,006
2	Unclassified	09900		1,000,000
3	Current Expenses	13000		123,346,390
4	Repairs and Alterations.....	06400		10,000
5	Equipment	07000		10,000

2020]

HOUSE OF DELEGATES

2037

6	Other Assets.....	69000	<u>10,000</u>
7	Total.....		\$ 127,853,396

DEPARTMENT OF ARTS, CULTURE, AND HISTORY

346 - Commission for National and Community Service

(WV Code Chapter 5F)

Fund 8841 FY 2021 Org 0432

1	Personal Services and Employee Benefits.....	00100	\$ 437,040
2	Current Expenses.....	13000	5,587,325
3	Repairs and Alterations.....	06400	<u>1,000</u>
4	Total.....		\$ 6,025,365

347 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2021 Org 0432

1	Personal Services and Employee Benefits.....	00100	\$ 810,436
2	Current Expenses.....	13000	1,947,372
3	Repairs and Alterations.....	06400	1,000
4	Equipment.....	07000	1,000
5	Buildings.....	25800	1,000
6	Other Assets.....	69000	1,000
7	Land.....	73000	<u>360</u>
8	Total.....		\$ 2,762,168

348 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2021 Org 0433

1	Personal Services and Employee Benefits.....	00100	\$ 353,396
2	Current Expenses.....	13000	1,076,162
3	Equipment.....	07000	<u>543,406</u>

4	Total.....		\$	1,972,964
---	------------	--	----	-----------

349 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2021 Org 0439

1	Equipment	07000	\$	200,000
---	-----------------	-------	----	---------

DEPARTMENT OF ENVIRONMENTAL PROTECTION

350 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2021 Org 0313

1	Personal Services and Employee Benefits.....	00100	\$	31,406,529
2	Current Expenses	13000		153,850,118
3	Repairs and Alterations.....	06400		739,783
4	Equipment	07000		1,712,238
5	Unclassified	09900		1,923,580
6	Other Assets.....	69000		2,177,261
7	Land	73000		80,000
8	Total.....		\$	191,889,509

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

351 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	1,532,219
2	Unclassified	09900		73,307
3	Current Expenses	13000		36,583,302
4	Total.....		\$	38,188,828

352 - Division of Health –

Central Office

(WV Code Chapter 16)

Fund 8802 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	14,610,947
2	Unclassified	09900		856,614
3	Current Expenses	13000		69,201,885
4	Equipment	07000		456,972
5	Buildings	25800		155,000
6	Other Assets.....	69000		<u>380,000</u>
7	Total.....		\$	85,661,418

*353 - Division of Health –**West Virginia Safe Drinking Water Treatment*

(WV Code Chapter 16)

Fund 8824 FY 2021 Org 0506

1	West Virginia Drinking Water Treatment			
2	Revolving Fund – Transfer	68900	\$	16,000,000

354 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2021 Org 0510

1	Personal Services and Employee Benefits.....	00100	\$	449,874
2	Unclassified	09900		5,050
3	Current Expenses	13000		<u>64,950</u>
4	Total.....		\$	519,874

355 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 8722 FY 2021 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$	76,486,842
2	Unclassified	09900		22,855,833

2040

JOURNAL OF THE

[MARCH 7

3	Current Expenses	13000	112,110,500
4	Medical Services.....	18900	3,598,409,155
5	Medical Services Administrative Costs	78900	132,247,536
6	CHIP Administrative Costs.....	85601	4,539,496
7	CHIP Services	85602	47,422,974
8	Federal Economic Stimulus	89100	<u>5,000,000</u>
9	Total.....		\$ 3,999,072,336

DEPARTMENT OF HOMELAND SECURITY

356 - Office of the Secretary

(WV Code Chapter 5F)

Fund 8876 FY 2021 Org 0601

1	Unclassified	09900	\$ 5,000
2	Current Expenses	13000	<u>495,000</u>
3	Total.....		\$ 500,000

357 - Division of Emergency Management

(WV Code Chapter 15)

Fund 8727 FY 2021 Org 0606

1	Personal Services and Employee Benefits.....	00100	\$ 1,260,422
2	Current Expenses	13000	20,429,281
3	Repairs and Alterations.....	06400	5,000
4	Equipment	07000	<u>100,000</u>
5	Total.....		\$ 21,794,703

358 - Division of Corrections and Rehabilitation

(WV Code Chapter 15A)

Fund 8836 FY 2021 Org 0608

1	Unclassified	09900	\$ 1,100
2	Current Expenses	13000	<u>108,900</u>

3 Total..... \$ 110,000

359 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2021 Org 0612

1	Personal Services and Employee Benefits.....	00100	\$	2,480,877
2	Current Expenses	13000		2,125,971
3	Repairs and Alterations.....	06400		42,000
4	Equipment	07000		2,502,285
5	Buildings.....	25800		750,500
6	Other Assets.....	69000		144,500
7	Land	73000		<u>500</u>
8	Total.....		\$	8,046,633

360 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2021 Org 0619

1 Current Expenses..... 13000 \$ 80,000

361 - Division of Administrative Services

(WV Code Chapter 15)

Fund 8803 FY 2021 Org 0623

1	Personal Services and Employee Benefits.....	00100	\$	1,222,258
2	Unclassified	09900		25,185
3	Current Expenses	13000		25,381,973
4	Repairs and Alterations.....	06400		<u>1,750</u>
5	Total.....		\$	26,631,166

DEPARTMENT OF REVENUE

362 - Insurance Commissioner

(WV Code Chapter 33)

Fund 8883 FY 2021 Org 0704

1	Current Expenses	13000	\$	3,000,000
---	------------------------	-------	----	-----------

DEPARTMENT OF TRANSPORTATION*363 - Division of Motor Vehicles*

(WV Code Chapter 17B)

Fund 8787 FY 2021 Org 0802

1	Personal Services and Employee Benefits.....	00100	\$	551,394
2	Current Expenses	13000		5,448,106
3	Repairs and Alterations.....	06400		<u>500</u>
4	Total.....		\$	6,000,000

364 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2021 Org 0805

1	Personal Services and Employee Benefits.....	00100	\$	922,070
2	Current Expenses	13000		8,663,149
3	Repairs and Alterations.....	06400		2,500
4	Equipment	07000		2,801,714
5	Buildings	25800		1,250,000
6	Other Assets	69000		<u>100,000</u>
7	Total.....		\$	13,739,433

365 - Aeronautics Commission

(WV Code Chapter 29)

Fund 8831 FY 2021 Org 0807

1	Current Expenses	13000		400,000
2	Other Assets	69000		<u>100</u>
3	Total.....		\$	400,100

DEPARTMENT OF VETERANS' ASSISTANCE*366 - Department of Veterans' Assistance*

(WV Code Chapter 9A)

Fund 8858 FY 2021 Org 0613

1	Personal Services and Employee Benefits.....	00100	\$	2,947,485
2	Current Expenses	13000		2,840,300
3	Repairs and Alterations.....	06400		20,000
4	Equipment	07000		25,000
5	Buildings	25800		250,000
6	Land	73000		500
7	Veterans' Cemetary	80800		<u>175,000</u>
8	Total.....		\$	6,258,285

*367 - Department of Veterans' Assistance –**Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2021 Org 0618

1	Personal Services and Employee Benefits.....	00100	\$	906,850
2	Current Expenses	13000		601,700
3	Repairs and Alterations.....	06400		60,500
4	Equipment	07000		10,500
5	Buildings	25800		500
6	Other Assets	69000		500
7	Land	73000		<u>100</u>
8	Total.....		\$	1,580,650

BUREAU OF SENIOR SERVICES*368 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 8724 FY 2021 Org 0508

1	Personal Services and Employee Benefits.....	00100	\$	767,364
2	Current Expenses	13000		13,811,853
3	Repairs and Alterations.....	06400		<u>3,000</u>
4	Total.....		\$	14,582,217

MISCELLANEOUS BOARDS AND COMMISSIONS*369 - Public Service Commission –**Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2021 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$	1,352,576
2	Current Expenses	13000		368,953
3	Repairs and Alterations.....	06400		39,000
4	Equipment	07000		<u>935,500</u>
5	Total.....		\$	2,696,029

*370 - Public Service Commission –**Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2021 Org 0926

1	Personal Services and Employee Benefits.....	00100	\$	621,039
2	Current Expenses	13000		124,628
3	Equipment	07000		3,000
4	Unclassified	09900		<u>4,072</u>
5	Total.....		\$	752,739

371 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2021 Org 0941

2020] HOUSE OF DELEGATES 2045

1	Personal Services and Employee Benefits.....	00100	\$	163,405
2	Current Expenses	13000		633,417
3	Repairs and Alterations.....	06400		5,000
4	Equipment	07000		3,000
5	Other Assets	69000		<u>2,000</u>
6	Total.....		\$	806,822

372 - Adjutant General –

State Militia

(WV Code Chapter 15)

Fund 8726 FY 2021 Org 0603

1	Unclassified	09900	\$	982,705
2	Mountaineer ChalleNGe Academy.....	70900		7,200,000
3	Martinsburg Starbase.....	74200		439,622
4	Charleston Starbase	74300		424,685
5	Military Authority	74800		<u>91,380,274</u>
6	Total.....		\$	100,427,286

7 The Adjutant General shall have the authority to transfer between appropriations.

373 - Adjutant General –

West Virginia National Guard Counterdrug Forfeiture Fund

(WV Code Chapter 15)

Fund 8785 FY 2021 Org 0603

1	Personal Services and Employee Benefits.....	00100	\$	1,350,000
2	Current Expenses	13000		150,000
3	Repairs and Alterations.....	06400		50,000
4	Buildings	25800		100,000
5	Land	73000		50,000
6	Other Assets.....	69000		100,000

7	Equipment	07000	<u>200,000</u>
8	Total.....		\$ 2,000,000
9	Total TITLE II, Section 6 - Federal Funds		
10	(Including claims against the state)		<u>\$ 5,254,586,178</u>

1 **Sec. 7. Appropriations from federal block grants.** — The following items are hereby
2 appropriated from federal block grants to be available for expenditure during the fiscal year 2021.

374 - West Virginia Development Office –

Community Development

Fund 8746 FY 2021 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$ 10,658,978
2	Unclassified	09900	2,375,000
3	Current Expenses	13000	<u>224,476,883</u>
4	Total.....		\$ 237,510,861

375 - Department of Commerce

West Virginia Development Office –

Office of Economic Opportunity –

Community Services

Fund 8902 FY 2021 Org 0307

1	Personal Services and Employee Benefits.....	00100	\$ 362,389
2	Unclassified	09900	125,000
3	Current Expenses	13000	12,002,111
4	Repairs and Alterations.....	06400	1,500
5	Equipment	07000	<u>9,000</u>
6	Total.....		\$ 12,500,000

376 - WorkForce West Virginia –

Workforce Investment Act

Fund 8749 FY 2021 Org 0323

2020] HOUSE OF DELEGATES 2047

1	Personal Services and Employee Benefits.....	00100	\$	2,999,497
2	Unclassified	09900		23,023
3	Current Expenses	13000		39,263,511
4	Repairs and Alterations.....	06400		1,600
5	Equipment	07000		500
6	Buildings	25800		<u>1,100</u>
7	Total.....		\$	42,289,231

377 - Division of Health –

Maternal and Child Health

Fund 8750 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	2,268,209
2	Unclassified	09900		81,439
3	Current Expenses	13000		<u>5,794,267</u>
4	Total.....		\$	8,143,915

378 - Division of Health –

Preventive Health

Fund 8753 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	268,337
2	Unclassified	09900		22,457
3	Current Expenses	13000		1,895,366
4	Equipment	07000		<u>165,642</u>
5	Total.....		\$	2,351,802

379 - Division of Health –

Substance Abuse Prevention and Treatment

Fund 8793 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$	657,325
2	Unclassified	09900		115,924

3	Current Expenses	13000	<u>10,853,740</u>
4	Total		\$ 11,626,989

380 - Division of Health –

Community Mental Health Services

Fund 8794 FY 2021 Org 0506

1	Personal Services and Employee Benefits.....	00100	\$ 551,368
2	Unclassified	09900	33,533
3	Current Expenses	13000	<u>4,883,307</u>
4	Total		\$ 5,468,208

381 - Division of Human Services –

Energy Assistance

Fund 8755 FY 2021 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$ 1,860,574
2	Unclassified	09900	350,000
3	Current Expenses	13000	<u>38,182,151</u>
4	Total		\$ 40,392,725

382 - Division of Human Services –

Social Services

Fund 8757 FY 2021 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$ 8,806,005
2	Unclassified	09900	171,982
3	Current Expenses	13000	<u>8,870,508</u>
4	Total		\$ 17,848,495

383 - Division of Human Services –

Temporary Assistance for Needy Families

Fund 8816 FY 2021 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$ 20,559,397
---	--	-------	---------------

2	Unclassified	09900		1,250,000
3	Current Expenses	13000		<u>105,851,386</u>
4	Total.....		\$	127,660,783

384 - Division of Human Services –

Child Care and Development

Fund 8817 FY 2021 Org 0511

1	Personal Services and Employee Benefits.....	00100	\$	2,797,226
2	Unclassified	09900		350,000
3	Current Expenses	13000		<u>47,000,307</u>
4	Total.....		\$	50,147,533
5	Total TITLE II, Section 7 – Federal Block Grants		\$	<u>555,940,542</u>

1 **Sec. 8. Awards for claims against the state.** — There are hereby appropriated for fiscal
2 year 2021, from the fund as designated, in the amounts as specified, general revenue funds in the
3 amount of \$1,397,579, special revenue funds in the amount of \$6,433, state road funds in the amount
4 of \$844,164, and federal revenue funds in the amount of \$280,346 for payment of claims against the
5 state.

1 **Sec. 9. Appropriations from general revenue fund surplus accrued.** — The following item
2 is hereby appropriated from the state fund, general revenue, and is to be available for expenditure
3 during the fiscal year 2021 out of surplus funds only, accrued from the fiscal year ending June 30,
4 2020, subject to the terms and conditions set forth in this section.

5 It is the intent and mandate of the Legislature that the following appropriations be payable
6 only from surplus as of July 31, 2020 from the fiscal year ending June 30, 2020, only after first meeting
7 requirements of W.Va. Code §11B-2-20(b).

8 In the event that surplus revenues available on July 31, 2020, are not sufficient to meet the
9 appropriation made pursuant to this section, then the appropriation shall be made to the extent that
10 surplus funds are available as of the date mandated to meet the appropriation in this section and
11 shall be allocated first to provide the necessary funds to meet the first appropriation of this section
12 and each subsequent appropriation in the order listed in this section.

385 - Governor's Office –

Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2021 Org 0100

1	Milton Flood Wall - Surplus(R)	XXXXX	\$	6,000,000
---	--------------------------------------	-------	----	-----------

2	Total TITLE II, Section 9 – Surplus Accrued		\$ <u>6,000.00</u>
---	---	--	--------------------

1 **Sec. 10. Appropriations from lottery net profits surplus accrued.** — The following item is
 2 hereby appropriated from the lottery net profits, and is to be available for expenditure during the fiscal
 3 year 2021 out of surplus funds only, as determined by the director of lottery, accrued from the fiscal
 4 year ending June 30, 2020, subject to the terms and conditions set forth in this section.

5 It is the intent and mandate of the Legislature that the following appropriation be payable only
 6 from surplus accrued from the fiscal year ending June 30, 2020.

7 In the event that surplus revenues available from the fiscal year ending June 30, 2020, are
 8 not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall
 9 be made to the extent that surplus funds are available.

386 - Bureau of Senior Services –

Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2021 Org 0508

1	In-Home Services and Nutrition for		
2	Senior Citizens – Lottery Surplus	76699	\$ 750,000
3	Senior Services Medicaid Transfer – Lottery Surplus.....	68199	<u>16,000,000</u>
4	Total.....		\$ 16,750,000
5	Total TITLE II, Section 10 – Surplus Accrued.....		<u>\$ 16,750,000</u>

1 **Sec. 11. Appropriations from state excess lottery revenue surplus accrued.** — The
 2 following item is hereby appropriated from the state excess lottery revenue fund, and is to be available
 3 for expenditure during the fiscal year 2021 out of surplus funds only, as determined by the director of
 4 lottery, accrued from the fiscal year ending June 30, 2020, subject to the terms and conditions set
 5 forth in this section.

6 It is the intent and mandate of the Legislature that the following appropriation be payable only
 7 from surplus accrued from the fiscal year ending June 30, 2020.

8 In the event that surplus revenues available from the fiscal year ending June 30, 2020, are
 9 not sufficient to meet the appropriation made pursuant to this section, then the appropriation shall be
 10 made to the extent that surplus funds are available.

387 - Division of Human Services

(WV Code Chapters 9, 48, and 49)

Fund 5365 FY 2021 Org 0511

1	Medical Services – Lottery Surplus.....	68100	\$ 17,000,000
---	---	-------	---------------------

2	Total TITLE II, Section 11 – Surplus Accrued.....		\$ <u>17,000,000</u>
---	---	--	----------------------

1 **Sec. 12. Special revenue appropriations.** — There are hereby appropriated for expenditure
 2 during the fiscal year 2021 appropriations made by general law from special revenues which are not
 3 paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2: *Provided,*
 4 That none of the money so appropriated by this section shall be available for expenditure except in
 5 compliance with the provisions of W.Va. Code §12-2 and 3, and W.Va. Code §11B-2, unless the
 6 spending unit has filed with the director of the budget and the legislative auditor prior to the beginning
 7 of each fiscal year:

8 (a) An estimate of the amount and sources of all revenues accruing to such fund; and

9 (b) A detailed expenditure schedule showing for what purposes the fund is to be expended.

10 During Fiscal Year 2021, the following funds are hereby available and are to be transferred
 11 to the appropriate funds as specified from available balances per the following:

388 -Attorney General

Consumer Protection Recovery Fund

(WV Code Chapter 46A)

Fund 1509 FY 2021 Org 1500

1	Directed Transfer.....	70000	\$	6,100,000
---	------------------------	-------	----	-----------

2 From the above appropriation for Directed Transfer (Fund 1509, appropriation 70000),
 3 \$100,000 shall be transferred to the Supreme Court – Family Court Fund (Fund 1763), \$1,000,000
 4 shall be transferred to the West Virginia State Police – Forensic Laboratory Fund (Fund 6511) and
 5 \$5,000,000 shall be transferred to the Department of Health and Human Resources, Division of
 6 Health – Ryan Brown Addiction Prevention and Recovery Fund (Fund 5111).

389 - Attorney General

Medicaid Fraud Control Fund

(WV Code Chapter 9)

Fund 1506 FY 2021 Org 1500

1	Directed Transfer.....	70000	\$	941,000
---	------------------------	-------	----	---------

2 From the above appropriation for Directed Transfer (Fund 1509, appropriation 70000),
 3 \$941,000 shall be transferred to the Department of Health and Human Resources, Division of
 4 Human Services – Medical Services Trust Fund (Fund 5185).

5	Total TITLE II, Section 12 – Appropriations for Special Revenue			
6	Appropriations.....		\$	<u>7,041,000</u>

1 **Sec. 13. State improvement fund appropriations.** — Bequests or donations of nonpublic
 2 funds, received by the Governor on behalf of the state during the fiscal year 2021, for the purpose of
 3 making studies and recommendations relative to improvements of the administration and
 4 management of spending units in the executive branch of state government, shall be deposited in the
 5 state treasury in a separate account therein designated state improvement fund.

6 There are hereby appropriated all moneys so deposited during the fiscal year 2021 to be
7 expended as authorized by the Governor, for such studies and recommendations which may
8 encompass any problems of organization, procedures, systems, functions, powers or duties of a state
9 spending unit in the executive branch, or the betterment of the economic, social, educational, health
10 and general welfare of the state or its citizens.

1 **Sec. 14. Specific funds and collection accounts.** — A fund or collection account which by
2 law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful
3 demands upon the fund or collection account and shall be expended according to the provisions of
4 Article 3, Chapter 12 of the Code.

1 **Sec. 15. Appropriations for refunding erroneous payment.** — Money that has been
2 erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid,
3 for refund to the proper person.

4 When the officer authorized by law to collect money for the state finds that a sum has been
5 erroneously paid, he or she shall issue his or her requisition upon the Auditor for the refunding of the
6 proper amount. The Auditor shall issue his or her warrant to the Treasurer and the Treasurer shall
7 pay the warrant out of the fund into which the amount was originally paid.

1 **Sec. 16. Sinking fund deficiencies.** — There is hereby appropriated to the Governor a
2 sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance
3 fund of the West Virginia housing development fund which is under the supervision and control of the
4 municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal
5 bond commission because of the failure of any state agency for either general obligation or revenue
6 bonds or any local taxing district for general obligation bonds to remit funds necessary for the
7 payment of interest and sinking fund requirements. The Governor is authorized to transfer from time
8 to time such amounts to the municipal bond commission as may be necessary for these purposes.

9 The municipal bond commission shall reimburse the state of West Virginia through the
10 Governor from the first remittance collected from the West Virginia housing development fund or from
11 any state agency or local taxing district for which the Governor advanced funds, with interest at the
12 rate carried by the bonds for security or payment of which the advance was made.

1 **Sec. 17. Appropriations for local governments.** — There are hereby appropriated for
2 payment to counties, districts and municipal corporations such amounts as will be necessary to pay
3 taxes due counties, districts and municipal corporations and which have been paid into the treasury:

- 4 (a) For redemption of lands;
- 5 (b) By public service corporations;
- 6 (c) For tax forfeitures.

1 **Sec. 18. Total appropriations.** — Where only a total sum is appropriated to a spending unit,
2 the total sum shall include personal services and employee benefits, annual increment, current
3 expenses, repairs and alterations, buildings, equipment, other assets, land, and capital outlay, where
4 not otherwise specifically provided and except as otherwise provided in TITLE I – GENERAL
5 PROVISIONS, Sec. 3.

1 **Sec. 19. General school fund.** — The balance of the proceeds of the general school fund
2 remaining after the payment of the appropriations made by this act is appropriated for expenditure in
3 accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION

1 **Sec. 1. Appropriations conditional.** — The expenditure of the appropriations made by this
2 act, except those appropriations made to the legislative and judicial branches of the state
3 government, are conditioned upon the compliance by the spending unit with the requirements of
4 Article 2, Chapter 11B of the Code.

1 Where spending units or parts of spending units have been absorbed by or combined with
2 other spending units, it is the intent of this act that appropriations and reappropriations shall be to the
3 succeeding or later spending unit created, unless otherwise indicated.

1 **Sec. 2. Constitutionality.** — If any part of this act is declared unconstitutional by a court of
2 competent jurisdiction, its decision shall not affect any portion of this act which remains, but the
3 remaining portion shall be in full force and effect as if the portion declared unconstitutional had never
4 been a part of the act.”

Conference Committee Report Availability

At 7:52 p.m., the Clerk announced availability of the reports of the Committee of Conference on **Com. Sub. for H. B. 4558**, Creating a personal income tax credit for volunteer firefighters in West Virginia and **Com. Sub. for H. B. 4388**.

The House of Delegates then returned to further consideration of **Com. Sub. for S. B. 150**.

Delegates Cowles, Maynard, Paynter, Higginbotham, Hanna, Rowe, Storch, E. Evans, C. Thompson, Graves, Steele and Dean requested to be excused from voting on Com. Sub. for S. B. 150 under the provisions of House Rule 49.

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

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 738**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Butler, McGeehan and Wilson.

Absent and Not Voting: P. Martin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 150) passed.

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

On this question, the yeas and nays were taken (**Roll No. 739**), and there were—yeas 96, nays 2, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Butler and McGeehan.

Absent and Not Voting: Hardy and Linville.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 150) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2419, Relating to the authorization to release a defendant or a person arrested upon his or her own recognizance.

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 1C. BAIL.

§62-1C-1a. Release upon own recognizance authorized Pretrial release; types of release; conditions for release; considerations as to conditions of release.

~~(a) Any other provision of this article to the contrary notwithstanding, when from all the circumstances, the court or magistrate is of the opinion that the defendant or person arrested will appear as may be required of him either before or after conviction, such defendant or person arrested may be released upon his own recognizance.~~ (a) Subject to the provisions of §62-1C-1 of this code, when a person charged with a violation or violations of the criminal laws of this state first appears before a judicial officer:

(1) Except for good cause shown, a judicial officer shall release a person charged with a misdemeanor offense on his or her own recognizance unless that person is charged with:

(A) A misdemeanor offense of actual violence or threat of violence against a person;

(B) A misdemeanor offense where the victim was a minor, as defined in §61-8C-1 of this code;

(C) A misdemeanor offense involving the use of a deadly weapon, as defined in §61-7-2 of this code;

(D) A misdemeanor offense of the Uniform Controlled Substances Act as set forth in chapter 60A of this code;

(E) Misdemeanor offenses of sexual abuse;

(F) A serious misdemeanor traffic offense set forth in §17C-5-1 or §17C-5-2 of this code; or

(G) A misdemeanor offense involving auto tampering, petit larceny or possession, transfer or receiving of stolen property when alleged value on the property involved exceeds \$250.

(2) For the misdemeanor offenses specified in subsection (a) of this section and all other offenses which carry a penalty of incarceration, the arrested person is entitled to be admitted to bail subject to

the least restrictive condition or combination of conditions that the judicial officer determines reasonably necessary to assure that person will appear as required, and which will not jeopardize the safety of the arrested person, victims, witnesses, or other persons in the community or the safety and maintenance of evidence. Further conditions may include that the person charged shall:

(A) Not violate any criminal law of this state, another state, or the United States;

(B) Remain in the custody of a person designated by the judicial officer, who agrees to assume supervision and to report any violation of a release condition to the court, if the designated person is reasonably able to assure the judicial officer that the person will appear as required and will not pose a danger to himself or herself or to the safety of any other person or the community; (C) Participate in home incarceration pursuant to §62-11B-1 *et seq.* of this code;

(D) Participate in an electronic monitoring program if one is available where the person is charged or will reside.

(E) Maintain employment, or, if unemployed, actively seek employment;

(F) Avoid all contact with an alleged victim of the alleged offense and with potential witnesses and other persons as directed by the court;

(G) Refrain from the use or excessive use of alcohol, or any use of a narcotic drug or other controlled substance, as defined in §60A-1-1 *et seq.* of this code without a prescription from a licensed medical practitioner;

(H) Execute an agreement to forfeit, upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required. The person charged shall provide the court with proof of ownership, the value of the property, and information regarding existing encumbrances of the property as, in the discretion of the judicial officer, is reasonable and necessary collateral to ensure the subsequent appearance of the person as required;

(I) Post a cash bond, or execute a bail bond with solvent sureties who will execute an agreement to forfeit an amount reasonably necessary to assure appearance of the person as required. If other than an approved surety, the surety shall provide the court with information regarding the value of its assets and liabilities and the nature and extent of encumbrances against the surety's property. The surety shall have a net worth of sufficiently unencumbered value to pay the amount of the bail bond;
or

(J) Satisfy any other condition that is reasonably necessary to assure the appearance of the person as required and to assure the safety of the arrested person, victims, witnesses, other persons in the community, or the safety and maintenance of evidence.

(3) Proper considerations in determining whether to release the arrested person on an unsecured bond, fixing a reasonable amount of bail, or imposing other reasonable conditions of release are:

(A) The ability of the arrested person to give bail;

(B) The nature, number, and gravity of the offenses;

(C) The potential penalty the arrested person faces;

(D) Whether the alleged acts were violent in nature;

(E) The arrested person's prior record of criminal convictions and delinquency adjudications, if any;

(F) The character, health, residence, and reputation of the arrested person;

(G) The character and strength of the evidence which has been presented to the judicial officer;

(H) Whether the arrested person is currently on probation, extended supervision, or parole;

(I) Whether the arrested person is already on bail or subject to other release conditions in other pending cases;

(J) Whether the arrested person has been bound over for trial after a preliminary examination;

(K) Whether the arrested person has in the past forfeited bail or violated a condition of release or was ever a fugitive from justice; and

(L) The policy against unnecessary incarceration of arrested persons pending trial set forth in this section.

(b) In all misdemeanors, cash bail may not exceed three times the maximum fine provided for the offense. If the person is charged with more than one misdemeanor, cash bail may not exceed three times the highest maximum fine of the charged offenses.

(c) Notwithstanding any provisions of this article to the contrary, whenever a person not subject to the provisions of §62-1C-1 of this code remains incarcerated after his or her initial appearance, due to the inability to meet the requirements of a secured bond, the magistrate or judge who set the secured bond shall hold a hearing within 72 hours of setting the initial bail to determine if there is a condition or combination of conditions which can meet the considerations set forth in subdivision (2), subsection (a) of this section.

(d) A judicial officer may upon notice and hearing modify the conditions of release at any time by imposing additional or different conditions.

(e) A prosecuting attorney and defense counsel, unless expressly waived by the defendant, shall appear at all hearings in which bail or bond conditions are at issue other than the proceeding at which the conditions of release are initially set.

(f) No judicial officer may recommend the services of a surety who is his or her relative as that term is defined in §6B-1-3 of this code."

And,

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

Com. Sub. for H. B. 2419 – "A Bill to amend and reenact §62-1C-1a of the Code of West Virginia, 1931, as amended, relating to bail generally; authorizing the release of a person charged with a misdemeanor criminal violation when first appearing before a judicial officer; establishing that a judicial officer shall release a person charged with a misdemeanor offense on his or her own recognizance unless charged with certain offenses; establishes that in certain instances and with certain conditions the arrested person is entitled to the least restrictive bail conditions determined to be reasonably necessary to assure appearance as well as ensure safety of persons in the community and maintenance of evidence; establishing that in certain circumstances the arrested person is

entitled to bail under least restrictive further conditions; identifying least restrictive further conditions; establishing considerations to determine whether to release an individual without bail, the reasonable amount of bail, or imposition of other conditions of release; establishing that in all misdemeanor cases, cash bail cannot exceed the maximum fine for the offense; requiring review of bail of an incarcerated person unable to meet the requirements of a secured bond; requiring the presence of a prosecuting attorney and, if not waived, defense counsel at hearings, other than the hearing at which conditions of release are initially set, where bail is at issue; prohibiting judicial officer recommending the services of a surety who is a relative; and, further providing that a judicial officer may modify the conditions of release at any time.”

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. 740**), and there were—yeas 79, nays 21, absent and not voting none, with the nays being as follows:

Nays: Barnhart, Barrett, N. Brown, S. Brown, Butler, Cadle, Dean, Fast, Graves, Hicks, Lovejoy, C. Martin, P. Martin, McGeehan, Miley, Pack, Paynter, Phillips, Robinson, Steele and R. Thompson.

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. 2419) passed.

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

In the absence of objection, the House of Delegates then stood at ease to hear a brief address by His Excellency, Governor Jim Justice.

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. 2478, Modifying the Fair Trade Practices Act.

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

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

“ARTICLE 11A. UNFAIR TRADE PRACTICES.

§47-11A-2. When selling below cost prohibited; penalty.

Except as otherwise provided ~~herein~~ in this article, it shall be unlawful for any person, partnership, firm, corporation, or other entity engaged in business as a retailer or wholesaler within this state to sell, offer for sale, or advertise for sale any product or item of merchandise at a price less than the cost thereof with the intent to destroy or the effect of destroying competition. Each violation shall constitute a misdemeanor and, upon conviction thereof, any person, partnership, firm, corporation, or other entity violating this section shall be subject to the penalty set forth in §47-11A-11 of this code.

§47-11A-6. How cost determined.

(a) The term 'cost' when applicable to the business of retailer shall mean bona fide cost and shall mean: (i) The invoice cost of ~~the~~ each separate or distinct product or item of merchandise to the retailer to include applicable taxes, or the replacement cost thereof to the retailer within 30 days prior to the date of sale, offer for sale, or advertisement for sale, as the case may be, in the quantity last purchased, whichever is lower, from either of which there shall be deducted all trade discounts, except customary discounts for cash; and (ii) to either of which there shall be added ~~the following items of expense:~~

(1) ~~Freight~~ freight charges not otherwise included in the cost of the article, product, or item of merchandise, but which freight charges shall not be construed as including cartage to retail outlet if done or paid for by the retailer.

~~(2) A markup to cover, in part, the cost of doing business, which markup, in the absence of proof of a lesser cost, shall be seven percent of the aggregate of invoice cost or replacement cost (whichever is used), less trade discounts as aforesaid, and plus said freight charges: *Provided*, That such a markup to cover the cost of doing business as provided for in this subdivision shall be exclusive of any federal and state motor fuel taxes.~~

(b) The term 'cost' when applicable to the business of a wholesaler shall mean bona fide cost and shall mean: (i) The invoice cost of the merchandise to the wholesaler to include applicable taxes, or the replacement cost of the merchandise to the wholesaler within 30 days prior to the date of sale, offer for sale, or advertisement for sale, as the case may be, in the quantity last purchased, whichever is lower, from either of which there shall be deducted all trade discounts except customary discounts for cash; and (ii) to either of which there shall be added the following items of expense:

(1) Freight charges not otherwise included in the cost of the article, product, or item of merchandise, but which freight charges shall not be construed as including cartage to the retail outlet if done or paid for by the wholesaler;

(2) A markup to cover, in part, the cost of doing business, which markup in the absence of proof of a lesser cost, shall be four percent of the aggregate of invoice cost or replacement cost (whichever is used), less trade discounts as aforesaid, and plus said freight charges: *Provided*, That such a markup to cover the cost of doing business as provided for in this subdivision shall be exclusive of any federal and state motor fuel taxes.

§47-11A-9. Injunctions; damage suits; and jurisdiction.

(a) Any person, partnership, firm, corporation, or other entity injured by a violation of ~~the provisions of this article §47-11A-2 or §47-11A-3 of this code~~ may maintain an action to enjoin a continuance of any such violation in the circuit court of the county wherein said violation is alleged to have occurred. If a violation is established in such an action, the court shall enjoin, restrain, or otherwise prohibit such violation. In such action, if damages are alleged and proven, the plaintiff in the action, in addition to injunctive relief, shall recover from the defendant the actual damages sustained and proven to be a result of the violation, and the court may award the plaintiff treble damages, court costs, litigation costs, and attorneys' fees.

(b) In the event no injunctive relief is sought or required, any person, partnership, firm, corporation, or other entity injured by a violation of the provisions of this article may maintain an action for damages alone in the circuit court of the county wherein said violation is alleged to have occurred. If a violation is established in such an action and proven, a plaintiff shall recover from the defendant the actual damages sustained and proven to be a result of the violation, and the court may award the plaintiff treble damages, court costs, litigation costs, and attorneys' fees.

(c) In any action under subsections (a) and (b) of this section it shall be an absolute defense that the sale price of any product or item of merchandise alleged to be in violation of this article is equal to or greater than the sales price of the same product or item being sold by a competitor of the defendant.

(d) A court may dismiss any action under subsections (a) and (b) of this section upon a motion for summary judgment if the court finds pursuant to Rule 56 of the West Virginia Rules of Civil Procedure that the provisions of subsection (c) of this section have been satisfied.

(e) The circuit courts of this state shall have jurisdiction of actions under this section.”

And,

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

Com. Sub. for H. B. 2478 – “A Bill to amend and reenact §47-11A-2, §47-11A-6, and §47-11A-9 of the Code of West Virginia, 1931, as amended, all relating to unfair trade practices; generally providing for invoice cost of each separate or distinct product or item of merchandise to retailer in calculation of cost to business of retailer; including applicable taxes in invoice cost in calculation of cost to business of retailer; clarifying application of misdemeanor offenses under the act; eliminating markup in calculation of cost to business of retailer; authorizing court to award treble damages, court costs, litigation costs, and attorney fees for violation; and making technical changes.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 741**), and there were—yeas 95, nays 4, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Howell, Jennings, McGeehan and Wilson.

Absent and Not Voting: Atkinson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2478) 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. 4061, Health Benefit Plan Network Access and Adequacy Act.

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

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

“ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.

§33-15-4u. Incorporation of the Health Benefit Plan Network Access and Adequacy Act.

The provisions of the Health Benefit Plan Network Access and Adequacy Act codified at §33-53-1 et seq. of this code are made applicable to the provisions of this article.

§33-15-22. Assignment of certain benefits in dental care insurance coverage.

(a) Any entity regulated under this article that provides dental care coverage to a covered person shall honor an assignment, made in writing by the person covered under the policy, of payments due under the policy to a dentist or a dental corporation for services provided to the covered person that are covered under the policy. Upon notice of the assignment, the entity shall make payments directly to the provider of the covered services. A dentist or dental corporation with a valid assignment may bill the entity and notify the entity of the assignment. Upon request of the entity, the dentist or dental corporation shall provide a copy of the assignment to the entity.

(b) A covered person may revoke an assignment made pursuant to subsection (a) of this section with or without the consent of the provider. The revocation shall be in writing. The covered person shall provide notice of the revocation to the entity. The entity shall send a copy of the revocation notice to the dentist or dental corporation subject to the assignment. The revocation is effective when both the entity and the provider have received a copy of the revocation notice. The revocation is only effective for any charges incurred after both parties have received the revocation notice.

(c) If, under an assignment authorized in subsection (a) of this section, a dentist or dental corporation collects payment from a covered person and subsequently receives payment from the entity, the dentist or dental corporation shall reimburse the covered person, less any applicable copayments, deductibles, or coinsurance amounts, within 45 days.

(d) Nothing in this section limits an entity's ability to determine the scope of the entity's benefits, services, or any other terms of the entity's policies or to negotiate any contract with a licensed health care provider regarding reimbursement rates or any other lawful provisions.

(e) Any entity providing dental care shall provide conspicuous notice to the covered person that the assignment of benefits is optional, and that additional payments may be required if the assigned benefits are not sufficient to pay for received services.

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-3ff. Incorporation of the Health Benefit Plan Network Access and Adequacy Act.

The provisions of the Health Benefit Plan Network Access and Adequacy Act codified at §33-53-1 et seq. of this code are made applicable to the provisions of this article.

§33-16-18. Assignment of certain benefits in dental care insurance coverage.

(a) Any entity regulated under this article that provides dental care coverage to a covered person shall honor an assignment, made in writing by the person covered under the policy, of payments due under the policy to a dentist or a dental corporation for services provided to the covered person that are covered under the policy. Upon notice of the assignment, the entity shall make payments directly to the provider of the covered services. A dentist or dental corporation with a valid assignment may bill the entity and notify the entity of the assignment. Upon request of the entity, the dentist or dental corporation shall provide a copy of the assignment to the entity.

(b) A covered person may revoke an assignment made pursuant to subsection (a) of this section with or without the consent of the provider. The revocation shall be in writing. The covered person shall provide notice of the revocation to the entity. The entity shall send a copy of the revocation

notice to the dentist or dental corporation subject to the assignment. The revocation is effective when both the entity and the provider have received a copy of the revocation notice. The revocation is only effective for any charges incurred after both parties have received the revocation notice.

(c) If, under an assignment authorized in subsection (a) of this section, a dentist or dental corporation collects payment from a covered person and subsequently receives payment from the entity, the dentist or dental corporation shall reimburse the covered person, less any applicable copayments, deductibles, or coinsurance amounts, within 45 days.

(d) Nothing in this section limits an entity's ability to determine the scope of the entity's benefits, services, or any other terms of the entity's policies or to negotiate any contract with a licensed health care provider regarding reimbursement rates or any other lawful provisions.

(e) Any entity providing dental care shall provide conspicuous notice to the covered person that the assignment of benefits is optional, and that additional payments may be required if the assigned benefits are not sufficient to pay for received services.

ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS, AND HEALTH SERVICE CORPORATIONS.

§33-24-7u. Incorporation of the Health Benefit Plan Network Access and Adequacy Act.

The provisions of the Health Benefit Plan Network Access and Adequacy Act codified at §33-53-1 et seq. of this code is made applicable to the provisions of this article.

§33-24-45. Assignment of certain benefits in dental care insurance coverage.

(a) Any entity regulated under this article that provides dental care coverage to a covered person shall honor an assignment, made in writing by the person covered under the policy, of payments due under the policy to a dentist or a dental corporation for services provided to the covered person that are covered under the policy. Upon notice of the assignment, the entity shall make payments directly to the provider of the covered services. A dentist or dental corporation with a valid assignment may bill the entity and notify the entity of the assignment. Upon request of the entity, the dentist or dental corporation shall provide a copy of the assignment to the entity.

(b) A covered person may revoke an assignment made pursuant to subsection (a) of this section with or without the consent of the provider. The revocation shall be in writing. The covered person shall provide notice of the revocation to the entity. The entity shall send a copy of the revocation notice to the dentist or dental corporation subject to the assignment. The revocation is effective when both the entity and the provider have received a copy of the revocation notice. The revocation is only effective for any charges incurred after both parties have received the revocation notice.

(c) If, under an assignment authorized in subsection (a) of this section, a dentist or dental corporation collects payment from a covered person and subsequently receives payment from the entity, the dentist or dental corporation shall reimburse the covered person, less any applicable copayments, deductibles, or coinsurance amounts, within 45 days.

(d) Nothing in this section limits an entity's ability to determine the scope of the entity's benefits, services, or any other terms of the entity's policies or to negotiate any contract with a licensed health care provider regarding reimbursement rates or any other lawful provisions.

(e) Any entity providing dental care shall provide conspicuous notice to the covered person that the assignment of benefits is optional, and that additional payments may be required if the assigned benefits are not sufficient to pay for received services.

ARTICLE 25. HEALTH CARE CORPORATIONS.

§33-25-8r. Incorporation of the Health Benefit Plan Network Access and Adequacy Act.

The provisions of the Health Benefit Plan Network Access and Adequacy Act codified at §33-53-1 et seq. of this code are made applicable to the provisions of this article.

§33-25-22. Assignment of certain benefits in dental care insurance coverage.

(a) Any entity regulated under this article that provides dental care coverage to a covered person shall honor an assignment, made in writing by the person covered under the policy, of payments due under the policy to a dentist or a dental corporation for services provided to the covered person that are covered under the policy. Upon notice of the assignment, the entity shall make payments directly to the provider of the covered services. A dentist or dental corporation with a valid assignment may bill the entity and notify the entity of the assignment. Upon request of the entity, the dentist or dental corporation shall provide a copy of the assignment to the entity.

(b) A covered person may revoke an assignment made pursuant to subsection (a) of this section with or without the consent of the provider. The revocation shall be in writing. The covered person shall provide notice of the revocation to the entity. The entity shall send a copy of the revocation notice to the dentist or dental corporation subject to the assignment. The revocation is effective when both the entity and the provider have received a copy of the revocation notice. The revocation is only effective for any charges incurred after both parties have received the revocation notice.

(c) If, under an assignment authorized in subsection (a) of this section, a dentist or dental corporation collects payment from a covered person and subsequently receives payment from the entity, the dentist or dental corporation shall reimburse the covered person, less any applicable copayments, deductibles, or coinsurance amounts, within 45 days.

(d) Nothing in this section limits an entity's ability to determine the scope of the entity's benefits, services, or any other terms of the entity's policies or to negotiate any contract with a licensed health care provider regarding reimbursement rates or any other lawful provisions.

(e) Any entity providing dental care shall provide conspicuous notice to the covered person that the assignment of benefits is optional, and that additional payments may be required if the assigned benefits are not sufficient to pay for received services.

ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.

§33-25A-8u. Incorporation of the Health Benefit Plan Access and Adequacy Act.

The provisions of the Health Benefit Plan Network Access and Adequacy Act codified at §33-53-1 et seq. of this code is made applicable to the provisions of this article.

§33-25A-36. Assignment of certain benefits in dental care insurance coverage.

(a) Any entity regulated under this article that provides dental care coverage to a covered person shall honor an assignment, made in writing by the person covered under the policy, of payments due under the policy to a dentist or a dental corporation for services provided to the covered person that are covered under the policy. Upon notice of the assignment, the entity shall make payments directly to the provider of the covered services. A dentist or dental corporation with a valid assignment may bill the entity and notify the entity of the assignment. Upon request of the entity, the dentist or dental corporation shall provide a copy of the assignment to the entity.

(b) A covered person may revoke an assignment made pursuant to subsection (a) of this section with or without the consent of the provider. The revocation shall be in writing. The covered person shall provide notice of the revocation to the entity. The entity shall send a copy of the revocation notice to the dentist or dental corporation subject to the assignment. The revocation is effective when both the entity and the provider have received a copy of the revocation notice. The revocation is only effective for any charges incurred after both parties have received the revocation notice.

(c) If, under an assignment authorized in subsection (a) of this section, a dentist or dental corporation collects payment from a covered person and subsequently receives payment from the entity, the dentist or dental corporation shall reimburse the covered person, less any applicable copayments, deductibles, or coinsurance amounts, within 45 days.

(d) Nothing in this section limits an entity's ability to determine the scope of the entity's benefits, services, or any other terms of the entity's policies or to negotiate any contract with a licensed health care provider regarding reimbursement rates or any other lawful provisions.

(e) Any entity providing dental care shall provide conspicuous notice to the covered person that the assignment of benefits is optional, and that additional payments may be required if the assigned benefits are not sufficient to pay for received services.

(f) The provisions of this section shall not apply to insurers or managed care organizations with respect to their Medicaid or CHIP plans or contracts which are reviewed and approved by the Department of Health and Human Resources Bureau for Medical Services.

ARTICLE 53. HEALTH BENEFIT PLAN NETWORK ACCESS AND ADEQUACY ACT.

§33-53-1. Definitions.

For purposes of this article:

'Authorized representative' means:

(A) A person to whom a covered person has given express written consent to represent the covered person;

(B) A person authorized by law to provide substituted consent for a covered person; or

(C) The covered person's treating health care professional, only when the covered person is unable to provide consent, or a family member of the covered person.

'Commissioner' means the Insurance Commissioner of this state.

'Covered benefit' or 'benefit' means those health care services to which a covered person is entitled under the terms of a health benefit plan.

'Covered person' means a policyholder, subscriber, enrollee, or other individual participating in a health benefit plan.

'Emergency medical condition' means a physical, mental, or behavioral health condition that manifests itself by acute symptoms of sufficient severity, including severe pain that would lead a prudent layperson, possessing an average knowledge of medicine and health, to reasonably expect, in the absence of immediate medical attention, to result in:

(A) Placing the individual's physical, mental, or behavioral health, or, with respect to a pregnant woman, the woman's or her fetus's health in serious jeopardy;

(B) Serious impairment to a bodily function;

(C) Serious impairment of any bodily organ or part; or

(D) With respect to a pregnant woman who is having contractions:

(i) Inadequate time to affect a safe transfer to another hospital before delivery; or

(ii) When transfer to another hospital may pose a threat to the health or safety of the woman or fetus.

'Emergency services' means, with respect to an emergency condition:

(A) A medical or mental health screening examination that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate the emergency medical condition; and

(B) Any further medical or mental health examination and treatment, to the extent they are within the capabilities of the staff and facilities available at the hospital to stabilize the patient.

'Essential community provider' or 'ECP' means a provider that:

(A) Serves predominantly low-income, medically underserved individuals, including a health care provider defined in Section 340B(a)(4) of the Public Health Service Act (PHSA); or

(B) Is described in Section 1927(c)(1)(D)(i)(IV) of the Social Security Act, as set forth by Section 221 of Pub.L.111-8.

'Facility' means an institution providing health care services or a health care setting, including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, urgent care centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic health settings.

'Health benefit plan' means a policy, contract, certificate, or agreement entered into, offered, or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

'Health care professional' means a physician or other health care practitioner licensed, accredited, or certified to perform specified (physical, mental, or behavioral) health care services consistent with their scope of practice under state law.

'Health care provider' or 'provider' means a health care professional, a pharmacy, or a facility.

'Health care services' means services for the diagnosis, prevention, treatment, cure, or relief of a physical, mental, or behavioral health condition, illness, injury, or disease, including mental health and substance use disorders.

'Health carrier' or 'carrier' means an entity subject to the insurance laws and rules of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract, or enters into an agreement to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including an insurer issuing an accident and sickness insurance policy pursuant to §33-15-1 et seq. of this code, an insurer issuing an accident and sickness group policy pursuant to §33-16-1 et seq. of this code, a hospital medical and dental corporation licensed pursuant to §33-24-1 et seq. of this code, a health care corporation licensed pursuant to §33-25-1 et seq. of this code, or a health maintenance organization licensed pursuant to §33-25A-1 et seq. of this code. For purposes of this article, the term 'health carrier' or 'carrier' does not include insurers or managed care organizations with respect to their Medicaid or Children's Health Insurance Program (CHIP) plans or contracts which are reviewed and approved by the Department of Health and Human Resources Bureau for Medical Services.

'Intermediary' means a person authorized to negotiate and execute provider contracts with health carriers on behalf of health care providers or on behalf of a network.

'Limited scope dental plan' means a plan that provides coverage, substantially all of which is for treatment of the mouth, including any organ or structure within the mouth, which is provided under a separate policy, certificate, or contract of insurance or is otherwise not an integral part of a group benefit plan.

'Limited scope vision plan' means a plan that provides coverage, substantially all of which is for treatment of the eye, that is provided under a separate policy, certificate, or contract of insurance or is otherwise not an integral part of a group benefit plan.

'Network' means the group or groups of participating providers providing services under a network plan.

'Network plan' means a health benefit plan that either requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed, owned, under contract with, or employed by the health carrier.

'Participating provider' means a provider who, under a contract with the health carrier or with its contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly or indirectly from the health carrier.

'Person' means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

'Primary care' means health care services for a range of common physical, mental, or behavioral health conditions provided by a physician or nonphysician primary care professional.

'Primary care professional' means a participating health care professional designated by the health carrier to supervise, coordinate, or provide initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

'Specialist' means a physician or non-physician health care professional who:

(A) Focuses on a specific area of physical, mental, or behavioral health or a group of patients; and

(B) Has successfully completed required training and is recognized by the state in which he or she practices to provide specialty care.

'Specialist' includes a subspecialist who has additional training and recognition above and beyond his or her specialty training.

'Specialty care' means advanced medically necessary care and treatment of specific physical, mental, or behavioral health conditions, or those health conditions which may manifest in particular ages or subpopulations, that are provided by a specialist, preferably in coordination with a primary care professional or other health care professional.

'Telemedicine' or 'Telehealth' means health care services provided through telecommunications technology by a health care professional who is at a location other than where the covered person is located.

'Tiered network' means a network that identifies and groups some or all types of providers and facilities into specific groups to which different provider reimbursement, covered person cost-sharing, or provider access requirements, or any combination thereof, apply for the same services.

'To stabilize' means with respect to an emergency medical condition to provide such medical treatment of the condition as may be necessary to assure, within a reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the individual to or from a facility, or, with respect to an emergency birth with no complications resulting in a continued emergency to deliver the child and the placenta.

'Transfer' means the movement, including the discharge, of an individual outside a hospital's facilities at the direction of any person employed by, or affiliated or associated, directly or indirectly, with the hospital, but does not include the movement of an individual who:

(A) Has been declared dead; or

(B) Leaves the facility without the permission of any such person.

§33-53-2. Applicability and scope.

(a) Except as provided in subsection (b) of this section, this article applies to all health carriers that offer network plans.

(b) The following provisions of this article do not apply to health carriers that offer network plans that consist solely of limited scope dental plans or limited scope vision plans:

(1) §33-53-3(a)(2) of this code;

(2) §33-53-3(f)(7)(E), §33-53-3(f)(8)(B) and §33-53-3(f)(11) of this code;

(3) §33-53-4(b)(2) and (3) of this code; and

(4) §33-53-4(c)(1)(A) and (B), §33-53-4(c)(2), §33-53-4(c)(3), §33-53-4(d)(1)(B) and §33-53-4(d)(1)(C) of this code.

§33-53-3. Network adequacy.

(a)(1) A health carrier providing a network plan shall maintain a network that is sufficient in numbers and appropriate types of providers, including those that serve predominantly low-income, medically underserved individuals, to assure that all covered services to covered persons, including children and adults, will be accessible without unreasonable travel or delay.

(2) Covered persons have access to emergency services 24 hours per day, seven days per week.

(b) The commissioner shall determine sufficiency in accordance with the requirements of this section, and may establish sufficiency by reference to any reasonable criteria, which may include, but are not limited to:

(1) Provider-covered person ratios by specialty;

(2) Primary care professional-covered person ratios;

(3) Geographic accessibility of providers;

(4) Geographic variation and population dispersion;

(5) Waiting times for an appointment with participating providers;

(6) Hours of operation;

(7) The ability of the network to meet the needs of covered persons, which may include low-income persons, children and adults with serious, chronic, or complex health conditions or physical or mental disabilities, or persons with limited English proficiency;

(8) Other health care service delivery system options, such as telemedicine or telehealth, mobile clinics, centers of excellence, and other ways of delivering care; and

(9) The volume of technological and specialty care services available to serve the needs of covered persons requiring technologically advanced or specialty care services.

(c)(1) A health carrier shall have a process to assure that a covered person obtains a covered benefit at an in-network level of benefits, including an in-network level of cost-sharing, from a nonparticipating provider, or make other arrangements acceptable to the commissioner when:

(A) The health carrier has a sufficient network, but does not have a type of participating provider available to provide the covered benefit to the covered person, or it does not have a participating provider available to provide the covered benefit to the covered person without unreasonable travel or delay; or

(B) The health carrier has an insufficient number or type of participating providers available to provide the covered benefit to the covered person without unreasonable travel or delay.

(2) The health carrier shall specify and inform covered persons of the process a covered person may use to request access to obtain a covered benefit from a non-participating provider as provided in subdivision (1) of this subsection when:

(A) The covered person is diagnosed with a condition or disease that requires specialized health care services or medical services; and

(B) The health carrier:

(i) Does not have a participating provider of the required specialty with the professional training and expertise to treat or provide health care services for the condition or disease; or

(ii) Cannot provide reasonable access to a participating provider with the required specialty with the professional training and expertise to treat or provide health care services for the condition or disease without unreasonable travel or delay.

(3) The health carrier shall treat the health care services the covered person receives from a nonparticipating provider pursuant to subdivision (2) of this subsection as if the services were provided by a participating provider, including counting the covered person's cost-sharing for such services toward the maximum out-of-pocket limit applicable to services obtained from participating providers under the health benefit plan.

(4) The process described under subdivisions (1) and (2) of this subsection shall ensure that requests to obtain a covered benefit from a nonparticipating provider are addressed in a timely fashion appropriate to the covered person's condition.

(5) The health carrier shall have a system in place that documents all requests to obtain a covered benefit from a nonparticipating provider under this subsection and shall provide this information to the commissioner upon request.

(6) The process established in this subsection is not intended to be used by health carriers as a substitute for establishing and maintaining a sufficient provider network in accordance with the provisions of this article nor is it intended to be used by covered persons to circumvent the use of covered benefits available through a health carrier's network delivery system options.

(7) Nothing in this section prevents a covered person from exercising the rights and remedies available under applicable state or federal law relating to internal and external claims grievance and appeals processes.

(d)(1) A health carrier shall establish and maintain adequate arrangements to ensure covered persons have reasonable access to participating providers located near their home or business address. In determining whether the health carrier has complied with this provision, the commissioner shall give due consideration to the relative availability of health care providers with the requisite expertise and training in the service area under consideration.

(2) A health carrier shall monitor, on an ongoing basis, the ability, clinical capacity, and legal authority of its participating providers to furnish all contracted covered benefits to covered persons.

(e)(1) Beginning January 1, 2021, a health carrier shall file with the commissioner for review prior to or at the time it files a newly offered network, in a manner and form defined by rule of the commissioner, an access plan meeting the requirements of this article.

(2)(A) The health carrier may request the commissioner to deem sections of the access plan as proprietary information that may not be made public. The health carrier shall make the access plans, absent proprietary information, available online, at its business premises, and to any person upon request.

(B) For the purposes of this subsection, information is proprietary if revealing the information would cause the health carrier's competitors to obtain valuable business information.

(3) The health carrier shall prepare an access plan prior to offering a new network plan and shall notify the commissioner of any material change to any existing network plan within 15 business days after the change occurs. The carrier shall include in the notice to the commissioner a reasonable timeframe within which it will submit to the commissioner for approval or file with the commissioner, as appropriate, an update to an existing access plan.

(f) The access plan shall describe or contain at least the following:

(1) The health carrier's network, including how the use of telemedicine or telehealth or other technology may be used to meet network access standards, if applicable;

(2) The health carrier's procedures for making and authorizing referrals within and outside its network, if applicable;

(3) The health carrier's process for monitoring and assuring on an ongoing basis the sufficiency of the network to meet the health care needs of populations that enroll in network plans;

(4) The factors used by the health carrier to build its provider network, including a description of the network and the criteria used to select providers;

(5) The health carrier's efforts to address the needs of covered persons, including, but not limited to, children and adults, including those with limited English proficiency or illiteracy, diverse cultural or ethnic backgrounds, physical or mental disabilities, and serious, chronic, or complex medical conditions. This includes the carrier's efforts, when appropriate, to include various types of ECPs in its network;

(6) The health carrier's methods for assessing the health care needs of covered persons and their satisfaction with services;

(7) The health carrier's method of informing covered persons of the plan's covered services and features, including, but not limited to:

(A) The plan's grievance and appeals procedures;

(B) Its process for choosing and changing providers;

(C) Its process for updating its provider directories for each of its network plans;

(D) A statement of health care services offered, including those services offered through the preventive care benefit, if applicable; and

(E) Its procedures for covering and approving emergency, urgent, and specialty care, if applicable;

(8) The health carrier's system for ensuring the coordination and continuity of care:

(A) For covered persons referred to specialty physicians; and

(B) For covered persons using ancillary services, including social services and other community resources, and for ensuring appropriate discharge planning;

(9) The health carrier's process for enabling covered persons to change primary care professionals, if applicable;

(10) The health carrier's proposed plan for providing continuity of care in the event of contract termination between the health carrier and any of its participating providers, or in the event of the health carrier's insolvency or other inability to continue operations. The description shall explain how covered persons will be notified of the contract termination, or the health carrier's insolvency or other cessation of operations, and transitioned to other providers in a timely manner;

(11) The health carrier's process for monitoring access to physician specialist services in emergency room care, anesthesiology, radiology, hospitalist care, and pathology/laboratory services at their participating hospitals; and

(12) Any other information required by the commissioner to determine compliance with the provisions of this article.

§33-53-4. Provider directories.

(a)(1)(A) A health carrier shall post electronically a current and accurate provider directory for each of its network plans with the information and search functions, as described in subsection (b) of this section.

(B) In making the directory available electronically, the carrier shall ensure that the general public is able to view all of the current providers for a plan through a clearly identifiable link or tab and without creating or accessing an account or entering a policy or contract number.

(2)(A) The health carrier shall update each network plan provider directory at least monthly.

(B) The health carrier shall periodically audit at least a reasonable sample size of its provider directories for accuracy, and retain documentation of such an audit to be made available to the commissioner upon request.

(3) A health carrier shall provide a print copy, or a print copy of the requested directory information of a current provider directory with the information described in subsection (b) of this section upon request of a covered person or a prospective covered person.

(4) For each network plan, a health carrier shall include in plain language, in both the electronic and print directory, the following general information:

(A) In plain language, a description of the criteria the carrier has used to build its provider network;

(B) If applicable, in plain language, a description of the criteria the carrier has used to tier providers;

(C) If applicable, in plain language, how the carrier designates the different provider tiers or levels in the network and identifies for each specific provider, hospital, or other type of facility in the network which tier each is placed, for example, by name, symbols, or grouping, in order for a covered person or a prospective covered person to be able to identify the provider tier; and

(D) If applicable, note that authorization or referral may be required to access some providers.

(5)(A) A health carrier shall make it clear for both its electronic and print directories what provider directory applies to which network plan, such as including the specific name of the network plan as marketed and issued in this state.

(B) The health carrier shall include in both its electronic and print directories a customer service email address and telephone number or electronic link that covered persons or the general public may use to notify the health carrier of inaccurate provider directory information.

(6) For the pieces of information required pursuant to subsections (b), (c), and (d) of this section in a provider directory pertaining to a health care professional, a hospital, or a facility other than a hospital, the health carrier shall make available through the directory the source of the information and any limitations, if applicable.

(7) A provider directory, whether in electronic or print format, shall accommodate the communication needs of individuals with disabilities, and include a link to or information regarding available assistance for persons with limited English proficiency.

(b) The health carrier shall make available through an electronic provider directory, for each network plan, the information under this subsection in a searchable format:

(1) For health care professionals:

(A) Name;

(B) Gender;

(C) Participating office location(s);

(D) Specialty, if applicable;

(E) Medical group affiliations, if applicable;

(F) Facility affiliations, if applicable;

(G) Participating facility affiliations, if applicable;

(H) Languages spoken other than English, if applicable; and

(I) Whether accepting new patients.

(2) For hospitals:

(A) Hospital name;

(B) Hospital type (i. e., acute, rehabilitation, children's, cancer);

(C) Participating hospital location;

(D) Hospital accreditation status; and

(3) For facilities, other than hospitals, by type:

(A) Facility name;

(B) Facility type;

(C) Types of services performed; and

(D) Participating facility location(s).

(c) For the electronic provider directories, for each network plan, a health carrier shall make available the following information in addition to all of the information available under subsection (b) of this section:

(1) For health care professionals:

(A) Contact information;

(B) Board certification(s); and

(C) Languages spoken other than English by clinical staff, if applicable.

(2) For hospitals: Telephone number; and

(3) For facilities other than hospitals: Telephone number.

(d)(1) The health carrier shall make available in print, upon request, the following provider directory information for the applicable network plan:

(A) For health care professionals:

(i) Name;

(ii) Contact information;

(iii) Participating office location(s);

(iv) Specialty, if applicable;

(v) Languages spoken other than English, if applicable; and

(vi) Whether accepting new patients.

(B) For hospitals:

(i) Hospital name;

(ii) Hospital type, (i. e., acute, rehabilitation, children's, cancer); and

(iii) Participating hospital location and telephone number; and

(C) For facilities, other than hospitals, by type:

(i) Facility name;

(ii) Facility type;

(iii) Types of services performed; and

(iv) Participating facility location(s) and telephone number.

(2) The health carrier shall include a disclosure in the directory that the information in subdivision (1) of this subsection, included in the directory, is accurate as of the date of printing, and that covered persons or prospective covered persons should consult the carrier's electronic provider directory on its website to obtain current provider directory information.

§33-53-5. Intermediaries.

A contract between a health carrier and an intermediary shall satisfy all the requirements contained in this section.

(a) A health carrier's statutory responsibility to monitor the offering of covered benefits to covered persons may not be delegated or assigned to the intermediary.

(b) A health carrier has the right to approve or disapprove participation status of a subcontracted provider in its own or a contracted network for the purpose of delivering covered benefits to the carrier's covered persons.

(c) A health carrier shall maintain copies of all intermediary health care subcontracts at its principal place of business in the state, or ensure that it has access to all intermediary subcontracts, including the right to make copies to facilitate regulatory review, upon 20 days prior written notice from the health carrier.

(d) If applicable, an intermediary shall transmit utilization documentation and claims-paid documentation to the health carrier. The carrier shall monitor the timeliness and appropriateness of payments made to providers and health care services received by covered persons.

(e) If applicable, an intermediary shall maintain the books, records, financial information, and documentation of services provided to covered persons at its principal place of business in the state and preserve them for two years in a manner that facilitates regulatory review.

(f) An intermediary shall allow the commissioner access to the intermediary's books, records, financial information, and any documentation of services provided to covered persons, as necessary to determine compliance with this article.

(g) A health carrier has the right, in the event of the intermediary's insolvency, to require the assignment to the health carrier of the provisions of a provider's contract addressing the provider's obligation to furnish covered services. If a health carrier requires assignment, the health carrier remains obligated to pay the provider for furnishing covered services under the same terms and conditions as the intermediary prior to the insolvency.

(h) Notwithstanding any other provision of this section, to the extent the health carrier delegates its responsibilities to the intermediary, the carrier shall retain full responsibility for the intermediary's compliance with the requirements of this article.

§33-53-6. Filing requirements and state administration.

(a) At the time a health carrier files its access plan, the health carrier shall file for approval with the commissioner sample contract forms proposed for use with its participating providers and intermediaries.

(b) A health carrier shall submit material changes to a contract that would affect a provision required under this article or implementing regulations to the commissioner for approval at least 30 days prior to use.

(c) The health carrier shall maintain provider and intermediary contracts at its principal place of business in the state, or the health carrier shall have access to all contracts and provide copies to facilitate regulatory review upon 20 days prior written notice from the commissioner.

§33-53-7. Contracting.

(a) The execution of a contract by a health carrier does not relieve the health carrier of its liability to any person with whom it has contracted for the provision of services, nor of its responsibility for compliance with the law or applicable regulations.

(b) All contracts shall be in writing and subject to review.

(c) All contracts shall comply with applicable requirements of the law and applicable regulations.

§33-53-8. Enforcement.

(a) If the commissioner determines that a health carrier has not contracted with a sufficient number of participating providers to assure that covered persons have accessible health care services in a geographic area, or that a health carrier's network access plan does not assure reasonable access to covered benefits, or that a health carrier has entered into a contract that does not comply with this article, or that a health carrier has not complied with a provision of this article, the commissioner shall require a modification to the access plan or institute a corrective action plan, as appropriate, that shall be followed by the health carrier, or may use any of the commissioner's other enforcement powers to obtain the health carrier's compliance with this article.

(b) The commissioner will not act to arbitrate, mediate, or settle disputes regarding a decision not to include a provider in a network plan or in a provider network or regarding any other dispute between a health carrier, its intermediaries, or one or more providers arising under or by reason of a provider contract or its termination.

§33-53-9. Rulemaking.

The commissioner shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to implement the provisions of this article.

§33-53-10. Penalties.

A violation of this article shall be penalized in accordance with §33-4-11 of this code."

And,

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

Com. Sub. for H. B. 4061 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §33-15-4u and §33-15-22; to amend said code by adding thereto two new sections, designated §33-16-3ff and §33-16-18; to amend said code by adding thereto two new sections, designated §33-24-7u and §33-24-45; to amend said code by adding thereto two new sections, designated §33-25-8r and §33-25-22; to amend said code by adding thereto two new sections, designated §33-25A-8u and §33-25A-36; to amend said code by adding

thereto a new article, designated §33-53-1, §33-53-2, §33-53-3, §33-53-4, §33-53-5, §33-53-6, §33-53-7, §33-53-8, §33-53-9, §33-53-10, §33-53-11, §33-53-12, and §33-53-13, all relating to health plan benefits and benefit networks; creating the Health Benefit Plan Network Access and Adequacy Act; incorporating references to the act into the insurance code; requiring honoring of the optional assignment of certain benefits in dental care insurance programs; detailing revocation and reimbursement requirements; and excluding Medicaid, CHIP, and contracts approved by the Department of Health and Human Resources Bureau for Medical Services.”

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. 742**), and there were—yeas 97, nays 1, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Howell.

Absent and Not Voting: Capito and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4061) 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. 4069, West Virginia Student Religious Liberties Act.

On motion of Delegate Kessinger, the House concurred in the following amendment by the Senate, with further amendment:

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

“ARTICLE 33. STUDENT RELIGIOUS LIBERTIES.

§18-33-1. West Virginia Student Religious Liberties Act.

This article shall be known and may be cited as the ‘West Virginia Student Religious Liberties Act.’

§18-33-2. Student expression.

A public school district shall not discriminate against students or parents on the basis of a religious viewpoint or religious expression. A school district shall treat a student’s voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student’s voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

§18-33-3. Religious expression in class assignments.

As more fully set forth in §18-33-5(b) of this code, students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination and may not be penalized or rewarded on account of the religious content of their work: *Provided*, That a student may express disagreement and offer opposing views regarding any issue based on religious beliefs, but may not be excused from answering a test question or other assignment correctly because the answer to that question that was provided in course content is counter to the religious beliefs of the student.

§18-33-4. Freedom to organize and advertise religious groups and activities.

As more fully set forth in §18-33-5(c) and §18-33-5(d) of this code, students in public schools may pray or engage in religious activities or religious expression before, during, and after the school day in the same manner and to the same extent that students may engage in nonreligious activities or expression.

§18-33-5. Student expression of religious viewpoints; religious expression in class assignments; freedom to organize and advertise religious groups and activities; displaying religious messages or symbols.

(a) *Student expression of religious viewpoints.* — The school district shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the district treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and may not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

(b) *Religious expression in class assignments.* — Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of the students' submissions. Homework and classroom work shall be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Students may not be penalized or rewarded on account of religious content. If a teacher's assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged on the basis of academic standards, including literary quality, and not penalized or rewarded on account of its religious content.

(c) *Freedom to organize and advertise religious groups and activities.* — Students may organize prayer groups, religious clubs, 'see you at the pole' gatherings, and other religious gatherings before, during, and after school to the same extent that students are permitted to organize other noncurricular student activities and groups. Religious groups must be given the same access to school facilities for assembling as is given to other noncurricular groups, without discrimination based on the religious content of the group's expression. If student groups that meet for nonreligious activities are permitted to advertise or announce the groups' meetings, for example, by advertising in a student newspaper, putting up posters, making announcements on a student activities bulletin board or public address system, religious groups must also be permitted to advertise or announce group meetings.

(d) *Displaying religious messages or symbols.* — Students in public schools may wear clothing, accessories, and jewelry that display religious messages or religious symbols in the same manner and to the same extent that other types of clothing, accessories, and jewelry that display messages or symbols are permitted.

§18-33-6. Certain acts restricted.

This act may not be construed to authorize this state or any of its political subdivisions to do either of the following:

- (1) Require any person to participate in prayer or in any other religious activity; or
- (2) Violate the constitutional rights of any person.

§18-33-7. Certain authority may not be limited.

This act shall not be construed to limit the authority of any public school to do any of the following:

- (1) Maintain order and discipline on the campus of the public school in a content- and viewpoint-neutral manner;
- (2) Protect the safety of students, employees, and visitors of the public school; and
- (3) Adopt and enforce policies and procedures regarding student speech at school, provided that the policies and procedures do not violate the rights of students as guaranteed by the United States and West Virginia constitutions and laws.

§18-33-8. First school year affected.

This act shall be in force beginning with the 2020-2021 school year.”

And,

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

Com. Sub. for H. B. 4069 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-33-1, §18-33-2, §18-33-3, §18-33-4, §18-33-5, §18-33-6, §18-33-7, and §18-33-8, all relating to creating the West Virginia Student Religious Liberties Act; providing that public school district shall not discriminate against students or parents on the basis of a religious viewpoint or religious expression; providing that students may express their beliefs about religion in homework, artwork and other written assignments without being penalized or rewarded; providing that students in public schools may pray or engage in religious activities or religious expression before, during or after the school day; setting forth how a school district is to treat a student’s voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject; allowing students to express their beliefs about religion in assignments free from discrimination based on the religious content; allowing students to organize prayer groups, religious clubs, and religious gatherings to the same extent that students are permitted to organize other noncurricular student activities and groups; allowing public school students to wear certain items that display religious messages or religious symbols in the same manner and to the same extent that other types of those items that display messages or symbols are permitted; providing that the act may not require participation in religious activity or violate a person’s constitutional rights; ensuring that public schools may still maintain order and discipline, protect the safety of students, employees, and visitors of the public school, and adopt and enforce policies and procedures; and providing an effective date.”

With the further amendment, sponsored by Delegate Ellington, being as follows:

On page three, section five, line twenty-eight, after the word “permitted” and the period, by inserting thereafter a new section to read as follows:

“§18-33-6. Limited public forum; school district policy.

(a) To ensure that the school district does not discriminate against a student’s publicly stated voluntary expression of a religious viewpoint, if any, and to eliminate any actual or perceived affirmative school sponsorship or attribution to the district of a student’s expression of a religious viewpoint, if any, a school district shall adopt and implement a policy. The policy must include the establishment of a limited public forum for student speakers that requires the school district to:

(1) Provide the forum in a manner that does not discriminate against or exclude a student’s voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject;

(2) Provide a method, based on neutral criteria, for the selection of student speakers at school events and graduation ceremonies; and

(3) Ensure that a student speaker does not engage in obscene, vulgar, offensively lewd, or indecent speech.

(b) School authorities may disclaim sponsorship of noncurricular groups, forums and events provided that they administer the disclaimer in a manner that does not favor or disfavor groups that meet to engage in prayer or other religious speech.”

And

Renumbering the remaining sections.

And,

The further title amendment amending the title of the bill to read as follows:

Com. Sub. for H. B. 4069 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-33-1, §18-33-2, §18-33-3, §18-33-4, §18-33-5, §18-33-6, §18-33-7, and §18-33-8, all relating to creating the West Virginia Student Religious Liberties Act; providing that public school district shall not discriminate against students or parents on the basis of a religious viewpoint or religious expression; providing that students may express their beliefs about religion in homework, artwork and other written assignments without being penalized or rewarded; providing that students in public schools may pray or engage in religious activities or religious expression before, during or after the school day; setting forth how a school district is to treat a student’s voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject; allowing students to express their beliefs about religion in assignments free from discrimination based on the religious content; allowing students to organize prayer groups, religious clubs, and religious gatherings to the same extent that students are permitted to organize other noncurricular student activities and groups; allowing public school students to wear certain items that display religious messages or religious symbols in the same manner and to the same extent that other types of those items that display messages or symbols are permitted; requiring school districts to adopt and implement a policy that includes the establishment of a limited public forum for students speakers and setting forth parameters therefore; allowing for disclaimers by school authorities; providing that the act may not require participation in religious activity or violate a person’s constitutional rights; ensuring that public schools may still maintain order and discipline, protect the safety of students, employees, and visitors of the public school, and adopt and enforce policies and procedures; and providing an effective date.”

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. 743**), and there were—yeas 83, nays 16, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bates, S. Brown, Doyle, Estep-Burton, Fleischauer, Fluharty, Hansen, Hornbuckle, Pushkin, Pyles, Robinson, Rowe, Storch, C. Thompson, Walker and Williams.

Absent and Not Voting: Steele.

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. 4069) passed.

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

A message from the Senate, by

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

H. B. 4161, Making it illegal to scleral tattoo a person.

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

On page two, section one, line twenty-three, by striking out the word “conjunctive” and inserting in lieu thereof the word s”conjunctiva”.

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. 744**), and there were—yeas 69, nays 31, absent and not voting none, with the nays being as follows:

Nays: Barnhart, Barrett, Bibby, N. Brown, S. Brown, Butler, Cadle, Canestraro, Dean, Diserio, Doyle, Estep-Burton, Evans, Fluharty, Hartman, Hornbuckle, Howell, J. Jeffries, Kump, Lavender-Bowe, Longstreth, McGeehan, Paynter, Pushkin, Skaff, Sponaugle, Staggers, Swartzmiller, Tomblin, Walker and Wilson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4161) 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. 4178, Requiring calls which are recorded be maintained for a period of five years.

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 6. LOCAL EMERGENCY TELEPHONE SYSTEM.**§24-6-13. Confidentiality of certain calls to county answering points and records; retention of records.**

(a) Except as provided by the provisions of this section, calls for emergency service to a county answering point are not confidential. All calls for emergency service reporting alleged criminal conduct which are recorded electronically, in writing or in any other form are to be kept confidential by the county answering point receiving the call and may be released only pursuant to an order entered by a court of competent jurisdiction, a valid subpoena or through the course of discovery in a criminal action requiring the release of the information: *Provided*, That nothing contained in this section may be construed as preventing the county answering point from releasing information to a responding agency as may be necessary for that agency’s response on a call or the completion of necessary reports relating to that call.

(b) Upon proper request and payment of a reasonable fee set by the center director to cover the cost of production, a person or entity may obtain, without court order or a valid subpoena, a transcription of a call for emergency service reporting alleged criminal conduct. The answering point shall exclude from the transcription any information relating to the identity of the caller including, but not limited to, the caller’s name, address, telephone number or his or her location in relation to the alleged offense or the alleged perpetrator. If the transcript of a call is such that it cannot be successfully redacted so as to protect the identity of the caller, the answering point may decline to provide the transcript. In that case, the person requesting the transcription may apply to a court of competent jurisdiction for a court order releasing the transcript.

(c) All calls for emergency service which are recorded electronically, in writing or in any other form are to be maintained for a period of at least ~~ninety days~~ two years or longer if required by an order entered by a court of competent jurisdiction or a valid subpoena.

(d) A county answering point may release information to bonafide law-enforcement agencies, the prosecuting attorney of a county or a United States attorney pursuant to a lawful criminal investigation. Nothing in this article may be construed as prohibiting a freedom of information request under §29B-1-1 *et seq.* of this code for information relating to the operation of the center or to calls for emergency service which do not involve reporting of alleged criminal conduct.

(e) Nothing in this article requires disclosure of any information that is specifically exempt from disclosure by statute. Except as otherwise provided in this article, nothing prohibits disclosure of information that is not specifically exempted from disclosure under a provision of this code.

(f) Every county answering point shall, within 90 days of the effective date of this section, promulgate a written policy, available to the public, reflecting its compliance with the provisions of this section.

(g) No answering point or center personnel ~~shall~~ may be civilly liable for any injury arising from disclosure of information pursuant to the provisions of this section.”

And,

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

H. B. 4178 – “A Bill to amend and reenact §24-6-13 of the Code of West Virginia, 1931, as amended, relating to requiring calls which are recorded be maintained for a period of two years.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 745**), and there were—yeas 97, nays 2, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Mandt and Paynter.

Absent and Not Voting: Diserio.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4178) 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. 4422, The Patient Brokering Act.

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

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

“ARTICLE 60. THE PATIENT BROKERING ACT.

§16-60-1. Definitions.

For the purposes of this article:

‘Health care provider or health care facility’ means any person or entity licensed or certified or authorized by law to provide professional health care service in this state to a patient during that patient’s medical, remedial or behavioral health care, treatment, or confinement.

‘Health care provider network entity’ means a corporation, partnership, or limited liability company owned or operated by two or more health care providers, and organized for the purpose of entering into agreements with health insurers, health care purchasing groups, or the Medicare or Medicaid program.

‘Health insurer’ means any insurance company authorized to transact health insurance in the state, any insurance company authorized to transact health insurance or casualty insurance in the state that is offering a minimum premium plan or stop-loss coverage for any person or entity providing health care benefits, any self-insurance plan, any health maintenance organization, any prepaid health clinic, any prepaid limited health service organization, any multiple-employer welfare arrangement, or any fraternal benefit society providing health benefits to its members.

§16-60-2. Patient brokering prohibited.

(a) It is unlawful for any person, including any health care provider or health care facility, to:

(1) Offer or pay a commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of a patient or patronage to or from a health care provider or health care facility;

(2) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring a patient or patronage to or from a health care provider or health care facility;

(3) Solicit or receive a commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgment of treatment from a health care provider or health care facility;

(4) Aid, abet, advise, or otherwise participate in the conduct prohibited under this subsection; or

(5) Engage in any of the unlawful acts provided for in this subsection in regard to a recovery residence as defined in §16-59-1 of this code.

(b) Penalties. –

(1) Any person who violates the provisions of subsection (a) of this section is guilty of a felony and, upon conviction thereof, shall be fined not more than \$50,000, or imprisoned in a state correctional facility for not less than one year nor more than five years, or both fined and imprisoned.

(2) Notwithstanding the provisions of subdivision (1) of this section, any person who violates subsection (a) of this section, where the prohibited conduct involves 10 or more patients, is guilty of a felony and, upon conviction, shall be fined not more than \$100,000, or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned.

§16-60-3. Exceptions.

This article does not apply to the following payment practices:

(1) Any discount, payment, waiver of payment, or payment practice expressly authorized by 42 U.S.C. §1320a-7b(b)(3) or regulations adopted thereunder;

(2) Any payment, compensation, or financial arrangement within a group practice provided the payment, compensation, or arrangement is not to or from persons who are not members of the group practice;

(3) Payments to a health care provider or health care facility for professional consultation services;

(4) Commissions, fees, or other remuneration lawfully paid to insurance agents;

(5) Payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance abuse goods or services under a health benefit plan;

(6) Payments to or by a health care provider or health care facility, or a health care provider network entity, that has contracted with a health insurer, a health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance abuse goods or services under a health benefit plan when the payments are for goods or services under the plan;

(7) Insurance advertising and promotional gifts;

(8) Commissions or fees paid to a person or entity providing a referral service to nurses which provide health care services;

(9) Payments by a health care provider or health care facility to a health, mental health, or substance abuse information service that provides information upon request and without charge to consumers about providers of health care goods or services to enable consumers to select appropriate providers or facilities, provided that the information service:

(A) Does not attempt through its standard questions for solicitation of consumer criteria or through any other means to steer or lead a consumer to select or consider selection of a particular health care provider or health care facility;

(B) Does not provide or represent itself as providing diagnostic or counseling services or assessments of illness or injury and does not make any promises of cure or guarantees of treatment;

(C) Does not provide or arrange for transportation of a consumer to or from the location of a health care provider or health care facility; and

(D) Charges and collects fees from a health care provider or health care facility participating in its services that are set in advance, are consistent with the fair market value for those information services, and are not based on the potential value of a patient or patients to a health care provider or health care facility or of the goods or services provided by the health care provider or health care facility.

(10) Payments made by an assisted living facility to an individual employed by the assisted living facility, or with whom the facility contracts to provide marketing services for the facility, if the individual clearly indicates that he or she works with or for the facility; and

(11) Payments made to a resident of an assisted living facility who refers a friend, family members, or other individuals with whom the resident has a personal relationship to the assisted living facility, in which case the assisted living facility may provide a monetary reward to the resident for making the referral.”

And,

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

Com. Sub. for H. B. 4422 –“A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §16-60-1, §16-60-2, and §16-60-3, all relating to prohibiting patient brokering; defining terms; prohibiting causing or participating in acts that are intended to derive any benefit or profit from referral of a patient to a health care provider or health care facility; prohibiting patient brokering related to a recovery residence; establishing criminal penalties for persons and business entities engaged in unlawful patient brokering; and providing exceptions.”

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

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4422) 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. 4433, Relating to deeds of trust.

On motion of Delegate Kessinger, the House concurred in the following amendment by the Senate, with further amendment:

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

“ARTICLE 1. VENDOR’S AND TRUST DEED LIENS.

§38-1-2a. How deeds of trust construed; duties and rights of parties.

(a) Every deed of trust to secure debts or indemnify sureties is a contract and shall be construed according to its terms to the extent its terms are not in conflict with applicable state and federal laws.

(b) Unless the deed of trust or applicable law provides otherwise, a deed of trust to secure debts or indemnify sureties executed on or after the effective date of the enactment of this section shall be construed to impose and confer upon the parties and beneficiaries the following duties, rights, and obligations as if the same were expressly provided for by the deed of trust:

(1) The deed shall be construed to secure the performance of each of the covenants entered into by the grantor as well as the payment of the primary obligation;

(2) The grantor is considered to covenant that he or she will pay all taxes, levies, and other governmental assessments and charges upon the property, as long as any obligation upon the grantor under the deed of trust remains undischarged;

(3) The grantor is considered to covenant that in the event of his or her failure to meet any obligations imposed upon him or her, then the trustee or any beneficiary may, at his or her option, satisfy the obligations to the extent reasonable or appropriate to protect the beneficiary’s interest in the property and rights under a security instrument. The money advanced, with interest as provided in the deed of trust, shall be a part of the debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and is otherwise recoverable from the grantor as a debt. This section is not intended to create personal liability for a grantor that did not execute the note or debt instrument secured by the deed of trust;

(4) A covenant to pay interest is considered a covenant to pay interest on the principal balance as the rate may vary or be modified from time to time by the parties under the original instruments or agreements or a written agreement of modification, whether or not recorded, and all the interest on the principal secured by the deed of trust is on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust; and

(5) Any covenant, otherwise authorized by law, that the lender is entitled to share in the gross income or the net income, or the gross rent or revenues, or net rents or revenues of the property, or in any portion of the proceeds or appreciation upon sale or appraisal or similar event, is on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after

the expenses of executing the trust, and shall be specified in the recorded deed of trust or other recorded document in order to be notice of record as against subsequent parties. This subdivision does not apply to consumer loans as defined in the West Virginia Consumer Credit and Protection Act §46A-1-101 et seq. of this code or residential deeds of trust, unless expressly provided for in the applicable deed of trust or by applicable law.”

And,

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

Com. Sub. for H. B. 4433 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §38-1-2a, all relating to deeds of trust to secure debts or indemnify sureties; how deeds of trust to secure debts or indemnify sureties are construed; and the duties, rights, and obligations of parties to a deed of trust to secure debts or indemnify sureties.”

With the further amendment, sponsored by Delegate Shott, being as follows:

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

“ARTICLE 1. VENDOR’S AND TRUST DEED LIENS.

§38-1-2a. How deeds of trust construed; duties and rights of parties.

(a) Every deed of trust to secure debts or indemnify sureties is a contract and shall be construed according to its terms to the extent its terms are not in conflict with applicable state and federal laws.

(b) Unless the deed of trust or applicable law provides otherwise, a deed of trust to secure debts or indemnify sureties executed on or after the effective date of the enactment of this section shall be construed to impose and confer upon the parties and beneficiaries the following duties, rights, and obligations as if the same were expressly provided for by the deed of trust:

(1) The deed shall be construed to secure the performance of each of the covenants entered into by the grantor as well as the payment of the primary obligation;

(2) The grantor is considered to covenant that he or she will pay all taxes, levies, and other governmental assessments and charges upon the property, as long as any obligation upon the grantor under the deed of trust remains undischarged;

(3) The grantor is considered to covenant he or she will not commit waste upon the property and shall maintain, preserve, and protect the value of the property;

(4) The grantor is considered to covenant that in the event of his or her failure to meet any obligations imposed upon him or her, then the trustee or any beneficiary may, at his or her option, satisfy the obligations to the extent reasonable or appropriate to protect the beneficiary’s interest in the property and rights under a security instrument. The money advanced, with interest as provided in the deed of trust, shall be a part of the debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and is otherwise recoverable from the grantor as a debt. This section is not intended to create personal liability for a grantor that did not execute the note or debt instrument secured by the deed of trust;

(5) A covenant to pay interest is considered a covenant to pay interest on the principal balance as the rate may vary or be modified from time to time by the parties under the original instruments or

agreements or a written agreement of modification, whether or not recorded, and all the interest on the principal secured by the deed of trust is on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust; and

(6) Any covenant, otherwise authorized by law, that the lender is entitled to share in the gross income or the net income, or the gross rent or revenues, or net rents or revenues of the property, or in any portion of the proceeds or appreciation upon sale or appraisal or similar event, is on an equal priority with the principal debt secured by the deed of trust, in the event of sale to be paid next after the expenses of executing the trust, and shall be specified in the recorded deed of trust or other recorded document in order to be notice of record as against subsequent parties. This subdivision does not apply to consumer loans as defined in the West Virginia Consumer Credit and Protection Act §46A-1-101 et seq. of this code or residential deeds of trust, unless expressly provided for in the applicable deed of trust or by applicable law.”

And,

The further title amendment, sponsored by Delegate Shott, amending the title of the bill to read as follows:

H. B. 4433 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §38-1-2a, all relating to deeds of trust to secure debts or indemnify sureties; providing rules of construction for how deeds of trust to secure debts or indemnify sureties are construed; and establishing the duties, rights, and obligations of parties to a deed of trust to secure debts or indemnify sureties.”

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. 747**), and there were—yeas 94, nays 4, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: S. Brown, Fast, Hansen and Walker.

Absent and Not Voting: Graves and Pyles.

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. 4433) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4444, Establishing Medals of Valor and Medals for Bravery for emergency medical services, firefighters, and law-enforcement officers.

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 32. MEDALS OF VALOR.**§29-32-1. Medal of Valor.**

(a) There is hereby established a Medal of Valor to be awarded to firefighters, law-enforcement officers, and emergency medical services personnel who distinguish themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty in the performance of their duties.

(b) A Medal of Valor can only be awarded in the manner set forth in this article.

§29-32-2. Firefighters Honor Board.

(a) The Firefighters Honor Board is hereby established as an advisory board to the Legislature. The purpose of the board is to recommend to the Legislature, firefighters in West Virginia who have distinguished themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty in the performance of their duties, to be awarded a Medal of Valor.

(b) Board membership. —

(1) The board shall consist of two members from each of the state’s senatorial districts. Each state senator shall appoint one member representing his or her district.

(2) The board shall be composed of firefighters, fire chiefs, and other professionals who are qualified to evaluate and determine whether the actions of firefighters rise to the level of being above and beyond the call of duty.

(3) Members shall serve a one-year term and shall serve without compensation.

(c) The board may consider candidates for the Medal of Valor who are identified by members of the board or by other citizens, and may design a system for the receipt of those recommendations.

(d) The board shall review identified individuals to determine if those firefighters have gone above and beyond the call of duty in their professional capacities. Upon determination that a firefighter is worthy of this honor, the board shall submit the nomination to the Speaker of the House of Delegates and the President of the Senate for consideration by the Legislature.

§29-32-3. Law Enforcement Officers Honor Board.

(a) The Law Enforcement Officers Honor Board is hereby established as an advisory board to the Legislature. The purpose of the board is to recommend to the Legislature, law enforcement officers in West Virginia who distinguish themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty in the performance of their duties, to be awarded a Medal of Valor.

(b) Board membership. —

(1) The board shall consist of two members from each of the state’s senatorial districts. Each state senator shall appoint one member representing his or her district.

(2) The board shall be composed of law enforcement officials, such as sheriffs and police chiefs, and other professionals who are qualified to evaluate and determine whether the

actions of law enforcement officers rise to the level of being above and beyond the call of duty.

(3) Members shall serve a one-year term and shall serve without compensation.

(c) The board may consider candidates for the Medal of Valor who are identified by members of the board or by other citizens, and may design a system for the receipt of those recommendations.

(d) The board shall review identified individuals to determine if those law enforcement officers have gone above and beyond the call of duty in their professional capacities. Upon determination that a law enforcement officer is worthy of this honor, the board shall submit the nomination to the Speaker of the House of Delegates and the President of the Senate for consideration by the Legislature.

§29-32-4. Emergency Medical Services Honor Board.

(a) The Emergency Medical Services Honor Board is hereby established as an advisory board to the Legislature. The purpose of the board is to recommend to the Legislature, emergency medical services personnel in West Virginia who distinguish themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty in the performance of their duties, to be awarded a Medal of Valor.

(b) Board membership. —

(1) The board shall consist of two members from each of the state's senatorial districts. Each state senator shall appoint one member representing his or her district.

(2) The board shall be composed of emergency medical services personnel, medical officials, doctors, and other professionals who are qualified to evaluate and determine whether the actions of emergency medical services personnel rise to the level of being above and beyond the call of duty.

(3) Members shall serve a one-year term and shall serve without compensation.

(c) The board may consider candidates for the Medal of Valor who are identified by members of the board or by other citizens, and may design a system for the receipt of those recommendations.

(d) The board shall review identified individuals to determine if those emergency medical services personnel have gone above and beyond the call of duty in their professional capacities. Upon determination that an emergency medical services provider is worthy of this honor, the board shall submit the nomination to the Speaker of the House of Delegates and the President of the Senate for consideration by the Legislature.

§29-32-5. Awarding of the Medal of Valor.

(a) The Legislature may act on a nomination from one of the Honor Boards established by this article by passing a concurrent resolution.

(b) Upon nomination by the Firefighters Honor Board, and adoption of a concurrent resolution by the Legislature, the Governor shall bestow the Medal of Valor for Firefighters upon the nominee.

(c) Upon nomination by the Law Enforcement Officers Honor Board, and adoption of a concurrent resolution by the Legislature, the Governor shall bestow the Medal of Valor for Law Enforcement Officers upon the nominee.

(d) Upon nomination by the Emergency Medical Services Honor Board, and adoption of a concurrent resolution by the Legislature, the Governor shall bestow the Medal of Valor for Emergency Medical Services personnel upon the nominee.

(e) The West Virginia Department of Arts, Culture and History shall create the designs for the Medal of Valor for Firefighters, Law Enforcement Officers, and Emergency Medical Services personnel.”

And,

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

Com. Sub. for H. B. 4444 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §29-32-1, §29-32-2, §29-32-3, §29-32-4, and §29-32-5, all relating to establishing Medals of Valor for emergency medical service members, firefighters, and law-enforcement officers; establishing the Medal of Valor; establishing criteria for awarding the Medal of Valor; prohibiting awarding of Medal of Valor in any manner than otherwise set forth in this article; establishing the Firefighters Honors Board to recommend persons to receive the Medal of Valor; establishing the Law-Enforcement Honor Board to recommend persons to receive the Medal of Valor; establishing the Emergency Medical Services Honor Board to recommend persons to receive the Medal of Valor; providing duties and purpose of each board; setting forth the membership of each board, the manner of membership selection, and the terms and conditions of service; setting forth process for identifying candidates to receive Medal of Valor; setting forth process for considering candidates to receive Medal of Valor; providing for submission of nominated persons to Speaker of the House of Delegates and President of the Senate; directing Governor to issue Medal of Valor to nominee upon adoption of concurrent resolution by Legislature; and directing the Department of Arts, Culture and History create design for Medal of Valor.”

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. 748**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Graves.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4444) 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. 4497, Requiring an external defibrillator device at any secondary school athlete event.

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

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

“ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25c. Defibrillator required at certain events.

(a) In memory of Alex Miller, a Roane County football player who collapsed and died during a school football game, this law shall be known as The Alex Miller Law.

(b) By the 2021-2022 school year, the West Virginia Secondary School Activities Commission shall require that an automated external defibrillator device, as well as a posted emergency action plan, be present on the school or event grounds during the duration of all athletic events and practices under the control, supervision, and regulation of the commission, and that appropriate school sports personnel be trained in the use of the device.

(c) The commission shall propose rules for promulgation by the State Board in accordance with §29A-3B-1 et seq. of this code to implement the provisions of this section including proximity.

(d) No individual, school, county board of education, or other entity shall be held liable for civil damages when such individual, school, county board of education, or other entity in good faith attempted to comply with the requirements of this section or rules promulgated pursuant thereto.”

And,

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

Com. Sub. for H. B. 4497 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25c, relating to requiring the West Virginia Secondary School Activities Commission to require that an automated external defibrillator device, as well as a posted emergency action plan, be present on the school or event grounds during the duration of all athletic events and practices under the control, supervision and regulation of the commission, and that appropriate school sports personnel be trained in the use of the device; requiring that rules be proposed for promulgation by the state board of education; providing that no individual or entity be held liable for civil damages when the individual or entity in good faith attempted to comply with certain requirements; and naming the law The Alex Miller Law.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 749**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Graves.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4497) passed.

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

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. 4499, Relating to multicounty trail network authorities.

On motion of Delegate Summers, the House of Delegates concurred in the following Senate title amendment, with further amendment:

H. B. 4499 - "A Bill to amend and reenact §20-17-7, §20-17A-2 and §20-17A-3 of the Code of West Virginia, 1931, as amended, all relating to trails; eliminating permit requirement; continuing Mountaineer Trail Network Authority; expanding counties in Mountaineer Trail Network Authority; and expanding permitted recreational purposes."

And,

The further amendment, sponsored by Delegate Summers, amending the title of the bill to read as follows:

H. B. 4499 - "A Bill to amend and reenact §20-17-7, §20-17A-2 and §20-17A-3 of the Code of West Virginia, 1931, as amended, all relating to trail network authorities; eliminating the permit requirement for multicounty trail networks; continuing the Mountaineer Trail Network Recreation Authority; expanding counties in the Mountaineer Trail Network Recreation Authority; and expanding permitted recreational activities in the Mountaineer Trail Network Recreation Area."

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. 750**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Graves.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4499) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 4611, Relating to fireworks.

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

On page one, section five, lines six and seven, by striking out all of subdivision (3) and inserting in lieu thereof a new subdivision, designated subdivision (3), to read as follows:

"(3) Pay a fee of \$500 for each temporary retail sales location and \$1,000 for each permanent retail sales location to the State Fire Marshal"; and a semicolon,

And,

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

Com. Sub. for H. B. 4611 - "A Bill to amend and reenact §29-3E-5 and §29-3E-8 of the Code of West Virginia, 1931, as amended, all relating generally to fireworks; requiring the State Fire Marshal to establish a procedure that allows a fireworks retailer to combine and pay all applicable fees in a single payment."

Delegate Howell requested to be excused from voting on Com. Sub. for H. B. 4611 under the provisions of House Rule 49.

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

The 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. 751**), and there were—yeas 92, nays 7, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: S. Brown, Doyle, Hansen, Longstreth, Pack, Rowe and Walker.

Absent and Not Voting: Graves.

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. 4611) 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. 4615, West Virginia Critical Infrastructure Protection Act.

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

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

"ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.

§61-10-34. Critical Infrastructure Protection Act; prohibiting certain acts, including trespass and conspiracy to trespass against property designated a critical Infrastructure facility; criminal penalties; and civil action.

(a) This section may be referred to as the "West Virginia Critical Infrastructure Protection Act".

(b) For purposes of this section:

'Critical Infrastructure' means systems and assets, whether physical or virtual, so vital to the United States of America or the State of West Virginia that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, state economic security, national public health or safety, state public health or safety, or any combination of those matters, whether such systems or assets are in operation or are under any state of construction.

'Critical infrastructure facility' means one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization:

(1) A petroleum or alumina refinery;

(2) An electrical power generating facility, substation, switching station, electrical control center or electric power lines and associated equipment infrastructure;

(3) A chemical, polymer or rubber manufacturing facility;

(4) A water intake structure, water treatment facility, wastewater treatment plant or pump station;

(5) A natural gas compressor station;

(6) A liquid natural gas terminal or storage facility;

(7) Wireline and wireless telecommunications infrastructure;

(8) A port, railroad switching yard, trucking terminal, or other freight transportation facility;

(9) A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;

(10) A transmission facility used by a federally licensed radio or television station;

(11) A steelmaking facility that uses an electric arc furnace to make steel;

(12) A facility identified and regulated by the United States Department of Homeland Security Chemical Facility Anti-Terrorism Standards (CFATS) program;

(13) A dam that is regulated by the state or federal government;

(14) A natural gas distribution utility facility including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, below- or above-ground pipeline or piping and truck loading or offloading facility, a natural gas storage facility, a natural gas transmission facility, or a natural gas utility distribution facility;

(15) A crude oil or refined products storage and distribution facility including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline or piping, and truck loading or offloading facility;

(16) Military facilities, including national guard facilities and equipment storage areas where non-military personnel are prohibited;

(17) Department of Highways facilities and locations near or on roads or highways where the public is prohibited;

(18) Health care facilities:

(19) Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility that is enclosed by a fence, other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders; or

(20) A commercial service airport as defined by the Federal Aviation Administration.

(c)(1) Any person who willfully and knowingly trespasses or enters property containing a critical infrastructure facility without permission by the owner of the property or lawful occupant thereof is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$250 nor more than \$1,000, or confined in jail not less than 30 days nor more than one year, or both fined and confined. If the intent of the trespasser is to willfully damage, destroy, vandalize, deface, tamper with equipment, or impede or inhibit operations of the critical infrastructure facility, the person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000, or confined in a jail for not more than one year, or both fined and confined.

(2) Any person who willfully damages, destroys, vandalizes, defaces, or tampers with equipment in a critical infrastructure facility causing damage in excess of \$2,500 is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000, or imprisoned in a state correctional facility for a term of not less than one year nor more than five years, or both fined and imprisoned.

(3) Any person who conspires with any person to commit the offense of trespass against a critical infrastructure facility in violation of subdivision (1) of subsection (c) of this section and the trespass actually occurs is guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than \$2,500 nor more than \$10,000. Any person who conspires with any person to willfully damage, destroy, vandalize, deface, or tamper with equipment in a critical infrastructure facility and the damage, destruction, vandalization, defacing or tampering causing damage in excess of \$2,500 is guilty of a felony and, shall, upon conviction thereof, be fined not less than \$5,000 nor more than \$20,000.

(d)(1) Any person who is arrested for or convicted of an offense under this section may be held civilly liable for any damages to personal or real property while trespassing, in addition to the penalties imposed by this section.

(2) Any person or entity that compensates, provides consideration to, or remunerates a person for trespassing as described in subdivision (1) of subsection (c) of this section may also be held liable for damages to personal or real property committed by the person compensated or remunerated for trespassing.

(e) The provisions of this section do not apply to:

(1) Any person or organization:

(i) monitoring or attentive to compliance with public or worker safety laws, or, wage and hour requirements;

(ii) picketing at the workplace that is otherwise lawful and arises out of a bona fide labor dispute, including any controversy concerning wages, salaries, hours, working conditions, or benefits.

including health and welfare, sick leave, insurance, and pension or retirement provisions, the managing or maintenance of collective bargaining agreements, and the terms to be included in those agreements:

(iii) engaging in union organizing or recruitment activities, including attempting to reach workers verbally, in writing with pamphlets and investigation of non-union working conditions, or both.

(2) The right to free speech or assembly, including, but not limited to, protesting and picketing.

(3) ~~To~~ A contractor who has a contractual relationship with a critical infrastructure facility and the contractor's employees are acting within their scope of employment performing work at a critical infrastructure facility."

And,

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

Com. Sub. for H. B. 4615 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §61-10-34, relating to establishing the West Virginia Critical Infrastructure Protection Act; defining terms; creating criminal offenses of trespass upon property containing a critical infrastructure facility, trespassing upon property containing a critical infrastructure facility with intent to interrupt the lawful operations of the facility, and for trespass with the intent to willfully cause damage to a critical infrastructure facility; defining elements of offenses; establishing criminal offense of conspiracy to commit various trespass; establishing criminal penalties; creating exceptions and defenses; providing for civil liability; and providing nothing in this section will be construed to prevent lawful assembly and petition for redress of grievances."

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. 752**), and there were—yeas 67, nays 33, absent and not voting none, with the nays being as follows:

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

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4615) passed.

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

A message from the Senate, by

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

Com. Sub. for S. B. 288, Relating to family planning and child spacing.

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

Com. Sub. for S. B. 288 - "A Bill to amend and reenact §16-2B-1 of the Code of West Virginia, 1931, as amended, relating to family planning; extending family planning resources provided by Bureau for Public Health to other entities; providing that Bureau for Medical Services shall not require multiple office visits for women who select long-acting reversible contraceptive methods unless medically necessary; requiring Bureau for Medical Services to provide payments; requiring Bureau for Medical Services to update managed care contract; authorizing Bureau for Public Health to make long-acting reversible contraceptive products available in practitioner offices without upfront practitioner costs; requiring Bureau for Public Health to develop statewide plan; providing requirements for plan; and requiring an annual report by Department of Health and Human Resources."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 753**), and there were—yeas 86, nays 13, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Barnhart, Bartlett, Bibby, Fast, D. Jeffries, D. Kelly, P. Martin, McGeehan, Porterfield, Rowan, Toney, Wilson and Worrell.

Absent and Not Voting: Jennings.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 288) 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

Com. Sub. for S. B. 303, Enacting Students' Right to Know Act.

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

Com. Sub. for S. B. 303 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-10P-1, §18-10P-2, §18-10P-3, §18-10P-4, §18-10P-5, and §18-10P-6, all relating to enacting the Students' Right-to-Know Act; declaring purpose of helping high school students make more informed decisions about their futures and ensuring they are adequately aware of the cost and benefits of certificate programs, vocational programs, two-year college, four-year college, and other alternative career paths; requiring the State Board of Education to collect and the State Superintendent of Schools to distribute certain career landscape information; allowing the State Board of Education to execute a memorandum of understanding with any department, agency, or division for information required to be collected; requiring any department, agency, or division that possesses certain required information to provide that information to the State Board of Education annually; and establishing an effective date."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 754**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Jennings.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 303) passed.

Delegate Kessinger moved the bill take effect January 1, 2021.

On this question, the yeas and nays were taken (**Roll No. 755**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: S. Brown, Estep-Burton, Jennings and Rowe.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 303) takes effect January 1, 2021.

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

A message from the Senate, by

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

Com. Sub. for S. B. 575, Designating local fire department as safe-surrender site to accept physical custody of certain children from lawful custodian.

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

Com. Sub. for S. B. 575 - "A Bill to amend and reenact §49-4-201 and §49-4-202 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §49-4-206, all relating to safe-surrender sites; allowing the governing entity of a local fire department to designate the premises of its fire department as a safe-surrender site; providing the criteria of the child who may be accepted from a parent; setting forth requirements upon the fire department upon taking possession of a child; and establishing criteria for the fire department as a safe-surrender site."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 756**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Jennings.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 575) 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

Com. Sub. for S. B. 648, Providing dental coverage for adult Medicaid recipients.

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

Com. Sub. for S. B. 648 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-12a, relating to providing dental coverage for adult Medicaid recipients; providing limitations; defining terms; designating the Department of Health and Human Resources as the responsible department to implement these provisions; providing for the Department of Health and Human Resources to seek authority from the Centers for Medicare and Medicaid Services to implement the program; and making the provisions on the section effective only upon the approval by the Centers for Medicare and Medicaid Services for specified provider taxes."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 757**), and there were—yeas 85, nays 15, absent and not voting none, with the nays being as follows:

Nays: Bibby, Butler, Cadle, Fast, Foster, Hardy, D. Jeffries, J. Jeffries, P. Martin, McGeehan, Paynter, Phillips, Waxman, Wilson and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 648) passed.

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

A message from the Senate, by

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

S. B. 723, Requiring Department of Education develop plan based on analyzed data on school discipline.

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

S. B. 723 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-43, relating to requiring Department of Education to analyze statewide data collected on school disciplinary action and, based on the findings of this data, develop a statewide program intended to address the number of disciplinary actions taken by school personnel and county boards; requiring information by subgroups; requiring county board implementation with goal of improving disciplinary outcomes; requiring the Department of Education to prepare a report on the findings and provide a summary of the progress of the statewide and individual county programs; and present these findings to the Legislative Oversight Commission on Education Accountability every two years."

The bill, as amended by the House and further amendment by the Senate, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 758**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Bibby, Butler and Wilson.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 723) passed.

Delegate Kessinger moved that the bill take effect its passage.

On this question, the yeas and nays were taken (**Roll No. 759**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Bibby, Butler and Wilson.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (S. B. 723) takes effect from its passage.

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

A message from the Senate, by

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

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

On motion of Delegate Summers, the House concurred in the following amendment by the Senate, with further amendment:

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

“ARTICLE 9. WEST VIRGINIA FUSION CENTER.

§15A-9-1. West Virginia Fusion Center Established.

(a) The Governor shall establish, organize, equip, staff, and maintain a multiagency information fusion center (“Fusion Center”) to receive, analyze, and disseminate all hazard, crime, and threat information. The Department of Homeland Security shall operate the facility, as directed by the Governor, with oversight auditing and accountability to the select committee of the Legislature as set forth herein, and in collaboration among federal, state, and local agencies, as well as private sector persons, organizations, entities, or agencies, including, but not limited to, those with the primary purposes of homeland security, counter-terrorism, public safety, public protection, and critical infrastructure: *Provided*, That the Fusion Center shall not knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency, when that participation or cooperation involves illegal or improper actions. Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia.

(b) The Fusion Center shall collect, integrate, analyze, disseminate, and maintain such information to support local, state, and federal law-enforcement agencies, other governmental agencies, and private persons, organizations, entities, or agencies in detecting, preventing, investigating, preparing for, responding to, and recovering from any possible or actual criminal or terrorist activity, as well as any hazard, including to the state’s critical infrastructure, in compliance

with applicable state and federal laws and regulations, including 28 CFR 23: *Provided*, That as used in this article, "terrorism" shall mean only **foreign** or international terrorist groups or individuals, or **domestic** groups or individuals involved in transnational or domestic **terrorism** as defined in 6 U.S.C. §485: *Provided, however*, That under no circumstance shall the Fusion Center or its officers, directors, agents, or employees engage in, or be ordered or directed to engage in prohibited non-law enforcement intelligence gathering activities on citizens of the United States as set forth in any federal or state law or in contravention of the Constitution of the United States, nor shall the Fusion Center engage in any information or intelligence gathering for any political purpose nor be solicited for, or cooperate in, any investigation of a public official or candidate for elected office, unless reasonable grounds exist to suspect the subject of the investigation is, or may be, involved in criminal conduct. This provision shall not prohibit the Fusion Center from participating in matters dealing with election fraud, election tampering, or other issues designed to provide the citizens of the state with tamper-free elections, and shall not restrict the Fusion Center from assisting in security matters involving political or dignitary visits to or within the State of West Virginia.

(c) The West Virginia Fusion Center shall be housed within secure facilities in order to access sensitive information, as permitted by state and federal law. Within the secure facilities, the Fusion Center shall house a Homeland Secure Data Network (HSDN) in order to access classified information as permitted by state and federal law and ensure that appropriate security measures are in place for: (1) the secure facilities; (2) data collected or stored at the secure facilities; and (3) personnel working at the secure facilities.

(d) The West Virginia Fusion Center shall do all acts necessary and proper to carry out the powers granted to the board of the State Resiliency Office.

§15A-9-2. Operation of center.

(a) The West Virginia Department of Homeland Security shall operate the West Virginia Fusion Center under the direction of the Governor, with oversight auditing and accountability to the select committee of the Legislature as set forth herein, and shall cooperate with the United States Department of Homeland Security, local, county, state, or federal government agencies, and private organizations: *Provided*, That the Fusion Center shall not knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency, when that participation or cooperation involves illegal or improper actions. Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia: *Provided, however*, That all Fusion Center operations shall be subject to applicable state and federal laws and regulations, including, but not limited to, 28 CFR Part 23, and shall at all times strictly abide by all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in any federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).

(b) The West Virginia Fusion Center shall: (1) Be the primary clearinghouse for the State of West Virginia for the collection, analysis, and proper distribution of information and actionable intelligence as defined in this section; (2) generate intelligence analyses critical for homeland security policy and relevant threat warning in order to protect life, liberty, and property in West Virginia; (3) promote and improve intelligence sharing among public safety and public service agencies at the federal, state, and local levels, and with critical infrastructure and key resource entities within the private sector subject to all restrictions and prohibitions recited in this article; (4) receive and integrate intelligence and information related to terrorism and other homeland security threats; (5) collect, analyze, produce, disseminate, and maintain such intelligence and information, as allowed by law, to support

local, state, and federal law enforcement agencies, other governmental agencies, and private organizations in: preventing, preparing for, responding to, and recovering from any possible or actual terrorist attack or other homeland security threat; and (6) maximize intelligence and information sharing in strict accordance with all applicable state and federal laws, restrictions, and prohibitions: *Provided*, That the Fusion Center shall not knowingly participate in activity, or knowingly cooperate, with any federal agency, or a contractor for any federal agency, when that participation or cooperation involves illegal or improper actions. Further, the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia.

(c) The Governor shall provide facilities, budget, and administrative support for the West Virginia Fusion Center and its employees and participants. The cabinet secretary shall serve as security manager for the West Virginia Fusion Center.

(d) Private sector persons, organizations, entities, or agencies participating in the West Virginia Fusion Center shall not be considered governmental entities, nor shall employees or agents of private sector persons, organizations, entities, or agencies assigned to the West Virginia Fusion Center be considered state employees; however, private sector entities and their employees or agents are subject to the same confidentiality requirements and held to the same standards as an employee of the West Virginia Fusion Center, including, but not limited to, any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d): *Provided*, That the Fusion Center shall not knowingly participate in any activity, or knowingly cooperate, with any federal agency, or a contractor for or any person or entity utilizing or collaborating with any federal agency, when that participation or cooperation involves illegal or improper actions. :*Provided*, however, that the Fusion Center shall not allow a federal agency or contractor for a federal agency to work inside the Fusion Center when it knows or has reason to know that such federal agency or federal contractor is presently engaged or intends to engage in unlawful intelligence-gathering activity against a citizen of West Virginia.

(e) The operations of the West Virginia Fusion Center shall be overseen by the cabinet secretary and deputy cabinet secretary of the West Virginia Department of Homeland Security, with oversight auditing and accountability to the select committee of the Legislature as set forth herein.

(f) The cabinet secretary and deputy cabinet secretary shall either have a current, valid federal security clearance at the appropriate level, and training and certifications commensurate with the position, or be eligible for that clearance, and be in the process of obtaining the appropriate clearance.

(g) The cabinet secretary and deputy cabinet secretary may adopt policies and procedures for the operation of the West Virginia Fusion Center. The cabinet secretary and deputy cabinet secretary may adopt rules and regulations as may be necessary to carry out the provisions of this act, including rules and regulations concerning the operations of the West Virginia Fusion Center: *Provided*, That all policies, procedures, rules, and regulations shall be subject to any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including but not limited to, 50 U.S.C. §3036(d).

(h) Subject to appropriations, the West Virginia Fusion Center shall have the following employees, all in the unclassified service of the civil service act:

(1) A director, who shall be appointed by and serve at the pleasure of the cabinet secretary. The director shall either have a current, valid federal security clearance at the appropriate level, and training and certifications commensurate with the position, or be eligible for that clearance, and be in the process of obtaining the appropriate clearance, and shall:

(A) Be responsible for all operations of the West Virginia Fusion Center and shall report to the cabinet secretary or deputy cabinet secretary;

(B) Be responsible for:

(i) Facilitating and implementing applicable federal standards and programs by the West Virginia Fusion Center;

(ii) Ensuring compliance with all applicable laws and federal requirements, including, but not limited to, any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d);

(iii) Maintaining proper separation between military and civilian capacities;

(iv) Providing support, as needed, to the cabinet secretary and deputy cabinet secretary; and

(v) Other duties and responsibilities as may be assigned by the cabinet secretary and deputy cabinet secretary, subject to all restrictions and prohibitions described in this article.

(5) A deputy director, who shall be appointed by and serve at the pleasure of the director. The deputy director shall either have a current, valid federal security clearance at the appropriate level, and training and certifications commensurate with the position, or be eligible for that clearance, and be in the process of obtaining the appropriate clearance, and shall be responsible for assisting the director in: (A) facilitating and implementing applicable federal standards and programs by the West Virginia Fusion Center; (B) ensuring compliance with all applicable laws and federal requirements; (C) maintaining proper separation between military and civilian capacities; (D) providing support, as needed, to the cabinet secretary and deputy cabinet secretary; and (E) other duties and responsibilities as may be assigned by the Fusion Center director.

§15A-9-3. Joint Oversight Committee.

(a) The Speaker of the House of Delegates and President of the Senate shall establish a select committee which shall have oversight of the information collected by the West Virginia Fusion Center to ensure the proper collection, dissemination, storage, and destruction of information or intelligence. The committee shall be composed of: (1) The Speaker of the House of Delegates and four members of the House of Delegates, to be appointed by the Speaker of the House of Delegates, no more than two of whom shall be appointed from the same political party; and (2) the President of the Senate and four members of the Senate, to be appointed by the President of the Senate, no more than two of whom shall be from the same political party; and counsel and staff to the Speaker and the Senate President: *Provided*, That in the event the membership of a political party is less than 15 percent in the House of Delegates or Senate, then the membership of that political party from the legislative house with less than 15 percent membership may be one from that house. The committee shall be chaired by the President of the Senate and the Speaker of the House of Delegates. All members appointed to the select committee by the select committee chairs serve until their successors are appointed as provided in this section. The select committee members, counsel, and staff must have the appropriate security clearance in order to obtain information that is classified and shall be subject to the same rules, regulations, and laws as the employees of the West Virginia Fusion Center for

safeguarding both classified and law enforcement sensitive information or intelligence. These select committee members, counsel, and staff shall be advised of the restrictions and protocol for handling such information or intelligence and shall sign a statement of understanding as well as a confidentiality agreement.

(b) Members of the select committee may enter and inspect the West Virginia Fusion Center at any time staff is present with select committee counsel and staff, with or without notice to the West Virginia Fusion Center.

(c) Meetings of the select committee shall be confidential and the information and materials, in any medium, including hard copy and electronic, coming to the attention of or placed in the custody of the Select Committee shall not be subject to the West Virginia Freedom of Information Act as set forth in §29B-1-1 *et seq.* of this code.

(d) The select committee may conduct proceedings in a confidential executive session for the purpose of conducting business, establishing policy, reviewing investigations, and interrogating a witness or witnesses.

(e) All witnesses appearing before the select committee shall testify under oath or affirmation, and any member of the select committee or its counsel may administer oaths or affirmations to such witnesses. To compel witnesses to attend a hearing or produce any books, records, documents, or papers, or any other tangible thing except where the records, documents, data, or items are protected from disclosure by privilege recognized by state or federal courts, the select committee may issue subpoenas, signed by one of the co-chairs: *Provided*, That the select committee may specifically authorize or delegate the power to any member of the select committee to sign subpoenas on its behalf. The subpoenas shall be served by any person authorized by law to serve and execute legal process, and service shall be made without charge. Witnesses subpoenaed to attend hearings shall be allowed the same mileage and per diem as is allowed witnesses before any petit jury in this state.

(f) If any person subpoenaed to appear at any hearing shall refuse to appear or to answer inquiries there propounded, or shall fail or refuse to produce books, records, documents, papers, or any other tangible thing within his or her control when the same are demanded, the select committee shall report the facts to the circuit court of Kanawha County or any other court of competent jurisdiction and that court may compel obedience to the subpoena as though the subpoena had been issued by that court in the first instance: *Provided*, That prior to seeking circuit court relief, the select committee may, in its discretion, first demand the Secretary of Homeland Security or the director of the West Virginia Fusion Center under whom an employee has failed to appear or which has failed to produce requested or subpoenaed material to appear before the select committee and address the basis for the failure to comply and whether compliance will be forthcoming.

(g) The select committee may direct the West Virginia Fusion Center to send its budgetary accounting to the State Auditor: *Provided*, That if budgetary expenditures are classified, or security or law enforcement sensitive such that disclosure would compromise an investigation, those entry descriptions, but not the expenditure amounts, may be redacted from the West Virginia Fusion Center accounting provided to the State Auditor: *Provided, however*, That the State Auditor shall bring any accounting issues of concern to the attention of the select committee, upon which the select committee shall subpoena the West Virginia Fusion Center for unredacted copies of the accounting items to be presented for explanation and justification of the necessity and legality of the concerns raised by the State Auditor. The select committee may take whatever action it deems necessary, if any, after review and analysis of the subpoenaed unredacted materials.

§15A-9-4. Memoranda of understanding required.

(a) Each governmental and nongovernmental entity participating in the West Virginia Fusion Center shall enter a memorandum of understanding between the West Virginia Fusion Center and the participating entity. The memorandum of understanding shall at a minimum:

(1) Provide a framework and working mechanism for the organization of the West Virginia Fusion Center to address issues that are common to city, county, state, and federal governments' obligations to protect the safety and well-being of citizens and to enhance the success of the Fusion Center in responding to criminal, terrorist, and other threats to public safety through the achievement of coordination and cooperation;

(2) Clarify the working relationships between the governmental and nongovernmental entities and use limitations of shared information; and

(3) Outline the intent of the parties regarding the information provided by the governmental and non-governmental entities to the West Virginia Fusion Center.

(b) Nothing in any agreement shall obligate any nongovernmental entity to provide information nor establish any duty for any nongovernmental entity to assume any police or law enforcement responsibilities.

(c) Failure of any governmental or nongovernmental entity to abide by the restrictions and use limitations set forth by the West Virginia Fusion Center may result in the suspension or termination of use privileges, discipline sanctions imposed by the user's employing agency, or criminal prosecution.

(d) Any and all interagency memoranda of understanding and participating public or private persons, organizations, entities, or agencies described in this section shall be subject to all restrictions and prohibitions described in this section.

§15A-9-5. Confidentiality and immunity from service of process; penalties.

(a) Papers, records, documents, reports, materials, databases, or other evidence or information relative to criminal intelligence, any terrorism investigation, threat assessment, or information on infrastructure which if released would compromise the public safety in the possession of the West Virginia Fusion Center shall be confidential and shall not be subject to the West Virginia Freedom of Information Act (§29B-1-1 *et seq.* of this code): *Provided*, That this exemption from the West Virginia Freedom of Information Act may be lifted in the event a court determines in a state or federal whistleblower action that unlawful or unauthorized activity has taken place, and shall in no way restrict the Legislature's select oversight committee from access to all such information. Every five years, the West Virginia Fusion Center shall conduct a review of information contained in any database maintained by the West Virginia Fusion Center. Data that has been determined not to have a nexus to criminal or terrorist activity shall be removed from such database. A reasonable suspicion standard shall be applied when determining whether or not information has a nexus to terrorist activity for non-U.S. citizens, but a probable cause standard shall apply for U.S. citizens: *Provided, however*, That all such determinations shall be reported to the Legislature's select oversight committee at regularly scheduled oversight audit and committee meetings.

(b) No person having access to information maintained by the West Virginia Fusion Center shall be subject to subpoena in a civil action in any court of the state to testify concerning a matter of which he has knowledge pursuant to his access to criminal intelligence information maintained by the West Virginia Fusion Center.

(c) No person or agency receiving information from the West Virginia Fusion Center shall release or disseminate that information without prior authorization from the West Virginia Fusion Center.

(d) Intelligence data in the possession of a criminal or juvenile justice agency, state or federal regulatory agency, or peace officer, or disseminated by such agency or peace officer, are confidential records under §29B-1-1 *et seq.* of this code.

(e) Any person who knowingly disseminates information in violation of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$200 nor more than \$1,000, or be confined in jail for not more than 20 days, or both fined and confined. If such unauthorized dissemination results in death or serious bodily injury to another person, such person is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility not less than one nor more than five years: *Provided*, That all state and federal Whistleblower Protection Act protections shall apply to any person whose disclosures are found to have been made to report or protect against violation or attempted violation of any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).

(f) Any person, being an officer or employee of the United States, the State of West Virginia or of any department, agency, or political subdivision thereof, or any person from the private sector or industry assigned to or working with the West Virginia Fusion Center in any capacity, who knowingly publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by law, any critical infrastructure or national intelligence information protected from disclosure by this section coming to him or her in the course of his or her employment, affiliation, or official duties with the West Virginia Fusion Center, or by reason of any examination or investigation made by, return, report, or record made to or filed with, such department or agency, officer or employee thereof, shall be guilty of a felony and, upon conviction, be imprisoned in a state correctional facility for not less than one year, and shall be removed from office or employment and affiliation with the West Virginia Fusion Center: *Provided*, That all state and federal Whistleblower Protection Act protections shall apply to any person whose disclosures are found to have been made to report or protect against violation or attempted violation of any and all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).

(g) The West Virginia Department of Homeland Security shall provide legal counsel to the West Virginia Fusion Center to serve as privacy and civil liberties counsel to the West Virginia Fusion Center. Such attorney shall advise the West Virginia Fusion Center director and its deputy director on all matters necessary to ensure compliance with all applicable federal and state privacy or civil liberties laws, obligations, restrictions, and prohibitions as set forth herein.

(h) For purposes of this article:

(1) "Criminal intelligence information" means data or information that has been evaluated and determined to be relevant to the identification and criminal activity of individuals or organizations that are reasonably suspected of involvement in criminal activity.

(2) "Critical Infrastructure" means systems and assets as defined in 42 U.S.C. § 5195c(e).

(3) "National Intelligence" means data or information determined to meet the definition stated in 50 U.S.C. §3003 (5): *Provided*, That Fusion Center activities and operations relating to National

Intelligence shall at all times strictly abide by all restrictions and prohibitions against conducting non-law enforcement intelligence operations against U.S. citizens as set forth in federal or state law or in contravention of the Constitution of the United States, including, but not limited to, 50 U.S.C. §3036(d).

§15A-9-6. Receipt of information; immunity from liability.

(a) No cause of action for defamation, invasion of privacy, or negligence shall arise against any person by reason of that person's furnishing information concerning any suspected, anticipated, or completed criminal violation or terrorist activity when the information is provided to or received from the West Virginia Fusion Center or any federal, state, or local governmental or private sector entity established for the purpose of detecting and preventing acts of criminal activity or terrorism: *Provided*, That with regard to any Fusion Center intelligence or information gathering activity or operation against a U.S. Citizen related to alleged terrorism or violation of a law, such allegation must be vetted and confirmed by procedures substantially in compliance with those set forth in laws, rules, and regulations developed in accordance with 50 U.S.C. §3036(d).

(b) No person shall be subject to such cause of action for cooperating with or furnishing evidence or information regarding any suspected criminal violation to the West Virginia Fusion Center.

(c) This section shall not provide immunity for those disclosing or furnishing false information with malice or willful intent to injure any person, nor for any person who does not comply with the procedures set forth in §15A-9-6(a) of this code.

(d) This section does not in any way abrogate or modify common law or statutory privilege or immunity heretofore enjoyed by any person or entity.

§15A-9-7. Costs.

(a) The director, with approval of the cabinet secretary or deputy cabinet secretary, may enter into agreements with participating agencies or organizations, whether public or private, for their participation in the West Virginia Fusion Center. Such agreements: (1) Shall define the duties and responsibilities of each participating agency or organization; (2) may provide for payment by the participating agency or organization of a reasonable share of the cost to establish, maintain, and operate the West Virginia Fusion Center; and (3) shall require compliance with all requirements, restrictions, and prohibitions set forth in this article.

(b)(1) The West Virginia Fusion Center, with approval of the cabinet secretary or deputy cabinet secretary, may accept any gift, grant, payment, moneys, or assets seized by forfeiture as a result of collaborative efforts or contribution from any source, public or private, for the purpose of paying the costs to establish, maintain, or operate the West Virginia Fusion Center. Such gift, grant, payment, moneys, or assets seized by forfeiture as a result of collaborative works or contribution may be in the form of services, equipment, supplies, materials, or funds. All amounts received under this section shall be remitted to the State Treasurer in accordance with chapter 12 of this code, and the amendments thereto. Upon receipt of each such remittance, the State Treasurer shall deposit the entire amount in the State Treasury to the credit of the West Virginia Fusion Center Fund, that is hereby created in the State Treasury and shall be administered by the West Virginia Department of Homeland Security in accordance with this article and subject to regular auditing and oversight by the legislature's select oversight committee.

(2) Moneys in the West Virginia Fusion Center Fund may be used by the director to pay any costs associated with establishing, maintaining, or operating the West Virginia Fusion Center. The director

of the West Virginia Fusion Center Fund shall develop policy and procedures for purchasing, and expenditures shall be made in accordance with vouchers approved by the director or the director's designee. Any gift, grant, payment, moneys, or any assets seized by forfeiture as a result of collaborative efforts, or contribution in any form other than funds may be accepted by the director, with approval of the cabinet secretary, and utilized and expended in any manner authorized by law to establish, maintain, or operate the West Virginia Fusion Center: *Provided*, That all moneys used by the director shall be subject to all restrictions and prohibitions set forth in this article, and also to regular auditing and oversight by the Legislature's select oversight committee.

(3) The moneys credited to the fund created in subsection (b) of this section shall be used for the purposes set forth in this section and for no other governmental purposes. It is the intent of the Legislature that the moneys deposited in this fund shall remain intact and inviolate for the purposes set forth in this act.

§15A-9-8. Registration plates to official vehicles used in agency activities.

Notwithstanding any provision of this code to the contrary, the Commissioner of the Division of Motor Vehicles is authorized to issue Class A license plates to authorized state-owned vehicles operated by the West Virginia Fusion Center when the director signs a written affidavit stating that the vehicle or vehicles for which the plates are being requested will be used by the West Virginia Fusion Center in fulfilling its mission.”

And,

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

Com. Sub. for H. B. 4176 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-9-6, §15A-9-7 and §15A-9-8, all relating to establishing the West Virginia Fusion Center Act; requiring Governor to establish West Virginia Fusion Center and defining its purpose; providing that Department of Homeland Security will operate fusion center and provide legal counsel; establishing positions of fusion center director and deputy director; creating joint select oversight committee and establishing committee membership and powers; mandating entities participating in fusion center enter into memorandum of understanding with center and setting out minimum requirements of memorandum; limiting access to fusion center of certain persons; making certain information in possession of center confidential and not subject to disclosure; providing exceptions to confidentiality of information; establishing immunity from subpoena for individuals possessing criminal intelligence information gained from access to fusion center information; setting criminal penalties for knowing dissemination of fusion center information; providing whistleblower protections; prohibiting certain conduct by fusion center contractors and employees; making persons providing or receiving certain information to or from center immune from civil liability and exceptions thereto; allowing participating agencies to share in costs of operating center; creating West Virginia Fusion Center Fund; authorizing Commissioner of Department of Motor Vehicles to issue license plates for state-owned fusion center vehicles; and prohibiting fusion center from knowingly allowing contractor for federal intelligence agency to work inside fusion center.”

And,

The further title amendment, sponsored by Delegate Shott, amending the title of the bill to read as follows:

Com. Sub. for H. B. 4176 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15A-9-1, §15A-9-2, §15A-9-3, §15A-9-4, §15A-9-5, §15A-

9-6, §15A-9-7 and §15A-9-8, all relating to establishing and delineating the powers, duties, and responsibilities of the West Virginia Fusion Center; requiring Governor to establish West Virginia Fusion Center and defining its purpose; providing that Department of Homeland Security will operate fusion center and provide legal counsel; prohibiting the Fusion Center from gathering information or intelligence information for a political purpose, except for the limited purposes of certain dignitary visits and to insure fair elections; providing Fusion Center or its officers, directors, agents, or employees shall not engage in prohibited non-law enforcement intelligence gathering activities on citizens of the United States; providing Fusion Center shall be housed in secure facilities; providing Fusion Center shall collaborate to fulfill duties of State Resiliency Office; providing for operations of Fusion Center; providing limitations upon when the Fusion Center may cooperate, with any federal agency, or a contractor for any federal agency; providing operations of the West Virginia Fusion Center shall be overseen by the cabinet secretary and deputy cabinet secretary of the West Virginia Department of Homeland Security; providing cabinet secretary and deputy cabinet secretary shall either have a current, valid federal security clearance at the appropriate level; providing cabinet secretary and deputy cabinet secretary may adopt policies and procedures for the operation of the West Virginia Fusion Center; establishing positions of fusion center director and deputy director; creating joint select oversight committee and establishing committee membership and powers; mandating entities participating in fusion center enter into memorandum of understanding with center and setting out minimum requirements of memorandum; limiting access to fusion center of certain persons; making certain information in possession of center confidential and not subject to disclosure; providing exceptions to confidentiality of information; establishing immunity from subpoena for individuals possessing criminal intelligence information gained from access to fusion center information; setting criminal penalties for knowing dissemination of fusion center information; providing whistleblower protections; prohibiting certain conduct by fusion center contractors and employees; defining terms; making persons providing or receiving certain information to or from center immune from civil liability and exceptions thereto; allowing participating agencies to share in costs of operating center; creating West Virginia Fusion Center Fund, and delineating uses and purposes of such fund; and authorizing Commissioner of Department of Motor Vehicles to issue license plates for state-owned fusion center vehicles.”

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. 760**), and there were—yeas 88, nays 11, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: S. Brown, Dean, Fast, Fluharty, Hornbuckle, McGeehan, Paynter, Phillips, Rowe, Staggers and Walker.

Absent and Not Voting: Angelucci.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4176) passed.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates 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. 4015, Relating to Broadband Enhancement and Expansion.

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. BROADBAND ENHANCEMENT COUNCIL.

§31G-1-3. Broadband Enhancement Council; members of council; administrative support.

(a) The Broadband Enhancement Council is hereby established and continued. The current members, funds, and personnel shall continue in effect and be wholly transferred; except as may be hereinafter provided. With regard to the terms of the public members appointed under subdivision five, ~~of~~ subsection (d) of this section, at the next regular meeting of the council following July 1, 2017, the currently serving public members shall draw by lot for the length of their terms, three members to serve for one additional year, three members to serve for two additional years and the last three members to serve for three additional years, with all public members in future to serve for the duration of the term described below.

(b) The council is a governmental instrumentality of the State. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties are considered and held to be, and are hereby determined to be, essential governmental functions and for a public purpose. The council is created under the Department of Commerce for administrative, personnel, and technical support services only.

(c) The council shall consist of ~~thirteen~~ 13 voting members, designated as follows:

(1) The Secretary of Commerce or his or her designee;

(2) The Chief Technology Officer or his or her designee;

(3) The Vice Chancellor for Administration of the Higher Education Policy Commission or his or her designee;

(4) The State Superintendent of Schools or his or her designee; ~~and~~

(5) Nine public members that shall serve no more than three consecutive three-year terms from the date of their appointment and are appointed by and serve at the will and pleasure of the Governor with the advice and consent of the Senate, as follows:

(i) One member representing users of large amounts of broadband services in this state;

(ii) One member from each congressional district representing rural business users in this state;

(iii) One member from each congressional district representing rural residential users in this state;

(iv) One member representing urban business users in this state; and

(v) One member representing urban residential users in this state; and

(6) ~~In addition to the thirteen voting members of the council~~ Additionally, the President of the Senate shall name two Senators from the West Virginia Senate, one from each party, and the Speaker of the House shall name two Delegates from the West Virginia House of Delegates, one

from each party, each to serve in the capacity of an ex officio, nonvoting advisory members of the council.

(d) The Secretary of Commerce shall chair the first meeting at which time a chair and vice chair shall be elected from the members of the council for a term of two years: *Provided, That a chair or vice-chair may not serve more than two consecutive full or partial terms in that capacity.* In the absence of the chair, the vice chair shall serve as chair. The council shall appoint a secretary-treasurer who need not be a member of the council and who, among other tasks or functions designated by the council, shall keep records of its proceedings.

(e) The council may appoint committees or subcommittees to investigate and make recommendations to the full council. Members of these committees or subcommittees need not be members of the council.

(f) Seven voting members of the council constitute a quorum and the affirmative vote of a simple majority of those members present is necessary for any action taken by vote of the council.

(g) The gubernatorial appointed members shall be deemed part-time public officials, and may pursue and engage in another business or occupation or gainful employment. Any person employed by, owning an interest in, or otherwise associated with a broadband deployment project, project sponsor, or project participant may serve as a council member and is not disqualified from serving as a council member because of a conflict of interest prohibited under §6B-2-5 of this code and is not subject to prosecution for violation of ~~said~~ that section when the violation is created solely as a result of his or her relationship with the broadband deployment project, project sponsor, or project participant so long as the member recuses himself or herself from board participation regarding the conflicting issue in the manner set forth in §6B-2-5 of this code and the legislative rules promulgated by the West Virginia Ethics Commission.

(h) No member of the council who serves by virtue of his or her office may receive any compensation or reimbursement of expenses for serving as a member. The public members and members of any committees or subcommittees are entitled to be reimbursed for actual and necessary expenses incurred for each day or portion thereof engaged in the discharge of his or her official duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

(i) No person is subject to antitrust or unfair competition liability based on membership or participation in the council, which provides an essential governmental function and enjoys state action immunity.

ARTICLE 5. VERTICAL REAL ESTATE MANAGEMENT AND AVAILABILITY ACT.

§31G-5-1. Short title.

This article shall be known and cited as the Vertical Real Estate Management and Availability Act.

§31G-5-2. Definitions.

For the purposes of this article unless the context otherwise requires:

'Ground facilities' means any shed, buildings, server rooms, or other ancillary structure providing essential services to a tower, including, but not limited to, distributing power, providing communications backhaul, or other service necessary to carry out the purposes of the tower.

'Tower' means a structure which hosts an antenna or other equipment used for the purposes of transmitting cellular or wireless signals for communications purposes, including telephonically, or, for computing purposes, including any antenna and all associated equipment; and

'Vertical Real Estate' means any communication or broadcast tower, or any other structure or similar installation mounted on a rooftop or other prominent place, and any other such facilities associated with that structure, upon which is suitable to mount communications equipment thereon, and the associated ground facilities necessary to accommodate that communications purpose, or other real estate suitable for the installation of a telecommunications vertical asset: *Provided*, That any excess telecommunications facilities owned or controlled by the West Virginia Division of Highways that do not meet this definition of Vertical Real Estate, shall be subject to the provisions of §17-2E-6a of this code: *Provided further*, That nothing in this definition may serve to prohibit terrestrial, middle-mile or last-mile broadband or high speed internet wiring or facilities installation pursuant to §17-2E-1 *et seq.* nor may classification as such facilities serve to prevent utility installation including, but not limited to, water, electric and sewer services.

§31G-5-3. Management of vertical real estate.

(a) Beginning on July 1, 2020, the Department of Administration shall coordinate with the executive to issue a request for proposals to manage state-owned vertical real estate. This request for proposals shall contain at a minimum the following information from each prospective manager:

(1) A standard method for valuation of space on each tower that is reasonable and customary for the reach of and the numbers of the population served by the vertical real estate.

(2) A clause which forbids any vendor to enter into an exclusive arrangement with any person for the right to use the vertical real estate, unless no other entity is interested, and a clause which forbids the sharing of information, backhaul, or any other resources gleaned from managing the assets competitively with any competitors.

(3) A clause forbidding the vendor from engaging in any preferential treatment to their own operations as a competing provider of wireless broadband access.

(4) A minimum of 50 percent rental reduction for any entity whose utilization of that vertical real estate is providing broadband access which is rate unlimited or unthrottled; subject to current load/demand network management.

(b) There is hereby created in the state treasury a special account to be known as the Technology Infrastructure Reinvestment Fund to be administered by the Office of Technology. All revenue derived from the management of the vertical real estate shall be deposited into the fund pursuant to §31G-5-3 of this code. Expenditures from the fund shall be made by the Office of Technology for the purpose of reinvestment in the vertical real estate or technology infrastructure supporting broadband on state-owned property. Expenditures are not authorized from collections but are to be made in accordance with appropriation by the Legislature pursuant to the provisions of §12-3-1, *et seq.* of this code and upon the fulfillment of the provisions of §11B-2-1, *et seq.* of this code.

(c) The Office of Technology shall remit to the manager the compensation as per the contract and then on June 30 each year shall distribute any funds received in excess of the compensation due the manager as follows:

(1) Fifty percent to the Technology Infrastructure Reinvestment Fund,

(2) Fifty percent will go to the Broadband Expansion Fund established in §31G-1-5 of this code in control of the Broadband Enhancement Council with the specific purpose of:

(A) Funding the ongoing operations of the Broadband Enhancement Council, and

(B) To provide funds to match federal grants.

(d) Counties, municipalities and other political subdivisions, as applicable, may join or participate in an awarded agreement with a successful manager under the same terms and conditions: *Provided*, That distribution of funds attributable to their assets may be expended at the discretion of their governing body.

§31G-5-4. Exceptions to the management of vertical real estate.

Any vertical real estate shall be exempted from management if:

(A) The rental of that vertical real estate would potentially affect the operations of any public safety, emergency management or homeland security operations: *Provided*, That if there is a showing that a reasonable, technically feasible, nondiscriminatory design can prevent such adverse effect on any public safety, emergency management or homeland security operations then such management may occur; or

(B) It would have an adverse effect on historic preservation of a property: *Provided*, That if there is a showing that a reasonable, technically feasible, nondiscriminatory, and technologically neutral design or concealment measures can prevent such adverse effect on the property's historic preservations then such management may occur."

And,

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

Com. Sub. for H. B. 4015 - "A Bill to amend and reenact §31G-1-3 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §31G-5-1, §31G-5-2, §31G-5-3, and §31G-5-4, all relating telecommunications and broadband; limiting the consecutive terms of the public members of the Broadband Enhancement Council; limiting the consecutive terms of the chair and vice-chair of the Broadband Enhancement Council; enacting the Vertical Real Estate Management and Availability Act; requiring the Department of Administration to coordinate with the Governor to seek proposals to manage state-owned vertical real estate; establishing how the vertical real estate is to be managed; defining 'vertical real estate' as any structure that is suitable for the mounting of communications equipment and associated ground facilities; providing for a distribution of funds from leasing state-owned vertical real estate; and setting forth certain exceptions to the availability for management of state-owned vertical real estate."

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. 761**), and there were—yeas 98, nays 2, absent and not voting none, with the nays being as follows:

Nays: Cowles and Steele.

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. 4015) 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. 4123, Clarifying that 911 telecommunication workers are included in the definition of those individuals who perform 'emergency services' during a disaster.

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

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

"CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-2. Definitions.

As used in this article:

~~(a) 'Emergency services' means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond and recover, to prevent, detect, deter and mitigate, to minimize and repair injury and damage resulting from disasters or other event caused by flooding, terrorism, enemy attack, sabotage or other natural or other man-made causes. These functions include, without limitation, firefighting services, police services, medical and health services, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to the health, safety and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat thereof;~~

~~(b) 'Local organization for emergency services' means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function;~~

~~(c) 'Mobile support unit' means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;~~

~~(d) 'Political subdivision' means any county or municipal corporation in this state;~~

~~(e) 'Board' means the West Virginia Disaster Recovery Board created by this article;~~

~~(f) 'Code' means the Code of West Virginia, 1931, as amended;~~

~~(g) 'Community facilities' means a specific work or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;~~

~~(h) 'Disaster' means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or terrorist or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;~~

~~(i) 'Disaster recovery activities' means activities undertaken prior to, during or following a disaster to provide, or to participate in the provision of, emergency services, temporary housing, residential housing, essential business activities and community facilities;~~

~~(j) 'Essential business activities' means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or service deemed by the authority to be necessary for recovery from a disaster;~~

~~(k) 'Person' means any individual, corporation, voluntary organization or entity, partnership, firm or other association, organization or entity organized or existing under the laws of this or any other state or country;~~

~~(l) 'Recovery fund' means the West Virginia Disaster Recovery Trust Fund created by this article;~~

~~(m) 'Residential housing' means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and such other nonhousing facilities as may be incidental or appurtenant thereto;~~

~~(n) 'Temporary housing' means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster and such other nonhousing facilities as may be incidental or appurtenant thereto; and~~

~~(o) 'Secretary' means the Secretary of the West Virginia Department of Military Affairs and Public Safety.~~

'Board' means the West Virginia Disaster Recovery Board created by this article;

'Code' means the Code of West Virginia, 1931, as amended;

'Community facilities' means a specific work, or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

'Disaster' means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or terrorist or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;

'Disaster recovery activities' means activities undertaken prior to, during or following a disaster to provide, or to participate in the provision of, emergency services, temporary housing, residential housing, essential business activities, and community facilities;

'Emergency services' means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond, and recover, to prevent, detect, deter, and mitigate, to minimize and repair injury and damage resulting from disasters or other event caused by flooding, terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions include, without limitation, firefighting services, police services, medical and health services, communications, emergency telecommunications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to the health, safety, and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat;

'Essential business activities' means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or service determined by the authority to be necessary for recovery from a disaster;

'Local organization for emergency services' means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function;

'Mobile support unit' means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;

'Person' means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

'Political subdivision' means any county or municipal corporation in this state;

'Recovery fund' means the West Virginia Disaster Recovery Trust Fund created by this article;

'Residential housing' means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and any other nonhousing facilities that are incidental or appurtenant thereto;

'Secretary' means the Secretary of the West Virginia Department of Military Affairs and Public Safety; and

'Temporary housing' means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster and such other nonhousing facilities that are incidental or appurtenant thereto.

CHAPTER 24. PUBLIC SERVICE COMMISSION.**ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.****§24-6-2. Definitions.**

As used in this article, unless the context clearly requires a different meaning:

(1) 'Commercial mobile radio service provider' or 'CMRS provider' means cellular licensees, broadband personal communications services (PCS) licensees and specialized mobile radio (SMR) providers, as those terms are defined by the Federal Communications Commission, which offer on a post-paid or prepaid basis or via a combination of those two methods, real-time, two-way switched voice service that is interconnected with the public switched network and includes resellers of any commercial mobile radio service.

(2) 'County answering point' means a facility to which enhanced emergency telephone system calls for a county are initially routed for response and where county personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider or transferring the call to the appropriate provider.

(3) 'Emergency services organization' means the organization established under article five, chapter fifteen of this code.

(4) 'Emergency service provider' means any emergency services organization or public safety unit.

'Emergency telecommunicator' means a professional telecommunicator meeting the training requirements set forth in §24-6-5 and is a first responder tasked with the gathering of information related to medical emergencies, the provision of assistance and instructions by voice, prior to the arrival of emergency medical services (EMS), and the dispatching and support of EMS resources responding to an emergency call.

(5) 'Emergency telephone system' means a telephone system which through normal telephone service facilities automatically connects a person dialing the primary emergency telephone number to an established public agency answering point, but does not include an enhanced emergency telephone system.

(6) 'Enhanced emergency telephone system' means a telephone system which automatically connects the person dialing the primary emergency number to the county answering point and in which the telephone network system automatically provides to personnel receiving the call, immediately on answering the call, information on the location and the telephone number from which the call is being made and, upon direction from the personnel receiving the call, routes or dispatches the call by telephone, radio or any other appropriate means of communication to emergency service providers that serve the location from which the call is made.

(7) 'Prepaid wireless calling service' means prepaid wireless calling service as defined in section two, article fifteen, chapter eleven of this code.

(8) 'Public agency' means the state and any municipality, county, public district or public authority which provides or has authority to provide firefighting, police, ambulance, medical, rescue or other emergency services.

~~(9)~~ 'Public safety unit' means a functional division of a public agency which provides firefighting, police, medical, rescue or other emergency services.

~~(10)~~ 'Telephone company' means any public utility and any CMRS provider which is engaged in the provision of telephone service whether primarily by means of wire or wireless facilities.

~~(11)~~ 'Comprehensive plan' means a plan pertaining to the installing, modifying or replacing of telephone switching equipment; a telephone utility's response in a timely manner to requests for emergency telephone service by a public agency; a telephone utility's responsibility to report to the Public Service Commission; charges and tariffs for the services and facilities provided by a telephone utility; and access to an emergency telephone system by emergency service organizations.

~~(12)~~ 'Technical and operational standards' means those standards of telephone equipment and processes necessary for the implementation of the comprehensive plan as defined in subdivision (11) of this subsection.

§24-6-5. Enhanced emergency telephone system requirements.

(a) An enhanced emergency telephone system, at a minimum, shall provide that:

(1) All the territory in the county, including every municipal corporation in the county, which is served by telephone company central office equipment that will permit such a system to be established shall be included in the system: *Provided*, That if a portion of the county or a portion of a municipal corporation within the county is already being served by an enhanced emergency telephone system, that portion of the county or municipality may be excluded from the county enhanced emergency telephone system;

(2) Every emergency service provider that provides emergency service within the territory of a county participate in the system;

(3) Each county answering point be operated constantly by an emergency telecommunicator;

(4) Each emergency service provider participating in the system maintain a telephone number in addition to the one provided in the system; and

(5) If the county answering point personnel reasonably determine that a call is not an emergency, the personnel provide the caller with the number of the appropriate emergency service provider.

(b) To the extent possible, enhanced emergency telephone systems shall be centralized.

(c) In developing an enhanced emergency telephone system, a county commission or the West Virginia State Police shall seek the advice of both the telephone companies providing local exchange service within the county and the local emergency providers.

(d) As a condition of employment, a person employed as the director of an emergency dispatch center who dispatches emergency calls or supervises the dispatching of emergency call takers is subject to an investigation of his or her character and background. This investigation shall include, at a minimum, a criminal background check conducted by the State Police at its expense. A felony conviction shall preclude a person from holding any of these positions.

(e) As a condition of continued employment, persons employed to dispatch emergency calls in county emergency dispatch centers shall successfully complete:

(1) A 40-hour nationally recognized training course for dispatchers within one year of the date of their employment;

(2) A nationally recognized training course in emergency cardiovascular care for telephonic cardiopulmonary resuscitation selected by the medical director of an emergency medical dispatch center. This training course shall incorporate protocols for out-of-hospital cardiac arrest and compression-only cardiopulmonary resuscitation and continuing education, as appropriate. The training requirements of this subdivision are effective not later than July 1, 2020. Persons employed subsequent to July 1, 2019, shall complete the training within one year of the date of employment; and

(3) An additional nationally recognized emergency medical dispatch course or an emergency medical dispatch course approved by the Office of Emergency Medical Services ~~not later than July 1, 2013, or if employed subsequent to July 1, 2013,~~ within one year of the date of employment.

(f) ~~On or before July 1, 2013, the~~ The director of each county emergency dispatch center shall develop policies and procedures to establish a protocol for dispatching emergency medical calls implementing a nationally recognized emergency medical dispatch program, or an emergency medical dispatch program approved by the Office of Emergency Medical Services. ~~Provided, That If~~ Provided, That If a county emergency dispatch center ~~which utilizes~~ uses a one-button transfer system, it may continue to use this system if the county emergency dispatch center establishes policies and procedures ~~which require~~ requiring the agency to whom the call is transferred to remain on the call until a first responder arrives.

(g) Each county or municipality shall appoint for each answering point an enhanced emergency telephone system advisory board consisting of at least six members to monitor the operation of the system. The board shall be appointed by the county or municipality and shall include at least one member from affected:

- (1) Fire service providers;
- (2) Law-enforcement providers;
- (3) Emergency medical providers;
- (4) Emergency services providers participating in the system; and
- (5) Counties or municipalities.

(6) The director of the county or municipal enhanced telephone system shall serve as an ex officio member of the advisory board.

~~(h) The initial advisory board shall serve staggered terms of one, two, and three years. The initial terms of these appointees shall commence on July 1, 1994. All future appointments to the advisory board shall be for terms of three years, except that an appointment to fill a vacancy shall be for the unexpired term. All members shall serve without compensation. The board shall adopt such any policies, rules, and regulations as are necessary for its own guidance. The board shall meet monthly or quarterly. The board may make recommendations to the county or municipality concerning the operation of the system.~~

~~(i) Nothing herein contained may be construed to prohibit or discourage in any way the~~ The establishment of multijurisdictional or regional systems, or multijurisdictional or regional agreements for the establishment of enhanced emergency telephone systems, and any system established

pursuant to this article may include the territory of more than one public agency, or may include only a portion of the territory of a public agency.

(j) All public safety answering points that answer calls for emergency medical conditions shall, in the appropriate circumstances, provide telephonic assistance in administering cardiopulmonary resuscitation directly or transfer calls to a call center to provide assistance in administering telephonic cardiopulmonary resuscitation.

(k) The director of the county or municipal enhanced telephone system shall have the authority to enter into mobile-phone contracts with service providers for the purpose of obtaining a mobile-phone emergency line for the county or municipality. The director must solicit bids for mobile-phone contracts from mobile-phone service providers in this state. The director may award the contract to the lowest responsible bidder, or designate in writing, why any other bidder other than the lowest responsible bidder was awarded a contract. The director may obtain as many lines as reasonably needed for emergencies where landlines are unavailable to serve the county or municipality. The director and phone service provider should collaborate to obtain the following:

(1) The emergency mobile-phone number may be the county prefix and end in 0911, as feasible for the phone service provider;

(2) The emergency mobile-phone service provider should permit roll-over service to allow multiple callers to dial into the amount of lines purchased; and

(3) The emergency mobile-phone service provider should provide the lowest possible cost.

Nothing in this subsection shall be construed to prohibit or discourage in any way the establishment of multijurisdictional or regional systems, or multijurisdictional or regional agreements for the establishment of emergency mobile-telephone systems. This section shall be effective July 1, 2020.

(l) Emergency mobile-phone contracts entered into pursuant to subsection (j) of this section may be paid from funds received by the Public Service Commission relating to 911 fees remitted to the county or by other county funds. A report of the funds expended for subsection (j) of this section shall be presented to the interim Joint Committee on Government Organization no later than November 30, 2020, to ensure the fiscal responsibility and efficacy of this section."

And,

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

Com. Sub. for H. B. 4123 - "A Bill to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-6-2 and §24-6-5 of said code, all relating to emergency telecommunication; defining terms; requiring each county answering point be operated constantly by an emergency telecommunicator; permitting directors of county emergency phone systems to obtain mobile phone emergency lines and enter into service provider contracts; establishing payment of emergency mobile phone contracts; and requiring a report."

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

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4123) 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. 4159, Relating to the manufacture and sale of hard cider.

On motion of Delegate Summers, the House concurred in the following amendment by the Senate, with further amendment:

On page twelve, section three, after line one hundred twenty-two, by inserting a new subdivision, designated subdivision (7), to read as follows:

“(7) An unlicensed winery temporarily licensed and meeting the requirements set forth in subsection (q) of this section may conduct the same sampling and sales set forth in subsection (q) of this section at a licensed fair and festival upon approval of the licensee holding the fair and festival license and temporary and limited licensure by the commissioner. An unlicensed winery shall be subject to the same limits, fees, requirements, restrictions and penalties set forth in subsection (q) of this section: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders as the circumstances of each festival or fair may require, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing notwithstanding the provisions §60-8-27 and §60-8-28 of this code: *Provided, however*, That under no circumstances shall the provisions of §60-8-20(c) or §60-8-20(d) of this code be waived nor shall any exception be granted with respect to those subsections.”

On page sixteen, section three, after line two hundred twenty-one, by inserting a new subsection, designated subsection (q), to read as follows:

“(q) (1) In addition to the authorization granted to licensed wineries and farm wineries in subsections (h) and (p), an unlicensed winery, regardless of its designation in another state, but that is duly licensed in its domicile state, may pay a \$150 nonrefundable and nonprorated fee and submit an application for temporary licensure on a one-day basis for temporary sampling and sale of wine in sealed containers for off-premises consumption at a special one-day license nonprofit event.

(2) The application shall include, but is not limited to, the person or entity’s name, address, taxpayer identification number, and location; a copy of its licensure in its domicile state; a signed and notarized verification that it produces 50,000 gallons or less of wine per year; a signed and notarized verification that it is in good standing with its domicile state; copies of its federal certificate of label approvals and certified lab alcohol analysis for the wines it desires to temporarily provide samples and temporarily sell wine in sealed containers for off-premises consumption at a special one-day license for a nonprofit event issued under sub-section (p); and such other information as the commissioner may reasonably require.

(3) The applicant winery shall include a list of all wines proposed to be temporarily sampled and temporarily sold in sealed containers at a special one-day license for a nonprofit event so that the wines may be reviewed in the interest of public health and safety. Once approved, the submitted wine

list will create a temporary wine brand registration for up to two special one-day license for a nonprofit event for no additional fee.

(4) An applicant winery that receives this temporary special one-day license for a nonprofit event will provide a signed and notarized agreement where the applicant winery agrees to pay all municipal, local, and sales taxes applicable to the sale of wine in West Virginia.

(5) An application must be submitted per special one-day license for a nonprofit event the applicant winery desires to attend, and the license fee shall cover up to two special one-day license for nonprofit events before an additional fee would be paid. In no circumstance would such a winery be permitted to attend more than four special one-day license for nonprofit events per year. Any such applicant or unlicensed winery desiring to attend more than four special one-day license for nonprofit events per year or otherwise operate in West Virginia would need to seek appropriate licensure as a winery or a farm winery in this state.

(6) Notwithstanding the provisions of this article and requirements for licensure, wine brand registration, payment of wine liter tax, and the winery's appointment of suppliers and distributors, this temporary special one-day license for a nonprofit event, once granted, permits such a winery to operate in this limited capacity only at the approved specific, special one-day license for a nonprofit event subject to the limitations noted in this section.

(7) The applicant winery will need to further apply for and receive a transportation permit in order to legally transport wine in the state per §60-6-12 of this code.

(8) The applicant winery is subject to all applicable violations and/or penalties under this article and the legislative rules that is not otherwise excepted by this sub-section: *Provided*, That the commissioner may by rule or order provide for certain waivers or exceptions with respect to the provisions, rules, or orders as the circumstances of each festival or fair may require, including, without limitation, the right to revoke or suspend any license issued pursuant to this section prior to any notice or hearing."

And,

By relettering the remaining subsections.

And,

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

H. B. 4159 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections designated §19-2-12, and §19-2-13; to amend and reenact §60-1-5a of said code; to amend and reenact §60-8-2, §60-8-3, and §60-8-4 of said code; and to add a new article to said code designated §60-8A-1, §60-8A-2, §60-8A-3, §60-8A-4, §60-8A-5, §60-8A-6, and §60-8A-7, all relating to the manufacture and sale of hard cider; establishing the Agriculture Development Fund; establishing permitted expenditures from the fund; creating a new program to develop hard cider; providing for definitions; providing that there is no separate license required to manufacture and sell hard cider under certain conditions; providing for a hard cider distributor's license; providing for hard cider exemptions to the wine liter tax; establishing a hard cider gallon tax; providing for applicability of other laws; requiring regular reports to the Tax Commissioner; providing for applications to import products necessary to manufacture hard cider under certain conditions; providing for hard cider sales for consumption; providing for complementary samples to be given; establishing requirements for complementary samples; permitting the sale of growlers; establishing growler labeling requirements; establishing growler sanitation requirements; providing for fees for the privilege to sell growlers;

providing for rule-making authority; to unlicensed wineries not currently licensed or located in West Virginia temporarily authorizing limited sampling and temporarily authorizing the limited sale of wine for off-premises consumption at certain fairs and festivals and at certain one-day special licensed nonprofit events in a very limited capacity, per event, per year, in hopes that such wineries would eventually obtain a permanent winery or farm winery license in West Virginia.”

The further title amendment, sponsored by Delegate Shott, amending the title of the bill to read as follows:

H. B. 4159 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections designated §19-2-12 and §19-2-13; to amend and reenact §60-1-5a of said code; to amend and reenact §60-8-2, §60-8-3, §60-8-4, §60-8-18, and §60-8-29 of said code; and to add a new article to said code designated §60-8A-1, §60-8A-2, §60-8A-3, §60-8A-4, §60-8A-5, §60-8A-6, and §60-8A-7; all relating to the manufacture and sale of wine and hard cider; all relating to the manufacture and sale of hard cider and wine; establishing the Agriculture Development Fund; establishing permitted expenditures from the fund; creating a new program to develop hard cider; providing for definitions; clarifying various aspects of wine, specifically the alcohol by volume percentage for table wine, wine, and fortified wine; adding the definition of ‘nonfortified dessert wine’; clarifying penalties for failure to meet requirements; replacing bond requirements that secure the payment of taxes by distributors, suppliers, certain wineries, and certain farm wineries, who are acting as either suppliers or distributors in a limited capacity, with an affidavit; providing penalties for failure to pay taxes and maintain good standing with the state; providing that there is no separate license required to manufacture and sell hard cider under certain conditions; providing for a hard cider distributor’s license; providing for hard cider exemptions to the wine liter tax; establishing a hard cider gallon tax; providing for applicability of other laws; requiring regular reports to the Tax Commissioner; providing for applications to import products necessary to manufacture hard cider under certain conditions; providing for hard cider sales for consumption; providing for complementary samples to be given; establishing requirements for complementary samples; permitting the sale of growlers; establishing growler labeling requirements; establishing growler sanitation requirements; providing for fees for the privilege to sell growlers; providing for rule-making authority; providing certain limited authority to unlicensed wineries not currently licensed or located in West Virginia; temporarily authorizing limited sampling and temporarily authorizing the limited sale of wine for off-premises consumption at certain fairs and festivals and at certain one-day special licensed nonprofit events in a very limited capacity.”

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. 763**), and there were—yeas 80, nays 17, absent and not voting 3, with the nays and absent and not voting being as follows:

Nays: Barnhart, Bartlett, Butler, Cadle, Cooper, Fast, Hanna, D. Jeffries, Jennings, Kump, Mandt, P. Martin, Pack, Porterfield, Rohrbach, Toney and Worrell.

Absent and Not Voting: Capito, Evans and Nelson.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4159) passed.

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

A message from the Senate, by

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

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

On motion of Delegate Kessinger, the House concurred in the following amendment by the Senate, with further amendment:

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

“§16-9G-1. Tobacco Use Prevention and Cessation Task Force

(a) The West Virginia Tobacco Use Prevention and Cessation Task Force is created for the purpose of recommending and monitoring the establishment and management of programs that are found to be effective in the reduction of tobacco, tobacco products, alternative nicotine products, and vapor products use by all state citizens, with a strong focus on the prevention of children and young adults use of tobacco, tobacco products, alternative nicotine products, and vapor products.

(b) The task force shall have the following members:

(1) The Commissioner of the Bureau for Public Health or his or her designee, who shall serve as chair;

(2) The Superintendent of the Department of Education or his or her designee;

(3) Ten members to be appointed by the Governor:

(A) A representative of a nationwide nonprofit organization dedicated to the elimination of cancer;

(B) A representative of a nonprofit national organization that funds cardiovascular medical research;

(C) A dentist, licensed pursuant to §30-4-1 *et seq.*, with an expertise in oral health;

(D) A physician, licensed pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* with expertise in health impacts associated with tobacco, tobacco products, alternative nicotine products, or vapor products consumption;

(E) A representative of a national voluntary health organization whose mission is to save lives by improving lung health and preventing lung disease through education, advocacy, and research;

(F) A representative who is certified from one of the programs accredited by the Council for Tobacco Treatment Training Programs or has received a National Certificate in Tobacco Treatment Practice, who has advanced education in evidence-based tobacco treatment competencies, skills, and practices;

(G) A representative from a national youth tobacco, tobacco products, alternative nicotine products, or vapor products prevention organization;

(H) A representative from the West Virginia Prevention First Network within the West Virginia Bureau for Behavioral Health/ and

(2) Two citizen members that through professional or medical experience or advocacy are committed to work and advocate for cessation of tobacco, tobacco products, alternative nicotine products, and vapor products consumption in all forms in the state.

(c) The task force shall meet quarterly at the call of the chair to study, monitor, and recommend funding and initiation of programs that reduce tobacco, tobacco products, alternative nicotine products, and vapor products consumption in West Virginia, and to initiate studies and processes to provide the most efficient and effective use of the funds dedicated for this purpose. The task force shall include a variety of persons in the health care field, including individuals certified from one of the programs accredited by the Council for Tobacco Treatment Training Programs or received a National Certificate in Tobacco Treatment Practice, advocates, and citizens, with the intention of the Legislature to create a dynamic and innovative group to focus, monitor, and facilitate state resources towards this goal.

(d) The Director of the Division of Tobacco Prevention shall attend each task force meeting and shall provide staff support services for the task force. The task force shall monitor the Division of Tobacco Prevention's programs and make recommendations to the division on expenditures and programs which are being administered by that office. The task force shall report annually to the Legislative Oversight Committee on Health and Human Resources Accountability by December 1st, which shall include at a minimum, the following:

(1) An assessment of each program administered by the Division of Tobacco Prevention towards reducing tobacco, tobacco products, alternative nicotine products, and vapor products consumption and include an overview of its budget for the prior year and how state moneys and any other funding or grants received by the office are being expended that year;

(2) Review and analysis the types of tobacco, tobacco products, alternative nicotine products, and vapor products consumption practices in the state and identify emerging trends related to tobacco, tobacco products, alternative nicotine products, or vapor products delivery devices and related activities impacting tobacco, tobacco products, alternative nicotine products, and vapor products use, with particular emphasis on youth consumption trends and practices; and,

(3) Recommend for legislation or implementation of legislation, public policies; and funding of programs that can further facilitate a reduction in tobacco, tobacco products, alternative nicotine products, or vapor products usage in our state.

§16-9G-2. Division of Tobacco Prevention.

In addition to administering and coordinating the program on tobacco, tobacco products, alternative nicotine products, and vapor products cessation, the Division of Tobacco Prevention may apply for and administer federal and private grants and donations made for the purpose of reducing and eliminating tobacco, tobacco products, alternative nicotine products, and vapor products consumption in this state."

And,

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

Com. Sub. for H. B. 4494 - "A Bill to amend the Code of West Virginia, 1931, as amended by adding thereto a new article, designated as §16-9G-1 and §16-9G-2, all relating to expanding tobacco use reduction and cessation initiatives; creating a task force to undertake studies and monitor and advise the Division of Tobacco Prevention and recommend policies to the Legislature; authorizing the task force to apply and administer private grants and donations."

With the further amendment, sponsored by Delegates Householder and Summers, being as follows:

On page one of the amendment, by striking out the section heading and inserting in lieu thereof an article heading and a section heading to read as follows:

“ARTICLE 9G. TOBACCO CESSATION INITIATIVE.

§16-9G-1. Tobacco Use Prevention and Cessation Task Force.”

On page two of the amendment, section one, line thirty, following the words “Behavioral Health”, by striking out the forward slash and inserting in lieu thereof a semicolon.

And,

On page two of the amendment, section one, line thirty-one, by striking out the “(2)” and inserting in lieu thereof the paragraph designation “(1)”.

And,

The further title amendment, sponsored by Delegates Householder and Summers, amending the title of the bill to read as follows:

Com. Sub. for H. B. 4494 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated as §16-9G-1 and §16-9G-2, all relating to expanding tobacco use reduction and cessation initiatives; creating a task force to undertake studies and monitor and advise the Division of Tobacco Prevention and recommend policies to the Legislature; setting forth duties of the Division of Tobacco Prevention; and authorizing the Division of Tobacco Prevention to apply and administer private grants and donations.”

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. 764**), and there were—yeas 88, nays 10, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Bibby, Butler, Cadle, Dean, Foster, Hanna, P. Martin, McGeehan, Steele and Wilson.

Absent and Not Voting: Evans and Nelson.

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. 4494) passed.

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

A message from the Senate, by

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

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

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

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

“CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-4a. Procedure for changing rates after June 30, 1981.

(a) After June 30, 1981, no public utility subject to this chapter, except for those entities subject to the provisions of §24A-5-2a of this code and water and/or sewer utilities that are political subdivisions of the state providing separate or combined services and having at least 4,500 customers and annual gross revenue of \$3 million or more from its separate or combined services, shall change, suspend or annul any rate, joint rate, charge, rental or classification except after thirty days' notice to the commission and the public, which notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the changed rates or charges shall go into effect; but the commission may enter an order suspending the proposed rate as hereinafter provided. The proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection: *Provided*, That the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

(b) Whenever there shall be filed with the commission any schedule stating a change in the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint classification or any new individual or joint regulation or practice affecting any rate or charge, the commission may, either upon complaint or upon its own initiative without complaint, enter upon a hearing concerning the propriety of such rate, charge, classification, regulation or practice; and, if the commission so orders, it may proceed without answer or other form of pleading by the interested parties, but upon reasonable notice, and, pending such hearing and the decisions thereon, the commission, upon filing with such schedule and delivering to the public utility affected thereby a statement in writing of its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than two hundred seventy days beyond the time when such rate, charge, classification, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, classification, regulation or practice goes into effect, the commission may make such order in reference to such rate, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, charge, classification, regulation or practice had become effective: *Provided*, That in the case of a public utility having two thousand five hundred customers or less and which is not a political subdivision and which is not principally owned by any other public utility corporation or public utility holding corporation, the commission may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than one hundred twenty days beyond the time when such rate, charge, classification, regulation or practice would otherwise go into effect; and in the case of a public utility having more than two thousand five hundred customers, but not more than five thousand customers, and which is not a political subdivision and which is not principally owned by any other public utility corporation or public utility holding corporation, the commission may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than one hundred fifty days beyond the time when such rate, charge, classification, regulation or

practice would otherwise go into effect; and in the case of a public utility having more than five thousand customers, but not more than seven thousand five hundred customers, and which is not a political subdivision and which is not principally owned by any other public utility corporation or public utility holding corporation, the commission may suspend the operation of such schedule and defer the use of such rate, charge, classification, regulation or practice, but not for a longer period than one hundred eighty days beyond the time when such rate, charge, classification, regulation or practice would otherwise go into effect; and after full hearing, whether completed before or after the rate, charge, classification, regulation or practice goes into effect, the commission may make such order in reference to such rate, charge, classification, regulation or practice as would be proper in a proceeding initiated after the rate, charge, classification, regulation or practice had become effective: *Provided, however,* That, in the case of rates established or proposed that increase by less than twenty-five percent of the gross revenue of the regulated public service district, there shall be no suspension period in the case of rates established by a public service district pursuant to section nine, article thirteen-a, chapter sixteen of this code and the proposed rates of public service districts shall go into effect upon the date of filing with the commission, subject to refund modification at the conclusion of the commission proceeding. In the case of rates established or proposed that increase by more than twenty-five percent of the gross revenue of the public service district, the district may apply for, and the commission may grant, a waiver of the suspension period and allow rates to be effective upon the date of filing with the commission. Notwithstanding the provisions of subsection (e) of this section, the public service district shall provide notice by Class I legal advertisement in a newspaper of general circulation in its service territory of the percentage increase in rates at least fourteen days prior to the effective date of the increased rates. Any refund determined to be determined to be due and owing as a result of any difference between any final rates approved by the commission and the rates placed into effect subject to refund shall be refunded by the public service district as a credit against each customer's account for a period of up to six months after entry of the commission's final order. Any remaining balance which is not fully credited by credit within six months after entry of the commission's final order shall be directly refunded to the customer by check: *Provided further,* That if any such hearing and decision thereon is not concluded within the periods of suspension, as above stated, such rate, charge, classification, regulation or practice shall go into effect at the end of such period not subject to refund: *And provided further,* That if any such rate, charge, classification, regulation or practice goes into effect because of the failure of the commission to reach a decision, the same shall not preclude the commission from rendering a decision with respect thereto which would disapprove, reduce or modify any such proposed rate, charge, classification, regulation or practice, in whole or in part, but any such disapproval, reduction or modification shall not be deemed to require a refund to the customers of such utility as to any rate, charge, classification, regulation or practice so disapproved, reduced or modified. The fact of any rate, charge, classification, regulation or practice going into effect by reason of the commission's failure to act thereon shall not affect the commission's power and authority to subsequently act with respect to any such application or change in any rate, charge, classification, regulation or practice. Any rate, charge, classification, regulation or practice which shall be approved, disapproved, modified or changed, in whole or in part, by decision of the commission shall remain in effect as so approved, disapproved, modified or changed during the period or pendency of any subsequent hearing thereon or appeal therefrom. Orders of the commission affecting rates, charges, classifications, regulations or practices which have gone into effect automatically at the end of the of the suspension period are prospective in effect.

(c) At any hearing involving a rate sought to be increased or involving the change of any rate, charge, classification, regulation or practice, the burden of proof to show the justness and reasonableness of the increased rate or proposed increased rate, or the proposed change of rate, charge, classification, regulation or practice shall be upon the public utility making application for such change. The commission shall, whenever practicable and within budgetary constraints, conduct one or more public hearings within the area served by the public utility making application for such

increase or change, for the purpose of obtaining comments and evidence on the matter from local ratepayers.

(d) Each public utility subject to the provisions of this section shall be required to establish, in a written report which shall be incorporated into each general rate case application, that it has thoroughly investigated and considered the emerging and state-of-the-art concepts in the utility management, rate design and conservation as reported by the commission under subsection (c), section one, article one of this chapter as alternatives to, or in mitigation of, any rate increase. The utility report shall contain as to each concept considered the reasons for adoption or rejection of each. When in any case pending before the commission all evidence shall have been taken and the hearing completed, the commission shall render a decision in such case. The failure of the commission to render a decision with respect to any such proposed change in any such rate, charge, classification, regulation or practice within the various time periods specified in this section after the application therefor shall constitute neglect of duty on the part of the commission and each member thereof.

(e) Other than as provided in subsection (b) of this section relating to public service districts, where more than twenty members of the public are affected by a proposed change in rates, it shall be a sufficient notice to the public within the meaning of this section if such notice is published as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the community where the majority of the resident members of the public affected by such change reside or, in case of nonresidents, have their principal place of business within this state.

(f) The commission may order rates into effect subject to refund, plus interest in the discretion of the commission, in cases in which the commission determines that a temporary or interim rate increase is necessary for the utility to avoid financial distress, or in which the costs upon which these rates are based are subject to modification by the commission or another regulatory commission and to refund to the public utility. In such case the commission may require such public utility to enter into a bond in an amount deemed by the commission to be reasonable and conditioned upon the refund to the persons or parties entitled thereto of the amount of the excess if such rates so put into effect are subsequently determined to be higher than those finally fixed for such utility.

(g) No utility regulated under the provisions of this section may make application for a general rate increase while another general rate application is pending before the commission and not finally acted upon, except pursuant to the provisions of subsection (f) of this section. The provisions of this subsection shall not be construed so as to prohibit any such rate application from being made while a previous application which has been finally acted upon by the commission is pending before or upon appeal to the West Virginia Supreme Court of Appeal.

CHAPTER 24A. COMMERCIAL MOTOR CARRIERS.

ARTICLE 2. COMMON CARRIERS BY MOTOR VEHICLES.

§24A-5-2. Certificate of convenience and necessity.

(a) *Required; application; hearing; granting.* — It shall be unlawful for any common carrier by motor vehicle to operate within this state without first having obtained from the commission a certificate of convenience and necessity. Upon the filing of an application for such certificate, the commission shall set a time a place for a hearing on the application: *Provided*, That the commission may, after giving proper notice and if no protest is received, waive formal hearing on the application. Notice shall be by publication which shall state that a formal hearing may be waived in the absence of a protest to such application. The notice shall be published as a Class I legal advertisement in

compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for such publication shall be the proposed area of operation. The notice shall be published at least ten days prior to the date of the hearing. After the hearing or waiver by the commission of the hearing, if the commission finds from the evidence that the public convenience and necessity require the proposed service or any part thereof, it shall issue the certificate as prayed for, or issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the right granted by such certificate such terms and conditions as in its judgment the public convenience and necessity may require, and if the commission shall be of the opinion that the service rendered by any common carrier holding a certificate of convenience and necessity over any route or routes in this state is in any respect inadequate or insufficient to meet the public needs, such certificate holder shall be given reasonable time and opportunity to remedy such inadequacy or insufficiency before any certificate shall be granted to an applicant proposing to operate over such route or routes as a common carrier. Before granting a certificate to a common carrier by motor vehicle the commission shall take into consideration existing transportation facilities in the territory for which a certificate is sought, and in case it finds from the evidence that the service furnished by existing transportation facilities is reasonably efficient and adequate, the commission shall not grant such certificate.

(b) *Rules and regulations; taking evidence at hearings; burden of proof.* — The commission shall prescribe such rules and regulations as it may deem proper for the enforcement of the provisions of this section and in establishing that public convenience and necessity do exist the burden of proof shall be upon the applicant. The commission may designate any of its employees to take evidence at the hearing of any application for a certificate and submit findings of fact as a part of a report or reports to be made to the commission.

(c) *Certificate not franchise, etc.; assignment or transfer.* — No certificate issued in accordance with the terms of this chapter shall be construed to be either a franchise or irrevocable or to confer any proprietary or property rights in the use of the public highways. No certificate issued under this chapter shall be assigned or otherwise transferred without the approval of the commission.

(1) Upon the death of a person holding a certificate, his or her personal representative or representatives may operate under such certificate while the same remains in force and effect and, with the consent of the commission, may transfer such certificate; and

(2) An application by a motor carrier to transfer a certificate of convenience and necessity, or a portion thereof, to another motor carrier possessing one or more certificates of public convenience and necessity for the same commodity shall be affirmed or denied within 90 days of the submission of a complete application for transfer. The commission shall make a determination within ten business days of receiving a transfer application if the application is complete and notify the applicant if additional information is required. If the commission fails to act on a complete application within 90 days, the application to transfer the certificate shall be deemed approved.

(d) *Suspension, revocation or amendment.* — The commission may at any time, for good cause, suspend and, upon not less than fifteen days' notice to the grantee of any certificate and an opportunity to be heard, revoke or amend any certificate.

(e) The commission shall have the authority, after hearing, to ratify, approve and affirm those orders issued pursuant to this section since March 10, nineteen hundred seventy-nine. For the purposes of this subsection the commission may give notice by a Class I legal advertisement of such hearing in any newspaper or newspapers of general circulation in this state, and such other newspapers as the commission may designate.

ARTICLE 5. POWERS AND DUTIES OF COMMISSION.

§24A-5-2a. Procedure for changing rates for collection and hauling of solid waste by motor carriers; rural rates.

(a) Unless a motor carrier collecting and hauling solid waste elects to increase rates under section 2 of this chapter and the commission's existing rules and regulations, effective July 1, 2020, no solid waste motor carrier subject to this chapter shall change, suspend, or annul any individual rate, joint rate, fare, charge, or classification for the collection or hauling of solid waste, except after 30 days' notice to the commission and the carrier's customers, with such notice to customers being sent as a bill insert or separately mailed statement that plainly states the changes proposed to be made in the schedule then in force and the time when the changed rates or charges will go into effect. The motor carrier shall file its proposed public notice with the commission for review. Within five business days of the filing of the notice with the commission, the commission shall issue an order approving the notice.

(b) Any proposed rate changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to public inspection: *Provided*, That the commission may, in its discretion, and for good cause shown, allow changes upon less time than the notice herein specified, or may modify the requirements of this section in respect to publishing, posting and filing of tariffs, either by particular instructions or by general order.

(c) Whenever a solid waste motor carrier shall file with the commission any schedule stating a change in the rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint classification or any new individual or joint regulation or practice affecting any rate or charge, except as set forth in subsection (d) below, the commission shall have authority, on its own initiative, or upon substantial protest filed with the commission within 30 days' notice of the proposed increase or change demonstrated by the complaints submitted by the lesser of: (i) 25 percent of the customers impacted by the proposed change in rates or charges; or (ii) 750 customers impacted by the proposed change in rates or charges to suspend the rates pending a hearing and final determination that the rate, charge, classification, regulation or practice is just, reasonable, and based primarily on the cost of service. At any hearing involving a rate sought to be increased or involving the change of any fare, charge, classification, regulation, or practice, the burden of proof to show that the increased rate or proposed increased rate, or the proposed change of fare, charge, classification, regulation or practice, is just, reasonable, and based primarily on the cost of service, shall be upon the motor carrier making application for such change. Any suspension of a rate, charge classification, regulation, or practice under this subsection shall not extend beyond such time that the commission enters a final decision in the case or 120 days from the date notice was first given. The commission may extend the time in which a final decision is due by an additional 30 days if a motor carrier fails to provide material information requested by the commission more than 30 days in advance of the hearing.

(d) Urban Consumer Garbage Trash Collection Index rate change – Effective July 1, 2020, solid waste motor carriers shall be permitted to increase rates for the collection and hauling of solid waste once on January 1 of each year, without the filing of an application for approval by the commission and such increase shall be considered just and reasonable and not unfairly discriminatory, prejudicial or preferential if: (1) The carrier complies with the notice requirements of subsection (a) of this section; and (2) the percentage of the increase over the prior rate is equal to or less than the percentage of any increase in the United States Department of Labor Bureau of Labor Statistics Garbage and Trash Collection Index (the 'Index') from January 1, of the preceding year. Any rate increase that a motor carrier believes is at or below the aforementioned increase in the Index shall be identified as such when filed with the commission. Such rate increases shall be subject to challenge by the commission only if it determines that the increase is in fact in excess of the amount of the increase in the Index for the relevant time period. If the commission determines a rate increase filed pursuant to this

subsection is in excess of the increase in the Index for the relevant time period, it may enter an order suspending the rate increase consistent with subsection (c) of this section. If such an order is entered, the motor carrier shall be entitled to a hearing pursuant to the process authorized in subsection (c) of this section. Notwithstanding any provision to the contrary, the fact that a solid waste motor carrier has already raised its rates in a given year pursuant to this subsection shall not preclude that carrier from applying for and receiving from the commission a rate increase pursuant to subsection (c) of this section: *Provided*, That the commission shall take into account the prior rate increase taken pursuant to this subsection when considering the carrier's application to increase rates. A motor carrier may implement up to four annual indexed rate increases under this subsection before filing for a rate increase under chapter 24A of this code: *Provided*, That the commission shall not engage in retroactive rate making.

(e) The commission shall prescribe such rules and regulations as to the giving of notice of a change in rates pursuant to this section as are reasonable and are deemed proper in the public interest.

§24A-5-2b. Authorizing Public Service Commission to approve alternative pick-up due to adverse conditions.

Every motor carrier of solid waste in residential service shall provide and maintain regularly scheduled pickup service. Exceptions to the regularly scheduled pickup service may be made for reasons beyond the motor carrier's control, including, but not limited to, dangerous road conditions, inclement weather, flooding, road closures. Exceptions to the regularly scheduled pickup service based on such conditions will be at the motor carrier's discretion: *Provided*, That nothing herein changes the universal service obligations of any motor carrier. Any interruption of service in this regard that lasts beyond five days shall be reported by the motor carrier to the commission and the motor carrier and the staff of the commission shall establish a contingency pickup arrangement for the affected customers that the motor carrier shall implement until the condition causing the service interruption is alleviated."

And,

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

Com. Sub. for H. B. 4587 - "A Bill to amend and reenact §24-2-4a of the Code of West Virginia, 1931, as amended; to amend and reenact §24A-5-2 of said code; to amend said code by adding thereto two new sections, designated §24A-5-2a and §24A-5-2b; all relating to the regulation of the collection, hauling, and disposal of solid waste by motor carriers; authorizing indexed automatic rate increases for solid waste collection and hauling; setting procedures for the approval of rates; authorizing the Public Service Commission to approve alternative pick-up due to adverse conditions; and authorizing the Public Service Commission to promulgate rules."

Delegate Hott requested to be excused from voting on Com. Sub. for H. B. 4587 under the provisions of House Rule 49.

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

The 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. 765**), and there were—yeas 74, nays 26, absent and not voting none, with the nays being as follows:

Nays: Angelucci, Barrett, S. Brown, Canestraro, Caputo, Doyle, Estep-Burton, Fast, Fluharty, Hicks, Hornbuckle, Lavender-Bowe, Longstreth, Lovejoy, McGeehan, Miley, Miller, Pethtel, Pushkin, Robinson, Rodighiero, Rowe, Storch, R. Thompson, Williams and Zukoff.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4587) 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. 4607, Authorizing the operation of mobile shops for hair, nail, cosmetology, and aesthetics services.

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 27. BOARD OF BARBERS AND COSMETOLOGISTS.

§30-27-3. Definitions.

As used in this article, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

(a) ‘Aesthetics’ or ‘esthetics’ means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

(1) Administering cosmetic treatments to enhance or improve the appearance of the skin, including cleansing, toning, performing effleurage or other related movements, stimulating, exfoliating, or performing any other similar procedure on the skin of the human body or scalp;

(2) Applying, by hand or with a mechanical or electrical apparatus, any cosmetics, makeups, oils, powders, clays, antiseptics, tonics, lotions, creams, or chemical preparations necessary for the practice of aesthetics to another person’s face, neck, back, shoulders, hands, elbows and feet up to and including the knee;

(3) The rubbing, cleansing, exercising, beautifying, or grooming of another person’s face, neck, back, shoulders, hands, elbows, and feet, up to and including the knee;

(4) The waxing and tweezing of hair on another person’s body;

(5) The wrapping of another person’s body in a body wrap;

(6) Applying artificial eyelashes and eyebrows; and

(7) The lightening of hair on the body except the scalp.

(b) 'Aesthetician' or 'esthetician' means a person licensed under the provisions of this article who engages in the practice of aesthetics and has completed 600 clock hours of training.

(c) 'Applicant' means a person making application for a professional license, license, certificate, registration, permit, or renewal under the provisions of this article.

(d) 'Barber' means a person licensed under the provisions of this article who engages in the practice of barbering and has completed a 1,200 clock-hour barber training program without chemical services, or a 1,500 clock-hour barber training program with chemical services, or has successfully completed the barber apprenticeship program.

(e) 'Barbering' means any one or any combination of the following acts when done on the head and neck for compensation and not for the treatment of disease:

(1) Shaving, shaping, and trimming the beard, or both;

(2) Cutting, singeing, ~~shampooing~~, arranging, dressing, tinting, bleaching, or applying lotions or tonics on human hair, or a wig or hairpiece; and

(3) Applications, treatments, or rubs of the scalp, face, or neck with oils, creams, lotions, cosmetics, antiseptics, powders, or other preparations in connection with the shaving, cutting, or trimming of the hair or beard.

(f) 'Barber crossover' is a person who has completed 1,200 or 1,500 clock hours of training, is licensed as a barber, and completed additional hours of training in nails, aesthetics, and/or chemical services, to the total amount of 2,100 hours, to perform cosmetology.

(g) 'Barber permanent waving' means the following acts performed on the head and neck for compensation and not for the treatment of disease:

(1) The bleaching or tinting of hair; and

(2) The permanent waving of hair.

(h) 'Barber permanent waviest' means a person who has completed 2,000 clock hours of training and was licensed to perform barbering and barber permanent waving enrolled by August 28, 2012.

(i) 'Board' means the West Virginia Board of Barbers and Cosmetologists.

(j) 'Certificate' means an instructor certificate to teach in a school under the provisions of this article or a document issued by the board for certification obtained pursuant to §30-27-8b of this code.

(k) 'Certificate holder' means a person certified as an instructor to teach in a school under the provisions of this article, or who has obtained a certification pursuant to §30-27-8b of this code.

(l) 'Cosmetologist' means a person licensed under the provisions of this article who engages in the practice of cosmetology and who has completed 1,800 clock hours of training.

(m) 'Cosmetology' means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

(1) Cutting, styling, shaping, arranging, braiding, weaving, dressing, adding extensions, curling, waving, permanent waving, relaxing, straightening, ~~shampooing~~, cleansing, singeing, bleaching,

tinting, coloring, waxing, tweezing, or similarly, work on human hair, or a wig or hairpiece, by any means, including hands, mechanical, or electrical devices or appliances;

(2) Nail care;

(3) Applying by hand or with a mechanical or electrical device or appliance, any cosmetics, makeups, oils, powders, clays, antiseptics, tonics, lotions, creams or chemical preparations necessary for the practice of aesthetics to another person's face, neck, shoulders, hands, elbows, and feet, up to and including the knee;

(4) The rubbing, cleansing, exercising, beautifying, or grooming of another person's face, neck, shoulders, hands, elbows, and feet, up to and including the knee;

(5) The wrapping of another person's body in a body wrap; and

(6) Performing aesthetics.

(n) 'Cosmetology crossover' is a person who has completed 1,800 clock hours of training, is licensed as a cosmetologist, and completes an additional 300 hours of training in clipper cuts and face shaving to perform barbering, for a total of 2,100 hours.

(o) 'General supervision' means:

(1) For schools, a master or certified instructor is on the premises and is quickly and easily available; or

(2) For salons, a professional licensee is on the premises and is quickly and easily available.

(p) 'Hair styling' means any one or any combination of the following acts when done on the head and neck for compensation and not for the treatment of disease:

Cutting, styling, shaping, arranging, braiding, weaving, dressing, adding extensions, curling, facial hair trimming, scalp treatments, waving, permanent waving, relaxing, straightening, ~~shampooing~~, singeing, bleaching, tinting, coloring, or similar, work on human hair, or a wig or hairpiece, by any means, including hands, mechanical or electrical devices, or appliances.

(q) 'Hair stylist' means a person licensed under the provisions of this article who engages in the practice of hair styling and who has completed 1,000 clock hours of training, effective July 1, 2016.

(r) 'License' means a professional license, a salon license, or a school license.

(s) 'Licensed school' means a facility which has been approved by the West Virginia Council for Community and Technical College Education (CCTCE), Department of Education in conjunction with CCTCE, or Department of Education in conjunction with the Department of Corrections pursuant to §18B-2B-9 of this code to educate persons to be licensed or issued certain permits under the provisions of this article.

(t) 'Licensee' means a person, corporation, or firm holding a license issued under the provisions of this article.

(u) 'Mobile shop' means any self-contained, self-supporting, enclosed unit which is constructed in either a motorized vehicle or a towable trailer as a portable facility for providing any of the professional services set forth in this article to the public.

~~(u)~~ (v) 'Nail care' means any one or any combination of the following acts when done on the human body for compensation and not for the treatment of disease:

- (1) The cleansing, dressing, or polishing of nails of a person;
- (2) Performing artificial nail service; and
- (3) The cosmetic treatment of the feet up to the knee and the hands up to the elbow.

~~(v)~~ (w) 'Nail technician' or 'manicurist' means a person licensed under the provisions of this article who engages in the practice of nail care and has completed 400 clock hours of training.

~~(w)~~ (x) 'Permit' means a work permit.

~~(x)~~ (y) 'Permittee' means a person holding a work permit.

~~(y)~~ (z) 'Professional license' means a license to practice as an aesthetician, barber, barber crossover, barber permanent wavist, cosmetologist, cosmetologist crossover, hairstylist, or nail technician.

~~(z)~~ (aa) 'Registration' means a registration issued by the board to a person who rents or leases a booth or chair from a licensed salon owner and operator, or both, or a registration issued by the board to a person who is a student in a school.

~~(aa)~~ (bb) 'Registrant' means a person who holds a registration under the provisions of this article.

~~(bb)~~ (cc) 'Salon' means a shop or other facility where a person practices under a professional license.

~~(cc)~~ (dd) 'Salon license' means a license to own and operate a salon.

~~(dd)~~ (ee) 'Student registration' means a registration issued by the board to a student to study at a school licensed under the provisions of this article.

~~(ee)~~ (ff) 'Waxing specialist' means a person certified under the provisions of this article who engages in the practice of waxing and tweezing of hair on another person's body.

~~(ff)~~ (gg) 'Shampoo assistant' means a person certified under the provisions of this article who engages in the practice of shampooing and rinsing hair; removing rollers or permanent rods and cleansing or other sink related functions not requiring the skill of a license. They must work at all times under the direct supervision of a licensed barber, hairstylist or cosmetologist.

~~(gg)~~ (hh) (gg) Hair braiding, threading, and any other item not spelled out are not regulated by the West Virginia Board of Barbers and Cosmetologists.

§30-27-17a. Mobile shops.

(a) Every mobile shop in this state offering services set forth in this article shall be operated under the supervision and management of a professional licensee or certificate holder licensed under this article.

(b) Prior to opening a mobile shop, any person, firm, or corporation owning and/or operating the mobile shop shall meet the following requirements to acquire a mobile shop license to do business:

(1) Provide to the board a physical description and photographs of the exterior of the mobile shop and, if applicable, its vehicle registration number to facilitate ready identification of the mobile shop;

(2) Meet all board requirements and qualifications for a place of business, not incompatible with a mobile facility, as are required by this article;

(3) Notify the board, in writing, at least 20 days before the proposed opening date, so there can be an inspection of the mobile shop: *Provided*, That if an inspection is not made within 10 days of the opening of the mobile shop, or a mobile shop license to open has not been granted or refused, then the mobile shop may open provisionally subject to a later inspection and to all other provisions and rules provided in this article; and

(4) Pay all applicable fees.

(c) Every mobile shop shall be equipped with an electronic device, approved by the board, capable of transmitting its location, as well as an identifying label or call sign, to the board at all times. This device shall be in operation at all times that the mobile shop is open and at additional times specified by the board.

(d) If the mobile shop visits identified locations on a regular schedule, the managing licensee shall provide a copy of the schedule to the board and shall notify the board in writing of any changes to the regular schedule within five days of changing the schedule.

(e) Each mobile unit shall, at a minimum, be equipped with each of the following functioning systems:

(1) A self-contained, potable water supply of not less than 100 gallons, and waste water collection tanks shall be of adequate capacity;

(2) Continuous, on-demand hot water tanks which shall have not less than a six-gallon capacity; and

(3) A cooling and heating system sufficient to maintain a comfortable room temperature in the mobile shop during all hours of operation.

(f) All mobile shop licenses must be renewed annually on or before July 1 and pay a renewal fee.

(g) The mobile shop license shall be permanently displayed in the mobile shop, and a suitable sign shall be displayed at the entrance of the mobile shop which shall plainly indicate the business conducted therein.”

And,

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

H. B. 4607 - “A Bill to amend and reenact §30-27-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact said code by adding thereto a new section, designated §30-27-17a, all relating to authorizing the operation of mobile shops for hair, nail, cosmetology, and aesthetics services; defining ‘mobile shop’; establishing prerequisites for operation of a mobile shop; removing

antiquated language; specifying mandatory features and systems; setting the term of licenses; and requiring shop identification and display of license.”

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. 766**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4607) 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. 4749, Providing more efficient application processes for private investigators, security guards, and firms.

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

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

“ARTICLE 18. PRIVATE INVESTIGATIVE AND SECURITY SERVICES.

§30-18-2. Eligibility requirements for license to conduct the private investigation business.

(a) In order to be eligible for any license to conduct the private investigation business, an applicant shall:

(1) Be at least 18 years of age;

(2) Be a citizen of the United States or an alien who is legally residing within the United States;

(3) Not have had any previous license to conduct a private investigation business or to conduct a security guard business revoked or any application for any such licenses or registrations denied by the appropriate governmental authority in this or any other state or territory;

(4) Not have been declared incompetent by reason of mental defect or disease by any court of competent jurisdiction unless a court has subsequently determined that the applicant’s competency has been restored;

(5) Not suffer from habitual drunkenness or from narcotics addiction or dependence;

(6) Be of good moral character;

(7) Have a minimum of ~~two years~~ one year of experience, education, or training in any one of the following areas, or some combination thereof:

(A) Course work that is relevant to the private investigation business at an accredited college or university;

(B) Employment as a member of any United States government investigative agency, employment as a member of a state or local law-enforcement agency, or service as a sheriff;

(C) Employment by a licensed private investigative or detective agency for the purpose of conducting the private investigation business;

(D) Service as a magistrate in this state; or

(E) Any other substantially equivalent training or experience; or

(F) Military service.

(8) Not have been convicted of a felony in this state or any other state or territory;

(9) Not have been convicted of any of the following:

(A) Illegally using, carrying, or possessing a pistol or other dangerous weapon;

(B) Making or possessing burglar's instruments;

(C) Buying or receiving stolen property;

(D) Entering a building unlawfully;

(E) Aiding an inmate's escape from prison;

(F) Possessing or distributing illicit drugs;

(G) Any misdemeanor involving moral turpitude or for which dishonesty of character is a necessary element; and

(10) Not have violated any provision of §30-18-8 of this code.

The provisions of this section shall not prevent the issuance of a license to any person who, subsequent to his or her conviction, shall have received an executive pardon therefor, removing this disability.

(b) Any person who qualifies for a private investigator's license shall also be qualified to conduct security guard business upon notifying the Secretary of State in writing that the person will be conducting such business.

(c) No person may be employed as a licensed private investigator while serving as magistrate.

§30-18-3. Application requirements for a license to conduct the private investigation business.

(a) To be licensed to be a private detective, a private investigator or to operate a private detective or investigative firm, each applicant shall ~~complete and file a written~~ file an application ~~under oath~~ with the Secretary of State in a manner or method authorized and in such form as the secretary may prescribe.

(b) On the application each applicant shall provide the following information: The applicant's name, birth date, citizenship, physical description, military service, current residence, residences for the preceding seven years, qualifying education or experience, the location of each of his or her offices in this state, and any other information requested by the Secretary of State in order to comply with the requirements of this article.

(c) In the case of a corporation that is seeking a firm license, the application shall be signed by the president ~~and verified by the secretary or treasurer~~ of such corporation and shall specify the name of the corporation, the date and place of its incorporation, the names and titles of all officers, the location of its principal place of business, and the name of the city, town or village, stating the street and number, and otherwise such apt description as will reasonably indicate the location. If the corporation has been incorporated in a state other than West Virginia, a certificate of good standing from the state of incorporation must accompany the application. This information must be provided in addition to that required to be provided by the applicant.

(d) The applicant shall provide:

(1) Information in the application about whether the applicant has ever been arrested for or convicted of any crime or wrongs, either done or threatened, against the government of the United States;

(2) Information about offenses against the laws of West Virginia or any state; and

(3) Any facts as may be required by the Secretary of State to show the good character, competency and integrity of the applicant.

To qualify for a firm license, the applicant shall provide such information for each person who will be authorized to conduct the private investigation business and for each officer, member, or partner of the firm.

(e) As part of the application, each applicant shall give the Secretary of State permission to review the records held by the West Virginia State Police for any convictions that may be on record for the applicant.

(f) For each applicant ~~for a license and for each officer, member and partner of the firm~~ applying for a license, the application shall be accompanied by one recent full-face photograph. ~~and one complete set of the person's fingerprints~~

(g) For each applicant, the application shall be accompanied by:

(1) Character references from at least five reputable citizens. Each reference must have known the applicant for at least five years preceding the application. No reference may be connected to the applicant by blood or marriage. All references must have been written for the purpose of the application for a license to conduct the private investigation business; and

(2) A nonrefundable application processing service charge of \$50, which shall be payable to the Secretary of State to offset the cost of license review and criminal investigation background report from the West Virginia State Police, along with a license fee of \$100 if the applicant is an individual, or \$200 if the applicant is a firm. ~~or \$500 if the applicant is a nonresident of West Virginia or a foreign corporation or business entity.~~ The license fee shall be deposited to the General Revenue Fund and shall be refunded only if the license is denied.

(h) All applicants for private detective or private investigator licenses or for private investigation firm licenses shall file in the office of Secretary of State a surety bond or sufficient proof of liability insurance as required by the Secretary of State.

(i) If a surety bond is obtained in lieu of liability insurance, such bond shall:

(1) Be in the sum of ~~\$2,500~~ \$5,000 and conditioned upon the faithful and honest conduct of such business by such applicant;

(2) Be written by a company recognized and approved by the Insurance Commissioner of West Virginia and approved by the Attorney General of West Virginia with respect to its form;

(3) Be in favor of the State of West Virginia for any person who is damaged by any violation of this article. The bond must also be in favor of any person damaged by such a violation.

~~(i)~~ (j) Any person claiming against the bond required by subsection ~~(h)~~ (i) of this section for a violation of this article may maintain an action at law against any licensed individual or firm and against the surety. The surety shall be liable only for damages awarded under §30-18-12 of this code and not the punitive damages permitted under that section. The aggregate liability of the surety to all persons damaged by a person or firm licensed under this article may not exceed the amount of the bond.

§30-18-5. Eligibility requirements to be licensed to conduct security guard business.

(a) In order to be eligible for any license to conduct security guard business, an applicant shall:

(1) Be at least 18 years of age;

(2) Be a citizen of the United States or an alien who is legally residing within the United States;

(3) Not have had any previous license to conduct security guard business or to conduct the private investigation business revoked or any application for any such licenses or registrations denied by the appropriate governmental authority in this or any other state or territory;

(4) Not have been declared incompetent by reason of mental defect or disease by any court of competent jurisdiction unless said court has subsequently determined that the applicant's competency has been restored;

(5) Not suffer from habitual drunkenness or from narcotics addiction or dependence;

~~(6) Be of good moral character;~~

~~(7)~~ (6) Have had at least one year verified, full time employment conducting security guard business or conducting the private investigation business working for a licensed firm or have one year of substantially equivalent training or experience;

~~(8)~~ (7) Not have been convicted of a felony in this state or any other state or territory;

~~(9)~~ (8) Not have been convicted of any of the following:

(A) Illegally using, carrying, or possessing a pistol or other dangerous weapon;

(B) Making or possessing burglar's instruments;

(C) Buying or receiving stolen property;

(D) Entering a building unlawfully;

(E) Aiding an inmate's escape from prison;

(F) Possessing or distributing illicit drugs; and

~~(G) Any misdemeanor involving moral turpitude or for which dishonesty of character is a necessary element; and~~

~~(10)~~ (9) Not have violated any provision of §30-18-8 of this code.

The provisions of this section shall not prevent the issuance of a license to any person who, subsequent to his or her conviction, shall have received an executive pardon therefor, removing this disability.

§30-18-6. Application requirements for a license to conduct security guard business.

(a) To be licensed as a security guard or to operate a security guard firm, each applicant shall ~~complete and~~ file a written application, under oath, and file an application with the Secretary of State in a manner or method authorized and in such form as the secretary may prescribe.

(b) On the application, each applicant shall provide the following information: The applicant's name, birth date, citizenship, physical description, military service, current residence, residences for the preceding seven years, qualifying education or experience, the location of each of his or her offices in this state, and any other information requested by the Secretary of State in order to comply with the requirements of this article.

(c) In the case of a corporation that is seeking a firm license, the application shall be signed by the president ~~and verified by the secretary or treasurer~~ of such corporation and shall specify the name of the corporation, the date and place of its incorporation, the names and titles of all officers, the location of its principal place of business, and the name of the city, town, or village, stating the street and number, and otherwise such apt description as will reasonably indicate the location. If the corporation has been incorporated in a state other than West Virginia, a certificate of good standing from the state of incorporation must accompany the application. This information shall be provided in addition to that required to be provided the applicant.

(d) The applicant shall provide:

(1) Information in the application about whether the applicant has ever been arrested for or convicted of any crime or wrongs, either done or threatened, against the government of the United States;

(2) Information about offenses against the laws of West Virginia or any state; ~~and~~

(3) Any facts as may be required by the Secretary of State to show the good character, competency, and integrity of the applicant; and

(4) To qualify for a firm license, ~~the applicant shall provide such~~ the same information for each person who would be authorized to conduct security guard business under the applicant's firm license and for each officer, member, or partner in the firm.

(e) As part of the application, each applicant shall give the Secretary of State permission to review the records held by the ~~department of public safety~~ West Virginia State Police for any convictions that may be on record for the applicant.

(f) For each applicant for a license, ~~and for each officer, member and partner of the firm applying for a license~~ the application shall be accompanied by one recent full-face photograph ~~and one complete set of the person's fingerprints~~ of the applicant.

(g) For each applicant, the application shall be accompanied by:

(1) Character references from at least five reputable citizens. Each reference must have known the applicant for at least five years preceding the application. No reference may be connected to the applicant by blood or marriage. All references must have been written for the purpose of the application for a license to conduct security guard business; and

(2) A nonrefundable application processing service charge of \$50, which shall be payable to the Secretary of State to offset the cost of license review and criminal investigation background report from the West Virginia State Police, along with a license fee of \$100 if the applicant is an individual, or \$200 if the applicant is a firm. ~~or \$500 if the applicant is a nonresident of West Virginia or a foreign corporation or business entity.~~ The license fee shall be deposited to the General Revenue Fund, and shall be refunded only if the license is denied.

(h) All applicants for security guard licenses or security guard firm licenses shall file in the office of the Secretary of State a surety bond or sufficient proof of liability insurance as required by the Secretary of State.

(i) If a surety bond is obtained in lieu of liability insurance, such bond shall:

(1) Be in the sum of ~~\$2,500~~ \$5,000 and conditioned upon the faithful and honest conduct of such business by such applicant;

(2) Be written by a company recognized and approved by the Insurance Commissioner of West Virginia and ~~approved~~ by the Attorney General of West Virginia with respect to its form;

(3) Be in favor of the State of West Virginia for any person who is damaged by any violation of this article. The bond must also be in favor of any person damaged by such a violation.

~~(i)~~ (i) Any person claiming against the bond required by subsection ~~(h)~~ (i) of this section for a violation of this article may maintain an action at law against any licensed individual or firm and against the surety. The surety shall be liable only for damages awarded under §30-18-12 of this code and not the punitive damages permitted under that section. The aggregate liability of the surety to all persons damaged by a person or firm licensed under this article may not exceed the amount of the bond.

§30-18-9. Renewal of license.

A license granted under the provisions of this article shall be in effect for ~~one year~~ two years from the date the certificate of license is issued and may be renewed for a period of one year by the Secretary of State upon application, in such form as the secretary may prescribe, and upon payment of the fee and the filing of the surety bond or proof of liability insurance. At the time of applying for renewal of a license, the Secretary of State may require any person to provide additional information to reflect any changes in the original application or any previous renewal. Any fee charged by the Secretary of State for renewal of a license shall not exceed \$50.

§30-18-10. Authority of Secretary of State.

(a) When the Secretary of State is satisfied as to the good character, competency, and integrity of an applicant, of all employees or individuals conducting the private investigation business or security guard services under a firm license and, if the applicant is a firm, of each member, officer or partner, he or she shall issue and deliver to the applicant a certificate of license. Each license issued shall be for a period of one year and is revocable at all times for cause shown pursuant to subsection (b) of this section or any rules promulgated pursuant thereto.

(b) The Secretary of State may propose for promulgation in accordance with the provisions of chapter 29A of this code legislative rules necessary for the administration and enforcement of this article and for the issuance, suspension, and revocation of licenses issued under the provisions of this article. The Secretary of State shall afford any applicant an opportunity to be heard in person or by counsel when a determination is made to deny, revoke, or suspend an applicant's license or application for license, including a renewal of a license. The applicant has 15 days from the date of receiving written notice of the Secretary of State's adverse determination to request a hearing on the matter of denial, suspension, or revocation. The action of the Secretary of State in granting, renewing, or in refusing to grant or to renew, a license is subject to review by the circuit court of Kanawha County or other court of competent jurisdiction.

(c) At any hearing before the Secretary of State to challenge an adverse determination by the Secretary of State on the matter of a denial, suspension, or revocation of a license, if the adverse determination is based upon a conviction for a crime which would bar licensure under the provisions of this article, the hearing shall be an identity hearing only and the sole issue which may be contested is whether the person whose application is denied or whose license is suspended or revoked is the same person convicted of the crime.

(d) The Secretary of State shall require each applicant to submit to a state and national criminal history record check, as set forth in this subsection:

(1) The criminal history record check shall be based on fingerprints submitted to the West Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

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

(A) Submitting fingerprints for the purposes set forth in this section, if required by the Secretary of State, West Virginia State Police, or the Federal Bureau of Investigation; and

(B) Authorizing the Secretary of State, 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.

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

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

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

(C) Pursuant to a court order.

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

(5) 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.

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

And,

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

H. B. 4749 - “A Bill to amend and reenact §30-18-2, §30-18-3, §30-18-5, §30-18-6, §30-18-9, and §30-18-10 of the Code of West Virginia, 1931, as amended, all relating to providing more efficient application processes for private investigators, security guards, and firms; reducing experience necessary for licensure as private investigator; allowing military service to be included as experience that may be used for licensure; removing conviction for crime involving moral turpitude or dishonesty as disqualification for licensure as private investigator; removing unnecessary requirements for each private investigator and security guard applicant to submit fingerprints and photographs of each applicant to the Secretary of State; permitting private investigators, security guards, and private investigator or security guard firms to obtain liability insurance in lieu of a surety bond; increasing the amount of a surety bond; removing conviction for crime involving moral turpitude or dishonesty as disqualification for licensure as security guard; increasing the licensure renewal term of a private investigator, security guard, and private investigator or security guard firms from one to two years; eliminating disparate application fee for foreign individuals and businesses for private investigator, private investigator firm, security guard, and security guard business licensure; and limiting amount of renewal fee.”

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. 767**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: J. Kelly.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4749) 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. 4803, Relating to certification of electrical inspectors.

On motion of Delegate Summers, the House refused to concur in the following amendment of the bill by the Senate, and requested the Senate to recede therefrom:

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

“ARTICLE 3C. CERTIFICATION OF ELECTRICAL INSPECTORS.

§29-3C-5. Denial of license; suspension and revocation of license.

The State Fire Marshal shall deny certification to any applicant, except those exempt under §29-3C-3 of this code, who:

(1) Fails to establish that he or she holds any other required qualifications for certification established pursuant to rules promulgated pursuant to section four of this article; or

(2) Is not a licensed ~~master~~ journeyman or master electrician in accordance with rules promulgated pursuant to section four of this article.”

And,

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

Com. Sub. for H. B. 4803 - “A Bill to amend and reenact §29-3C-5 of the Code of West Virginia, 1931, as amended, relating to certification of electrical inspectors.”

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2020, a bill of the House of Delegates, as follows:

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

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

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

“CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

§8-10-2a. Payment of fines by electronic payments, credit cards, cash, money orders, or certified checks; payment plan; suspension of driver’s license for failure to pay motor vehicle violation fines or to appear in court.

A municipal court may accept electronic payments, credit cards, cash, money order, or certified checks for ~~of~~ all costs, fines, forfeitures, or penalties electronically, by mail, or in person. Any charges made by the credit company shall be paid by the person responsible for paying the cost, fine, fee, or penalty. ~~A municipal court may collect a substantial portion of all costs, fines, forfeitures or penalties at the time such amount is imposed by the court as described in this section. so long as the court requires the balance to be paid within 180 days from the date of judgment and in accordance with a:~~ *Provided*, That all costs, fines, forfeitures or penalties imposed by the municipal court upon a nonresident of this state by judgment entered upon a conviction must be paid within 80 days from the date of judgment.

~~(b) If costs, fines, forfeitures or penalties imposed by the municipal court for motor vehicle violations as defined in section three a, article three, chapter seventeen b of this code are not paid within the time limits imposed pursuant to subsection (a) of this section, or if a person fails to appear or otherwise respond in court when charged with a motor vehicle violation as defined in section three a, article three, chapter seventeen b of this code, the municipal court must notify the Commissioner of the Division of Motor Vehicles of such failure to pay or failure to appear: *Provided*, That notwithstanding any other provision of this code to the contrary, the municipal court shall wait at least ninety days from the date that all costs, fines, forfeitures or penalties are due in full or, for failure to appear or otherwise respond, ninety days from the date of such failure before notifying the Division of Motor Vehicles thereof.~~

§8-10-2b. Payment plan; failure to pay will result in late fee and judgment lien; suspension of licenses for failure to pay fines and costs or failure to appear in court.

~~(a) If costs, fines, forfeitures or penalties imposed by the municipal court upon conviction of a person for a criminal offense as defined in section three c, article three, chapter seventeen b of this code are not paid in full within one hundred eighty days of the judgment, the municipal court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Division of Motor Vehicles of the failure to pay: *Provided*, That notwithstanding any other provision of this code to the contrary, for residents of this state, the municipal court shall wait at least ninety days from the date that all costs, fines, forfeitures or penalties are due in full before notifying the Division of Motor Vehicles thereof: *Provided, however*, That at the time the judgment is imposed, the judge shall provide the person with written notice that failure to pay the same as ordered may result in the withholding of any income tax refund due the licensee and shall result in the suspension of the person's license or privilege to operate a motor vehicle in this state and that the suspension could result in the cancellation of, the failure to renew or the failure to issue an automobile insurance policy providing coverage for the person or the person's family: *Provided further*, That the failure of the judge to provide notice does not affect the validity of any suspension of the person's license or privilege to operate a motor vehicle in this state. For purposes of this section, payment shall be stayed during any period an appeal from the conviction which resulted in the imposition of costs, fines, forfeitures or penalties is pending.~~

Upon request and subject to the following requirements, the municipal court clerk or, upon a judgment rendered on appeal, the clerk shall establish a payment plan for a person owing costs, fines, forfeitures, or penalties imposed by the court for a motor vehicle violation as defined in §17B-3-3a of this code, a criminal offense as defined in §17B-3-3c of this code, or other applicable municipal ordinances, so long as the person signs and files with the clerk, an affidavit, stating that he or she is financially unable to pay the costs, fines, forfeitures, or penalties imposed:

(1) A \$25 administrative processing fee shall be paid at the time the payment form is filed or, in the alternative, the fee may be paid in no more than 5 equal monthly payments;

(2) Unless incarcerated, a person must enroll in a payment plan no later than 90 calendar days after the date the court enters the order assessing the costs, fines, forfeitures, or penalties; and

(3) If the person is incarcerated, he or she may enroll in a payment plan within 90 calendar days after release.

(b) The West Virginia Supreme Court of Appeals shall develop a uniform payment plan form and financial affidavit for requests for the establishment of a payment plan pursuant to subsection (a) of this section. The forms shall be made available for distribution to the offices of municipal clerks, and municipal clerks shall use the payment plan form and affidavit form developed by the West Virginia Supreme Court of Appeals when establishing payment plans.

(c)(1) The payment plan shall specify: (A) The number of payments to be made; (B) The dates on which such payments are due; (C) The amounts due for each payment; (D) all acceptable payment methods; and (E) the circumstances under which the person may receive a late fee, have a judgment lien recorded against him or her, or have the debt sent to collections for nonpayment;

(2) The monthly payment under the payment plan shall be calculated based upon all costs, fines, forfeitures, or penalties owed within the court, and shall be two percent of the person's annual net income divided by 12, or \$10, whichever is greater;

(3) The court may review the reasonableness of the payment plan, and may on its own motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, or penalties to community service if the court determines that the individual has had a change in circumstances and is unable to comply with the terms of the payment plan.

(d) (1) The clerk may assess a \$10 late fee each month if a person fails to comply with the terms of a payment plan and if any payment due is not received within 30 days after the due date, and the person:

(A) Is not incarcerated;

(B) Has not brought the account current;

(C) Has not made alternative payment arrangements with the court; or

(D) Has not entered into a revised payment plan with the clerk before the due date.

(2) If after 90 days, a payment has not been received, the clerk may do one or both of the following (A) Record a judgment lien as described in subsection (f) of this section, or (B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount. The clerk may send notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

(e)(1) If after 90 days of a judgment a person fails to enroll in a payment plan and fails to pay their costs, fines, forfeitures, or penalties, the clerk may assess a \$10 late fee and shall notify the person of the following:

(A) That he or she is 90 days past due in the payment of costs, fines, forfeitures, or penalties imposed pursuant to a judgment of the court;

(B) That he or she has failed to enroll in a payment plan;

(C) Whether a \$10 late fee has been assessed; and

(D) That he or she may be the subject of a judgment lien or have his or her debt sent to a collection agency if the overdue payment of costs, fines, forfeitures, or penalties is not resolved within 30 days of the date of the notice issued pursuant to this subsection.

(2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this subsection, a payment has not been received, the clerk may do one or both of the following:

(A) Record a judgment lien as described in subsection (f) of this section; or

(B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount.

(f) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county in which the defendant resides or owns property. The clerk of the county commission shall record and index these abstracts of judgment without charge or fee to the prosecuting attorney and when recorded, the amount stated to be owed in the abstract constitutes a lien against all property of the defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerk of the county commission shall record and index the release of judgment without charge or fee to the prosecuting attorney.

(g) A person whose driver's license was suspended prior to July 1, 2020, solely for the nonpayment of costs, fines, forfeitures, or penalties, if otherwise eligible, shall have his or her license reinstated:

(1) Upon payment in full of all outstanding costs, fines, forfeitures, or penalties and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

(2) Upon establishing a payment plan pursuant to subsection (a) and the payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a payment plan is in effect, and upon receipt of the notification, the division shall waive the reinstatement fee.

~~Upon notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the costs, fines, forfeitures or penalties are paid.~~

~~(b) Notwithstanding the provisions of this section to the contrary, the notice of the failure to pay costs, fines, forfeitures or penalties may not be given where the municipal court, upon application of the person upon whom the costs, fines, forfeitures or penalties were imposed filed prior to the expiration of the period within which these are required to be paid, enters an order finding that the person is financially unable to pay all or a portion of the costs, fines, forfeitures or penalties: *Provided*, That where the municipal court, upon finding that the person is financially unable to pay a portion of the costs, fines, forfeitures or penalties, requires the person to pay the remaining portion, the municipal court shall notify the Division of Motor Vehicles of the person's failure to pay if not paid within the period of time ordered by the court~~

~~(e)-(h) If a person charged with a motor vehicle violation as defined in §17B-3-3a of this code or criminal offense fails to appear or otherwise respond in court, the municipal court clerk shall notify~~

the Division of Motor Vehicles of the failure to appear: *Provided*, That notwithstanding any other provision of this code to the contrary, for residents of this state, the municipal court clerk shall wait at least 90 days from the date of the person's failure to appear or otherwise respond before notifying the Division of Motor Vehicles thereof. Upon notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the person appears as required.

~~(d) On and after July 1, 2008, if the licensee fails to respond to the Division of Motor Vehicles order of suspension within ninety days of receipt of the certified letter, the municipal court of original jurisdiction shall notify the Tax Commissioner that the licensee has failed to pay the costs, fines, forfeitures or penalties assessed by the court or has failed to respond to the citation. The notice provided by the municipal court to the Tax Commissioner must include the licensee's Social Security number. The Tax Commissioner, or his or her designee, shall withhold from any personal income tax refund due and owing to a licensee the costs, fines, forfeitures or penalties due to the municipality, the Tax Commissioner's administration fee for the withholding and any and all fees that the municipal court would have collected had the licensee appeared: *Provided*, That the Tax Commissioner's administration fee may not exceed \$25: *Provided, however*, That the Tax Commissioner may change this maximum amount limitation for this fee for fiscal years beginning on or after July 1, 2008, by legislative rule promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code: *Provided further*, That the administrative fees deducted shall be deposited in the special revolving fund hereby created in the State Treasury, which shall be designated as the Municipal Fines and Fees Collection Fund, and the Tax Commissioner shall make such expenditures from the fund as he or she deems appropriate for the administration of this subsection. After deduction of the Tax Commissioner's administration fee, the Tax Commissioner shall remit to the municipality all remaining amounts withheld pursuant to this section and the municipal court shall distribute applicable costs, fines, forfeitures or penalties owed to the municipality, the Regional Jail Authority Fund, the Crime Victims Compensation Fund, the Community Corrections Fund, the Governor's subcommittee on law enforcement training or any other fund or payee that may be applicable. After the costs, fines, forfeitures or penalties are withheld, the Tax Commissioner shall refund any remaining balance due the licensee. If the refund is not sufficient to cover all the costs, fines, forfeitures or penalties being withheld pursuant to this section, the Tax Commissioner's administration fee shall be retained by the Tax Commissioner and the remaining money withheld shall be remitted by the Tax Commissioner to the municipality. The municipality shall then allocate the money so remitted to the municipality in the following manner: (1) Any costs, fines, forfeitures or penalties due to the municipality; (2) seventy-five percent of the remaining balance shall be paid to the appropriate Regional Jail Authority Fund; (3) fifteen percent of the remaining balance shall be paid to the Crime Victims Compensation Fund; (4) six percent of the remaining balance shall be paid into the Community Corrections Fund; and (5) the final four percent shall be paid to the Governor's subcommittee on law enforcement training. When the costs, fines, forfeitures or penalties exceed the licensee's income tax refund, the Tax Commissioner shall withhold the remaining balance in subsequent years until such time as the costs, fines, forfeitures or penalties owed are paid in full. The Tax Commissioner shall remit the moneys that he or she collects to the appropriate municipality no later than July 1, of each year. If the municipal court or the municipality subsequently determines that any such costs, fines, forfeitures or penalties were erroneously imposed, the municipality shall promptly notify the Tax Commissioner. If the refunds have not been withheld and remitted, the Tax Commissioner may not withhold and remit payment to the municipality and shall so inform the municipality. If the refunds have already been withheld and remitted to the municipality, the Tax Commissioner shall so inform the municipality. In either event, all refunds for erroneously imposed costs, fines, forfeitures or penalties shall be made by the municipality and not by the Tax Commissioner.~~

~~(e) Rules and effective date. — The Tax Commissioner may promulgate such rules as may be useful or necessary to carry out the purpose of this section and to implement the intent of the~~

Legislature, to be effective on July 1, 2008. Rules shall be promulgated in accordance with the provisions of article three, chapter twenty-nine-a of this code.

~~(f) On or before July 1, 2005, the municipal court may elect to reissue notice as provided in subsections (a) and (c) of this section to the Division of Motor Vehicles for persons who remain noncompliant: *Provided*, That the person was convicted or failed to appear on or after January 1, 1993. If the original notification cannot be located, the Division of Motor Vehicles shall accept an additional or duplicate notice from the municipal court clerk~~

CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.

ARTICLE 3. CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES.

§17B-3-3a. Suspending license for failure to pay fines or penalties imposed by magistrate court or municipal respond or appear in court.

(a) The division shall suspend the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice from a magistrate court or municipal court of this state, ~~pursuant to subsection (b), section two-a, article three, chapter fifty of this code or subsection (b), section two-a, article ten, chapter eight of this code, that such person has defaulted on the payment of costs, fines, forfeitures or penalties which were imposed on the person by the magistrate court or municipal court by judgment entered upon conviction of any motor vehicle violation or that such person has failed to respond or appear in court when charged with a motor vehicle violation.~~

~~(b) The magistrate court or municipal court shall notify the division upon a default of payment as follows:~~

~~(1) For a resident of this state, after 180 days following the date of judgment upon the conviction; or~~

~~(2) For a nonresident of this state, after eighty days following the date of judgment upon the conviction~~

~~(c)~~(b) For the purposes of this section, §50-3-2a of this code and ~~§8-10-2a~~ §8-10-2b of this code, 'motor vehicle violation' ~~shall be defined is~~ is as any violation designated in chapters 17A, 17B, 17C, 17D, or 17E of this code, or the violation of any municipal ordinance relating to the operation of a motor vehicle for which the violation thereof would result in a fine or penalty: *Provided*, That any parking violation or other violation for which a citation may be issued to an unattended vehicle shall not be considered a motor vehicle violation for the purposes of this section, §50-3-2a of this code, or ~~§8-10-2a~~ §8-10-2b of this code.

§17B-3-3c. Suspending license for failure to pay fines or penalties imposed as the result of criminal conviction or for failure to appear in court.

(a) The division shall suspend the license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice from a circuit court, magistrate court, or municipal court of this state, pursuant to ~~§50-3-2b~~ §8-10-2b or §62-4-17 of this code, that the person has defaulted on the payment of costs, fines, forfeitures, penalties, or restitution imposed on the person by the circuit court, magistrate court, or municipal court upon conviction for any criminal offense by the date the court had required the person to pay the same, or that the person has failed to appear in court when charged with an criminal offense. For the purposes of this section, ~~§50-3-2b~~ §8-10-2b or §62-4-17 of this code, 'criminal offense' shall be defined as any violation of the provisions

of this code, or the violation of any municipal ordinance, for which the violation of the offense may result in a fine, confinement in jail, or imprisonment in a correctional facility of this state: *Provided*, That any parking violation or other violation for which a citation may be issued to an unattended vehicle shall not be considered a criminal offense for the purposes of this section, §8-10-2b ~~§50-3-2b~~ or §62-4-17 of this code.

(b) A copy of the order of suspension shall be forwarded to the person by certified mail, return receipt requested. No order of suspension becomes effective until 10 days after receipt of a copy of the order. The order of suspension shall advise the person that because of the receipt of notice of the failure to pay costs, fines, forfeitures, or penalties, or the failure to appear, a presumption exists that the person named in the order of suspension is the same person named in the notice. The commissioner may grant an administrative hearing which substantially complies with the requirements of the provisions of §17C-5A-2 of this code upon a preliminary showing that a possibility exists that the person named in the notice of conviction is not the same person whose license is being suspended. The request for hearing shall be made within 10 days after receipt of a copy of the order of suspension. The sole purpose of this hearing shall be for the person requesting the hearing to present evidence that he or she is not the person named in the notice. In the event the commissioner grants an administrative hearing, the commissioner shall stay the license suspension pending the commissioner's order resulting from the hearing.

(c) A suspension under this section and §17B-3-3a of this code will continue until the person provides proof of compliance from the municipal, magistrate, or circuit court and pays the reinstatement fee as provided in §17B-3-9 of this code. The reinstatement fee is assessed upon issuance of the order of suspension regardless of the effective date of suspension.

(d) Upon notice from an appropriate state official that the person is successfully participating in an approved treatment and job program as prescribed in §61-11-26a of this code, and that the person is believed to be safe to drive, the Division of Motor Vehicles shall stay or supersede the imposition of any suspension under this section or §17B-3-3a of this code. The Division of Motor Vehicles shall waive the reinstatement fee established by the provisions §17B-3-9 upon receipt of proper documentation of the person's successful completion of a program under §61-11-26a of this code and proof of compliance from the municipal, magistrate, or circuit court. The stay or supersedeas shall be removed by the Division of Motor Vehicles upon receipt of notice from an appropriate state official of a participant's failure to complete or comply with the approved treatment and job program as established under §61-11-26a of this code.

CHAPTER 50. MAGISTRATE COURTS.

ARTICLE 3. COSTS, FINES AND RECORDS.

§50-3-2a. Payment by electronic payments, credit card payments, cash, money orders, or certified checks; restitution; payment plan; failure to pay fines results in a late fee and judgment liens.

(a) A magistrate court may accept electronic payments, credit cards, cash, money order, or certified check for payment of all costs, fines, fees, forfeitures, restitution, or penalties in accordance with rules promulgated by the Supreme Court of Appeals. Any charges made by the credit company shall be paid by the person responsible for paying the cost, fine, forfeiture or penalty.

(b) Upon request and subject to the following requirements, the magistrate clerk shall establish a payment plan for a person owing costs, fines, forfeitures, or penalties imposed by the court, so long

as the person signs and files with the clerk, an affidavit stating that he or she is financially unable to pay the costs, fines, forfeitures, or penalties imposed:

(1) A \$25 administrative processing fee shall be paid at the time the payment form is filed or, in the alternative, the fee may be paid in no more than 5 equal monthly payments;

(2) Unless incarcerated, a person must enroll in a payment plan no later than 180 calendar days after the date the court enters the order assessing the costs, fines, forfeitures, or penalties; and

(3) If the person is incarcerated, he or she may enroll in a payment plan within 180 calendar days after release.

(c) The West Virginia Supreme Court of Appeals shall develop a uniform payment plan form and financial affidavit for requests for the establishment of payment plan pursuant to subsection (a) of this section. The forms shall be made available for distribution to the offices of magistrate clerks, and magistrate clerks shall use the payment plan form and affidavit form developed by the West Virginia Supreme Court of Appeals when establishing payment plans.

~~(b)(d)(1) Unless otherwise required by law, a magistrate court may collect a portion of any costs, fines, fees, forfeitures, restitution or penalties at the time the amount is imposed by the court so long as the court requires the balance to be paid in accordance with a~~ The payment plan shall specify: which specifies: (A) The number of payments to be made; (B) The dates on which the payments are due; and (C) The amounts due for each payment; (D) All acceptable payment methods; and (E) The circumstances under which the person may receive a late fee, have a judgment lien recorded against him or her, or have the debt sent to collections for nonpayment.

(2) The monthly payment under the payment plan shall be calculated based upon all costs, fines, forfeitures, or penalties owed within the court, and shall be two percent of the person's annual net income divided by 12 or \$10, whichever is greater.

(3) The court may review the reasonableness of the payment plan, and may on its own motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, or penalties to community service if the court determines that the individual has had a change in circumstances and is unable to comply with the terms of the payment plan. The written agreement represents the minimum payments and the last date those payments may be made. The obligor or the obligor's agent may accelerate the payment schedule at any time by paying any additional portion of any costs, fines, fees, forfeitures, restitution or penalties.

(e) (1) The clerk may assess a \$10 late fee each month if a person fails to comply with the terms of a payment plan, and if any payment due is not received within 30 days after the due date, and the person:

(A) Is not incarcerated;

(B) Has not brought the account current;

(C) Has not made alternative payment arrangements with the court; or

(D) Has not entered into a revised payment plan with the clerk before the due date.

(2) If, after 90 days, a payment has not been received, the clerk may do one or both of the following (A) Record a judgment lien as described in subsection (f) of this section, or (B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State

Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount. The clerk may send notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

(f)(1) If after 180 days of a judgment a person fails to enroll in a payment plan and fails to pay his or her costs, fines, forfeitures, or penalties, the clerk may assess a \$10 late fee and shall notify the person of the following:

(A) That he or she is 180 days past due in the payment of costs, fines, forfeitures, or penalties imposed pursuant to a judgment of the court;

(B) That he or she has failed to enroll in a payment plan;

(C) Whether a \$10 late fee has been assessed; and

(D) That he or she may be the subject of a judgment lien or have his or her debt sent to a collection agency if the overdue payment of costs, fines, forfeitures, or penalties is not resolved within 30 days of the date of the notice issued pursuant to this subsection.

(2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this subsection, a payment has not been received, the clerk may do one or both of the following:

(A) Record a judgment lien as described in subsection (f) of this section; or

(B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount.

~~(e)(1)~~ (g) To record a judgment lien, the clerk ~~If costs, fines, forfeitures or penalties imposed by the municipal court upon conviction of a person for a criminal offense as defined in §17B-3-3c of this code are not paid in full within 180 days of the judgment, the municipal court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the prosecuting attorney of the county of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county wherein the defendant resides or owns property. The clerk of the county commission shall record and index these abstracts of judgment without charge or fee to the prosecuting attorney and when recorded, the amount stated to be owed in the abstract constitutes a lien against all property of the defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for which an abstract of judgment has been recorded are paid in full, the clerk of the municipal court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerk of the county commission shall record and index the release of judgment without charge or fee to the prosecuting attorney.~~

(h) A person whose driver's license was suspended before July 1, 2020, solely for the nonpayment of costs, fines, forfeitures, or penalties, if otherwise eligible, shall have his or her license reinstated:

(1) Upon payment in full of all outstanding costs, fines, forfeitures, or penalties and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

(2) Upon establishing a payment plan pursuant to subsection (a) of this section and the payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a payment plan is in effect, and upon receipt of the notification, the division shall waive the reinstatement fee.

~~notify the Commissioner of the Division of Motor Vehicles of the failure to pay: *Provided*, That in a criminal case in which a nonresident of this state is convicted of a motor vehicle violation defined in section three-a, article three, chapter seventeen-b of this code, the appropriate clerk shall notify the Division of Motor Vehicles of the failure to pay within eighty days from the date of judgment and expiration of any stay of execution. Upon notice, the Division of Motor Vehicles shall suspend any privilege the person defaulting on payment may have to operate a motor vehicle in this state, including any driver's license issued to the person by the Division of Motor Vehicles, until all costs, fines, fees, forfeitures, restitution or penalties are paid in full. The suspension shall be imposed in accordance with the provisions of section six, article three, chapter seventeen-b of this code: *Provided*, That any person who has had his or her license to operate a motor vehicle in this state suspended pursuant to this subsection and his or her failure to pay is based upon inability to pay, may, if he or she is employed on a full or part-time basis, petition to the circuit court for an order authorizing him or her to operate a motor vehicle solely for employment purposes. Upon a showing satisfactory to the court of inability to pay, employment and compliance with other applicable motor vehicle laws, the court shall issue an order granting relief.~~

~~(2)(i)(1) In addition to the provisions of subdivision (1) of this subsection, If any costs, fines, fees, forfeitures, restitution, or penalties imposed or ordered by the magistrate court for a hunting violation described in chapter 20 of this code are not paid within 180 days from the date of judgment and the expiration of any stay of execution, the magistrate court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Director of the Division of Natural Resources of the failure to pay. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to hunt in this state, including any hunting license issued to the person by the Division of Natural Resources, until all the costs, fines, fees, forfeitures, restitution, or penalties are paid in full.~~

~~(3)(2) In addition to the provisions of subdivision (1) of this subsection, If any costs, fines, fees, forfeitures, restitution, or penalties imposed or ordered by the magistrate court for a fishing violation described in chapter 20 of this code are not paid within 180 days from the date of judgment and the expiration of any stay of execution, the magistrate court clerk or, upon a judgment rendered on appeal, the circuit clerk shall notify the Director of the Division of Natural Resources of the failure to pay. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to fish in this state, including any fishing license issued to the person by the Division of Natural Resources, until all the costs, fines, fees, forfeitures, restitution, or penalties are paid in full.~~

~~(d)(j)(1) If a person charged with any criminal violation of this code fails to appear or otherwise respond in court, the magistrate court shall notify the Commissioner of the Division of Motor Vehicles thereof within 90 days of the scheduled date to appear unless the person sooner appears or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Division of Motor Vehicles shall suspend any privilege the person failing to appear or otherwise respond may have to operate a~~

motor vehicle in this state, including any driver's license issued to the person by the Division of Motor Vehicles, until final judgment in the case and, if a judgment of guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full. The suspension shall be imposed in accordance with the provisions of §17B-3-6 of this code.

(2) In addition to the provisions of subdivision (1) of this subsection, if a person charged with any hunting violation described in chapter 20 of this code fails to appear or otherwise respond in court, the magistrate court shall notify the Director of the Division of Natural Resources of the failure thereof within 15 days of the scheduled date to appear unless the person sooner appears or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to hunt in this state, including any hunting license issued to the person by the Division of Natural Resources, until final judgment in the case and, if a judgment of guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full.

(3) In addition to the provisions of subdivision (1) of this subsection, if a person charged with any fishing violation described in chapter 20 of this code fails to appear or otherwise respond in court, the magistrate court shall notify the Director of the Division of Natural Resources of the failure thereof within 15 days of the scheduled date to appear unless the person sooner appears or otherwise responds in court to the satisfaction of the magistrate. Upon notice, the Director of the Division of Natural Resources shall suspend any privilege the person failing to appear or otherwise respond may have to fish in this state, including any fishing license issued to the person by the Division of Natural Resources, until final judgment in the case and, if a judgment of guilty, until all costs, fines, fees, forfeitures, restitution, or penalties imposed are paid in full.

~~(e)~~(k) In every criminal case which involves a misdemeanor violation, a magistrate may order restitution where appropriate when rendering judgment.

~~(f)(1) If all costs, fines, fees, forfeitures, restitution or penalties imposed by a magistrate court and ordered to be paid are not paid within 180 days from the date of judgment and the expiration of any stay of execution, the clerk of the magistrate court shall notify the prosecuting attorney of the county of nonpayment and provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county wherein the defendant resides or owns property. The clerks of the county commissions shall record and index the abstracts of judgment without charge or fee to the prosecuting attorney and when so recorded, the amount stated to be owing in the abstract shall constitute a lien against all property of the defendant.~~

~~(2) When all the costs, fines, fees, forfeitures, restitution or penalties described in subdivision (1) of this subsection for which an abstract of judgment has been recorded are paid in full, the clerk of the magistrate court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerks of the county commissions shall record and index the release of judgment without charge or fee to the prosecuting attorney.~~

~~(g)~~(l) Notwithstanding any provision of this code to the contrary, except as authorized by this section, payments of all costs, fines, fees, forfeitures, restitution, or penalties imposed by the magistrate court in civil or criminal matters shall be made in full. Partial payments of costs, fines, fees,

forfeitures, restitution, or penalties made pursuant to this section shall be credited to amounts due in the following order:

- (1) Regional Jail Fund;
- (2) Worthless Check Payee;
- (3) Restitution;
- (4) Magistrate Court Fund;
- (5) Worthless Check Fund;
- (6) Per Diem Regional Jail Fee;
- (7) Community Corrections Fund;
- (8) Regional Jail Operational Fund;
- (9) Law Enforcement Training Fund;
- (10) Crime Victims Compensation Fund;
- (11) Court Security Fund;
- (12) Courthouse Improvement Fund;
- (13) Litter Control Fund;
- (14) Sheriff arrest fee;
- (15) Teen Court Fund;
- (16) Other costs, if any;
- (17) Fine.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 4. RECOVERY OF FINES IN CRIMINAL CASES.

§62-4-17. Suspension of licenses for failure to pay fines and costs or failure to appear in court; payment plan; failure to pay fines will result in late fee and judgment lien.

(a) ~~If costs, fines, forfeitures, penalties or restitution imposed by the circuit court upon conviction of a person for any criminal offense under this code are not paid in full when ordered to do so by the court, the circuit clerk shall notify the Division of Motor Vehicles of such failure to pay: *Provided*, That at the time the judgment is imposed, the court shall provide the person with written notice that failure to pay the same when ordered to do so shall result in the suspension of such person's license or privilege to operate a motor vehicle in this state and that such suspension could result in the cancellation of, the failure to renew or the failure to issue an automobile insurance policy providing coverage for such person or such person's family: *Provided, however*, That the failure of the court to provide such notice shall not affect the validity of any suspension of such person's license or privilege~~

~~to operate a motor vehicle in this state. For purposes of this section, such period of time within which the person is required to pay shall be stayed during any period an appeal from the conviction which resulted in the imposition of such costs, fines, forfeitures or penalties is pending.~~

~~Upon such notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the costs, fines, forfeitures or penalties are paid.~~

Upon request and subject to the following requirements, the circuit clerk shall establish a payment plan for a person owing costs, fines, forfeitures, or penalties imposed by the court, so long as the person signs and files with the clerk, an affidavit, stating that he or she is financially unable to pay the costs, fines, forfeitures, or penalties imposed:

(1) A \$25 administrative processing fee shall be paid at the time the payment form is filed or, in the alternative, the fee may be paid in no more than 5 equal monthly payments;

(2) Unless incarcerated, a person must enroll in a payment plan no later than 180 calendar days after the date the court enters the order assessing the costs, fines, forfeitures, or penalties; and

(3) If the person is incarcerated, he or she enroll in a payment plan within 180 calendar days after release.

~~(b) Notwithstanding the provisions of this section to the contrary, the notice of the failure to pay such costs, fines, forfeitures or penalties shall not be given where the circuit court, upon application of the person upon whom the same were imposed filed prior to the expiration of the period within which the same are required to be paid, enters an order finding that such person is financially unable to pay all or a portion of the same: *Provided*, That where the circuit court, upon finding that the person is financially unable to pay the full amount thereof, requires the person to pay the remaining portion thereof, the circuit clerk shall notify the Division of Motor Vehicles of such person's failure to pay the same if the same is not paid within the period of time ordered by such court. The West Virginia Supreme Court of Appeals shall develop a uniform payment plan form and financial affidavit for requests for the establishment of payment plan pursuant to subsection (a) of this section. The forms shall be made available for distribution to the offices of circuit clerks and circuit clerks shall use the payment plan form and affidavit form developed by the West Virginia Supreme Court of Appeals when establishing payment plans.~~

(c)(1) The payment plan shall specify: (A) The number of payments to be made; (B) The dates on which such payments are due; (C) The amount due for each payment; (D) All acceptable payment methods; and (E) The circumstances under which the person may receive a late fee, have a judgment lien recorded against them, or have the debt sent to collections for nonpayment.

(2) The monthly payment under the payment plan shall be calculated based upon all costs, fines, forfeitures, or penalties owed within the court, and shall be two percent of the person's annual net income divided by 12, or \$10, whichever is greater.

(3) The court may review the reasonableness of the payment plan, and may on its own motion or by petition, waive, modify, or convert the outstanding costs, fines, forfeitures, or penalties to community service if the court determines that the individual has had a change in circumstances and is unable to comply with the terms of the payment plan.

(d) (1) The clerk may assess a \$10 late fee each month if a person fails to comply with the terms of a payment plan, and if any payment due is not received within 30 days after the due date, and the person:

(A) Is not incarcerated;

(B) Has not brought the account current;

(C) Has not made alternative payment arrangements with the court; or

(D) Has not entered into a revised payment plan with the clerk before the due date.

(2) If, after 90 days, a payment has not been received, the clerk may do one or both of the following (A) Record a judgment lien as described in subsection (f) of this section, or (B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount. The clerk may send notices, electronically or by U.S. mail, to remind the person of an upcoming or missed payment.

(e)(1) If after 180 days of a judgment a person fails to enroll in a payment plan and fails to pay his or her costs, fines, forfeitures, or penalties, the clerk may assess a \$10 late fee and shall notify the person of the following:

(A) That he or she is 180 days past due in the payment of costs, fines, forfeitures, or penalties imposed pursuant to a judgment of the court;

(B) That he or she has failed to enroll in a payment plan;

(C) Whether a \$10 late fee has been assessed; and

(D) That he or she may be the subject of a judgment lien or have his or her debt sent to a collection agency if the overdue payment of costs, fines, forfeitures, or penalties is not resolved within 30 days of the date of the notice issued pursuant to this subsection.

(2) If after 30 days from the issuance of a notice pursuant to subdivision (1) of this subsection, a payment has not been received, the clerk may do one or both of the following:

(A) Record a judgment lien as described in subsection (f) of this section; or

(B) Consign the delinquent costs, fines, forfeitures, or penalties to a debt collection agency contained on the State Tax Commissioner's list of eligible debt collection agencies established and maintained pursuant to §14-1-18c of this code, an internal collection division, or both: *Provided*, That the entire amount of all delinquent payments collected shall be remitted to the court and may not be reduced by any collection costs or fees: *Provided, however*, That the collection fee may not exceed 25 percent of the delinquent payment amount.

(f) To record a judgment lien, the clerk shall notify the prosecuting attorney of the county of nonpayment and shall provide the prosecuting attorney with an abstract of judgment. The prosecuting attorney shall file the abstract of judgment in the office of the clerk of the county commission in the county where the defendant was convicted and in any county wherein the defendant resides or owns property. The clerk of the county commission shall record and index these abstracts of judgment without charge or fee to the prosecuting attorney, and when recorded, the amount stated to be owed in the abstract constitutes a lien against all property of the defendant: *Provided*, That when all the costs, fines, fees, forfeitures, restitution, or penalties for which an abstract of judgment has been

recorded are paid in full, the clerk of the municipal court shall notify the prosecuting attorney of the county of payment and provide the prosecuting attorney with a release of judgment, prepared in accordance with the provisions of §38-12-1 of this code, for filing and recordation pursuant to the provisions of this subdivision. Upon receipt from the clerk, the prosecuting attorney shall file the release of judgment in the office of the clerk of the county commission in each county where an abstract of the judgment was recorded. The clerk of the county commission shall record and index the release of judgment without charge or fee to the prosecuting attorney.

(g) A person whose driver's license was suspended prior to July 1, 2020, solely for the nonpayment of costs, fines, forfeitures, or penalties, if otherwise eligible, shall have his or her license reinstated:

(1) Upon payment in full of all outstanding costs, fines, forfeitures, or penalties and a \$25 reinstatement fee paid to the Division of Motor Vehicles; or

(2) Upon establishing a payment plan pursuant to subsection (a) and the payment of a \$25 administrative fee. The clerk shall notify the Division of Motor Vehicles that a payment plan is in effect, and upon receipt of the notification, the division shall waive the reinstatement fee.

~~(e)~~(h) If a person charged with a criminal offense fails to appear or otherwise respond in court after having received notice to do so, the court shall notify the Division of Motor Vehicles thereof within 15 days of the scheduled date to appear unless such person sooner appears or otherwise responds in court to the satisfaction of the court. Upon such notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the person appears as required."

And,

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

H. B. 4958 - "A Bill to amend and reenact §8-10-2a and §8-10-2b of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-3-3a and §17B-3-3c of said code; to amend and reenact §50-3-2a of said code; and to amend and reenact §62-4-17 of said code, all relating to eliminating the ability of a person's driver's license to be suspended for the failure to pay court fines and costs; allowing court clerks to accept electronic payments, credit cards, cash, money orders, or certified checks; requiring magistrate, municipal, and circuit clerks to set up a payment plan if an individual signs an affidavit stating that he or she is unable to pay the court fines and costs imposed; authorizing a court to review the reasonableness of the payment plan; authorizing court to waive, modify, or convert the outstanding costs, fines, forfeitures, or penalties to community service; requiring the Supreme Court of Appeals to develop and distribute forms; authorizing magistrate, municipal, and circuit clerks to assess late fees, to record a judgment lien for unpaid fines and costs in the county clerk's office, and to cosign a debt to collections; authorizing a process for the recording and release of a judgment lien; requiring clerks to issue a notice of delinquency; authorizing the reinstatement of driver's licenses suspended prior to July, 1, 2020; removes Tax Commissioner's authority to withhold income tax returns; establishing fees; and placing limits on collection of fees."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 768**), and there were—yeas 88, nays 10, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Atkinson, Butler, Cadle, Cooper, Hicks, Jennings, Phillips, Rodighiero, R. Thompson and Tomblin.

Absent and Not Voting: J. Kelly and Steele.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4958) passed.

Delegate Kessinger moved the bill take effect July 1, 2020.

On this question the yeas and nays were taken (**Roll No. 769**), and there were—yeas 96, nays 3, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle and Jennings.

Absent and Not Voting: Steele.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4958) takes effect July 1, 2020.

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

A message from the Senate, by

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

Com. Sub. for S. B. 213, Relating to administration of trusts.

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

Com. Sub. for S. B. 213 - "A Bill to amend and reenact §44D-1-103, §44D-1-105, and §44D-1-108 of the Code of West Virginia, 1931, as amended; to amend and reenact §44D-6-603 of said code; to amend and reenact §44D-7-703 of said code; to amend and reenact §44D-8-808 of said code; and to amend said code by adding thereto a new article, designated §44D-8A-801, §44D-8A-802, §44D-8A-803, §44D-8A-804, §44D-8A-805, §44D-8A-806, §44D-8A-807, §44D-8A-808, §44D-8A-809, §44D-8A-810, §44D-8A-811, §44D-8A-812, §44D-8A-813, §44D-8A-814, §44D-8A-815, §44D-8A-816, and §44D-8A-817, all relating to the administration of trusts; providing definitions; establishing default and mandatory rules; establishing when terms of a trust designating the principal place of administration are valid; permitting a trustee to follow a direction contrary to the terms of a trust instrument; enacting the West Virginia Uniform Directed Trust Act; specifying applicability; setting forth exclusions; establishing powers, duties and liabilities of a trust director; providing limitations on trust director power; establishing duties and liabilities of a directed trustee; establishing duty of trustees and trust directors to provide certain information to a trust director or trustee; providing limitations on duties of trustee's and trust directors; providing that the terms of a trust may relieve a cotrustee from duty and liability with respect to another cotrustee's exercise or nonexercise of a power; providing limitations on actions against a trust director; establishing defenses in actions against a trust director; establishing personal jurisdiction of West Virginia courts over a trust director; providing that certain statutory rules apply to a trust director; and providing an effective date."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 770**), and there were—yeas 98, nays 1, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Fast.

Absent and Not Voting: Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 213) passed.

Delegate Summers moved the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 771**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Graves, Staggers and Steele.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 213) takes effect July 1, 2020.

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

A message from the Senate, by

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

S. B. 562, Expunging certain criminal convictions.

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

On pages one through three by striking out all of section twenty-five.

And,

On page five, section twenty-six, subsection (c), subdivision (15), by striking out the proviso and inserting in lieu thereof a new proviso, to read as follows:

“Provided, That a conviction for driving under the influence of alcohol, controlled substances, or drugs shall not preclude expungement of an unrelated and otherwise expungable felony if the conviction for driving under the influence of alcohol, controlled substances, or drugs is at least five years old at the time the petition for expungement is filed.”

And,

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

S. B. 562 - “A Bill to amend and reenact §61-11-26 and §61-11-26a of the Code of West Virginia, 1931, as amended, all relating generally to expungement of certain criminal convictions; allowing a person seeking expungement of convictions in multiple counties to file the petition in his or her county of residence; clarifying that prosecuting attorneys in any county of conviction wherein expungement is sought be provided notice of petition; eliminating the requirement that the chief law-enforcement officer or head of a municipal law-enforcement agency where the offense for which expungement is sought be given notice where such agency was not the arresting agency; modifying non-expungable offenses to allow expungement of burglaries of buildings which are not dwellings; allowing

expungement of an unrelated felony if person has a conviction for driving under the influence if said driving under the influence conviction is at least five years old at the time the petition is filed; clarifying that Commissioner of Corrections be served with a copy of the petition for expungement if the petitioner was confined or imprisoned for the offense for which expungement is sought; clarifying that petitioner's burden of proof as to convictions for which expungement is sought are the only convictions against him or her in the state; defining 'expungement'; and directing that upon the granting of an order of expungement all public records other than those under court seal are moved and destroyed."

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. 772**), and there were—yeas 95, nays 3, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Butler, Cadle and Foster.

Absent and Not Voting: Graves and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 562) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the amendment of the House of Delegates and requested the House to recede from its amendment to

S. B. 851, Requiring Governor's Committee on Crime, Delinquency, and Correction propose rule in coordination with law enforcement and certain medical boards.

On motion of Delegate Kessinger the House of Delegates receded from its amendment.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 773**), and there were—yeas 60, nays 36, absent and not voting 4, with the nays and absent and not voting being as follows:

Nays: Boggs, N. Brown, S. Brown, Byrd, Campbell, Canestraro, Doyle, Estep-Burton, Evans, Fleischauer, Fluharty, Hansen, Hartman, Hicks, Hornbuckle, J. Kelly, Kump, Lavender-Bowe, Lovejoy, Maynard, Miller, Pushkin, Pyles, Robinson, Rodighiero, Rowe, Skaff, Sponaugle, Staggers, C. Thompson, R. Thompson, Tomblin, Walker, Waxman, Williams and Zukoff.

Absent and Not Voting: Cowles, Hardy, Householder and J. Jeffries.

So, a majority of the members present and voting having voted in the affirmative, the Speaker declared the bill (S. B. 851) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to concur in the House amendment to the Senate amendment and requested the House to recede from its amendment to

Com. Sub. for H. B. 4069, West Virginia Student Religious Liberties Act.

On motion of Delegate Kessinger the House of Delegates divided and receded from its amendment to the Senate amendment.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 774**), and there were—yeas 74, nays 25, absent and not voting 1, with the nays and absent and not voting being as follows:

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

Absent and Not Voting: Hardy.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4069) passed.

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

Conference Committee Report

Delegate Criss, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 4558, Creating a personal income tax credit for volunteer firefighters in West Virginia,

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the Senate amendment to Com. Sub. for H. B. 4558, having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate and the House of Delegates recede from their respective positions as to the Senate amendment to the bill striking out everything after the enacting clause and inserting new language, and agree to the same as follows:

ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.**§11-10-14a. Expiration of Tax refund check-off programs.**

(a) Notwithstanding any other provision of law to the contrary Except as otherwise provided in this section, or in another section of this code enacted after June 30, 1991, all voluntary tax refund check-off programs shall expire and do not apply to any personal income tax returns required to be filed after June 30, 1991: Provided, That if any such program has an earlier expiration date specifically provided by law, such the earlier expiration date shall apply applies.

(b) The Tax Commissioner shall cause each West Virginia personal income tax return form to contain a provision by which a taxpayer, and his or her spouse if a joint return, may donate a portion

or all of his or her tax refund to the West Virginia Department of Veterans Assistance for purposes of providing nursing home and health care for aged and disabled veterans in the West Virginia Veterans Home. The total amount of donations received under this subsection shall be deposited in the State Treasury to the credit of the Department of Veterans Assistance to be used exclusively for purposes of providing nursing home and health care for aged and disabled veterans in the West Virginia Veterans Home.

(c) The Tax Commissioner shall cause each West Virginia personal income tax return form to contain a provision by which a taxpayer, and his or her spouse if a joint return, may donate a portion or all of his or her tax refund to the Donel C. Kinnard Memorial State Veterans Cemetery for purposes of operating and maintaining the cemetery. The total amount of donations received under this subsection shall be deposited in the State Treasury to the credit of the Department of Military Affairs and Public Safety to be used exclusively for purposes of operating and maintaining the Donel C. Kinnard Memorial State Veterans Cemetery.

ARTICLE 13FF. THE HIGH-WAGE GROWTH BUSINESS TAX CREDIT ACT.

§11-13FF-1. The High-Wage Growth Business Tax Credit Act.

This article shall be known and may be cited as the High-Wage Growth Business Tax Credit Act.

§11-13FF-2. Definitions.

As used in this article:

“Benefits” means all remuneration for work performed that is provided to an employee in whole or in part by the employer, other than wages, including the employer’s contributions to insurance programs, health care, medical, dental and vision plans, life insurance, employer contributions to pensions, such as a 401(k), and employer-provided services, such as child care, offered by an employer to the employee. “Benefits” does not include the employer’s share of payroll taxes, Social Security or Medicare contributions, federal or state unemployment insurance contributions or workers’ compensation;

“Consecutive qualifying period” means each of the three qualifying periods successively following the qualifying period in which the new high-wage job was created;

“Division” means the West Virginia State Tax Division;

“Domicile” means the sole place where an individual has a true, fixed, permanent home. It is the place where the individual has a voluntary, fixed habitation of self and family with the intention of making a permanent home;

“Eligible employee” means an individual who is employed in West Virginia by an eligible employer, who is a resident of West Virginia, and 100 percent of the employee’s income from such employment is West Virginia income. “Eligible employee” does not include an individual who:

(1) Bears any of the relationships described in paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than 50 percent of the capital and profits interest in the entity;

(2) If the employer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust or is an individual who bears any of the relationships described in paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust;

(3) Is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of an individual who owns, directly or indirectly, more than 50 percent of the capital and profits interest in the entity or, if the employer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust; or

(4) Is working or has worked as an employee or as an independent contractor for an entity that, directly or indirectly, owns stock in a corporation of the eligible employer or other interest of the eligible employer that represents 50 percent or more of the total voting power of that entity or has a value equal to 50 percent or more of the capital and profits interest in the entity;

“Eligible employer” means a person whether organized for profit or not, or headquarters of such entity registered to do business in West Virginia that is the owner or operator of a project facility, that offers health benefits to all full-time eligible employees and certifies that it pays at least 50 percent of such health benefit premiums.

“Health benefits” means coverage for basic hospital care, physician care, prescriptions, and shall be the same coverage as is provided to employees employed in a bona fide executive, administrative, or professional capacity by the employer who are exempt from the minimum wage and maximum hour requirements of the federal Fair Labor Standards Act and the employer pays at least 50 percent of such insurance premiums.

“New high-wage job” means a new job created in West Virginia by an eligible employer on or after July 1, 2020, that is occupied for at least 48 weeks of a qualifying period by an eligible employee who is paid wages calculated for the qualifying period to be at least two and twenty-five hundredths times the state median salary;

“New job” means a job that is occupied by an employee who was not previously on the employer’s payroll in West Virginia, nor previously on the payroll of such employer’s parent entity, subsidiary, alter ego, or affiliate in West Virginia, or previously on the payroll of any business whose physical plant and employees are substantially the same as those of the employer in West Virginia in the three years prior to the date of hire. “New job” does not mean any job that is a result of job shifts due to the gain or loss of an in-state contract to supply goods and services, nor does it mean an employee who is retained following the acquisition of all or part of an in-state business by an employer;

“Qualifying period” means the period of 12 months beginning on the day an eligible employee begins working in a new high-wage job or the period of 12 months beginning on the anniversary of the day an eligible employee began working in a new high-wage job;

“Resident” means a natural person whose domicile is in West Virginia at the time of hire or within 180 days of the date of hire;

“Threshold job” means a job that is occupied for at least 44 weeks of a calendar year by an eligible employee and that meets the wage requirements for a “new high-wage job”; and

“Wages” means all compensation paid by an eligible employer to an eligible employee through the employer’s payroll system, including those wages that the employee elects to defer or redirect or the employee’s contribution to a 401(k) or cafeteria plan program, but “wages” does not include

benefits or the employer's share of payroll taxes, Social Security or Medicare contributions, federal or state unemployment insurance contributions, or workers' compensation.

§11-13FF-3. High-wage growth business tax credit.

(a) The Development Office may authorize no more than \$5 million of the tax credits allowed under this article during any fiscal year and the total amount of tax credit that may be awarded or used in any taxable year by any qualified taxpayer in combination with the owners of the qualified taxpayer may not exceed more than 10 percent of the salaries for the new direct jobs. Depending on the nature of the anticipated benefits to the state, the Development Office may establish a tax credit at a level less than the maximum. Nothing in this article entitles a qualified employer to receive a tax credit under this article and the Development Office has full discretion, subject to annual or ad hoc review, in determining whether and the amount to which to award a tax credit.

(b) A taxpayer that is an eligible employer seeking to obtain a tax credit shall make an application to the Development Office prior to the taxable year in which the eligible employer is seeking the credit. The application shall be on a form prescribed by the Development Office and shall contain such information as may be required by the Development Office to determine if the applicant is qualified. The application shall contain a sworn statement by a duly authorized officer of the employer listing the names of persons or other entities who have received or who will receive any payment or other consideration from the employer for the purpose of representing the employer in applying for or receiving the benefits provided for in this article and shall include a certificate of good standing from the State Tax Department.

(c) The employer shall certify that during the eligible employer's tax year and that at the end of the eligible employer's tax year it will meet or exceed all of the requirements established in §11-13FF-4 of this code;

(d) After the filing of an application by an eligible employer, the Development Office shall undertake an analysis and determine whether, the extent to which, and the conditions upon which an eligible employer may obtain a tax credit if it fulfills the commitments made in the eligible employer's application. In considering whether to approve the eligible employer's application for a tax credit, the Development Office shall consider the following factors:

(1) The significance of the eligible employer's need for the tax credit;

(2) The amount of projected net fiscal benefit to the state of the project and the period in which the state would realize such net fiscal benefit;

(3) The overall size and quality of the proposed project, including the number of new jobs, proposed wages, growth potential of the qualified company, the potential multiplier effect of the project, and similar factors;

(4) The financial stability and creditworthiness of the eligible employer;

(5) The level of economic distress in the area;

(6) An evaluation of the competitiveness of alternative locations for the location of the eligible employer, as applicable;

(7) Whether other state incentives are available and have been awarded to the eligible employer;
and

(8) The amount of local incentives committed.

(e) The Development Office may authorize the continued ability to receive the tax credit as long as the employer retains its eligibility by maintaining the number of new direct jobs in successive years, as provided under this article, not to exceed five years.

(f) A qualified employer that has qualified pursuant to this article is eligible to receive tax credits under this article only in accordance with the provisions under which it initially applied and was approved. If a qualified employer that is receiving tax credits and creates new direct jobs, it may apply for additional tax credits based on the new direct jobs anticipated from the expansion only, pursuant to this article.

§11-13FF-4. Obtaining tax credit following tax year.

(a) At the end of the approved employer's tax year, the qualified employer may file an application to use the tax credits previously approved by the Development Office. The application shall contain a sworn statement by a duly authorized officer of the qualified employer concerning with respect to the employer's fiscal year:

(1) That the eligible employer remained a qualified employer under the provisions of this article;

(2) The total number of and the gross payroll of the new direct jobs, with salary information provided by new direct job and that each new direct job was filled for at least 48 weeks during the tax year;

(3) That the employer had or maintained a net overall increase in employment statewide for each new direct job and the number of such net overall increase of at least 10 new direct jobs, in the case where an employer has contracts covering multiple locations;

(4) That employees holding the new direct jobs:

(A) Were residents in the State of West Virginia;

(B) Were not previously on the employer's payroll;

(C) Were not previously on the payroll of the employer's parent entity, subsidiary, or affiliate, alter ego, or previously on the payroll of the business whose physical plant and employees were substantially the same as those of the employer;

(D) Did not exist as of the date the employer filed the application for the tax credit;

(E) Were not jobs created as a result of job shifts due to the gain or loss of an in-state contract to supply goods and services;

(F) Were not jobs retained following the acquisition of all, or part of, an in-state business by the employer;

(5) That the employer has offered the health benefits to the eligible employees it employs in new direct jobs; and

(6) That the employer:

(A) Did not default on or otherwise not repay any loan or other obligation involving public funds;

(B) Has not declared bankruptcy under which an obligation of the employer to pay or repay public funds or moneys was discharged as part of such bankruptcy;

(C) Is not in default on any filing or payment with or to the state or any of its agencies or political subdivisions in which such assessment or judgment is final, not appealable, and remains outstanding.

(b) The division may request such additional information from the employer as may be necessary to determine whether the application is correct and whether the qualified employer is eligible for the annual tax credit for that year, or may request that the qualified employer revise its application.

(c) The tax credits authorized in this article shall be authorized after the qualified employer has filed its application for annual tax credit at the end of the qualified employer's tax year with the Development Office pursuant to this section, and the division has determined from the information submitted along with such application that the employer has fulfilled its obligations in original application.

(d) Upon approval of the application for use of the tax credit, the application shall be forwarded to the Department of Revenue. The eligible employer may then use such tax credit in filing its tax return.

(e) A new high-wage job is not eligible for a credit pursuant to this section for the initial qualifying period unless the eligible employer's total number of employees with threshold jobs on the last day of the initial qualifying period at the location at which the job is performed or based is at least one more than the number of threshold jobs on the day prior to the date the new high-wage job was created. A new high-wage job is not eligible for a credit pursuant to this section for a consecutive qualifying period unless the total number of threshold jobs at a location at which the job is performed or based on the last day of that qualifying period is greater than or equal to the number of threshold jobs at that same location on the last day of the initial qualifying period for the new high-wage job.

(f) If a consecutive qualifying period for a new high-wage job does not meet the wage, occupancy and residency requirements, then the qualifying period is ineligible.

(g) Except as provided in subsection (h) of this section, a new high-wage job is not eligible for a credit pursuant to this section if:

(1) The new high-wage job is created due to a business merger or acquisition or other change in business organization;

(2) The eligible employee was terminated from employment in West Virginia by another employer involved in the business merger or acquisition or other change in business organization with the taxpayer; and

(3) The new high-wage job is performed by:

(A) The person who performed the job or its functional equivalent prior to the business merger or acquisition or other change in business organization; or

(B) A person replacing the person who performed the job or its functional equivalent prior to a business merger or acquisition or other change in business organization.

(h) A new high-wage job that was created by another employer and for which an application for the high-wage growth business tax credit was received and is under review by the division prior to the time of the business merger or acquisition or other change in business organization shall remain eligible for the high-wage growth business tax credit for the balance of the consecutive qualifying

periods. The new employer that results from a business merger or acquisition or other change in business organization may only claim the high-wage growth business tax credit for the balance of the consecutive qualifying periods for which the new high-wage job is otherwise eligible.

(i) A new high-wage job is not eligible for a credit pursuant to this section if the job is created due to an eligible employer entering into a contract or becoming a subcontractor to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity unless the job is a new high-wage job that was not being performed by an employee of the replaced entity.

(j) A new high-wage job is not eligible for a credit pursuant to this section if the eligible employer has more than one business location in the state from which it conducts business and the requirements of subsection (e) of this section are satisfied solely by moving the job from one business location of the eligible employer in this state to another business location of the eligible employer in the state.

(k) With respect to each annual application for a high-wage growth business tax credit, the employer shall certify and include:

(1) The responsibilities and amount of wages paid to each eligible employee in a new high-wage job during the qualifying period;

(2) The number of weeks each position was occupied during the qualifying period;

(3) Which qualifying period the application pertains to for each eligible employee;

(4) The total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period;

(5) The total number of threshold jobs performed or based at the eligible employer's location on the day prior to the qualifying period and on the last day of the qualifying period;

(6) For an eligible employer that has more than one business location in the state from which it conducts business, the total number of threshold jobs performed or based at each business location of the eligible employer in the state on the day prior to the qualifying period and on the last day of the qualifying period;

(7) Whether the eligible employer has ceased business operations at any of its business locations in this state; and

(8) Whether the application is precluded by subsection (o) of this section.

(l) Any person who willfully submits a false, incorrect, or fraudulent certification required pursuant this section shall be subject to all applicable penalties under §11-9-1 *et seq.* and §11-10-1 *et seq.* of this code, except that the amount on which the penalty is based shall be the total amount of credit requested on the application for approval.

(m) Except as provided in subsection (o) of this section, an approved high-wage growth business tax credit shall be claimed against the taxpayer's taxes imposed by §11-23-1 *et seq.*, §11-24-1 *et seq.*, and §11-21-1 *et seq.* of this code, in that order, as specified in this subsection:

(1) *Business franchise tax.* — The credit is first applied to reduce the taxes imposed by §11-23-1 *et seq.* of this code for the taxable year, determined after application of the credits against tax provided in §11-23-17 of this code, but before application of any other allowable credits against tax.

(2) *Corporation net income taxes.* — After application of subdivision (1) of this subsection, any unused credit is next applied to reduce the taxes imposed by §11-24-1 *et seq.* of this code for the taxable year, determined before application of allowable credits against tax.

(A) If the eligible taxpayer is a limited liability company, small business corporation, or a partnership, then any unused credit after application of subdivisions (1) and (2) of this subsection is allowed as a credit against the taxes imposed by §11-24-1 *et seq.* of this code on owners of the eligible taxpayer on the conduit income directly derived from the eligible taxpayer by its owners. Only those portions of the tax imposed by §11-24-1 *et seq.* of this code that are imposed on income directly derived by the owner from the eligible taxpayer are subject to offset by this credit.

(B) Small business corporations, limited liability companies, partnerships, and other unincorporated organizations shall allocate the credit allowed by this section among their members in the same manner as profits and losses are allocated for the taxable year.

(3) *Personal income tax taxes.* — After application of subdivisions (1) and (2) of this subsection, any unused credit is next applied to reduce the taxes imposed by §11-21-1 *et seq.* of this code for the taxable year determined before application of allowable credits against tax of the eligible taxpayer.

(4) If the eligible taxpayer is a limited liability company, small business corporation, or a partnership, then any unused credit after application of subdivisions (1), (2), and (3) of this subsection is allowed as a credit against the taxes imposed by §11-21-1 *et seq.* of this code on owners of the eligible taxpayer on the conduit income directly derived from the eligible taxpayer by its owners. Only those portions of the tax imposed by §11-21-1 *et seq.* of this code that are imposed on income directly derived by the owner from the eligible taxpayer are subject to offset by this credit.

(5) Small business corporations, limited liability companies, partnerships, and other unincorporated organizations shall allocate the credit allowed by this section among their members in the same manner as profits and losses are allocated for the taxable year.

(6) No credit is allowed under this section against any withholding tax imposed by, or payable under, §11-21-1 *et seq.* of this code.

(7) *Unused credit carry forward.* — Except to the extent excess credit is refunded as provided in subdivision (8) of this subsection, if the credit allowed under this article in any taxable year exceeds the sum of the taxes enumerated in subdivisions (1), (2), and (3) of this subsection for that taxable year, the eligible taxpayer and owners of eligible taxpayers described in subdivisions (4) and (5) of this subsection may apply the excess as a credit against those taxes, in the order and manner stated in this section, for succeeding taxable years until the earlier of the following:

(A) The full amount of the excess credit is used; or

(B) The expiration of the 10th taxable year after the taxable year in which the annual salaries for the new direct job was paid or incurred. Any credit remaining thereafter is forfeited.

(8) If the credit allowed under this section in any taxable year exceeds the sum of taxes enumerated in subdivisions (1), (2), (3), (4), and (5) of this subsection for that taxable year, the eligible taxpayer and owners of the eligible taxpayers described in subdivisions (4) and (5) of this subsection

may claim for that year the excess amount as a refundable credit, not to exceed \$100,000 per taxpayer, including owners and the controlled group, if applicable.

(9) Tax credits provided under this section may not be transferred, sold, or assigned by filing a notarized endorsement thereof with the division that names the transferee, the amount of tax credit transferred, and the value received for the credit, as well as any other information reasonably requested by the division.

(n) If the taxpayer ceases business operations in this state while an application for credit approval is pending or after an application for credit has been approved for any qualifying period for a new high-wage job, the division may not grant an additional high-wage growth business tax credit to that taxpayer except as provided in subsection (m) of this section and shall extinguish any amount of credit approved for that taxpayer that has not already been claimed against the taxpayer's modified combined tax liability.

(o) A taxpayer that has received a high-wage growth business tax credit may not submit a new application for the credit for a minimum of two calendar years from the closing date of the last qualifying period for which the taxpayer received the credit if the taxpayer lost eligibility to claim the credit from a previous application pursuant to subsection (m) of this section.

§11-13FF-5. Rules.

The division shall propose legislative rules implementing this article in accordance with the provisions of §29A-3-1 et seq. of this code.

ARTICLE 13GG. WEST VIRGINIA VOLUNTEER FIREFIGHTER TAX CREDIT ACT.

§11-13GG-1. Findings and Purpose.

The Legislature finds that it is an important public policy to encourage participation in volunteer fire fighting and emergency response by providing tax credits for those who volunteer their time as a vital service to their community.

§11-13GG-2. Definitions.

As used in this article:

“Active member” means an individual that performs the function of fire prevention and suppression, or vehicle and machinery extrications, hazardous materials response and mitigation, technical rescue, emergency medical services, and any other duties that a specialized support member may provide when responding to emergency situations;

“Activities” means responses to emergencies, monthly or quarterly meetings, fund raising activities, and fire department management;

“Chief” means the highest-ranking fire line officer in charge of a volunteer fire department;

“Commission” means the West Virginia State Fire Commission;

“Volunteer fire department” means a volunteer fire department in this state, certified and regulated by the commission, and lawfully formed under §8-15-1 et seq. of this code;

“Volunteer firefighter” means a West Virginia taxpayer who is an active member of a volunteer fire department.

§11-13GG-3. Amount of credit; limitation of credit.

(a) There is allowed to eligible volunteer firefighters in this state a nonrefundable credit against taxes imposed by §11-21-1 et seq. of this code in the amount set forth in subsection (b) of this section.

(b) The amount of the credit is \$1,000 during a taxable year or the total amount of tax imposed by §11-21-1 et seq. of this code in the year of active membership, whichever is less. If both taxpayers filing a joint tax return are eligible for the credit authorized by this article, the amount of the credit is \$2,000, or \$1,000 for each eligible taxpayer, during a taxable year or the total amount of tax imposed by §11-21-1 et seq. of this code in the year of active membership, whichever is less.

(c) If the amount of the credit authorized by this article is unused in any tax year, it may not be applied to any other tax year.

§11-13GG-4. Qualification for credit.

(a) To be an eligible volunteer firefighter under §11-13GG-3 of this code, he or she shall obtain certification from the chief of the volunteer fire department to demonstrate the following:

(1) The volunteer firefighter has been an active member in good standing of the volunteer fire department for the entire year; or

(2) Has been an active member in good standing of the volunteer fire department and another volunteer fire department of this state for the entire year; and

(3) Has participated as an active member as defined in §11-13GG-3 of this code on-site at at least 30 percent of the volunteer fire department activities during the year; and

(4) Has met or exceeded all certification and training for active member firefighters required under the laws of this state.

(b) The certification from the chief of the volunteer firefighter department shall demonstrate, at a minimum:

(1) The rank or position of the volunteer firefighter;

(2) The years of service for the volunteer firefighter;

(3) The number of emergency situations the volunteer firefighter responded in the year of active membership; and

(4) The number of meetings or training attended by the volunteer firefighter in the year of active membership.

(c) To claim the tax credit, a volunteer firefighter shall submit the certification from the chief of the volunteer fire department to the Tax Commissioner.

§11-13GG-5. Legislative rules.

(a) The Tax Commissioner may propose rules for legislative approval in accordance with the provision of §29A-3-1 et seq. of this code as may be necessary to carry out the purposes of this article.

(b) The commission may propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code as may be necessary to carry out the purposes of this article. §11-13GG-6. Tax credit review report.

Beginning on the first day of the second taxable year after the passage of this article and every two years thereafter, the commission shall submit to the Governor, the President of the Senate, and the Speaker of the House of Delegates a tax credit review and accountability report evaluating the cost effectiveness of the tax credit and donations during the most recent two-year period for which information is available.

§11-13GG-7. Effective date.

The credit allowed by this article shall be allowed for qualifying volunteer firefighters after December 31, 2022.”

And, that both houses recede from their positions as to the title of the bill and agree to the same as follows:

Com. Sub. for H. B. 4558 – “A Bill to amend and reenact §11-10-14a of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §11-13FF-1, §11-13FF-2, §11-13FF-3, §11-13FF-4 and §11-13FF-5; and to amend said code by adding thereto a new article, designated §11-13-GG-1, §11-13GG-2, §11-13GG-3, §11-13GG-4, §11-13GG-5, §11-13GG-6 and §11-13GG-7, all relating generally to taxation; creating various deductions, exemptions and credits, relating to allowing certain deductions to be made from individual personal income tax refunds for specified purpose; providing check-off for nursing home and health care for aged and disabled veterans in the West Virginia Veterans Home; providing check-off for purposes of operating and maintaining the Donel C. Kinnard Memorial State Veterans Cemetery; creating the High-Wage Growth Business Tax Credit Act; defining terms; allowing no more than \$5 million in tax credits from the Development Office; setting out an application process; providing for factors to be considered in granting the application; setting out eligibility requirements; creating a personal income tax credit for volunteer firefighters in West Virginia; providing findings and purpose; providing definitions; providing nonrefundable tax credit for a volunteer firefighter against personal income tax in a taxable year; providing for a tax credit limitation of \$1,000 for a single person; providing for a tax credit limitation of \$2,000 for persons filing tax returns jointly under certain conditions; providing that the tax credit for volunteer firefighters must be used in the taxable year and cannot be carried forward; providing for documentation of eligibility for the tax credit; providing requirements for the documentation evidencing eligibility for the tax credit; providing that documentation must be sent to the Tax Commissioner; providing for reporting at certain time; providing for rule-making authority; and providing an effective date.”

Respectfully submitted,

Dave Sypolt, *Chair*
Ryan W. Weld,
Corey Palumbo,

Vernon Criss, *Chair*
Zack Maynard,
Jason Barrett,

*Conferees on the part
of the Senate*

*Conferees on the part
of the House of Delegates*

On motion of Delegate Criss, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 775**), 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: Angelucci.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4558) passed.

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

Delegate Capito, from the Committee of Conference on matters of disagreement between the two houses, as to

H. B. 4524, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption.

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendments of the Senate to Engrossed House Bill 4524 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate on pages three and four, section nine, lines three through thirteen, and that the House and Senate agree to an amendment as follows:

On pages three and four, section nine, lines three through thirteen by striking the entirety of subsection (b) and inserting in lieu thereof a new subsection, designated subsection (b) to read as follows:

(b) Notwithstanding the provisions of subsection (a) of this section, a county or municipality which prior to January 1, 2020, prohibited the sale of alcoholic liquors for off-premises consumption may, pursuant to this subsection, hold a local option election to maintain the prohibition against the sale of alcoholic liquors for off-premises consumption without the petition required by the provisions of §60-5-2 of this code, if it enters an order to hold a local option election on the issue on or before July 1, 2020, in which event the election shall be held concurrent with the 2020 general election. The county commission or municipality may require the state to reimburse it for the actual cost of conducting the local option election authorized by this subsection: *Provided*, That, as an alternative to the local option election authorized by this subsection, the county commission or governing body of a municipality which prior to January 1, 2020, had prohibited the sale of alcoholic liquors for off-premises consumption may vote to maintain the prohibition and provide certification of the result of the vote to the commissioner on or before July 1, 2020.

And,

That both houses agree to the remaining Senate amendments.

And,

That both houses recede from their positions as to the title of the bill and agree to the same as follows:

H. B. 4524 - "A Bill to amend and reenact §60-5-1, §60-5-2, §60-5-3, §60-5-4, §60-5-5, §60-5-6, §60-5-7, and §60-5-8, of the Code of West Virginia, 1931, as amended and to further amend said code by adding thereto a new section, designated §60-5-9, all relating to the off-premises sale of alcoholic liquors generally; allowing the off-premises sale of alcoholic liquors in every county and municipality in the state; creating procedures for counties and municipalities which prohibited off-premises sale of alcoholic liquors prior to January 1, 2020 to hold a local option election to retain the prohibition; authorizing county commissions and governing bodies of municipalities to retain prohibition by a vote to do so without an election; requiring a vote to continue the prohibition or to order an election to occur on or before July 1, 2020; allowing counties and municipalities which prohibit the off premises sale of alcoholic liquors to hold a local option election to reconsider the action; allowing county commissions and governing bodies of municipalities to vote to maintain the prohibition as an alternative to holding a local option election, requiring notice to commissioner of election results of the vote by July 1, 2020; and updating code language."

Respectfully submitted,

Moore Capito, *Chair*
Steve Westfall,
Bill Hartman,

Ryan Weld, *Chair*
Tom Takubo,
Paul Hardesty,

*Conferees on the part
of the House of Delegates*

*Conferees on the part
of the Senate*

On motion of Delegate Capito, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 776**), and there were—yeas 75, nays 24, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Bartlett, Bibby, Butler, Fast, Foster, Howell, D. Jeffries, Jennings, Kump, Mandt, C. Martin, P. Martin, Pack, Paynter, Porterfield, Rodighiero, Rohrbach, Rowan, R. Thompson, Toney, Waxman, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Angelucci.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 4524) passed.

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

Messages from the Senate

A message from the Senate, by
Com. Sub. for H. B. 4543, Relating to insurance coverage for diabetics.

On motion of Delegate Summers, the House concurred in the following amendment by the Senate, with further amendment:

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

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

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-7. Authorization to establish group hospital and surgical insurance plan, group major medical insurance plan, group prescription drug plan, and group life and accidental death insurance plan; rules for administration of plans; mandated benefits; what plans may provide; optional plans; separate rating for claims experience purposes.

(a) The agency shall establish a group hospital and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans, and a group life and accidental death insurance plan or plans for those employees herein made eligible, and establish and promulgate rules for the administration of these plans subject to the limitations contained in this article. These plans shall include:

(1) Coverages and benefits for x-ray and laboratory services in connection with mammograms when medically appropriate and consistent with current guidelines from the United States Preventive Services Task Force; pap smears, either conventional or liquid-based cytology, whichever is medically appropriate and consistent with the current guidelines from either the United States Preventive Services Task Force or The American College of Obstetricians and Gynecologists; and a test for the human papilloma virus (HPV) when medically appropriate and consistent with current guidelines from either the United States Preventive Services Task Force or the American College of Obstetricians and Gynecologists, when performed for cancer screening or diagnostic services on a woman age 18 or over;

(2) Annual checkups for prostate cancer in men age 50 and over;

(3) Annual screening for kidney disease as determined to be medically necessary by a physician using any combination of blood pressure testing, urine albumin or urine protein testing, and serum creatinine testing as recommended by the National Kidney Foundation;

(4) For plans that include maternity benefits, coverage for inpatient care in a duly licensed healthcare facility for a mother and her newly born infant for the length of time which the attending physician considers medically necessary for the mother or her newly born child. No plan may deny payment for a mother or her newborn child prior to 48 hours following a vaginal delivery or prior to 96 hours following a caesarean section delivery if the attending physician considers discharge medically inappropriate;

(5) For plans which provide coverages for post-delivery care to a mother and her newly born child in the home, coverage for inpatient care following childbirth as provided in §5-16-7(a)(4) of this code if inpatient care is determined to be medically necessary by the attending physician. These plans may include, among other things, medicines, medical equipment, prosthetic appliances, and any other inpatient and outpatient services and expenses considered appropriate and desirable by the agency; and

(6) Coverage for treatment of serious mental illness:

(A) The coverage does not include custodial care, residential care, or schooling. For purposes of this section, 'serious mental illness' means an illness included in the American Psychiatric Association's diagnostic and statistical manual of mental disorders, as periodically revised, under the diagnostic categories or subclassifications of: (i) Schizophrenia and other psychotic disorders; (ii) bipolar disorders; (iii) depressive disorders; (iv) substance-related disorders with the exception of caffeine-related disorders and nicotine-related disorders; (v) anxiety disorders; and (vi) anorexia and bulimia. With regard to a covered individual who has not yet attained the age of 19 years, 'serious mental illness' also includes attention deficit hyperactivity disorder, separation anxiety disorder, and conduct disorder.

(B) Notwithstanding any other provision in this section to the contrary, if the agency demonstrates that its total costs for the treatment of mental illness for any plan exceeds two percent of the total costs for such plan in any experience period, then the agency may apply whatever additional cost-containment measures may be necessary in order to maintain costs below two percent of the total costs for the plan for the next experience period. These measures may include, but are not limited to, limitations on inpatient and outpatient benefits.

(C) The agency shall not discriminate between medical-surgical benefits and mental health benefits in the administration of its plan. With regard to both medical-surgical and mental health benefits, it may make determinations of medical necessity and appropriateness and it may use recognized healthcare quality and cost management tools, including, but not limited to, limitations on inpatient and outpatient benefits, utilization review, implementation of cost-containment measures, preauthorization for certain treatments, setting coverage levels, setting maximum number of visits within certain time periods, using capitated benefit arrangements, using fee-for-service arrangements, using third-party administrators, using provider networks, and using patient cost-sharing in the form of copayments, deductibles, and coinsurance.

(7) Coverage for general anesthesia for dental procedures and associated outpatient hospital or ambulatory facility charges provided by appropriately licensed health care individuals in conjunction with dental care if the covered person is:

(A) Seven years of age or younger or is developmentally disabled and is an individual for whom a successful result cannot be expected from dental care provided under local anesthesia because of a physical, intellectual, or other medically compromising condition of the individual and for whom a superior result can be expected from dental care provided under general anesthesia.

(B) A child who is 12 years of age or younger with documented phobias or with documented mental illness and with dental needs of such magnitude that treatment should not be delayed or deferred and for whom lack of treatment can be expected to result in infection, loss of teeth, or other increased oral or dental morbidity and for whom a successful result cannot be expected from dental care provided under local anesthesia because of such condition and for whom a superior result can be expected from dental care provided under general anesthesia.

(8) (A) Any plan issued or renewed on or after January 1, 2012, shall include coverage for diagnosis, evaluation, and treatment of autism spectrum disorder in individuals ages 18 months to 18 years. To be eligible for coverage and benefits under this subdivision, the individual must be diagnosed with autism spectrum disorder at age eight or younger. Such plan shall provide coverage for treatments that are medically necessary and ordered or prescribed by a licensed physician or licensed psychologist and in accordance with a treatment plan developed from a comprehensive evaluation by a certified behavior analyst for an individual diagnosed with autism spectrum disorder.

(B) The coverage shall include, but not be limited to, applied behavior analysis which shall be provided or supervised by a certified behavior analyst. The annual maximum benefit for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$30,000 per individual for three consecutive years from the date treatment commences. At the conclusion of the third year, coverage for applied behavior analysis required by this subdivision shall be in an amount not to exceed \$2,000 per month, until the individual reaches 18 years of age, as long as the treatment is medically necessary and in accordance with a treatment plan developed by a certified behavior analyst pursuant to a comprehensive evaluation or reevaluation of the individual. This subdivision does not limit, replace, or affect any obligation to provide services to an individual under the Individuals with Disabilities Education Act, 20 U. S. C. §1400 *et seq.* as amended from time to time or other publicly funded programs. Nothing in this subdivision requires reimbursement for services provided by public school personnel.

(C) The certified behavior analyst shall file progress reports with the agency semiannually. In order for treatment to continue, the agency must receive objective evidence or a clinically supportable statement of expectation that:

(i) The individual's condition is improving in response to treatment;

(ii) A maximum improvement is yet to be attained; and

(iii) There is an expectation that the anticipated improvement is attainable in a reasonable and generally predictable period of time.

(D) On or before January 1 each year, the agency shall file an annual report with the Joint Committee on Government and Finance describing its implementation of the coverage provided pursuant to this subdivision. The report shall include, but not be limited to, the number of individuals in the plan utilizing the coverage required by this subdivision, the fiscal and administrative impact of the implementation, and any recommendations the agency may have as to changes in law or policy related to the coverage provided under this subdivision. In addition, the agency shall provide such other information as required by the Joint Committee on Government and Finance as it may request.

(E) For purposes of this subdivision, the term:

(i) 'Applied behavior analysis' means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences in order to produce socially significant improvement in human behavior and includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(ii) 'Autism spectrum disorder' means any pervasive developmental disorder, including autistic disorder, Asperger's Syndrome, Rett Syndrome, childhood disintegrative disorder, or Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

(iii) 'Certified behavior analyst' means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.

(iv) 'Objective evidence' means standardized patient assessment instruments, outcome measurements tools, or measurable assessments of functional outcome. Use of objective measures at the beginning of treatment, during, and after treatment is recommended to quantify progress and support justifications for continued treatment. The tools are not required but their use will enhance the justification for continued treatment.

(F) To the extent that the application of this subdivision for autism spectrum disorder causes an increase of at least one percent of actual total costs of coverage for the plan year, the agency may apply additional cost containment measures.

(G) To the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of insurance plans offered by the Public Employees Insurance Agency.

(9) For plans that include maternity benefits, coverage for the same maternity benefits for all individuals participating in or receiving coverage under plans that are issued or renewed on or after January 1, 2014: *Provided*, That to the extent that the provisions of this subdivision require benefits that exceed the essential health benefits specified under section 1302(b) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended, the specific benefits that exceed the specified essential health benefits shall not be required of a health benefit plan when the plan is offered in this state.

(10) (A) A policy, plan, or contract that is issued or renewed on or after January 1, 2019, and that is subject to this section, shall provide coverage, through the age of 20, for amino acid-based formula for the treatment of severe protein-allergic conditions or impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract. This includes the following conditions, if diagnosed as related to the disorder by a physician licensed to practice in this state pursuant to either §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code:

(i) Immunoglobulin E and Non-immunoglobulin E-medicated allergies to multiple food proteins;

(ii) Severe food protein-induced enterocolitis syndrome;

(iii) Eosinophilic disorders as evidenced by the results of a biopsy; and

(iv) Impaired absorption of nutrients caused by disorders affecting the absorptive surface, function, length, and motility of the gastrointestinal tract (short bowel).

(B) The coverage required by §5-16-7(a)(10)(A) of this code shall include medical foods for home use for which a physician has issued a prescription and has declared them to be medically necessary, regardless of methodology of delivery.

(C) For purposes of this subdivision, 'medically necessary foods' or 'medical foods' shall mean prescription amino acid-based elemental formulas obtained through a pharmacy: *Provided*, That these foods are specifically designated and manufactured for the treatment of severe allergic conditions or short bowel.

(D) The provisions of this subdivision shall not apply to persons with an intolerance for lactose or soy.

(11) A policy, plan, or contract that is issued or renewed on or after July 1, 2020, shall provide coverage for prescription insulin drugs pursuant to this section.

(A) For the purposes of this subdivision, 'prescription insulin drug' means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:

(1) Rapid-acting:

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

(B) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs.

(C) Nothing in this section prevents the agency from reducing a covered person's cost sharing by an amount greater than the amount specified in this subsection.

(D) No contract between the agency or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision (i) authorizing the agency's pharmacy benefits manager or the pharmacy to charge, (ii) requiring the pharmacy to collect, or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the agency as provided in §5-16-7(a)(11)(B) of this code.

(E) The agency shall provide coverage for the following equipment and supplies for the treatment or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

(F) The agency shall provide coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets. Coverage for self-management education and education relating to diet shall be provided by a health care practitioner who has been appropriately trained as provided in §33-53-1(k) of this code.

(G) The education may be provided by a health care practitioner as part of an office visit for diabetes diagnosis or treatment, or by a licensed pharmacist for instructing and monitoring a patient regarding the proper use of covered equipment, supplies, and medications, or by a certified diabetes educator or registered dietitian.

(H) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted.

(b) The agency shall, with full authorization, make available to each eligible employee, at full cost to the employee, the opportunity to purchase optional group life and accidental death insurance as established under the rules of the agency. In addition, each employee is entitled to have his or her spouse and dependents, as defined by the rules of the agency, included in the optional coverage, at full cost to the employee, for each eligible dependent.

(c) The finance board may cause to be separately rated for claims experience purposes:

(1) All employees of the State of West Virginia;

(2) All teaching and professional employees of state public institutions of higher education and county boards of education;

(3) All nonteaching employees of the Higher Education Policy Commission, West Virginia Council for Community and Technical College Education, and county boards of education; or

(4) Any other categorization which would ensure the stability of the overall program.

(d) The agency shall maintain the medical and prescription drug coverage for Medicare-eligible retirees by providing coverage through one of the existing plans or by enrolling the Medicare-eligible retired employees into a Medicare-specific plan, including, but not limited to, the Medicare/Advantage Prescription Drug Plan. If a Medicare-specific plan is no longer available or advantageous for the agency and the retirees, the retirees remain eligible for coverage through the agency.

CHAPTER 33. INSURANCE.

ARTICLE 15C. DIABETES INSURANCE.

§33-15C-1. Insurance for diabetics.

[Repealed.]

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-16. Insurance for diabetics.

[Repealed.]

ARTICLE 53. REQUIRED COVERAGE FOR HEALTH INSURANCE.

§33-53-1. Cost sharing in prescription insulin drugs.

(a) Findings. –

(1) It is estimated that over 240,000 West Virginians are diagnosed and living with type 1 or type 2 diabetes and another 65,000 are undiagnosed;

(2) Every West Virginian with type 1 diabetes and many with type 2 diabetes rely on daily doses of insulin to survive;

(3) The annual medical cost related to diabetes in West Virginia is estimated at \$2.5 billion annually;

(4) Persons diagnosed with diabetes will incur medical costs approximately 2.3 times higher than persons without diabetes;

(5) The cost of insulin has increased astronomically, especially the cost of insurance copayments, which can exceed \$600 per month. Similar increases in the cost of diabetic equipment and supplies,

and insurance premiums have resulted in out-of-pocket costs for many West Virginia diabetics in excess of \$1,000 per month;

(6) National reports indicate as many as one in four type 1 diabetics underuse, or ration, insulin due to these increased costs. Rationing insulin has resulted in nerve damage, diabetic comas, amputation, kidney damage, and even death; and

(7) It is important to enact policies to reduce the costs for West Virginians with diabetes to obtain life-saving and life-sustaining insulin.

(b) As used in this section:

(1) 'Cost-sharing payment' means the total amount a covered person is required to pay at the point of sale in order to receive a prescription drug that is covered under the covered person's health plan.

(2) 'Covered person' means a policyholder, subscriber, participant, or other individual covered by a health plan.

(3) 'Health plan' means any health benefit plan, as defined in §33-16-1a(h) of this code, that provides coverage for a prescription insulin drug.

(4) 'Pharmacy benefits manager' means an entity that engages in the administration or management of prescription drug benefits provided by an insurer for the benefit of its covered persons.

(5) 'Prescription insulin drug' means a prescription drug that contains insulin and is used to treat diabetes.

(c) Each health plan shall cover at least one type of insulin in all the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

(d) Notwithstanding the provisions of §33-1-1 et seq. of this code, an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide coverage for prescription insulin drugs pursuant to this section.

(e) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs.

(f) Nothing in this section prevents an insurer from reducing a covered person's cost sharing to an amount less than the amount specified in subsection (e) of this section.

(g) No contract between an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision: (i) Authorizing the insurer's pharmacy benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the insurer pursuant to subsection (e) of this code.

(h) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code shall provide coverage for the following equipment and supplies for the treatment and/or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

(i) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code shall include coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets.

(j) All health care plans must offer an appeals process for persons who are not able to take one or more of the offered prescription insulin drugs noted in subsection (c) of this code. The appeals process shall be provided to covered persons in writing and afford covered persons and their health care providers a meaningful opportunity to participate with covered persons health care providers.

(k) Diabetes self-management education shall be provided by a health care practitioner who has been appropriately trained. The Secretary of the Department of Health and Human Resources shall promulgate legislative rules to implement training requirements and procedures necessary to fulfill provisions of this subsection: *Provided*, That any rules promulgated by the secretary shall be done after consultation with the Coalition for Diabetes Management, as established in §16-5Z-1 et seq. of this code.

(l) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted."

And,

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

Com. Sub. for H. B. 4543 - "A Bill to repeal §33-15C-1 of the Code of West Virginia, 1931, as amended; to repeal §33-16-16 of said code; to amend said code by adding thereto a new article, designated, §33-53-1; and to amend said code by adding thereto a new section, designated §5-16-7, all relating to insurance coverage for diabetics."

With the further amendment, sponsored by Delegate Shott, being as follows:

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

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

ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.

§5-16-7g. Coverage for prescription insulin drugs.

(a) A policy, plan, or contract that is issued or renewed on or after July 1, 2020, shall provide coverage for prescription insulin drugs pursuant to this section.

(b) For the purposes of this subdivision, ‘prescription insulin drug’ means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

(c) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person’s prescription needs.

(d) Nothing in this section prevents the agency from reducing a covered person’s cost sharing by an amount greater than the amount specified in this subsection.

(e) No contract between the agency or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision (i) authorizing the agency’s pharmacy benefits manager or the pharmacy to charge, (ii) requiring the pharmacy to collect, or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the agency as provided in subsection (c) of this section.

(f) The agency shall provide coverage for the following equipment and supplies for the treatment or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

(g) The agency shall provide coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets. Coverage for self-management education and

education relating to diet shall be provided by a health care practitioner who has been appropriately trained as provided in §33-53-1(k) of this code.

(h) The education may be provided by a health care practitioner as part of an office visit for diabetes diagnosis or treatment, or by a licensed pharmacist for instructing and monitoring a patient regarding the proper use of covered equipment, supplies, and medications, or by a certified diabetes educator or registered dietitian.

(i) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted.

CHAPTER 33. INSURANCE.

ARTICLE 15C. DIABETES INSURANCE.

§33-15C-1. Insurance for diabetics.

[Repealed.]

ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.

§33-16-16. Insurance for diabetics.

[Repealed.]

ARTICLE 53. REQUIRED COVERAGE FOR HEALTH INSURANCE.

§33-53-1. Cost sharing in prescription insulin drugs.

(a) Findings. –

(1) It is estimated that over 240,000 West Virginians are diagnosed and living with type 1 or type 2 diabetes and another 65,000 are undiagnosed;

(2) Every West Virginian with type 1 diabetes and many with type 2 diabetes rely on daily doses of insulin to survive;

(3) The annual medical cost related to diabetes in West Virginia is estimated at \$2.5 billion annually;

(4) Persons diagnosed with diabetes will incur medical costs approximately 2.3 times higher than persons without diabetes;

(5) The cost of insulin has increased astronomically, especially the cost of insurance copayments, which can exceed \$600 per month. Similar increases in the cost of diabetic equipment and supplies, and insurance premiums have resulted in out-of-pocket costs for many West Virginia diabetics in excess of \$1,000 per month;

(6) National reports indicate as many as one in four type 1 diabetics underuse, or ration, insulin due to these increased costs. Rationing insulin has resulted in nerve damage, diabetic comas, amputation, kidney damage, and even death; and

(7) It is important to enact policies to reduce the costs for West Virginians with diabetes to obtain life-saving and life-sustaining insulin.

(b) As used in this section:

(1) 'Cost-sharing payment' means the total amount a covered person is required to pay at the point of sale in order to receive a prescription drug that is covered under the covered person's health plan.

(2) 'Covered person' means a policyholder, subscriber, participant, or other individual covered by a health plan.

(3) 'Health plan' means any health benefit plan, as defined in §33-16-1a(h) of this code, that provides coverage for a prescription insulin drug.

(4) 'Pharmacy benefits manager' means an entity that engages in the administration or management of prescription drug benefits provided by an insurer for the benefit of its covered persons.

(5) 'Prescription insulin drug' means a prescription drug that contains insulin and is used to treat diabetes.

(c) Each health plan shall cover at least one type of insulin in all the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

(d) Notwithstanding the provisions of §33-1-1 et seq. of this code, an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide coverage for prescription insulin drugs pursuant to this section.

(e) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs.

(f) Nothing in this section prevents an insurer from reducing a covered person's cost sharing to an amount less than the amount specified in subsection (e) of this section.

(g) No contract between an insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision: (i) Authorizing the insurer's pharmacy benefits

manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the insurer pursuant to subsection (e) of this code.

(h) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code shall provide coverage for the following equipment and supplies for the treatment and/or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

(i) An insurer subject to §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 of this code shall include coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets.

(j) All health care plans must offer an appeals process for persons who are not able to take one or more of the offered prescription insulin drugs noted in subsection (c) of this code. The appeals process shall be provided to covered persons in writing and afford covered persons and their health care providers a meaningful opportunity to participate with covered persons health care providers.

(k) Diabetes self-management education shall be provided by a health care practitioner who has been appropriately trained. The Secretary of the Department of Health and Human Resources shall promulgate legislative rules to implement training requirements and procedures necessary to fulfill provisions of this subsection: *Provided, That any rules promulgated by the secretary shall be done after consultation with the Coalition for Diabetes Management, as established in §16-5Z-1 et seq. of this code.*

(l) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted."

And,

The further title amendment, sponsored by Delegate Shott, amending the title of the bill to read as follows:

Com. Sub. for H. B. 4543 - "A Bill to repeal §33-15C-1 of the Code of West Virginia, 1931, as amended; to repeal §33-16-16 of said code; to amend said code by adding thereto a new section, designated §5-16-7g; and to amend said code by adding thereto a new article, designated §33-53-1, all relating generally to required health insurance coverage for diabetics; providing cost sharing in prescription insulin drugs; providing related findings; providing definitions; requiring insurance coverage for prescription insulin drugs; establishing cost sharing for a prescription insulin drug; establishing cost sharing for designated equipment and supplies related to the treatment and management of diabetes; requiring insurance coverage for diabetes education and medical visits; limiting some insurance coverage; providing for coverage pursuant to the West Virginia Public Employees Insurance Act; and providing that education related to diabetes may be provided by health care providers."

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. 777**), and there were—yeas 96, nays 4, absent and not voting none, with the nays being as follows:

Nays: Bibby, Butler, Foster and McGeehan.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4543) passed.

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

On this question, the yeas and nays were taken (**Roll No. 778**), and there were—yeas 97, nays 3, absent and not voting none, with the nays being as follows:

Nays: Bibby, Butler and McGeehan.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4543) takes effect from its passage.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2961, Permitting the commissioner to require a water supply system be equipped with a backflow prevention assembly.

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

On page six, section nine, after line fifty, by inserting two new subsections, designated subsections (g) and (h), to read as follows:

“(g) By July 1, 2020, a public water system supplying water to the public within the state shall immediately, but in no instance later than six hours, report the occurrence and the lifting of each advisory to local departments of health and to local office of emergency management 911 answering point.

(h) By July 1, 2021, a public water system shall make available to interested customers boiled water advisories promptly through a text and a voice alert mass notification system.”

And,

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

Senator Maroney moved to amend the bill by striking out the title and substituting therefor a new title, to read as follows:

Com. Sub. for H. B. 2961—A Bill to amend and reenact §16-1-9 and §16-1-9a of the Code of West Virginia, 1931, as amended, all relating generally to public health and sanitation of water; providing that the Commissioner of the Bureau of Public Health may require a water supply system to be equipped with a backflow prevention assembly in certain circumstances; establishing

procedures for determining whether installation of a backflow prevention assembly is required; setting forth the process by which a customer may seek a waiver to backflow prevention assembly requirements and challenge a determination by the commissioner; requiring documentation of certain activities related to backflow prevention assembly; and requiring reporting and communication of boiled water advisories and lifting of advisories by certain means.

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. 779**), and there were—yeas 90, nays 10, absent and not voting none, with the nays being as follows:

Nays: Doyle, Jennings, J. Kelly, McGeehan, Paynter, Rodighiero, Sponaugle, C. Thompson, R. Thompson and Tomblin.

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. 2961) 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. 4648, The Parenting Fairness Act of 2020.

On motion of Delegate Summers, the House concurred in the following amendment by the Senate, with further amendment:

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

“ARTICLE 1. GENERAL PROVISIONS; DEFINITIONS.

§48-1-239a. Shared legal custody defined.

‘Shared legal custody’ means a continued mutual responsibility and involvement by both parents in major decisions regarding the child’s welfare including matters of education, medical care, and emotional, moral and religious development consistent with the provisions of §48-9-207 of this code.

§48-1-239b. Shared physical custody defined.

‘Shared physical custody’ means a child has periods of residing with, and being under the supervision of, each parent consistent with the provisions of §48-9-206 of this code: *Provided*, That physical custody shall be shared by the parents in such a way as to assure a child has frequent and continued contact with both parents. Such frequent and continued contact with both parents is rebuttably presumed to be in the child’s best interests unless the evidence shows otherwise.

ARTICLE 9. ALLOCATION OF CUSTODIAL RESPONSIBILITY AND DECISION-MAKING RESPONSIBILITY OF CHILDREN.

§48-9-102. Objectives; best interests of the child.

(a) The primary objective of this article is to serve the child’s best interests, by facilitating:

- (1) Stability of the child;
- (2) Parental planning and agreement about the child's custodial arrangements and upbringing;
- (3) Continuity of existing parent-child attachments;
- (4) Meaningful contact between a child and each parent;
- (5) Caretaking relationships by adults who love the child, know how to provide for the child's needs, and who place a high priority on doing so;
- (6) Security from exposure to physical or emotional harm; ~~and~~
- (7) Expedient, predictable decisionmaking and avoidance of prolonged uncertainty respecting arrangements for the child's care and control: and
- (8) Meaningful contact with a child's siblings, including half-siblings.

(b) As used in subsection (a) of this section, 'meaningful contact between a child and each parent' connotes a rebuttable presumption that shared legal custody and shared physical custody are in a child's best interest. This presumption can be rebutted due to the circumstances of the child and parties and other evidence."

On page two, after line twelve, by inserting a new subsection, designated subsection (b), to read as follows:

"(b) A secondary objective of this article is to achieve fairness between the parties."

And,

By relettering the remaining subsection.

And,

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

Com. Sub. for H. B. 4648 – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §48-1-239a and §48-1-239b; and to amend and reenact §48-9-102, all relating to defining "shared legal custody" and "shared physical custody"; and creating a rebuttable presumption that shared physical custody is in a child's best interest."

With the further amendment, sponsored by Delegate Foster, being as follows:

On page one, section two hundred thirty-nine-a, line four, after the word "code", by replacing the period with a colon and inserting the words "*Provided*, That the court shall weigh all factors and evidence in favor of a ratio no more disparate than sixty-five percent to thirty-five percent overnight parenting time, with a primary goal of awarding overnight parenting time co-equally, being in the best interests of the child."

On page one, section two hundred thirty-nine-b, line four, after the word "continued", by inserting the word "overnight".

On page one, section two hundred thirty-nine-b, line four, after the word “parents”, by inserting the words “at a ratio no more disparate than sixty-five percent to thirty-five percent overnight parenting time, and the court shall weigh all factors and evidence in favor of a more equal ratio of overnight parenting time with a primary goal of awarding overnight parenting time co-equally between both parents as being in the best interests of the child”;

On page two, section one hundred two, line twelve, after the word “half-siblings”, by inserting the words “at a ratio of time equivalent to the maximum amount of parenting time any sibling or half-sibling has with a common biological parent that is greater than that of another sibling or half-sibling”.

On page two, section one hundred two, line fourteen, by striking out the word “connotes” and inserting in lieu thereof the word “shall mean”.

On page two, section one hundred two, line fourteen, after the word “that” by inserting the word “co-equal”.

And,

On page two, section one hundred two, line sixteen, after the word “evidence” by replacing the period with a colon and inserting the words “*Provided*, That the court shall weigh all factors and evidence in favor of a ratio no more disparate than sixty-five percent to thirty-five percent overnight parenting time, with a primary goal of awarding overnight parenting time co-equally, being in the best interests of the child.”

And,

The further title amendment, sponsored by Delegate Foster, amending the title of the bill to read as follows:

Com. Sub. for H. B. 4648 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §48-1-239a and §48-1-239b; and to amend and reenact §48-9-102 of said code, all relating to allocation of custodial responsibility and decision-making responsibility of children in divorce, custody and parenting proceedings; defining terms; establishing facilitation of meaningful contact with a child’s siblings, including half siblings, as a primary objective to serve a child’s best interests; and creating a rebuttable presumption that co-equal shared legal custody and shared physical custody are in a child’s best interests in divorce, custody and parenting proceedings.”

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. 780**), and there were—yeas 64, nays 36, absent and not voting none, with the nays being as follows:

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

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4648) passed.

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

A message from the Senate, by

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

H. B. 4697, Removing the restriction that a mini-distillery use raw agricultural products originating on the same premises.

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

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

“CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 1. GENERAL PROVISIONS.

§60-1-5b. Mini-distilleries defined.

For the purpose of this chapter: ‘Mini-distillery’ means an establishment where in any year no more than ~~twenty thousand~~ 50,000 gallons of alcoholic liquor is manufactured with no less than 25% of raw agricultural products being produced by the owner of the mini-distillery on the premises of that establishment, and no more than 25% of raw agricultural products originating from any source outside this state: *Provided*, That the maximum allotted production amounts shall not exceed the annual incremental production limitations provided for pursuant to section three-a of this article.

§60-1-5d Micro-distilleries defined.

For the purposes of Chapter 60 of this code ‘Micro-distillery’ means an establishment where in any one year no more than 10,000 gallons of alcoholic liquor is manufactured and no more than 25% of raw agricultural products used in production may originate from outside this state is used in distillation.

§60-4-3. To whom licensed manufacturer may sell.

A person who is licensed to manufacture alcoholic liquors in this state may sell liquors in this state only to the West Virginia Alcohol Beverage Control Commissioner and to wholesalers and retailers licensed as provided in this chapter: *Provided*, That a holder of a winery or a farm winery license may sell wines and a holder of a distillery ~~or a~~, mini-distillery, or micro-distillery license may sell alcoholic liquors manufactured by it in this state in accordance with the provisions of §60-6-2 of this code. Hours of retail sale by a winery or a farm winery or distillery, ~~or a~~, mini-distillery or micro-distillery are subject to regulation by the commissioner. A winery, distillery, farm winery, or mini-distillery may sell and ship alcoholic liquors outside of the state subject to provisions of this chapter.

§60-4-3a. Distillery and mini-distillery license to manufacture and sell.

(a) *Sales of liquor.* — An operator of a distillery ~~or a~~, mini-distillery, or micro-distillery may offer liquor for retail sale to customers from the distillery ~~or the~~, mini-distillery, or micro-distillery for consumption off premises only. Except for free complimentary samples offered pursuant to §60-6-1 of this code, customers are prohibited from consuming any liquor on the premises of the distillery ~~or~~

~~the~~, mini-distillery, or micro-distillery: *Provided*, That a licensed distillery ~~or, mini-distillery, or micro-distillery~~ may offer complimentary samples per this subsection of alcoholic liquors manufactured by that licensed distillery ~~or, mini-distillery, or micro-distillery~~ for consumption on the premises only on Sundays beginning at 10:00 a.m. in any county in which the same has been approved as provided for in §7-1-3pp of this code.

(b) *Retail sales.* — Every licensed distillery ~~or, mini-distillery, or micro-distillery~~ shall comply with the provisions of sections nine, eleven, thirteen, sixteen, seventeen, eighteen, nineteen, twenty-two, twenty-three, twenty-four, twenty-five and twenty-six, article three-a of this chapter and the provisions of articles three and four of this chapter applicable to liquor retailers and distillers.

(c) *Payment of taxes and fees.* — The distillery ~~or, mini-distillery, or micro-distillery~~ shall pay all taxes and fees required of licensed retailers and meet applicable licensing provisions as required by this chapter and by rule of the commissioner, except for payments of the wholesale markup percentage and the handling fee provided by rule of the commissioner: *Provided*, That all liquor for sale to customers from the distillery ~~or the, mini-distillery, or micro-distillery~~ for off-premises consumption shall be subject of a five percent wholesale markup fee and an 80 cents per case bailment fee to be paid to the commissioner: *Provided, however*, That no liquor sold by the distillery ~~or, mini-distillery, or micro-distillery~~ shall be priced less than the price set by the commissioner pursuant §60-3A-17 of this code.

(d) *Payments to market zone retailers.* — Each distillery ~~or, mini-distillery, or micro-distillery~~ shall submit to the commissioner two percent of the gross sales price of each retail liquor sale for the value of all sales at the distillery ~~or the, mini-distillery, or micro-distillery~~ each month. This collection shall be distributed by the commissioner, at least quarterly, to each market zone retailer located in the distillery ~~or, mini-distillery's, or micro-distillery's~~ market zone, proportionate to each market zone retailer's annual gross prior years pretax value sales. The maximum amount of market zone payments that a distillery ~~or, mini-distillery, or micro-distillery~~ shall be required to submit to the commissioner is \$15,000 per annum.

(e) *Limitations on licensees.* — No distillery ~~or, mini-distillery, or micro-distillery~~ may sell more than 3,000 gallons of product at the distillery ~~or, mini-distillery, or micro-distillery~~ location the initial two years of licensure. The distillery ~~or, mini-distillery, or micro-distillery~~ may increase sales at the distillery ~~or, mini-distillery, or micro-distillery~~ location by 2,000 gallons following the initial 24 month period of licensure and may increase sales at the distillery ~~or, mini-distillery, or micro-distillery~~ location each subsequent 24 month period by 2,000 gallons, not to exceed 10,000 gallons a year of total sales at the distillery ~~or, mini-distillery, or micro-distillery~~ location. No licensed mini-distillery may produce more than 50,000 gallons per calendar year at the mini-distillery location. No licensed micro-distillery may produce more than 10,000 gallons per calendar year at the micro-distillery location. No more than one distillery or mini-distillery license may be issued to a single person or entity and no person may hold both a distillery and a mini-distillery license.

§60-4-15. Amount of license fees.

A person to whom a license is issued under the provisions of this chapter shall pay annually to the commissioner a license fee as follows, for:

- (1) Distilleries, \$1,500;
- (2) Wineries, \$1,500;
- (3) Breweries, \$1,500;

- (4) Bottling plants, \$100;
- (5) Wholesale druggists, \$50;
- (6) Institutions, \$10;
- (7) Industrial use, \$50;
- (8) Industrial plants producing alcohol, \$250;
- (9) Retail druggists, \$10;
- (10) Farm wineries, \$50;
- (11) Mini-distilleries, \$50;
- (12) Micro-distillers, \$75.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

§60-6-1. When lawful to possess, use or serve alcoholic liquors.

The provisions of this chapter may not prevent:

- (1) A person from keeping and possessing alcoholic liquors in his or her residence for the personal use of himself or herself, his or her family, his or her employee, or his or her guests if the alcoholic liquors have been lawfully acquired by him or her;
- (2) A person, his or her family, or employee from giving or serving such alcoholic liquors to guests in the residence, when the gift or service is not for the purpose of evading the provisions of this chapter;
- (3) The holder of a winery or a farm winery license from serving complimentary samples of its wine in moderate quantities for tasting on the winery or the farm winery premises; and
- (4) The holder of a distillery ~~or a~~ mini-distillery, or a micro-distillery license from serving complimentary samples of its alcoholic liquor in moderate quantities for tasting on the distillery ~~or the~~, mini-distillery, or micro-distillery premises.

§60-6-2. When lawful to manufacture and sell wine and cider.

The provisions of this chapter may not prevent:

- (1) A person from manufacturing wine at his or her residence for consumption at his or her residence as permitted by §60-6-1 of this code.
- (2) A person from manufacturing and selling unfermented cider;
- (3) A person from manufacturing and selling cider made from apples produced by him or her within this state to persons holding distillery licenses, if the manufacture and sale is under the supervision and regulation of the commissioner;

(4) A person from manufacturing and selling wine made from fruit produced by him or her within this state to persons holding winery licenses, if the manufacture and sale is under the supervision and regulation of the commissioner;

(5) The holder of a winery or a farm winery license from selling wine for off-premises consumption sold at retail at the winery or the farm winery, as provided in §60-3B-4 of this code, or for any other person who is licensed under this chapter to sell wine as a wine supplier or distributor; and

(6) The holder of a distillery ~~or a~~, mini-distillery, or micro-distillery license from selling alcoholic liquor for off-premises consumption sold at retail at the distillery ~~or the~~, mini-distillery, or micro-distillery, as provided in §60-3A-4 of this code.”

And,

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

H. B. 4697 - “A Bill to amend and reenact §60-1-5b of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §60-1-5d; to amend and reenact §60-4-3, §60-4-3a, and §60-4-15 of said code; and to amend and reenact §60-6-1 and §60-6-2 of said code, all relating to distilleries generally and micro-distilleries particularly; defining micro-distillery; establishing a production limit for a micro-distillery; establishing limits on sales of alcoholic liquors manufactured by a micro-distillery; establishing a license fee for micro-distilleries; subjecting micro-distilleries to the same requirements and restrictions applicable to distilleries and mini-distilleries; and correcting an incorrect gallonage limit for mini-distilleries.”

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. 781**), and there were—yeas 87, nays 12, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Azinger, Bartlett, Butler, Fast, D. Jeffries, Jennings, Kump, Mandt, Porterfield, Rowan, Toney and Worrell.

Absent and Not Voting: Sponaugle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 4697) passed.

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

Special Calendar

Unfinished Business

The following resolutions were reported by the Clerk:

S. C. R. 46, Requesting DEP and DHHR propose public source-water supply study plan,

H. C. R. 85, Requesting Joint Committee on Government and Finance to study ways the state can leverage technology,

H. C. R. 87, Recognizing the last day of February every year as Rare Disease Day,

H. C. R. 94, Calling for the construction of a licensed Off Highway Vehicle semi-contiguous trail to parallel the Appalachian Hiking Trail on the western side,

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

H. C. R. 112, Requesting the Joint Committee on Government and Finance to conduct a study the impact on counties that pay for the cost of transporting persons requiring mental health treatment and/or substance abuse treatment to mental health facilities or state hospitals outside of that county,

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

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

H. C. R. 115, Requesting the Joint Committee on Government and Finance to conduct a study of the feasibility of a single building to house all occupational and professional regulatory boards,

H. C. R. 116, Requesting the Joint Committee on Government and Finance to conduct a study duplicative and unnecessary professional and occupational regulations,

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

H. C. R. 118, Requesting the Joint Committee on Government and Finance to conduct a study of state logging regulations regarding trucking and related insurance requirements compared to other logging intensive states,

H. C. R. 126, Requesting the Joint Committee on Government and Finance study the Division of Personnel regarding the policies and practices,

H. C. R. 128, Requesting the Joint Committee on Government and Finance study how state agencies can better manage the amount of state taxpayer dollars spend on utilities,

H. C. R. 129, Requesting the Joint Committee on Government and Finance study the professional and occupational licensing policies,

H. C. R. 130, Requesting the Joint Committee on Government and Finance to study the adoption and enforcement of the municipal building codes and property maintenance codes,

H. C. R. 131, Requesting a study to research the obstacles preventing private school students from attending vocational school in West Virginia,

H. C. R. 132, Requesting the Joint Committee on Government and Finance to conduct a study to consider the Icelandic Model for substance use prevention,

H. C. R. 133, Requesting a study of involuntary commitment practices for persons suffering from severe psychiatric illnesses,

H. C. R. 134, Requesting a study to determine the usage and whereabouts of federal money allocated to the State of West Virginia for the purpose of prevention and treatment efforts regarding the state opioid crisis,

H. C. R. 135, Requesting a study of prescription drug transparency laws, including reports on data submitted by health insurers, manufacturers, and pharmacy benefit managers,

H. C. R. 136, Requesting a study to present a plan for the combination of the Board of Medicine and the Board of Osteopathic Medicine,

H. C. R. 137, Requesting a study of appropriate identification and medical and rehabilitative interventions for persons who sustain a traumatic brain injury,

And,

H. C. R. 138, Requesting a study of sexual violence prevention and intervention services,

The resolutions (S. C. R. 46, H. C. R. 85, H. C. R. 87, H. C. R. 94, H. C. R. 96, H. C. R. 112, H. C. R. 113, H. C. R. 114, H. C. R. 115, H. C. R. 116, H. C. R. 117, H. C. R. 118, H. C. R. 126, H. C. R. 128, H. C. R. 129, H. C. R. 130, H. C. R. 131, H. C. R. 132, H. C. R. 133, H. C. R. 134, H. C. R. 135, H. C. R. 136, H. C. R. 137 and H. C. R. 138) were then adopted.

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

Conference Committee Report

Delegate Howell, from the Committee of Conference on matters of disagreement between the two houses, as to

Com. Sub. for H. B. 4388, Relating to revocation, cancellation, or suspension of business registration certificates.*

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendment of the Senate to House Bill 4887* having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That both houses recede from their respective positions as to the amendment of the Senate, striking out everything after the enacting clause, and agree to the same as follows:

“ARTICLE 16. NONINTOXICATING BEER.

§11-16-2. Declaration of legislative findings, policy and intent; construction.

It is hereby found by the Legislature and declared to be the policy of this state that it is in the public interest to regulate and control the manufacture, sale, distribution, transportation, storage, and consumption of the beverages regulated by this article within this state and that, therefore, the provisions of this article are a necessary, proper, and valid exercise of the police powers of this state and are intended for the protection of the public safety, welfare, health, peace and morals and are

***NOTE:** The two items noted by * were incorrect in the conference committee report. The short title is “Limiting the Alcohol Beverage Control Commissioner’s authority to restrict advertising”, and the bill number is 4388.

further intended to eliminate, or to minimize to the extent practicable, the evils attendant to the unregulated, unlicensed, and unlawful manufacture, sale, distribution, transportation, storage, and consumption of such beverages and are further intended to promote temperance in the use and consumption thereof. The Legislature further finds and declares that advertising is essential to the growth of business and job promotion within the state. In order to further these ends, the provisions of this article and of the rules and regulations promulgated pursuant thereto, shall be construed so that the accomplishment of these stated purposes may be effectuated.

§11-16-18. Unlawful acts of licensees; criminal penalties.

(a) It is unlawful:

(1) For any licensee, his, her, its, or their servants, agents, or employees to sell, give, or dispense, or any individual to drink or consume, in or on any licensed premises or in any rooms directly connected, nonintoxicating beer or cooler on weekdays between the hours of 2:00 a.m. and 7:00 a.m., or between the hours of 2:00 a.m. and 10:00 a.m., or a Class A retail dealer to sell nonintoxicating beer for on-premises consumption only between the hours of 2:00 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-1-3ss of this code, on any Sunday, except in private clubs licensed under the provisions of §60-7-1 *et seq.* of this code, where the hours shall conform with the hours of sale of alcoholic liquors;

(2) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer, as defined in this article, to any person visibly or noticeably intoxicated or to any person known to be insane or known to be a habitual drunkard;

(3) For any licensee, his, her, its, or their servants, agents, or employees to sell, furnish, or give any nonintoxicating beer as defined in this article to any person who is less than 21 years of age;

(4) For any distributor to sell or offer to sell, or any retailer to purchase or receive, any nonintoxicating beer as defined in this article, except for cash and a right of action shall not exist to collect any claims for credit extended contrary to the provisions of this subdivision. Nothing herein contained in this section prohibits a licensee from crediting to a purchaser the actual price charged for packages or containers returned by the original purchaser as a credit on any sale, or from refunding to any purchaser the amount paid or deposited for the containers when title is retained by the vendor: *Provided*, That a distributor may accept an electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on the invoiced amount for the nonintoxicating beer. The cost of the electronic fund transfer shall be borne by the retailer and the distributor shall initiate the transfer no later than noon of one business day after the delivery;

~~(5) For any brewer or distributor or brew pub or his, her, its or their agents to transport or deliver nonintoxicating beer as defined in this article to any retail licensee on Sunday;~~

~~(6)~~ (5) For any brewer or distributor to give, furnish, rent, or sell any equipment, fixtures, signs, supplies, or services directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail or to offer any prize, premium, gift, or other similar inducement, except advertising matter, including indoor electronic or mechanical signs, of nominal value up to \$25.00 per stock keeping unit, to either trade or consumer buyers: *Provided*, That a distributor may offer, for sale or rent, tanks of carbonic gas: *Provided however*, That, in the interest of public health and safety, a distributor may, independently or through a subsidiary or affiliate, furnish, sell, install, or maintain draught line equipment, supplies, and cleaning services to a licensed retailer so long as the furnishing or sale of draught line services may be negotiated at no less than direct cost: *Provided further*, That a distributor may furnish, rent, or sell equipment, fixtures, signs,

services, or supplies directly or indirectly or through a subsidiary or affiliate to any licensee engaged in selling products of the brewing industry at retail under the conditions and within the limitations as prescribed herein. Nothing contained in this section prohibits a brewer from sponsoring any professional or amateur athletic event or from providing prizes or awards for participants and winners in any events. ~~: *Provided, however,* That no event shall be sponsored which permits actual participation by athletes or other persons who are minors, unless specifically authorized by the commissioner.~~

~~(5)~~ (6) For any brewer or distributor to sponsor any professional or amateur athletic event or provide prizes or awards for participants and winners when a majority of the athletes participating in the event are minors, unless specifically authorized by the commissioner;

~~(6)~~ (7) For any retail licensee to sell or dispense nonintoxicating beer through draught lines where the draught lines have not been cleaned at least every two weeks in accordance with rules promulgated by the commissioner, and where written records of all cleanings are not maintained and available for inspection;

~~(7)~~ (8) For any licensee to permit in his or her premises any lewd, immoral, or improper entertainment, conduct, or practice;

~~(8)~~ (9) For any licensee except the holder of a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code or a holder of a license or a private wine restaurant issued under the provisions of §60-8-1 *et seq.* of this code to possess a federal license, tax receipt, or other permit entitling, authorizing, or allowing the licensee to sell liquor or alcoholic drinks other than nonintoxicating beer;

~~(9)~~ (10) For any licensee to obstruct the view of the interior of his or her premises by enclosure, lattice, drapes, or any means which would prevent plain view of the patrons occupying the premises. The interior of all licensed premises shall be adequately lighted at all times: *Provided,* That provisions of this subdivision do not apply to the premises of a Class B retailer, the premises of a private club licensed under the provisions of §60-7-1 *et seq.* of this code, or the premises of a private wine restaurant licensed under the provisions of §60-8-1 *et seq.* of this code;

~~(10)~~ (11) For any licensee to manufacture, import, sell, trade, barter, possess, or acquiesce in the sale, possession, or consumption of any alcoholic liquors on the premises covered by a license or on premises directly or indirectly used in connection with it: *Provided,* That the prohibition contained in this subdivision with respect to the selling or possessing or to the acquiescence in the sale, possession, or consumption of alcoholic liquors is not applicable with respect to the holder of a license to operate a private club issued under the provisions of §60-7-1 *et seq.* of this code nor shall the prohibition be applicable to a private wine restaurant licensed under the provisions of §60-8-1 *et seq.* of this code insofar as the private wine restaurant is authorized to serve wine;

~~(11)~~ (12) For any retail licensee to sell or dispense nonintoxicating beer, as defined in this article, purchased, or acquired from any source other than a distributor, brewer, or manufacturer licensed under the laws of this state;

~~(12)~~ (13) For any licensee to permit loud, boisterous, or disorderly conduct of any kind upon his or her premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community where the business is located: *Provided,* That a licensee may have speaker systems for outside broadcasting as long as the noise levels do not create a public nuisance or violate local noise ordinances;

~~(13)~~ (14) For any person whose license has been revoked, as provided in this article, to obtain employment with any retailer within the period of one year from the date of the revocation, or for any retailer to knowingly employ that person within the specified time;

~~(14)~~ (15) For any distributor to sell, possess for sale, transport, or distribute nonintoxicating beer except in the original container;

~~(15)~~ (16) For any licensee to knowingly permit any act to be done upon the licensed premises, the commission of which constitutes a crime under the laws of this state;

~~(16)~~ (17) For any Class B retailer to permit the consumption of nonintoxicating beer upon his or her licensed premises;

~~(17)~~ (18) For any Class A licensee, his, her, its, or their servants, agents, or employees, or for any licensee by or through any servants, agents, or employees, to allow, suffer, or permit any person less than 18 years of age to loiter in or upon any licensed premises; except, however, that the provisions of this subdivision do not apply where a person under the age of 18 years is in or upon the premises in the immediate company of his or her parent or parents, or where and while a person under the age of 18 years is in or upon the premises for the purpose of and actually making a lawful purchase of any items or commodities sold, or for the purchase of and actually receiving any lawful service rendered in the licensed premises, including the consumption of any item of food, drink, or soft drink lawfully prepared and served or sold for consumption on the premises;

~~(18)~~ (19) For any distributor to sell, offer for sale, distribute, or deliver any nonintoxicating beer outside the territory assigned to any distributor by the brewer or manufacturer of nonintoxicating beer or to sell, offer for sale, distribute, or deliver nonintoxicating beer to any retailer whose principal place of business or licensed premises is within the assigned territory of another distributor of the nonintoxicating beer: *Provided*, That nothing in this section is considered to prohibit sales of convenience between distributors licensed in this state where one distributor sells, transfers, or delivers to another distributor a particular brand or brands for sale at wholesale; and

~~(19)~~ (20) For any licensee or any agent, servant, or employee of any licensee to knowingly violate any rule lawfully promulgated by the commissioner in accordance with the provisions of chapter 29A of this code.

(b) Any person who violates any provision of this article, including, but not limited to, any provision of this section, or any rule, or order lawfully promulgated by the commissioner, or who makes any false statement concerning any material fact in submitting an application for a license or for a renewal of a license or in any hearing concerning the revocation of a license, or who commits any of the acts in this section declared to be unlawful is guilty of a misdemeanor and, upon conviction thereof, shall be punished for each offense by a fine of not less than \$25, nor more than \$500, or confined in the county or regional jail for not less than 30 days nor more than six months, or by both fine and confinement. Magistrates have concurrent jurisdiction with the circuit court and any other courts having criminal jurisdiction in their county for the trial of all misdemeanors arising under this article.

(c) (1) A Class B licensee that:

(A) Has installed a transaction scan device on its licensed premises; and

(B) Can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold, furnished, or given away by the use of the transaction device may not be subject to: (i) Any criminal penalties whatsoever, including those set forth in subsection (b) of this section; (ii) any administrative penalties from the commissioner; or (iii) any civil

liability whatsoever for the improper sale, furnishing, or giving away of nonintoxicating beer to an individual who is less than 21 years of age by one of his or her employees, servants, or agents. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to the criminal penalties of subsection (b) of this section. Any agent, servant, or employee who has improperly sold, furnished, or given away nonintoxicating beer to an individual less than 21 years of age is subject to termination from employment, and the employer shall have no civil liability for the termination.

(2) For purposes of this section, a Class B licensee can demonstrate that it requires each employee, servant, or agent to verify the age of any individual to whom nonintoxicating beer is sold by providing evidence: (A) That it has developed a written policy which requires each employee, servant, or agent to verify the age of each individual to whom nonintoxicating beer will be sold, furnished, or given away; (B) that it has communicated this policy to each employee, servant, or agent; and (C) that it monitors the actions of its employees, servants, or agents regarding the sale, furnishing, or giving away of nonintoxicating beer and that it has taken corrective action for any discovered noncompliance with this policy.

(3) 'Transaction scan' means the process by which a person checks, by means of a transaction scan device, the age and identity of the cardholder, and 'transaction scan device' means any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information enclosed on the magnetic strip or bar code of a driver's license or other governmental identity card.

(d) Nothing in this article nor any rule or ~~regulation~~ of the commissioner shall prevent or be considered to prohibit any licensee from employing any person who is at least 18 years of age to serve in the licensee's lawful employ, including the sale or delivery of nonintoxicating beer as defined in this article. With the prior approval of the commissioner, a licensee whose principal business is the sale of food or consumer goods, or the providing of recreational activities, including, but not limited to, nationally franchised fast food outlets, family oriented restaurants, bowling alleys, drug stores, discount stores, grocery stores, and convenience stores, may employ persons who are less than 18 years of age but at least 16 years of age: *Provided*, That the person's duties may not include the sale or delivery of nonintoxicating beer or alcoholic liquors: *Provided, however*, That the authorization to employ persons under the age of 18 years shall be clearly indicated on the licensee's license.

§11-16-22. Powers of the commissioner; rules, or orders.

(a) In addition to all other powers conferred upon the commissioner and in order to effectively carry out the provisions, intent and purposes of this article, the commissioner shall have the power and authority to adopt, promulgate, repeal, rescind and amend, in accordance with the provisions of chapter 29A of this code, rules, standards, requirements and orders, including, but not limited to, the following:

(1) Prescribing records and accounts, pertaining to the manufacture, distribution and sales of nonintoxicating beer, to be kept by the licensee and the form thereof;

(2) Requiring the reporting of such information by licensees as may be necessary for the effective administration of this article;

(3) Regulating the branding and labeling of packages, bottles or other containers in which nonintoxicating beer may be sold; and, in his or her discretion, requiring the collection of all taxes provided for under §11-16-13 of this code;

(4) Prohibiting shipment into the state and sale within the state of low grade or under-standard nonintoxicating beer;

(5) Referring to licenses and the issuance and revocation of the same;

(6) Establishing the suitability of businesses and locations for licensure, and requiring licensees to keep their places of business where nonintoxicating beer is sold at retail, and the equipment used in connection therewith, clean and in a sanitary condition;

~~(7) The establishment of advertising guidelines, prohibitions and prior permissions generally, including, but not limited to, (i) the use of posters, placards, mirrors, windows, doors or indoor and outdoor signs generally, and print and electronic advertising of retail licensees specifically, (ii) the sponsoring of athletic events or contests by licensees and restrictions relating thereto, (iii) the use of equipment, fixtures or supplies in advertising, (iv) false advertising with respect to any product of or sold by any licensee, including, but not limited to, draft beer and coolers and (v) the extent, if any, to which free goods and other inducements may be utilized by any licensee. Restricting the content of advertising so as to prohibit false, misleading, or deceptive claims, depictions or descriptions of nonintoxicating beer being consumed irresponsibly or intemperately, or advertising presentations designed to appeal to persons below the legal drinking age: *Provided*, That the commissioner may not promulgate any rule which prohibits the advertising of a particular brand or brands of nonintoxicating beer and the price thereof, which restricts or prohibits:~~

~~(A) The advertising medium or equipment used; or~~

~~(B) Signage except for exterior signage governed by §17-22-1 et seq. of this code.~~

(8) Wholesale prices or price changes, including, but not limited to, the regulation and extent, if any, of any temporary price markoff or markdown, temporary wholesale price change downward or price discount, sometimes referred to as "post downs" or as "posting down" or any other price change, the express purpose of which is to put into effect a temporary price reduction, as well as the duration of time during which such temporary price reduction is to remain in effect;

(9) Restrictions upon West Virginia distributors or other licensees with respect to the purchase of any nonintoxicating beer or malt coolers from manufacturers or brewers whether within or without the state who have failed to qualify for manufacture or shipment of any such product in the state; and

(10) Regulating, restricting or prohibiting a distributor from selling, offering for sale, distributing or delivering nonintoxicating beer to any retailer whose principal place of business, residence or licensed premises is located without or beyond the assigned territory of such distributor of such nonintoxicating beer.

(b) Any rule or order heretofore adopted by the commissioner and currently in effect upon the convening of the regular session of the Legislature held in the year one thousand nine hundred eighty-six shall remain in effect until changed by the commissioner in the manner prescribed by article three, chapter twenty-nine-a of this code, irrespective of whether specific authority for such currently effective rule existed prior to such date

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 2. ALCOHOL BEVERAGE CONTROL COMMISSIONER.

§60-2-15. REGULATION OF ADVERTISING.

The commission shall prescribe ~~regulations~~ rules governing the advertising of alcoholic liquors in this state. The ~~regulations shall~~ rules may only prohibit advertising that encourages intemperance, induces minors to purchase, or tends to deceive or misrepresent.

ARTICLE 8. SALE OF WINES.

§60-8-23. DUTIES AND POWERS OF COMMISSIONER; RULES.

(a) The commissioner is authorized:

(1) To enforce the provisions of this article.

(2) To enter the premises of any licensee at reasonable times for the purpose of inspecting the premises and determining the compliance of the licensee with the provisions of this article and any rules promulgated by the commissioner.

(3) In addition to rules relating to the tax imposed by §60-8-4 of this code or otherwise authorized by this article, to promulgate reasonable rules as he or she deems necessary for the execution and enforcement of the provisions of this article, which may include, but shall not be limited to:

(A) The transport, use, handling, service and sale of wine;

(B) Establishing standards of identity, quality and purity to protect the public against wine containing deleterious, harmful or impure substances or elements and against spurious or imitation wines and wines unfit for human consumption; and

(C) Restricting the content of wine advertising so as to prohibit false or misleading claims, or depictions or descriptions of wine being consumed irresponsibly or immoderately, or advertising presentations designed to appeal to persons below the legal drinking age: *Provided*, That the commissioner shall not promulgate any rule which prohibits the advertising of a particular brand or brands of wine and the price thereof, or which prohibits or restricts the advertising medium used: *Provided, however*, That price shall not be advertised in a medium of electronic communication subject to the jurisdiction of the Federal Communications Commission.

(4) To issue subpoenas and subpoenas duces tecum for the purpose of conducting hearings under the provisions of §60-8-12 of this code, which subpoenas and subpoenas duces tecum shall be issued in the time, for the fees, and shall be enforced in the manner specified in §29A-5-1 of this code with like effect as if said section was set forth in extenso in this subdivision.

(b) The authority granted in this subsection and subsections (a) and (d) of this section may also be exercised by the duly authorized or designated agents of the commissioner.

(c) Except as may be in this article to the contrary, the commissioner shall not have authority by rule or otherwise to regulate markups, prices, discounts, allowances or other terms of sale at which wine may be purchased or sold by wine distributors or licensees authorized to sell wine at retail but nothing herein shall be deemed to authorize or permit any discriminatory practice prohibited by §60-8-31(a), of this code or any other discriminatory practice.

(d) All rules promulgated by the commissioner pursuant to this article shall be so promulgated in accordance with the provisions of chapter 29A of this code. The rules promulgated pursuant to the prior enactment of this article and not disapproved by the Legislature shall remain in full force and effect to the extent that such rules are not abrogated and made null and void by the reenactment of the sections of this article during the regular session of the Legislature for 1986. Any rule which is

inconsistent or contrary in any way to any provision of this article now or hereafter enacted are null and void.”

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

Com. Sub. for H. B. 4388 - “A Bill to amend and reenact §11-16-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §11-16-18 and §11-16-22 of said code; to amend and reenact §60-2-15 of said code; to amend and reenact §60-8-23 of said code, all relating to removing restrictions on advertising, adding legislative findings; permitting equipment, fixtures, signs, services, and supplies by licensees; establishing furnishing, selling, installing, or maintaining draught line equipment, supplies, and cleaning services to a licensed retailer; modifying restriction on brewers or distributors from sponsoring athletic events where majority of the athletes are minors; providing for cleaning of draught lines; providing for record keeping for draught line cleaning; modifying restrictions on equipment, fixtures, signs, and supplies; prohibiting for restricting false, misleading, or deceptive advertisement; prohibiting commissioner from restricting advertising media; and clarifying that exterior signs are governed by the Division of Highways.”

Respectfully submitted,

Gary G. Howell, *Chair*
Carl Martin,
Margaret Anne Staggers,

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

Tom Takubo, *Chair*
Patricia Puertas Rucker,
Michael J. Romano,

Conferees on the part of the Senate.

On motion of Delegate Howell, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 782**), and there were—yeas 86, nays 12, absent and not voting 2, with the nays and absent and not voting being as follows:

Nays: Azinger, Bartlett, Butler, Fast, D. Jeffries, Jennings, Mandt, Porterfield, Rowan, Sypolt, Toney and Worrell.

Absent and Not Voting: Cooper and Fleischauer.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 4388) passed.

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

Messages from the Senate

A message from the Senate, by

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

Com. Sub. for H. B. 4474, Relating to peer-to-peer car sharing programs.

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

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

The Committee on the Judiciary moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 6F. PEER-TO-PEER CAR SHARING PROGRAMS.

§17A-6F-1. Scope.

This article is intended to govern the intersection of peer-to-peer car services, the state-regulated business of insurance, state and local taxation of the business transaction, and the airport and airport authorities authority to regulate peer-to-peer car services provided to airport customers. This article does not void, abrogate, restrict, or affect any requirements of §17A-6D-1 et seq. relating to daily passenger rental car business or §17A-6A-1 et seq. of this code relating to motor vehicle dealers, distributors, wholesalers, and manufacturers.

§17A-6F-2. Definitions.

As used in this article:

“Peer-to-peer car sharing” means the authorized use of a vehicle by an individual other than the vehicle’s owner through a peer-to-peer car sharing program. “Peer-to-peer car sharing” is not a “daily passenger rental car business” as licensed by the provisions of §17A-6D-1 et seq. of this code.

“Peer-to-peer car sharing program” means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration. “Peer-to-peer car sharing program” does not mean a service provider who is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle. For purposes of this section, “hardware” does not mean a motor vehicle as defined by the provisions of §17A-1-1(b). “Peer-to-peer car sharing program” does not mean a “daily passenger rental car business” as licensed by the provisions of §17A-6D-1 et seq. of this code. “Peer-to-peer car sharing program” does not include a program provided to a business’s own employees.

“Car sharing program agreement” means the terms and conditions applicable to a shared vehicle owner and a shared vehicle driver that govern the use of a shared vehicle through a peer-to-peer car sharing program.

“Shared vehicle” means a vehicle that is available for sharing through a peer-to-peer car sharing program. “Shared vehicle” does not mean a rental car or a rental vehicle as used in a “daily passenger rental car business” licensed by the provisions of §17A-6D-1 et seq. of this code.

“Shared vehicle driver” means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement.

“Shared vehicle owner” means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

“Car sharing delivery period” means the period of time during which a shared vehicle is being delivered to the location of the car sharing start time, if applicable, as documented by the governing car sharing program agreement.

“Car sharing period” means the period of time that commences with the car sharing delivery period or, if there is no car sharing delivery period, that commences with the car sharing start time, and in either case ends at the car sharing termination time.

“Car sharing start time” means the time when the shared vehicle becomes subject to the control of the shared vehicle driver at or after the time the reservation of a shared vehicle is scheduled to begin as documented in the records of a peer-to-peer car sharing program.

“Car sharing termination time” means the earliest of the following events:

The expiration of the agreed upon period of time established for the use of a shared vehicle according to the terms of the car sharing program agreement if the shared vehicle is delivered to the location agreed upon in the car sharing program agreement;

When the shared vehicle is returned to a location as alternatively agreed upon by the shared vehicle owner and shared vehicle driver as communicated through a peer-to-peer car sharing program; or

When the shared vehicle owner or the shared vehicle owner’s authorized designee, takes possession and control of the shared vehicle.

§17A-6F-3. Insurance coverage during car sharing period.

(a) A peer-to-peer car sharing program shall assume liability, except as provided in subsection (b) of this section, of a shared vehicle owner for bodily injury or property damage to third parties and uninsured and underinsured motorist and personal injury protection losses during the car sharing period in an amount stated in the peer-to-peer car sharing program agreement which amounts may not be less than \$750,000.

(b) Notwithstanding the definition of “car sharing termination time” as defined in this article, the assumption of liability under subsection (a) of this section does not apply to any shared vehicle owner when:

(1) A shared vehicle owner makes an intentional or fraudulent material misrepresentation or omission to the peer-to-peer car sharing program before the car sharing period in which the loss occurred, or

(2) Acting in concert with a shared vehicle driver who fails to return the shared vehicle pursuant to the terms of the car sharing program agreement.

(c) Notwithstanding the definition of “car sharing termination time” as defined in this article, the assumption of liability under subsection (a) of this section would apply to bodily injury, property damage, uninsured and underinsured motorist, or personal injury protection losses by damaged third parties in the same manner required by §17D-4-2 and §33-6-31 of this code.

(d) A peer-to-peer car sharing program shall ensure that, during each car sharing period, the shared vehicle owner and the shared vehicle driver are insured under a motor vehicle liability insurance policy that provides insurance coverage which amounts may not be less than the amounts set forth in subsection (a), and:

(1) Recognizes that the shared vehicle insured under the policy is made available and used through a peer-to-peer car sharing program; or

(2) Does not exclude use of a shared vehicle by a shared vehicle driver.

(e) The insurance described under subsection (d) of this section may be satisfied by motor vehicle liability insurance maintained by:

(1) A shared vehicle owner;

(2) A shared vehicle driver;

(3) A peer-to-peer car sharing program; or

(4) A combination of a shared vehicle owner, a shared vehicle driver, and a peer-to-peer car sharing program.

(f) The insurance described in subsection (d) of this section shall be the primary insurance during each car sharing period.

(g) The peer-to-peer car sharing program shall assume primary liability for a claim when it is, in whole or in part, providing the insurance required under subsections (d) and (e) of this section and:

(1) A dispute exists as to who was in control of the shared motor vehicle at the time of the loss; and

(2) The peer-to-peer car sharing program does not have available, did not retain, or fails to provide the information required by this article.

(3) A peer-to-peer car sharing program may seek indemnity from a shared vehicle owner if the shared vehicle owner is determined to have been the operator of the shared vehicle at the time of the loss.

(h) If insurance maintained by a shared vehicle owner or shared vehicle driver in accordance with subsection (e) of this section has lapsed or does not provide the required coverage, insurance maintained by a peer-to-peer car sharing program shall provide the coverage required by subsection (d) of this section beginning with the first dollar of a claim and have the duty to defend such claim except under circumstances as set forth in this section.

(i) Coverage under an automobile insurance policy maintained by the peer-to-peer car sharing program shall not be dependent on another automobile insurer first denying a claim nor shall another automobile insurance policy be required to first deny a claim.

(j) Nothing in this article may be interpreted as either limiting or restricting:

(1) The liability of the peer-to-peer car sharing program for any act or omission of the peer-to-peer car sharing program itself that results in injury to any person as a result of the use of a shared vehicle through a peer-to-peer car sharing program; or

(2) The ability of the peer-to-peer car sharing program to, by contract, seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement.

(k) If a dispute arises as to whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has transpired, or if a car return calls into question whether the car sharing termination time has occurred, the peer-to-peer car sharing program shall extend primary coverage for the loss. If during the investigation of the claim it becomes apparent that one of the parties to the car sharing program agreement was negligent, engaged in misrepresentation, or is otherwise responsible for the loss, the car sharing program may seek recovery from one or both parties directly through subrogation.

§17A-6F-4. Notification of implications of lien.

At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program, and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall notify the shared vehicle owner that, if the shared vehicle has a lien against it, the use of the shared vehicle through a peer-to-peer car sharing program, including use without physical damage coverage, may violate the terms of the contract with the lienholder.

§17A-6F-5. Exclusions for personal vehicle liability insurance policy.

(a) A motor vehicle insurer that writes motor vehicle liability insurance in this state may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under a shared vehicle owner's motor vehicle liability insurance policy, including, but not limited to:

- (1) Liability coverage for bodily injury and property damage;
- (2) Personal injury protection coverage;
- (3) Uninsured and underinsured motorist coverage;
- (4) Medical payments coverage;
- (5) Comprehensive physical damage coverage; and
- (6) Collision physical damage coverage.

(b) Nothing in this article shall be construed as invalidating or limiting an exclusion contained in a motor vehicle liability insurance policy, including any insurance policy in use or approved for use that excludes coverage for motor vehicles made available for rent, sharing, or hire, or for any business use.

(c) Nothing in this article may be interpreted as either limiting or restricting an insurer's ability to exclude insurance coverage from any insurance policy or an insurer's ability to underwrite any insurance policy pursuant to § 33-6A-1 *et seq.* of this code.

§17A-6F-6. Recordkeeping; use of vehicle in car sharing.

(a) A peer-to-peer car sharing program shall collect and verify records pertaining to the use of a vehicle, including, but not limited to, times used, car sharing period pickup and drop-off locations,

fees paid by the shared vehicle driver, and revenues received by the shared vehicle owner and provide that information upon request to the shared vehicle owner, the shared vehicle owner's insurer, or the shared vehicle driver's insurer to facilitate a claim coverage investigation, settlement, negotiation, or litigation.

(b) The peer-to-peer car sharing program shall retain the records for a time period not less than the applicable personal injury statute of limitations.

§17A-6F-7. Exemption; vicarious liability.

A peer-to-peer car sharing program and a shared vehicle owner are exempt from vicarious liability in accordance with 49 U.S.C. § 30106 and under any state or local law that imposes liability solely based on vehicle ownership.

§17A-6F-8. Contribution against indemnification.

A motor vehicle insurer that defends or indemnifies a claim against a shared vehicle that is excluded under the terms of its policy has the right to seek contribution against the motor vehicle insurer of the peer-to-peer car sharing program if the claim is:

(1) Made against the shared vehicle owner or the shared vehicle driver for loss or injury that occurs during the car sharing period; and

(2) Excluded under the terms of its policy.

§17A-6F-9. Insurable interest.

(a) Notwithstanding any other law, statute, rule, or regulation to the contrary, a peer-to-peer car sharing program has an insurable interest in a shared vehicle during the car sharing period.

(b) Nothing in this section creates liability on a peer-to-peer car sharing program to maintain the coverage mandated by this article.

(c) A peer-to-peer car sharing program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provides coverage for:

(1) Liabilities assumed by the peer-to-peer car sharing program under a peer-to-peer car sharing program agreement;

(2) Any liability of the shared vehicle owner;

(3) Damage or loss to the shared motor vehicle; or

(4) Any liability of the shared vehicle driver.

§17A-6F-10. Consumer protections for car sharing programs.

Each car sharing program agreement made in this state shall disclose to the shared vehicle owner and the shared vehicle driver, at a minimum:

(1) Any right of the peer-to-peer car sharing program to seek indemnification from the shared vehicle owner or the shared vehicle driver for economic loss sustained by the peer-to-peer car sharing program resulting from a breach of the terms and conditions of the car sharing program agreement;

(2) That a motor vehicle liability insurance policy issued to the shared vehicle owner for the shared vehicle or to the shared vehicle driver does not provide a defense or indemnification for any claim asserted by the peer-to-peer car sharing program;

(3) That the peer-to-peer car sharing program's insurance coverage on the shared vehicle owner and the shared vehicle driver is in effect only during each car sharing period and that, for any use of the shared vehicle by the shared vehicle driver after the car sharing termination time, the shared vehicle driver and the shared vehicle owner may not have insurance coverage;

(4) The daily rate, fees, and if applicable, any insurance or protection package costs that are charged to the shared vehicle owner or the shared vehicle driver;

(5) That the shared vehicle owner's motor vehicle liability insurance may not provide coverage for a shared vehicle;

(6) An emergency telephone number to personnel capable of fielding roadside assistance and other customer service inquiries; and

(7) If there are conditions under which a shared vehicle driver must maintain a personal automobile insurance policy with certain applicable coverage limits on a primary basis in order to book a shared motor vehicle.

§17A-6F-11. Driver's license verification and data retention.

(a) A peer-to-peer car sharing program may not enter into a peer-to-peer car sharing program agreement with a driver unless the driver who will operate the shared vehicle:

(1) Holds a driver's license issued pursuant to the provisions of §17B-2-1 *et seq.* of this code, which authorizes the driver to operate a motor vehicle of the class of the shared vehicle; or

(2) Is a nonresident who:

(A) Has a driver's license issued by the state or country of the driver's residence that authorizes the driver in that state or country to drive a motor vehicle of the class of the shared vehicle; and

(B) Is at least the same age as that required of a resident of this state to operate a motor vehicle of the class of the shared vehicle; or

(3) Otherwise is specifically authorized by the applicable provisions of §17B-2-1 *et seq.* of this code to operate a motor vehicle of the class of the shared vehicle.

(b) A peer-to-peer car sharing program shall keep a record of:

(1) The name and address of the shared vehicle driver;

(2) The number of the driver's license of the shared vehicle driver and each other person, if any, who will operate the shared vehicle; and

(3) The place of issuance of the driver's license.

§17A-6F-12. Responsibility for equipment of a shared vehicle.

A peer-to-peer car sharing program has sole responsibility for any equipment, such as a GPS system or other special equipment that is put in or on the vehicle to monitor or facilitate the car sharing transaction, and shall agree to indemnify and hold harmless the vehicle owner for any damage to or theft of the equipment during the sharing period not caused by the vehicle owner. The peer-to-peer car sharing program may seek indemnity from the shared vehicle driver for any loss or damage to the equipment that occurs during the sharing period.

§17A-6F-13. Registration, notification, and automobile safety recalls.

(a) At the time when a vehicle owner registers as a shared vehicle owner on a peer-to-peer car sharing program and prior to the time when the shared vehicle owner makes a shared vehicle available for car sharing on the peer-to-peer car sharing program, the peer-to-peer car sharing program shall:

(1) Verify that the shared vehicle does not have any safety recalls on the vehicle for which the repairs have not been made;

(2) Notify the shared vehicle owner of the requirements of this section; and

(3) Notify the shared vehicle owner that the shared vehicle owner's personal insurance may exclude peer-to-peer car sharing activity.

(b)(1) If the shared vehicle owner has received an actual notice of a safety recall on the vehicle, a shared vehicle owner may not make a vehicle available as a shared vehicle on a peer-to-peer car sharing program until the safety recall repair has been made.

(2) If a shared vehicle owner receives an actual notice of a safety recall on a shared vehicle while the shared vehicle is made available on the peer-to-peer car sharing program, the shared vehicle owner shall remove the shared vehicle as available on the peer-to-peer car sharing program, as soon as practicably possible after receiving the notice of the safety recall and until the safety recall repair has been made.

(3) If a shared vehicle owner receives an actual notice of a safety recall while the shared vehicle is being used in the possession of a shared vehicle driver, as soon as practicably possible after receiving the notice of the safety recall, the shared vehicle owner shall notify the peer-to-peer car sharing program about the safety recall so that the shared vehicle owner may address the safety recall repair.

§17A-6F-14. Regulation of peer-to-peer car sharing programs at airports and airport facilities.

(a) Airports or the airport authority in this state may regulate peer-to-peer vehicle rental activity provided to airport customers as set forth in this section.

(b) A peer-to-peer car sharing program shall, upon request of an airport or airport authority in this state, enter into an agreement with the airport or airport authority, which agreement may be a concession agreement, prior to:

(1) Listing shared vehicles parked on airport property or at airport facilities;

(2) Facilitating the use of shared vehicles to transport airport customers to or from airport property or airport facilities, regardless of whether that use is to be initiated or has a car sharing start time which occurs on or off of airport property or airport facilities; or

(3) Promoting or marketing shared vehicles to transport airport customers to or from airport property or airport facilities, regardless of whether that transportation is to be initiated or has a car sharing start time which occurs on or off of airport property or airport facilities.

(c) The agreement required in subsection (a) of this section shall set forth reasonable standards, regulations, procedures, and fees applicable to a peer-to-peer car sharing program that govern the activity of peer-to-peer car sharing on airport property or airport facilities.

§17A-6F-15. Controlling authority; taxation and other requirements of a peer-to-peer car sharing program.

(a) Licensure, registration and qualification. A municipality, county or other local governmental entity, or special district may not require a peer-to-peer car sharing program to obtain a business license or any other similar authorization to operate within the jurisdiction, or subject a peer-to-peer car sharing program or a shared vehicle owner to any licensure requirement, fee, entry requirement, registration requirement, operating or operational requirement, or any other requirement.

(b) Duty to collect tax. A peer-to-peer car sharing program operating in this state pursuant to the provisions of this article shall collect and remit all state and municipal consumer sales and service and use taxes on all taxable sales of services to purchasers in this state. For the purposes of collection of tax required under §11-15A-6 and §11-15A-6b of this code, a “peer-to-peer car sharing program” is a remote seller, marketplace facilitator, or referrer that meets the requirements of §11-15A-1(b) of this code.

(c) A peer-to-peer car sharing program operating in this state pursuant to the provisions of this article is not subject to the collection and remittance requirements of the daily rental car passenger tax in §17A-6D-2 of this code.

(d) A peer-to-peer car sharing program operating in this state pursuant to the provisions of this article may collect the vehicle license cost recovery fee authorized by §17A-6D-16 of this code in the same manner as a daily passenger car rental business.

(e) Limitations and interpretation.

(1) No provision of this section or this article may be interpreted to void, abrogate, restrict, or affect imposition of the ad valorem property tax on tangible personal property of a peer-to-peer car sharing program or of a shared vehicle owner by any levying body.

(2) No provision of this section or this article may be interpreted to void, abrogate, restrict, or affect imposition of the state personal income tax or state corporation net income tax on a peer-to-peer car sharing program or a shared vehicle owner.

(3) No provision of this section or this article may be interpreted to void, abrogate, restrict, or affect imposition of the motor fuel excise tax on any taxable motor fuel or alternative fuel purchased by any peer-to-peer car sharing program, shared vehicle owner, or shared vehicle driver.

(4) No provision of this section or this article may be interpreted to void, abrogate, restrict, or affect the requirements of chapter 11 of this code for issuance of a business registration certificate for a peer-to-peer car sharing program.

(5) No provision of this section or this article may be interpreted to void, abrogate, restrict, or affect any requirement of state law with relation to licensure of drivers of motor vehicles.

(6) Shared vehicle owners may not assert the exemption from the consumer sales and service tax and use tax, for purchases of tangible personal property and services directly used in the provision of services in §11-15-9 of this code.

And,

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

Com. Sub. for H. B. 4474 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17A-6F-1, §17A-6F-2, §17A-6F-3, §17A-6F-4, §17A-6F-5, §17A-6F-6, §17A-6F-7, §17A-6F-8, §17A-6F-9, §17A-6F-10, §17A-6F-11, §17A-6F-12, §17A-6F-13, §17A-6F-14, and §17A-6F-15, all relating to peer-to-peer car sharing programs; defining the scope of this article; defining terms; imposing insurance requirements; requiring notification of implications of a lien on the shared vehicle; providing for certain exclusions from motor vehicle insurance policies; requiring peer-to-peer car sharing programs to maintain certain records; exempting the peer-to-peer car sharing program and the shared vehicle owner from vicarious liability; authorizing a motor vehicle insurer of the shared vehicle to seek contribution against the motor vehicle insurer of the peer-to-peer car sharing program in certain circumstances; requiring peer-to-peer car sharing programs to obtain an insurable interest in a shared vehicle during the car sharing period; requiring driver’s license verification and data retention; requiring the peer-to-peer car sharing program to have responsibility for the equipment put in or on the vehicle to facilitate the car sharing transaction; establishing registration, notification, and benchmarks for safety for automobiles used in peer-to-peer car sharing programs; establishing the authority to regulate peer-to-peer car sharing programs at airports; and providing for the collection of taxes.”

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. 783**), and there were—yeas 79, nays 20, absent and not voting 1, with the nays and absent and not voting being as follows:

Nays: Bartlett, Bibby, Butler, Cadle, Foster, Graves, Hamrick, Hanna, Hardy, Hill, Howell, J. Jeffries, Jennings, Kessinger, McGeehan, Pack, Paynter, Steele, Waxman and Wilson.

Absent and Not Voting: Cooper.

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. 4474) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the report of the Committee of Conference on and the passage, as amended by said report, to take effect July 1, 2020, and requested the concurrence of the House of Delegates in the passage, of

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

Conference Committee Report

Delegate Capito, from the Committee of Conference on matters of disagreement between the two houses, as to

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

Submitted the following report, which was received:

Your Committee of Conference on the disagreeing votes of the two houses as to the amendment of the House to Engrossed Committee Substitute for Senate Bill No. 529 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

That the Senate agree to the amendment of the House of Delegates as to the bill and that the Senate and House agree to an amendment as follows:

On page three, section thirteen-a lines forty-three and forty-four by striking out "Whether the damages fairly and reasonably compensate the claimant will depend upon the unique facts and circumstances of each claim;" and inserting in lieu thereof the following:

"The damages shall depend upon the unique facts and circumstances of each claim."

And,

That the Senate agree to the House amendment to the title of the bill.

Respectfully submitted,

Ryan Weld, *Chair*
Charles H. Clements,
Mike Woelfel,

Moore Capito, *Chair*
Brandon Steele,
Andrew Robinson,

*Conferees on the part of the
Senate.*

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

On motion of Delegate Capito, the report of the Committee of Conference was adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 784**), 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: Cooper.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 529) passed.

Delegate Capito moved the bill take effect July 1, 2020.

On this question, the yeas and nays were taken (**Roll No. 785**), 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: Cooper.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill takes effect July 1, 2020,

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

Unfinished Business

-continued-

S. C. R. 10, Requesting study of current WV laws relating to anti-bullying measures in schools; on unfinished business, was reported by the Clerk and adopted.

S. C. R. 25, Requesting study on impact of future electromagnetic pulse catastrophe; on unfinished business, was reported by the Clerk and adopted.

Com. Sub. for H. C. R. 12, Feasibility study of extracting rare earth elements from coal ash; on unfinished business, was reported by the Clerk and adopted.

H. C. R. 141, Urging the President and Congress of the United States of America take no action to employ military forces of the United States in active duty combat unless the United States Congress has passed an official declaration of war; on unfinished business, was reported by the Clerk and adopted.

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

H. R. 16, Urging Congress to allow vehicles traveling on interstate highways in West Virginia to have the same maximum gross vehicle weight and axle configuration as currently permissible for vehicles traveling on U.S. routes in West Virginia; on unfinished business, was reported by the Clerk.

On motion of Delegate Summers, the Speaker was authorized to appoint a committee of three to notify the Senate that the House of Delegates had completed the business of this Second Regular Session of the 84th Legislature and was ready to adjourn *sine die*.

Whereupon,

The Speaker appointed as members of said committee the following:

Delegates Nelson, P. Martin and Campbell.

On motion of Delegate Summers, the Speaker was authorized to appoint a committee of three on the part of the House of Delegates, to join with a similar committee of the Senate, to inform His Excellency, the Governor, that the Legislature was ready to adjourn *sine die*.

The Speaker appointed as members of such committee the following:

Delegates Phillips, Jennings and Byrd.

Miscellaneous Business

Delegate Boggs noted to the Clerk that he was absent when the vote was taken on Roll No. 730, and had he been present, he would have voted "Yea" thereon.

Pursuant to House Rule 132, unanimous consent was requested and obtained to print the remarks of the following Members in the Appendix to the Journal:

- Farewell speeches of Delegates Azinger, Bibby, Butler, Canestraro, Hicks, Hill, Nelson, Swartzmiller, R. Thompson, Sponaugle and Wilson
- Delegate Cooper regarding Hubert Humphrey
- Delegate Hardy regarding foster care legislation
- Delegate Cadle on yesterday regarding Com. Sub. for S. B. 275

Messages from the Senate

A message from the Senate, by

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

S. B. 42, Permitting faith-based electives in classroom drug prevention programs.

A message from the Senate, by

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

A message from the Senate, by

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

Com. Sub. for S. B. 120, Establishing priorities for expenditures for plugging abandoned gas or oil wells.

A message from the Senate, by

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

Com. Sub. for S. B. 136, Prohibiting certain misleading lawsuit advertising practices.

A message from the Senate, by

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

S. B. 180, Relating to Second Chance Driver's License Program.

A message from the Senate, by

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

Com. Sub. for S. B. 193, Setting forth timeframes for continuing purchases of commodities and services over \$1 million.

A message from the Senate, by

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

Com. Sub. for S. B. 230, Requiring State Board of Education provide routine education in suicide prevention.

A message from the Senate, by

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

Com. Sub. for S. B. 261, Creating criminal penalties for introducing ransomware into computer with intent to extort.

A message from the Senate, by

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

Com. Sub. for S. B. 269, Establishing advisory council on rare diseases.

A message from the Senate, by

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

Com. Sub. for S. B. 291, Requiring PEIA and health insurance providers provide mental health parity.

A message from the Senate, by

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

S. B. 510, Making permanent land reuse agency or municipal land bank's right of first refusal on certain tax sale properties.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect July 1, 2020, of

Com. Sub. for S. B. 522, Relating to compensation awards to crime victims.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect July 1, 2020, of

Com. Sub. for S. B. 530, Relating to taxation of aircraft.

A message from the Senate, by

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

Com. Sub. for S. B. 547, Relating to employer testing, notice, termination, and forfeiture of unemployment compensation.

A message from the Senate, by

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

Com. Sub. for S. B. 551, Relating to Water and Wastewater Investment and Infrastructure Improvement Act.

A message from the Senate, by

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

Com. Sub. for S. B. 589, Creating Critical Needs/Failing Systems Sub Account.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, to take effect July 1, 2019, of

Com. Sub. for S. B. 597, Relating to judicial branch members' salaries and pensions.

A message from the Senate, by

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

Com. Sub. for S. B. 615, Declaring certain claims against state as moral obligations of state.

A message from the Senate, by

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

S. B. 641, Allowing WVCHIP flexibility in rate setting.

A message from the Senate, by

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

S. B. 647, Permitting physician's assistants and advanced practice registered nurses issue do-not-resuscitate orders.

A message from the Senate, by

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

Com. Sub. for S. B. 690, Permitting street-legal special purpose vehicles on highways.

A message from the Senate, by

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

Com. Sub. for S. B. 692, Clarifying persons indicated or charged jointly for felony offense can move to have separate trial.

A message from the Senate, by

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

Com. Sub. for S. B. 707, Relating to nursing career pathways.

A message from the Senate, by

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

Com. Sub. for S. B. 716, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization.

A message from the Senate, by

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

Com. Sub. for S. B. 739, Authorizing PSC protect consumers of distressed and failing water and wastewater utilities.

A message from the Senate, by

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

S. B. 747, Requiring Bureau for Public Health develop Diabetes Action Plan.

A message from the Senate, by

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

S. B. 748, Increasing awareness of palliative care services.

A message from the Senate, by

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

S. B. 765, Modifying "Habitual Offender" statute.

A message from the Senate, by

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

Com. Sub. for S. B. 787, Providing benefits to pharmacists for rendered care.

A message from the Senate, by

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

Com. Sub. for S. B. 797, Authorizing governing boards of public and private hospitals employ hospital police officers.

A message from the Senate, by

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

S. B. 838, Directing state police establish referral program for substance abuse treatment. A message from the Senate, by

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

S. B. 839, Creating State Advisory Council on Postsecondary Attainment Goals.

A message from the Senate, by

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

Com. Sub. for H. B. 2892, Including digital and virtual information in the definition of property that can be searched and seized by a warrant,

H. B. 3039, Relating to a court's consideration of the expression of a preference by a child in certain child custody matters,

Com. Sub. for H. B. 4003, Relating to telehealth insurance requirements,

Com. Sub. for H. B. 4198, Permitting a person to obtain a 12-month supply of contraceptive drugs,

H. B. 4354, Adding nabiximols to the permitted list of distributed and prescribed drugs,

Com. Sub. for H. B. 4361, Relating to insurance law violations,

Com. Sub. for H. B. 4377, The Protection of Vulnerable Adults from Financial Exploitation Act,

Com. Sub. for H. B. 4452, Modifying the notice requirements for the redemption of delinquent properties,

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

Com. Sub. for H. B. 4509, Transferring the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support,

H. B. 4514, Permitting the use of leashed dogs to track mortally wounded deer or bear,

Com. Sub. for H. B. 4543, Relating to insurance coverage for diabetics,

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

Com. Sub. for H. B. 4576, Establishing a procedure for correcting errors in deeds, deeds of trust and mortgages,

And,

Com. Sub. for H. B. 4621, West Virginia FinTech Regulatory Sandbox Act.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, without amendment, of concurrent resolutions of the House of Delegates as follows:

H. C. R. 53, U. S. Army Air Corps T SGT Ralph H. Ray Memorial Bridge,

And,

H. C. R. 105, U. S. Air Force Colonel Rishel C. Walker Memorial Bridge.

A message from the Senate, by

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

H. B. 4499, Relating to multicounty trail network authorities.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, bills of the House of Delegates, as follows:

H. B. 4523, Removing the limitation of number of apprentice hunting and trapping licenses a person may purchase,

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

Com. Sub. for H. B. 4747, Extending electronic submission of various applications and forms for nonprofit and charitable organizations, professionals and licensees,

Com. Sub. for H. B. 4748, Relating to the increase of fees that private nongovernment notary publics may charge for notarial acts,

H. B. 4777, Relating to the right of disposition of remains,

Com. Sub. for H. B. 4823, Developing a plan for periodic audits of the expenditure of the fees from the emergency 911 telephone system and wireless enhanced 911,

And,

H. B. 4959, Relating to clarifying the ability of the Economic Development Authority Board of Directors to enter into any contracts necessary to carry out its duties.

A message from the Senate, by

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

H. B. 4737, Clarifying student eligibility for state-sponsored financial aid.

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had receded from its amendments, and passed, bills of the House of Delegates as follows:

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

And,

Com. Sub. for H. B. 4803, Relating to certification of electrical inspectors.

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the report of the Committee of Conference on, and the passage, as amended by said report, to take effect from passage, of

Com. Sub. for H. B. 4275, Authorizing Department of Military Affairs and Public Safety promulgate legislative rules relating to the Fire Commission.

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the report of the Committee of Conference on, and the passage, as amended by said report, of

Com. Sub. for H. B. 4558, Creating a personal income tax credit for volunteer firefighters in West Virginia.

Committee Reports

In accordance with House Rule 68, Delegate Capito, Chair of the Joint Committee on Enrolled Bills, filed the following reports with the Clerk:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and, on the dates listed, 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:

March 10, 2020

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

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

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

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

Com. Sub. for S. B. 534, Removing workers' compensation exclusion for temporary legislative employees,

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

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

Com. Sub. for S. B. 586, Reorganizing and re-designating Department of Military Affairs and Public Safety as Department of Homeland Security,

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

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

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

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

S. B. 734, Clarifying powers and duties of DOH in acquiring property for state road purposes,

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

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

And,

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

March 11, 2020

Com. Sub. for S. B. 150, Budget Bill,

S. B. 569, Expiring funds from various accounts to DHHR, Medical Services Program Fund,

Com. Sub. for S. B. 570, Expiring funds from State Excess Lottery Revenue Fund to DHHR, Medical Services Program Fund,

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

S. B. 803, Supplemental appropriation of money out of General Revenue Fund to DHHR

S. B. 804, Supplemental appropriation of moneys from Treasury to PSC, Consumer Advocate Fund,

S. B. 805, Supplemental appropriation of moneys from Treasury to WV Commuter Rail Access Fund,

S. B. 806, Supplemental appropriation out of federal funds in Treasury to DOT,

S. B. 812, Supplemental appropriation from Lottery Net Profits to Bureau of Senior Services,

S. B. 843, Supplemental appropriation of funds from Treasury to DHHR Energy Assistance Fund,

S. B. 844, Supplemental appropriation from Treasury to DHHR Birth-to-Three Fund,

Com. Sub. for S. B. 845, Supplemental appropriation from Treasury to DHHR, Division of Human Services,

S. B. 852, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Fund,

And,

S. B. 853, Supplemental appropriation of public moneys from Treasury to Department of Education, School Building Authority.

March 12, 2020

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

Com. Sub. for H. B. 4001, Creating West Virginia Impact Fund,

Com. Sub. for H. B. 4077, Increasing the amount of the bond required to be posted by proprietary schools,

Com. Sub. for H. B. 4090, Creating the Oil and Gas Abandoned Well Plugging Fund,

Com. Sub. for H. B. 4137, Allowing counties to store and maintain voter registration records in a digital format,

H. B. 4146, Relating to credit for reinsurance,

Com. Sub. for H. B. 4217, Authorizing the Department of Environmental Protection to promulgate legislative rules,

H. B. 4510, Prohibiting bodily intrusion by an inmate upon any person at any correctional facility,

Com. Sub. for H. B. 4522, Allowing division to accept documents compliant with Real ID Act for proof of identity,

H. B. 4529, Relating to the collection of assessments and the priority of liens on property within a resort area,

Com. Sub. for H. B. 4544, Relating to possession of any controlled substance on the premises of or within 200 feet of a public library,

H. B. 4559, Modifying the limitations on civil actions against the perpetrator of sexual assault or sexual abuse upon a minor,

H. B. 4760, Modifying video lottery retailer licensing eligibility requirements,

H. B. 4959, Relating to clarifying the ability of the Economic Development Authority Board of Directors to enter into any contracts necessary to carry out its duties,

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

Com. Sub. for S. B. 339, Authorizing DHHR promulgate legislative rules,

Com. Sub. for S. B. 472, Providing alternative sentencing program for work release,

Com. Sub. for S. B. 517, Creating State Parks and Recreation Endowment Fund,

Com. Sub. for S. B. 614, Changing method of allocating funding from Safe School Funds,

S. B. 846, Requiring hospital publish notification prior to facility closure regarding patient medical records,

And,

S. B. 849, Relating to military service as factor in certain insurance coverage rates.

March 13, 2022

Com. Sub. for H. B. 2646, Providing a safe harbor for employers to correct underpayment or nonpayment of wages and benefits due to separated employees,

H. B. 4022, Clarifying the qualifications of the Chancellor of the Higher Education Policy Commission,

H. B. 4113, Relating to motor fuel excise taxes,

Com. Sub. for H. B. 4165, West Virginia Remembers Program,

Com. Sub. for H. B. 4352, Removing the use of post-criminal conduct in professional and occupational initial licensure or certification in decision making,

Com. Sub. for H. B. 4360, Exempting certain persons from heating, ventilating, and cooling system licensing requirements,

H. B. 4396, Relating to reporting suspected governmental fraud,

Com. Sub. for H. B. 4434, West Virginia health care workforce sustainability study,

H. B. 4466, Certificates of Insurance Act,

Com. Sub. for H. B. 4464, Relating to driving privileges and requirements for persons under the age of 18,

H. B. 4480, Relating to legislative rules for the Higher Education Policy Commission,

Com. Sub. for H. B. 4484, Relating to the Hazardous Waste Management Fund,

H. B. 4519, Establishing a summer youth intern pilot program within Department of Commerce,

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

H. B. 4647, Relating to limited video lottery permit holders,

Com. Sub. for H. B. 4729, Requiring higher education institutions to use previous versions or editions of instructional materials,

Com. Sub. for H. B. 4773, Creating a workgroup to investigate and recommend screening protocols for adverse childhood trauma in this state,

H. B. 4790, Relating to Career Technical Education for middle school students,

And,

H. B. 4882, Authorizing limited sampling and limited sale of wine for off-premises consumption to wineries not licensed in the state,

H. B. 4955, Relating to reducing the cost of fees for state licenses to carry concealed deadly weapons and provisional state licenses to carry concealed deadly weapons,

Com. Sub. for S. B. 6, Allowing DOH issue permits for certain tractors with certain trailers not exceeding specified maximum axle weights,

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

Com. Sub. for S. B. 125, Prohibiting victim from being subjected to certain physical examinations for sexual offenses,

Com. Sub. for S. B. 163, Relating to municipal or county taxation of hotel rooms booked through marketplace facilitator,

Com. Sub. for S. B. 201, Relating generally to criminal offenses of stalking and harassment,

Com. Sub. for S. B. 208, Protecting consumers from unfair pricing practices during state of emergency,

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

Com. Sub. for S. B. 232, Removing outdated prohibitions against electronic or mechanical ticket dispensers and readers,

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

S. B. 545, Authorizing transfer of moneys from Insurance Commission Fund to Workers' Compensation Old Fund,

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

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

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

S. B. 600, Creating special revenue account designated Military Authority Fund,

Com. Sub. for S. B. 649, Permitting county emergency phone system directors negotiate contracts for mobile phones,

S. B. 651, Relating to definition of "mortgage loan originator",

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

Com. Sub. for S. B. 705, Allowing military veterans with certain experience qualify for examination as electrician or plumber,

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

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

S. B. 789, Repealing obsolete sections of WV Code relating to Legislature,

Com. Sub. for S. B. 810, Implementing federal Affordable Clean Energy rule,

And,

S. B. 816, Updating North American Industry Classification System code references.

March 17, 2020

Com. Sub. for H. B. 2419, Relating to the authorization to release a defendant or a person arrested upon his or her own recognizance,

Com. Sub. for H. B. 4099, Eliminating the permit for shampoo assistants,

H. B. 4406, Relating to the reproduction of checks and other records,

H. B. 4417, Relating to permitting professional boards,

Com. Sub. for H. B. 4546, Relating to tuberculosis testing for school superintendents,

H. B. 4715, Authorizing municipalities to take action to grant certain fire department employees limited power of arrest,

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

H. B. 4797, Authorizing municipalities to enact ordinances that allow the municipal court to place a structure, dwelling or building into receivership,

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

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

S. B. 51, Specifying forms of grandparent visitation,

Com. Sub. for S. B. 144, Creating misdemeanor penalty for making materially false statement in course of misdemeanor investigation,

Com. Sub. for S. B. 175, Requiring certain agencies maintain website which contains specific information,

Com. Sub. for S. B. 195, Updating powers of personal representatives of deceased person's estate,

S. B. 180, Relating to Second Chance Driver's License Program,

Com. Sub. for S. B. 230, Requiring State Board of Education provide routine education in suicide prevention,

S. B. 289, Creating Green Alert Plan,

S. B. 322, Relating to prequalifications for state contract vendors,

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

S. B. 491, Relating to Seed Certification Program,

Com. Sub. for S. B. 578, Recalculating tax on generating, producing, or selling electricity from solar energy facilities,

S. B. 579, Changing and adding fees to wireless enhanced 911 fee,

Com. Sub. for S. B. 615, Declaring certain claims against state as moral obligations of state,

S. B. 654, Allowing certain sheriffs transfer from PERS to Deputy Sheriff Retirement System,

Com. Sub. for S. B. 660, Regulating electric bicycles,

Com. Sub. for S. B. 662, Removing restrictions on fiduciary commissioners,

S. B. 664, Adding physician's assistant to list of medical professionals capable of determining if individual lacks capacity,

Com. Sub. for S. B. 707, Relating to nursing career pathways,

And,

S. B. 838, Directing state police establish referral program for substance abuse treatment.

March 18, 2020

S. B. 42, Permitting faith-based electives in classroom drug prevention programs,

Com. Sub. for S. B. 120, Establishing priorities for expenditures for plugging abandoned gas or oil wells,

Com. Sub. for S. B. 130, Relating to procedure for driver's license suspension and revocation for DUI,

Com. Sub. for S. B. 136, Prohibiting certain misleading lawsuit advertising practices,

Com. Sub. for S. B. 193, Setting forth timeframes for continuing purchases of commodities and services over \$1 million,

Com. Sub. for S. B. 261, Creating criminal penalties for introducing ransomware into computer with intent to extort,

Com. Sub. for S. B. 269, Establishing advisory council on rare diseases,

Com. Sub. for S. B. 288, Relating to family planning and child spacing,

Com. Sub. for S. B. 308, Creating criminal penalties for violation of orders issued for protection of victims of financial exploitation,

S. B. 312, Relating to provisional licensure of social workers,

S. B. 510, Making permanent land reuse agency or municipal land bank's right of first refusal on certain tax sale properties,

Com. Sub. for S. B. 547, Relating to employer testing, notice, termination, and forfeiture of unemployment compensation,

Com. Sub. for S. B. 551, Relating to Water and Wastewater Investment and Infrastructure Improvement Act,

S. B. 562, Expunging certain criminal convictions,

Com. Sub. for S. B. 575, Designating local fire department as safe-surrender site to accept physical custody of certain children from lawful custodian,

Com. Sub. for S. B. 589, Creating Critical Needs/Failing Systems Sub Account,

S. B. 641, Allowing WVCHIP flexibility in rate setting,

S. B. 647, Permitting physician's assistants and advanced practice registered nurses issue do-not-resuscitate orders,

Com. Sub. for S. B. 648, Providing dental coverage for adult Medicaid recipients,

Com. Sub. for S. B. 668, Enacting Uniform Trust Decanting Act,

Com. Sub. for S. B. 670, Amending service of process on nonresident persons or corporate entities,

Com. Sub. for S. B. 678, Waiving fines and fees for completing Getting Over Addicted Lifestyles Successfully Program,

Com. Sub. for S. B. 689, Enacting Requiring Accountable Pharmaceutical Transparency, Oversight, and Reporting Act,

Com. Sub. for S. B. 690, Permitting street-legal special purpose vehicles on highways,

S. B. 691, Limiting programs adopted by State Board of Education,

Com. Sub. for S. B. 692, Clarifying persons indicted or charged jointly for felony offense can move to have separate trial,

Com. Sub. for S. B. 711, Relating to juvenile jurisdiction of circuit courts,

Com. Sub. for S. B. 717, Relating generally to adult protective services,

Com. Sub. for S. B. 719, Imposing health care-related provider tax on certain health care organizations,

S. B. 723, Requiring Department of Education develop plan based on analyzed data on school discipline,

S. B. 727, Relating to disbursement of funds for highway road repair,

Com. Sub. for S. B. 729, Relating to awards and disability under Deputy Sheriff Retirement Act,

Com. Sub. for S. B. 738, Creating Flatwater Trail Commission,

S. B. 740, Clarifying authorized users of Ron Yost Personal Assistance Services Fund,

Com. Sub. for S. B. 746, Providing contracted managed care companies access to uniform maternal screening tool,

S. B. 747, Requiring Bureau for Public Health develop Diabetes Action Plan,

S. B. 748, Increasing awareness of palliative care services,

Com. Sub. for S. B. 749, Requiring Fatality and Mortality Review Team share data with CDC,

S. B. 750, Establishing extended learning opportunities,

Com. Sub. for S. B. 760, Allowing state college or university apply to HEPC for designation as administratively exempt school,

S. B. 765 - Modifying "Habitual Offender" statute,

S. B. 767, Relating to licensure of hospitals,

Com. Sub. for S. B. 770, Revising requirements for post-doctoral training,

Com. Sub. for S. B. 785, Establishing uniform electioneering prohibition area,

Com. Sub. for S. B. 793, Relating to B&O taxes imposed on certain coal-fired electric generating units,

S. B. 830, Eliminating special merit-based employment system for health care professionals,

S. B. 842, Requiring Superintendent of Schools establish a Behavior Interventionist Pilot Program in two school districts for five years,

And,

S. B. 848, Clarifying persons charged with DUI may not participate in Military Service Members Court.

March 19, 2020

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

Com. Sub. for H. B. 2961, Permitting the commissioner to require a water supply system be equipped with a backflow prevention assembly,

Com. Sub. for H. B. 2967, Permitting a county to retain the excise taxes for the privilege of transferring title of real estate,

H. B. 3039, Relating to a court's consideration of the expression of a preference by a child in certain child custody matters,

Com. Sub. for H. B. 3098, Allowing the same business owner to brew and sell beer to also distill and sell liquor,

Com. Sub. for H. B. 4004, Creating the West Virginia Sentencing Commission,

Com. Sub. for H. B. 4009, Relating to the process for involuntary hospitalization,

Com. Sub. for H. B. 4019, Downstream Natural Gas Manufacturing Investment Tax Credit Act of 2020,

Com. Sub. for H. B. 4020, Removing authority of municipalities to require occupational licensure if licensure for the occupation is required by the state,

Com. Sub. for H. B. 4061, Health Benefit Plan Network Access and Adequacy Act,

Com. Sub. for H. B. 4069, West Virginia Student Religious Liberties Act,

Com. Sub. for H. B. 4088, Disposition of funds from certain oil and natural gas wells due to unknown or unlocatable interest owners,

Com. Sub. for H. B. 4092, Relating to foster care,

Com. Sub. for H. B. 4094, Continuing the Foster Care Ombudsman,

Com. Sub. for H. B. 4102, Relating to opioid antagonists,

Com. Sub. for H. B. 4108, Relating generally to certificates of need for health care services,

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

H. B. 4161, Making it illegal to scleral tattoo a person,

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

H. B. 4178, Requiring calls which are recorded be maintained for a period of five years,

Com. Sub. for H. B. 4198, Permitting a person to obtain a 12-month supply of contraceptive drugs,

Com. Sub. for H. B. 4252, Authorizing miscellaneous agencies and boards to promulgate legislative rules,

Com. Sub. for H. B. 4275, Authorizing Department of Military Affairs and Public Safety promulgate legislative rules relating to the Fire Commission,

H. B. 4354, Adding nabiximols to the permitted list of distributed and prescribed drugs,

H. B. 4375, Speech-Language Pathologists and Audiologists Compact,

Com. Sub. for H. B. 4361, Relating to insurance law violations,

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

Com. Sub. for H. B. 4363, Establishing the West Virginia Division of Natural Resources Police Officer Retirement System,

Com. Sub. for H. B. 4377, The Protection of Vulnerable Adults from Financial Exploitation Act,

Com. Sub. for H. B. 4378, Relating to disciplining teachers,

Com. Sub. for H. B. 4388, Limiting the Alcohol Beverage Control Commissioner's authority to restrict advertising,

Com. Sub. for H. B. 4395, Removing the requirement that a veterinarian access and report to the controlled substance monitoring database,

H. B. 4409, Relating to transferring remaining funds from the Volunteer Fire Department Workers' Compensation Premium Subsidy Fund,

H. B. 4410, Permitting directors and executive officers of a banking institution to borrow from a banking institution with which he or she is connected,

Com. Sub. for H. B. 4414, Relating to the selection of language and development milestones for the deaf and hard-of-hearing children,

Com. Sub. for H. B. 4415, Relating to missing and endangered children,

Com. Sub. for H. B. 4421, Natural Gas Liquids Economic Development Act,

Com. Sub. for H. B. 4422, The Patient Brokering Act,

Com. Sub. for H. B. 4434, West Virginia health care workforce sustainability study,

Com. Sub. for H. B. 4438, Relating to the licensing of advance deposit wagering,

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

Com. Sub. for H. B. 4444, Establishing Medals of Valor and Medals for Bravery for emergency medical services, firefighters, and law-enforcement officers,

H. B. 4447, Creating the shared table initiative for senior citizens who suffer from food insecurity,

Com. Sub. for H. B. 4452, Modifying the notice requirements for the redemption of delinquent properties,

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

Com. Sub. for H. B. 4464, Relating to driving privileges and requirements for persons under the age of 18,

Com. Sub. for H. B. 4478, Creating a lifetime ban for commercial drivers involved in human trafficking,

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

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

H. B. 4499, Relating to multicounty trail network authorities,

H. B. 4502, Relating to insurance adjusters

H. B. 4504, Relating to renewal application requirements for individuals with permanent disabilities,

Com. Sub. for H. B. 4509, Transferring the Parole Board to the Division of Corrections and Rehabilitation for purposes of administrative and other support,

H. B. 4514, Permitting the use of leashed dogs to track mortally wounded deer or bear,

H. B. 4523, Removing the limitation of number of apprentice hunting and trapping licenses a person may purchase,

Com. Sub. for H. B. 4530, Authorizing daily passenger rental car companies to charge reasonable administrative fees,

Com. Sub. for H. B. 4543, Relating to insurance coverage for diabetics,

H. B. 4551, Relating to subsidized adoption,

Com. Sub. for H. B. 4557, Relating to centers and institutions that provide the care and treatment of mentally ill or intellectually disabled individuals,

Com. Sub. for H. B. 4558, Creating a personal income tax credit for volunteer firefighters in West Virginia,

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

Com. Sub. for H. B. 4576, Establishing a procedure for correcting errors in deeds, deeds of trust and mortgages,

Com. Sub. for H. B. 4581, Relating to West Virginia Clearance for Access: Registry and Employment Screening,

H. B. 4585, Providing immunity from civil or criminal liability for making good faith reports of suspected or known instances of child abuse or neglect,

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

H. B. 4589, Conducting study for an appropriate memorial for West Virginians killed in the War on Terror,

H. B. 4607, Authorizing the operation of mobile shops for hair, nail, cosmetology, and aesthetics services,

Com. Sub. for H. B. 4611, Relating to fireworks,

Com. Sub. for H. B. 4615, West Virginia Critical Infrastructure Protection Act,

H. B. 4618, Relating to deadly weapons for sale or hire,

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

Com. Sub. for H. B. 4620, Redefining definition of “recovery residence”,

Com. Sub. for H. B. 4633, Expanding county commissions’ ability to dispose of county or district property,

Com. Sub. for H. B. 4634, Southern West Virginia Lake Development Study Commission Act,

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

Com. Sub. for H. B. 4668, Creating the misdemeanor crime of trespass for entering a structure that has been condemned,

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

H. B. 4697, Removing the restriction that a mini-distillery use raw agricultural products originating on the same premises,

H. B. 4691, Relating to employment in areas of critical need in public education,

H. B. 4737, Clarifying student eligibility for state-sponsored financial aid,

Com. Sub. for H. B. 4747, Extending electronic submission of various applications and forms for nonprofit and charitable organizations, professionals and licensees,

Com. Sub. for H. B. 4748, Relating to the increase of fees that private nongovernment notary publics may charge for notarial acts,

H. B. 4749, Providing more efficient application processes for private investigators, security guards, and firms,

Com. Sub. for H. B. 4780, Permitting county boards to offer elective courses of instruction on the Bible,

Com. Sub. for H. B. 4803, Relating to certification of electrical inspectors,

Com. Sub. for H. B. 4852, Relating to the penalties for the manufacture, delivery, possession, or possession with intent to manufacture or deliver methamphetamine,

Com. Sub. for H. B. 4925, Requiring the Secondary Schools Athletic Commission to recognize preparatory athletic programs,

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

Com. Sub. for S. B. 213, Relating to administration of trusts,

S. B. 291, Requiring PEIA and health insurance providers provide mental health parity,

Com. Sub. for S. B. 303, Enacting Students' Right to Know Act,

Com. Sub. for S. B. 522, Relating to compensation awards to crime victims,

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

Com. Sub. for S. B. 530, Relating to taxation of aircraft,

S. B. 597, Relating to judicial branch members' salaries and pensions,

S. B. 610, Removing resident manager requirement for Alcohol Beverage Control Administration,

Com. Sub. for S. B. 716, Requiring DHHR pay for tubal ligation without 30-day wait between consent and sterilization,

Com. Sub. for S. B. 739, Authorizing PSC protect consumers of distressed and failing water and wastewater utilities,

Com. Sub. for S. B. 787, Providing benefits to pharmacists for rendered care,

Com. Sub. for S. B. 797, Authorizing governing boards of public and private hospitals employ hospital police officers,

Com. Sub. for S. B. 802, Relating to public utilities generally,

S. B. 839, Creating State Advisory Council on Postsecondary Attainment Goals,

And,

S. B. 851, Requiring Governor's Committee on Crime, Delinquency, and Correction propose rule in coordination with law enforcement and certain medical boards.

In accordance with House Rule 68, Delegate Byrd, member of the Joint Committee on Enrolled Bills, filed the following report with the Clerk:

Your Joint Committee on Enrolled Bills has examined, found truly enrolled and 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:

March 19, 2020

Com. Sub. for H. B. 2892, Including digital and virtual information in the definition of property that can be searched and seized by a warrant,

Com. Sub. for H. B. 4003, Relating to telehealth insurance requirements,

Com. Sub. for H. B. 4015, Relating to Broadband Enhancement and Expansion,

Com. Sub. for H. B. 4017, Establishing country roads accountability and transparency,

Com. Sub. for H. B. 4123, Clarifying that 911 telecommunication workers are included in the definition of those individuals who perform “emergency services” during a disaster,

H. B. 4524, Making the entire state “wet” or permitting the sale of alcoholic liquors for off-premises consumption,

H. B. 4655, Permitting military personnel in areas where on-the-job emergency medicine is part of the training to be granted automatic EMS or EMT certification,

Com. Sub. for H. B. 4666, Relating to competitive bids for intergovernmental relations and urban mass transportation,

H. B. 4714, Increasing the monetary threshold for requiring nonprofit organizations to register as a charitable organization,

And,

H. B. 4777, Relating to the right of disposition of remains.

Messages from the Executive

Actions of His Excellency, the Governor, on other bills following adjournment of the session as indicated in communications addressed to the Secretary of State, as follows:

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

March 25, 2020

Veto Message

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, WV 25305

Re: Enrolled Committee Substitute for Senate Bill 163

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for Senate Bill 163, which is intended to facilitate the collection of hotel occupancy taxes imposed by county commissions and municipalities.

The Enrolled Committee Substitute for Senate Bill 163 contains fatal technical flaws. For example, while the bill provides for marketplace facilitators to pay collected hotel occupancy taxes over to the State Tax Division, the bill does not specify the date by which the collected taxes must be paid over to the Tax Division nor does it provide the Tax Commissioner with the necessary tools to administer,

collect, and enforce the tax. Fundamentally, the bill fails to provide a means for the collected tax to be remitted to the appropriate county commission or municipality imposing the tax.

Additionally, while the bill provides for marketplace facilitators to collect hotel occupancy taxes, many marketplace facilitators are located outside West Virginia and do not have a physical presence in this State. In this regard, the bill does not address a significant constitutional issue by requiring an “economic nexus” with West Virginia, such as is found in W. Va. Code 11-15A6b, which was held by the United States Supreme Court to be constitutional in *South Dakota v. Wayfair, Inc.*, 585 U.S. 138 S. Ct. 2080 (2018). Until this issue is addressed, it is likely that marketplace facilitators will not collect and remit hotel occupancy taxes.

For these reasons, I must disapprove and return the Enrolled Committee Substitute for Senate Bill 163.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

March 25, 2020

Veto Message

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, WV 25305

.Re: Enrolled Committee Substitute for Senate Bill 692

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return the Enrolled Committee Substitute for Senate Bill 692.

While the intent of the bill is surely laudable, Enrolled Committee Substitute for Senate Bill 692 would place an incredible burden on the courts and resources of this state and each county by requiring separate trials as a matter of right, without requiring any showing of prejudice. The United States Constitution and the West Virginia Constitution guarantee this right to those indicted or charged jointly if issues of co-defendant statements or finger-pointing arise during a unitary trial. In other words, separate trials are guaranteed if a codefendant’s testimony or admissible statement would implicate a codefendant. See, e.g., *Bruton v. United States*, 391 U.S. 123 (1968).

Further, the bill intends to supersede rules of the Supreme Court of Appeals of West Virginia that already provide for separate trials in appropriate circumstances. Article VIII, 53 of the West Virginia Constitution reads, “The court shall have the power to promulgate rules for all . cases

and proceedings, civil and criminal, for all of the courts of the state relating to writs, warrants, process, practice and procedure, which shall have the force and effect of law." Rule 14(b) of the West Virginia Rules of Criminal Procedure presently contemplates and permits joint trials of defendants subject to constitutional and evidentiary prejudice. The rule reads, in pertinent part, "[i]f the joinder of a defendant in an indictment, an information, or a consolidation for trial appears to prejudice a defendant or the State, the Court may sever the defendants' trials, or provide whatever other relief that justice requires." Relief may be granted in felony or misdemeanor trials under the Rule.

Because of the burden this bill would place on our courts and our state's and county's limited resources, because the right to a separate trial is protected under the Constitution and the West Virginia Rules of Criminal Procedure, and because the bill unconstitutionally infringes on the responsibility of the Supreme Court of Appeals of West Virginia to promulgate rules for proceedings in this state, I must disapprove and return the Enrolled Committee Substitute for Senate Bill 692.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

March 25, 2020

Veto Message

The Honorable Mac Warner
Secretary of State
Suite 157-K
State Capitol
Charleston, WV 25305

.Re: Enrolled House Bill 4159

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled House Bill 4159, which fails to provide the State Tax Commissioner with the necessary statutory authority to administer, collect, and enforce the new tax on hard cider, or any authority to promulgate rules regarding the new tax on hard cider.. For these reasons, I must disapprove and return Enrolled House Bill 4159.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

March 25, 2020

Veto Message

The Honorable Mac Warner
Secretary of State
Building I, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 4395

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill No. 4395 for technical reasons.

Enrolled Committee Substitute for House Bill 4395 has a fatally defective title. Specifically, the bill amends W.Va. Code 60A-9-5 and 60A-9-5a, but the title states that the bill amends W.Va. Code §60A-1-101. This technical error is sufficient to require a technical veto. 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)..

For these reasons, I must disapprove and return Enrolled Committee Substitute for House Bill No. 4395.

Sincerely,

Jim Justice,
Governor.

State of West Virginia
Office of the Governor
1900 Kanawha Blvd., East
Charleston, WV 25305

March 25, 2020

Veto Message

The Honorable Mac Warner
Secretary of State
Building I, Suite 157-K
State Capitol
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for House Bill 4573

Dear Secretary Warner:

Pursuant to the provisions of Section fifty-one, Article VI of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for House Bill 4573.

The bill as presented will impose a substantial barrier and delay to claimants who have suffered harm receiving settlement monies, even for small claims, and reduces administrative clarity for insurers and third parties. Additionally, the bill shifts onto a claimant the burden to prove by a preponderance of the evidence that the allocation agreed to by the parties is proper. This burden shifting onto the claimant will impede the settlement process by requiring claimants to bring legal action in order to obtain judicial approval of settlements that are rejected by DHHR, even where such claimants are not represented by legal counsel.

Because of the burdens placed on a claimant under the bill, and because of the delay in getting settlement monies to those who have been harmed that it is likely to result from enactment, I disapprove and return Enrolled Committee Substitute for House Bill 4573.

Sincerely,

Jim Justice,
Governor.

Subsequent to the adjournment of the session, communications were received from His Excellency, the Governor, advising that on **March 7, 2020**, he approved H. B. 4149, H. B. 4359 and H. B. 4501; on **March 12, 2020**, he approved Com. Sub. for H. B. 4001, Com. Sub. for S. B. 150, S. B. 569, Com. Sub. for S. B. 570, Com. Sub. for S. B. 571, Com. Sub. for S. B. 572, S. B. 725, S. B. 778, S. B. 779, S. B. 780, S. B. 803, S. B. 804, S. B. 805, S. B. 806, S. B. 812, S. B. 843, S. B. 844, Com. Sub. for S. B. 845, S. B. 852 and S. B. 853; on **March 23, 2020**, he approved Com. Sub. for H. B. 4090 and Com. Sub. for H. B. 4438; on **March 24, 2020**, he approved Com. Sub. for H. B. 2149, Com. Sub. for H. B. 2338, Com. Sub. for H. B. 2892, Com. Sub. for H. B. 2961, Com. Sub. for H. B. 4108, Com. Sub. for H. B. 4137, Com. Sub. for H. B. 4275, H. B. 4354, Com. Sub. for H. B. 4494, H. B. 4519, H. B. 4529, Com. Sub. for H. B. 4546, H. B. 4589, Com. Sub. for H. B. 4621, H. B. 4655, H. B. 4714, H. B. 4737, H. B. 4777, H. B. 4790, H. B. 4955, Com. Sub. for S. B. 6, S. B. 51, Com. Sub. for S. B. 125, Com. Sub. for S. B. 144, Com. Sub. for S. B. 175, S. B. 180, Com. Sub. for S. B. 195, Com. Sub. for S. B. 201, S. B. 202, Com. Sub. for S. B. 225, Com. Sub. for S. B. 230, Com. Sub. for S. B. 232, Com. Sub. for S. B. 241, Com. Sub. for S. B. 261, S. B. 281, S. B. 289, Com. Sub. for S. B. 303, S. B. 307, Com. Sub. for S. B. 312, S. B. 322, Com. Sub. for S. B. 339, Com. Sub. for S. B. 472, Com. Sub. for S. B. 517, Com. Sub. for S. B. 522, S. B. 523, Com. Sub. for S. B. 529, Com. Sub. for S. B. 534, S. B. 545, S. B. 552, S. B. 600, Com. Sub. for S. B. 670, Com. Sub. for S. B. 678, Com. Sub. for S. B. 705, Com. Sub. for S. B. 716, Com. Sub. for S. B. 717; and on **March 25, 2020**, he approved Com. Sub. for H. B. 2086, Com. Sub. for H. B. 2419, Com. Sub. for H. B. 2478, Com. Sub. for H. B. 2646, Com. Sub. for H. B. 2967, H. B. 3039, Com. Sub. for H. B. 3098, Com. Sub. for H. B. 3127, Com. Sub. for H. B. 4003, Com. Sub. for H. B. 4004, Com. Sub. for H. B. 4009, Com. Sub. for H. B. 4015, Com. Sub. for H. B. 4017, Com. Sub. for H. B. 4019, Com. Sub. for H. B. 4020, H. B. 4022, Com. Sub. for H. B. 4061, Com. Sub. for H. B. 4069, Com. Sub. for H. B. 4077, Com. Sub. for H. B. 4088, Com. Sub. for H. B. 4092, Com. Sub. for H. B. 4094, Com. Sub. for H. B. 4099, Com. Sub. for H. B. 4102, H. B. 4113, Com. Sub. for H. B. 4123, H. B. 4146, H. B. 4161, Com. Sub. for H. B. 4165, Com. Sub. for H. B. 4176, H. B. 4178, Com. Sub. for H. B. 4198, Com. Sub. for H. B. 4217, Com. Sub. for H. B. 4252, Com. Sub. for H. B. 4352, Com. Sub. for H. B. 4360, Com. Sub. for H. B. 4361, Com. Sub. for H. B. 4362, Com. Sub. for H. B. 4363, H. B. 4365, H. B. 4375, Com. Sub. for H. B. 4377, Com. Sub. for H. B. 4378, Com. Sub. for H. B. 4388, H. B. 4396, H. B. 4406, H. B. 4409, H. B. 4410, H. B. 4411, H. B. 4412, Com. Sub. for H. B. 4414, Com. Sub. for H. B. 4415, H. B. 4417, Com. Sub. for H. B. 4421, Com. Sub. for H. B. 4422, Com. Sub. for H. B. 4434, H. B. 4437, Com. Sub. for H. B. 4439, Com. Sub. for H. B. 4444, H. B. 4447, H. B. 4450, Com. Sub. for H. B. 4452, Com. Sub. for H. B. 4461, Com. Sub. for H. B. 4464, H. B. 4466, Com. Sub. for H. B. 4474, H. B. 4477, Com. Sub. for H. B. 4478, H. B. 4480, Com. Sub. for H. B. 4484, Com. Sub. for H. B. 4497, H. B. 4499, H. B. 4502, H. B. 4504, Com. Sub. for H. B.

4509, H. B. 4510, Com. Sub. for H. B. 4513, H. B. 4514. Com. Sub. for H. B. 4522, H. B. 4523, H. B. 4524, Com. Sub. for H. B. 4530, Com. Sub. for H. B. 4543, Com. Sub. for H. B. 4544, H. B. 4551, Com. Sub. for H. B. 4557, Com. Sub. for H. B. 4558, H. B. 4559, Com. Sub. for H. B. 4560, Com. Sub. for H. B. 4576, Com. Sub. for H. B. 4581, H. B. 4582, H. B. 4585, Com. Sub. for H. B. 4587, Com. Sub. for H. B. 4593, H. B. 4600, H. B. 4607, Com. Sub. for H. B. 4611, Com. Sub. for H. B. 4615, H. B. 4618, Com. Sub. for H. B. 4619, Com. Sub. for H. B. 4620, Com. Sub. for H. B. 4633, Com. Sub. for H. B. 4634, H. B. 4647, H. B. 4661, H. B. 4665, Com. Sub. for H. B. 4666, Com. Sub. for H. B. 4668, H. B. 4691, Com. Sub. for H. B. 4693, H. B. 4697, H. B. 4715, Com. Sub. for H. B. 4717, Com. Sub. for H. B. 4729, Com. Sub. for H. B. 4747, Com. Sub. for H. B. 4748, H. B. 4749, H. B. 4760, Com. Sub. for H. B. 4773, Com. Sub. for H. B. 4780, H. B. 4797, Com. Sub. for H. B. 4803, H. B. 4804, Com. Sub. for H. B. 4823, Com. Sub. for H. B. 4852, H. B. 4859, H. B. 4882, Com. Sub. for H. B. 4925, H. B. 4929, Com. Sub. for H. B. 4946, H. B. 4958, H. B. 4959, H. B. 4969, S. B. 42, Com. Sub. for S. B. 96, Com. Sub. for S. B. 120, Com. Sub. for S. B. 130, Com. Sub. for S. B. 136, Com. Sub. for S. B. 193, Com. Sub. for S. B. 208, Com. Sub. for S. B. 213, Com. Sub. for S. B. 240, Com. Sub. for S. B. 269, Com. Sub. for S. B. 288, Com. Sub. for S. B. 291, Com. Sub. for S. B. 308, Com. Sub. for S. B. 490, Com. Sub. for S. B. 491, S. B. 510, Com. Sub. for S. B. 530, Com. Sub. for S. B. 547, Com. Sub. for S. B. 551, Com. Sub. for S. B. 554, S. B. 562, Com. Sub. for S. B. 575, Com. Sub. for S. B. 576, Com. Sub. for S. B. 578, Com. Sub. for S. B. 579, Com. Sub. for S. B. 583, Com. Sub. for S. B. 586, Com. Sub. for S. B. 597, S. B. 610, Com. Sub. for S. B. 614, Com. Sub. for S. B. 615, S. B. 641, S. B. 647, Com. Sub. for S. B. 648, Com. Sub. for S. B. 649, S. B. 651, S. B. 652, S. B. 654, Com. Sub. for S. B. 660, Com. Sub. for S. B. 662, S. B. 664, Com. Sub. for S. B. 668, Com. Sub. for S. B. 686, Com. Sub. for S. B. 689, Com. Sub. for S. B. 690, S. B. 691, S. B. 703, Com. Sub. for S. B. 706, Com. Sub. for S. B. 707, Com. Sub. for S. B. 711, S. B. 712, Com. Sub. for S. B. 719, S. B. 723, S. B. 727, Com. Sub. for S. B. 729, S. B. 734, Com. Sub. for S. B. 738, Com. Sub. for S. B. 739, S. B. 740, Com. Sub. for S. B. 746, S. B. 747, S. B. 748, Com. Sub. for S. B. 749, S. B. 750, Com. Sub. for S. B. 760, S. B. 765, S. B. 767, Com. Sub. for S. B. 770, S. B. 781, Com. Sub. for S. B. 785, Com. Sub. for S. B. 787, S. B. 789, Com. Sub. for S. B. 793, Com. Sub. for S. B. 797, Com. Sub. for S. B. 802, S. B. 816, S. B. 830, S. B. 838, S. B. 839, S. B. 842, S. B. 846, S. B. 848, S. B. 849 and S. B. 851.

The hour of midnight having arrived, on motion of Delegate Summers, the House of Delegates adjourned *sine die*.

We hereby certify that the forgoing record of the proceedings of the House of Delegates, First Regular Session, 2020, is the Official Journal of the House of Delegates for said session.

Roger Hanshaw
Speaker of the House of Delegates

Stephen J. Harrison
Clerk of the House of Delegates

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470