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February 28, 2023
FORTY-NINTH DAY

Tuesday, February 28, 2023

FORTY-NINTH DAY

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

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

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

The Clerk proceeded to read the Journal of Monday, February 27, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Householder announced that Com. Sub. for H. B. 3480, on Second Reading, Special Calendar, had been transferred to the House Calendar; Com. Sub. for H. B. 3482, on Second Reading, House Calendar had been transferred to the Special Calendar; and, H. B. 3511, H. B. 3512, H. B. 3513, H. B. 3514, H. B. 3515, H. B. 3516, H. B. 3517, H. B. 3518, and H. B. 3524, on First Reading, House Calendar, had been transferred to the Special Calendar.

Committee Reports

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

Your Committee on the Judiciary has had under consideration:

Com. Sub. for S. B. 490, Patrol Officer Cassie Marie Johnson Memorial Act,

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

Delegate Phillips, Chair of the Committee on Government Organization, submitted the following report, which was received:

Your Committee on Government Organization has had under consideration:

Com. Sub. for S. B. 430, Relating to State Treasurer's authority to contract with financial institutions for banking goods and services,

And reports the same back with the recommendation that it do pass, but that it first be referred to the Committee on the Judiciary.

In the absence of objection, reference of the bill (Com. Sub. for S. B. 430) to the Committee on the Judiciary was abrogated.

Messages from the Executive and Other Communications

A communication from the Clerk of the Senate to His Excellency, the Governor, advised that S. B. 128 was presented to the Governor on February 27, 2023.

The Clerk announced that Com. Sub. for H. B. 2596, Com. Sub. for H. B. 3055, Com. Sub. for H. B. 2006 and Com. Sub. for H. B. 3122 were presented to the Governor on February 27, 2023.

Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, a bill of the House of Delegates, as follows:

Com. Sub. for H. B. 2062, Establish rules and regulations for e-bikes in West Virginia that more closely comport to federal law.

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. 3340, To revise the West Virginia Tax Increment Financing Act.

A message from the Senate, by

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

Com. Sub. for S. B. 267 - "A Bill to amend and reenact §5-16-7f of the Code of West Virginia, as amended; to amend said code by adding thereto a new section, designated §9-5-31; to amend and reenact §33-15-4s of said code; to amend and reenact §33-16-3dd of said code; to amend and reenact §33-24-7s of said code; to amend and reenact §33-25-8p of said code; and to amend and reenact §33-25A-8s, all relating to prior authorizations; defining terms; requiring prior authorizations and relating communications to be submitted via an electronic portal; requiring electronic notification to the health care provider confirming receipt of the prior authorization; establishing timelines for compliance; providing communication via the portal regarding the current status of the prior authorization; reducing time frames for prior authorization requests; providing a time frame for a decision to be rendered after the receipt of additional information; providing a time frame for a claim to be submitted to audit or if the step therapy is incomplete; establishing time frame for peer-to-peer appeal; reducing timeline for prior authorization appeal process; revising the percentage approval for a health care provider to be considered for an exemption from prior authorization criteria; revising time frame for prior authorization exemption process; removing limitation on prior authorization exemption that applied exemption to procedures used to justify granting of exemption; expanding auditing of prior authorization exemption process; requiring plan to give health care practitioner rationale for revocation of exemption; providing for limitations to exemption; removing criteria related to electronic submission of pharmacy benefits; amending effective date; requiring oversight and data collection by the Office of the Insurance Commissioner and the Inspector General; and providing for civil penalties"; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

S. B. 438 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §11-13MM-1, §11-13MM-2, §11-13MM-3, §11-13MM-4, §11-13MM-5, and §11-13MM-6, all relating to creating the Return to West Virginia Tax Credit Act; providing for a title, findings, and purpose; providing for a non-refundable credit against state personal income taxes; providing a definition; providing for limitations and eligibility requirements of the credit; authorizing legislative rule; authorizing the Tax Commissioner to create forms and require documentation; providing for effective and expiration dates of the credit; and requiring reporting”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 522 - “A Bill to amend and reenact §11-22-2 of the Code of West Virginia, 1931, as amended, relating to allocating a percentage of county excise taxes received from transfers of title to real estate in each county for funding improvements to election administration, infrastructure, and physical and cyber security; accelerating rate at which counties retain excise taxes from transfers of title to real estate in county; allocating a percentage of county excise taxes received from transfers of title to real estate in each county for funding other county purposes including, but not limited to, compliance with the Uniform Real Property Electronic Recording Act; authorizing the Secretary of State to promulgate legislative rules establishing minimum adequate funding thresholds and standards based on county classification for improving election administration, infrastructure, and security; and authorizing county clerks to reallocate the excess portion of funding for improving election administration, infrastructure, and security to other approved county purposes upon determination by the Secretary of State that the minimum funding thresholds and standards have been met”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 534 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-12-26; to amend and reenact §11-16-3, §11-16-6a, §11-16-6d, §11-16-6f, §11-16-8, §11-16-9 of said code; to amend and reenact §60-3A-3a, and §60-3A-8 of said code; to amend and reenact §60-4-3a and §60-4-3b of said code; to amend and reenact §60-7-2, §60-7-2a, §60-7-6, and §60-7-8a of said code; to amend said code by adding thereto a new section designated §60-7-8g; to amend said code by adding thereto a new section, designated §60-8-6g; to amend and reenact §60-8A-5 of said code; and to amend and reenact §61-8-27 of said code; all relating to nonintoxicating beer, nonintoxicating craft beer, hard cider, wine, and liquor license requirements; defining terms; authorizing municipalities to create private outdoor designated areas; creating special permit for Class A licensees who apply to be qualified permit holders to operate in private outdoor designated areas, setting forth requirements, and setting fees; promoting tourism in the state by permitting authorized brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries a limited off-site retail privilege for off-premises consumption sales for nonintoxicating beer manufactured by them and permitting limited complimentary samples at private fair and festivals; providing requirements for the conduct of the sales at private fairs and festivals; requiring payment of taxes, fees and

markups, and no license fee; clarifying the nonintoxicating beer growler requirements for contents and sealing; allowing brewer and resident brewer to have additional places of manufacture under one license and based on manufacturing volume capacity; removing limit on nonintoxicating beer or nonintoxicating craft beer which may be included with an order, sale or delivery of multiple meals; allowing commissioner to refuse a license if applicant or manager is not a suitable applicant; increasing number and size of liquor samples that are permitted; requiring manager to be suitable applicant and of good moral character; reducing and modifying food inventory required for private cigar shop, private club bars, and private food truck; allowing a private manufacturer club to have operating food truck or other portable kitchen in lieu of on-premises food preparation facilities; removing acreage requirement for private wedding venue or barn license; clarifying nonintoxicating beer license requirements for persons, trusts and fairs and festivals; clarifying retail liquor outlet license requirements for applicants; clarifying that the statute applying to distilleries and mini-distilleries also applies to micro-distilleries; permitting dually licensed events, and a license fee; creating a private coliseum or center license and specifying license requirements; authorizing private coliseum or center license to conduct a temporary event in conjunction with a private fair and festival licensee and setting forth requirements; setting fees; increasing fee for private fair and festival special license and fee; creating a private food court license and specifying license requirements; lawful admission to dance hall; clarifying dual licensing requirements and authorization for private fair and festivals, requirements, and no license fee; permitting private fairs and festivals to conduct on-premises consumption sales with certain requirements; permitting private fairs and festivals to allow authorized brewers, resident brewers, wineries, farm wineries, distilleries, mini-distilleries, and micro-distilleries to conduct limited off-premises consumption retail sales with certain requirements from the private fair and festival's licensed premises; permitting a private wine restaurant to operate a separately licensed but connected wine specialty shop; and exempting permit holder operating a private outdoor designated area, private coliseum or center licensee, or private food court from prohibition on admitting persons under the age of 18"; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

Com. Sub. for S. B. 561 - "A Bill to repeal §16-13C-1, §16-13C-2, §16-13C-3, §16-13C-4, §16-13C-5, and §16-13C-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §22-36-1, §22-36-2, §22-36-3, §22-36-4, §22-36-5, §22-36-6, §22-36-7, and §22-36-8, all relating to the administration of the West Virginia Drinking Water Treatment Revolving Fund; transferring administration of Drinking Water Treatment Revolving Fund from Department of Health and Human Resources to Department of Environmental Protection; adding provisions to Drinking Water Treatment Revolving Fund article relating to state construction grants program and review of projects funded by Drinking Water Treatment Revolving Fund; directing Department of Environmental Protection to propose legislative rules for state construction grants program; and directing Department of Environmental Protection to propose legislative rules for environmental review of each project funded by the Drinking Water Treatment Revolving Fund"; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 576 - “A Bill to amend and reenact §32-4-407a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §32-7-701, §32-7-702, §32-7-703, §32-7-704, §32-7-705, §32-7-706, §32-7-707, §32-7-708, §32-7-709, §32-7-710, §32-7-711, and §32-7-712, all relating generally to authorizing victim restitution and creating a restitution assistance fund for victims of securities violations; providing a short title; providing definitions; creating the Securities Restitution Assistance Fund; authorizing the awarding of restitution in an administrative assessment; providing for the manner and procedures for applications for restitution assistance; providing the manner and procedures for the payment of restitution assistance awards; detailing the situations in which restitution is prohibited; providing for subrogation; providing for a lien on recovery and refunds of excessive restitution amounts; providing for the suspension of claims; exempting the restitution awards from attachment or intercept; authorizing the Auditor to promulgate rules regarding the restitution program; and providing an effective date”; which was referred to the Committee on Finance.

A message from the Senate, by

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

Com. Sub. for S. B. 590 - “A Bill to amend and reenact §16-5V-2, §16-5V-6, and §16-5V-14a of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a two new sections, designated §16-5V-6c and §16-5V-6d, all relating to the Emergency Medical Services Retirement System; defining terms; updating terms to comply with federal laws; authorizing certain 911 personnel to be members of the Emergency Medical Services Retirement System under certain circumstances; requiring costs of the vote to participate be borne by participating employers in relative proportion to members employed; providing for transfer of assets pertaining to 911 personnel; requiring certain computations to be made by the Consolidated Public Retirement Board; requiring administrative costs of the Consolidated Public Retirement Board for transfer of assets pertaining to 911 personnel be borne by participating employers in relative proportion to members employed; terminating liability of the Public Employees Retirement System; and providing for purchase of service time through payment”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

Com. Sub. for S. B. 613 - “A Bill to amend and reenact §16-2D-2, §16-2D-8, §16-2D-10, and §16-2D-11 of the Code of West Virginia, as amended, all relating to certificate of need; defining terms; removing birthing centers from the list of reviewable services; providing physician office practice meeting specified criteria may acquire an utilize one magnetic resonance imaging scanner; providing for data verification; providing that hospitals performing hospital services are exempt from certificate of need requirements; providing that birthing centers are exempt from certificate of need review; and removing an exemption for hospital based birthing centers”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 628 - “A Bill to amend and reenact §18-5-48 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5,

§18-5G-7, §18-5G-12, and §18-5G-15 of said code; and to amend and reenact §18-9A-15 of said code, all relating to revising provisions related to public charter schools; providing public charter school access to funding from School Safety Fund; modifying priorities for funds use; requiring rule on process for needs-based funding requests; expressing legislative intent on comparable levels of funding for public charter school students; authorizing state institution of higher education as applicant; prohibiting imposition of requirements on public charter schools choosing to incorporate post-secondary, industry and workforce programs that are not required of noncharter public schools; authorizing public charter schools to include before and after school programs in their education program; excluding public charter school programs from regulation as child care facility; authorizing public charter school students to participate on the same basis as other public school students in extracurricular athletic and academic interscholastic activities sponsored by noncharter public school serving attendance area if not sponsored by charter school; clarifying public charter schools are exempt from state board policies unless otherwise specifically provided; requiring professional charter school board to consult with nationally recognized organizations along with the state board; requiring state board to establish framework and procedures for interaction between public charter schools and county boards to facilitate cooperation and ensure prompt transfer of records; providing for invoicing of certain funding when student transfers from and to certain entities after the beginning of the school year; prohibiting sale or other transfer of public facility after public charter school requests usage; authorizing professional charter school board to receive and expend gifts, grants, and donations to carry out purposes of act, to apply for federal funds to implement programs, and to make start-up grants to public charter schools; and requiring for state board rule on method for providing increased enrollment funding for public charter schools”; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 667 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25e, relating to requiring the Legislative Auditor to conduct periodic performance audits of the West Virginia Secondary Schools Activities Commission”; which was referred to the Committee on Education.

A message from the Senate, by

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

Com. Sub. for S. B. 677 - “A Bill to amend and reenact §15-5-2 of the Code of West Virginia, 1931, as amended; to repeal §15-5-4b, §15-5-4c, §15-5-24, §15-5-25, and §15-5-26, and of said code; to amend and reenact §29-31-1 and §29-31-2 of said code; to amend said code by adding thereto new sections, designated §29-31-2a; to amend and reenact §29-31-3 of said code; and to amend said code by adding thereto new sections, designated §29-31-6, §29-31-7, §29-31-8, §29-31-9, §29-31-10, §29-31-11, §29-31-12, §29-31-13, §29-31-14, and §29-31-15, all relating to the West Virginia Disaster Recovery Trust Fund and clarification of roles and responsibilities of the State Resiliency Officer; requiring the State Resiliency Officer to submit a new Flood Resiliency Plan by a date certain and then biannually thereafter; directing the State Resiliency Officer to hire additional staff; removing the West Virginia Disaster Recovery Trust Fund from the jurisdiction of the Division of Homeland Security and Emergency Management; providing initial capital for the State Resiliency Office; allowing for disbursement of post-disaster recovery assistance; requiring that 50 percent of disbursements be expended to benefit low-income communities; requiring resilience and mitigation certifications prior to disbursement to political

subdivisions; requiring the State Resiliency Officer to develop an annual expenditure report; establishing the West Virginia Resiliency Trust Fund within the State Resiliency and Flood Protection Act; requiring 50 percent of disbursements be expended to implement nature-based solutions; allowing for grants to political subdivisions for both Flood Resiliency Plan implementation and local flood prevention and protection studies; and requiring 25 percent of Community Development Block Grant Disaster Recovery Funds received by the state as a result of a flood disaster to be deposited in the Flood Resiliency Trust Fund”; which was referred to the Committee on Finance.

A message from the Senate, by

The Clerk of the Senate, announced the passage by the Senate, to take effect from passage, and requested the concurrence of the House of Delegates in the passage, of

S. B. 679 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §27-9-2, relating to forensic group homes; requiring the Office of Inspector General to propose rules regulating a forensic group homes location; and providing for variance for existing providers”; which was referred to the Committee on Health and Human Resources.

A message from the Senate, by

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

Com. Sub. for S. B. 688 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-50, relating to allowing county boards of education to contract with retired teachers to provide tutoring services in reading and math to support the need of one-on-one intervention for students; stating purpose; defining terms; providing tutor eligibility requirements; providing exclusions from eligibility; limiting civil and criminal liability of county school board; and providing miscellaneous provisions regarding program”; which was referred to the Committee on Education.

A message from the Senate, by

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

S. B. 733 - “A Bill to amend and reenact §20-2-42l of the Code of West Virginia, 1931, as amended; and to amend and reenact §20-2B-7 and §20-2B-8 of said code, all relating to wildlife licenses and stamps; clarifying right to carry firearm for self-defense without Class A-1 small arms hunting stamp; creating nonresident lifetime hunting, fishing, and trapping licenses; and establishing privileges of nonresident lifetime licenses”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

S. B. 735 - “A Bill to amend and reenact §5B-1A-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §5B-2-15 of said code, to amend and reenact §5B-2A-3 and §5-2A-4 of said code; to amend and reenact §5B-8-1 of said code; to amend and reenact §11-13X-9 of said code; and to amend and reenact §31G-1-5 and §31G-1-14 of said code, all relating

to clarifying the department responsible for the administration of certain programs”; which was referred to the Committee on Government Organization.

A message from the Senate, by

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

S. B. 737 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-4C-25, relating to emergency medical services funding; creating a special revenue account; providing for administration of the fund by the Office of Emergency Medical Services; providing for rulemaking; and requiring an annual report”; which was referred to the Committee on Finance.

Resolutions Introduced

A Resolution was introduced and referred as follows:

By Delegate Jeffries:

H. C. R. 61 – “Requesting the Division of Highways name a portion of Poca Fork Road at the mouth of Patterson Drive in Elkview, Kanawha County, West Virginia as the ‘US Army Sgt. John Edsel Edens Memorial Road’”; to the Committee on Rules.

Motions

At the request of Delegate Ridenour, and in the absence of objection, the comments of the Delegate on yesterday regarding H. C. R. 44 will be included in the bound Journal (Appendix).

Special Calendar

Unfinished Business

H. R. 17, Urging the West Virginia Geologic and Economic Survey to work with groups to evaluate policy options to encourage the capture and beneficial use of coal mine methane; coming up in regular order, as unfinished business, was reported by the Clerk, and adopted.

Com. Sub. for H. C. R. 31, Permitting the West Virginia Department of Tourism to proceed with procuring bids/interest in companies to place a lodge on the property of Beech Fork Lake; coming up in regular order, as unfinished business, was reported by the Clerk, and adopted.

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

Third Reading

Com. Sub. for H. B. 2814, To create a Hydrogen power task force; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 323**), and there were—yeas 87, nays 12, absent and not voting 1, with the yeas and the absent and not voting being as follows:

Nays: Burkhammer, Chiarelli, Coop-Gonzalez, Dean, Dillon, Foster, A. Hall, Longanacre, Reynolds, Ridenour, Storch and Vance.

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 H. B. 2814) passed.

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

H. B. 2875, Clarifying that Circuit Court Judges have the ability/authority to waive the requirement that a party pass a home study performed by the DHHR; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 324**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2875) passed.

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

H. B. 2906, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 325**), and there were—yeas 100, nays none, absent and not voting none.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2906) passed.

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

On this question, the yeas and nays were taken (**Roll No. 326**), and there were—yeas 100, nays none, absent and not voting none.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 2906) takes effect from its passage.

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

Com. Sub. for H. B. 2910, Making a supplementary appropriation to the Department of Administration, Public Defender Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 327**), and there were—yeas 99, nays 1, absent and not voting none, with the nays being as follows:

Nays: Longanacre.

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. 2910) passed.

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

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

Nays: Longanacre.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2910) takes effect from its passage.

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

H. B. 2915, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 329**), and there were—yeas 100, nays none, absent and not voting none.

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

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

On this question, the yeas and nays were taken (**Roll No. 330**), and there were—yeas 100, nays none, absent and not voting none.

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

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

Com. Sub. for H. B. 2953, Creating the Commission on Cost-of-Living Adjustments; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 331**), and there were—yeas 42, nays 56, absent and not voting 2, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Capito, Clark, Criss, Ellington, Espinosa, Ferrell, Forsht, Garcia, Hansen, Hardy, Heckert, Hite, Hornbuckle, Hornby, Horst, Hott, Householder, Howell, Jennings, Kelly, Kump, Lucas, Maynor, Miller, Petitto, Pushkin, Ridenour, Riley, Rowe, Skaff, Statler, Storch, Summers, Thorne, Walker, Westfall, Williams, Willis, Worrell, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Fluharty and Young.

So, a majority of the members present not having voted in the affirmative, the bill (Com. Sub. for H. B. 2953) was rejected.

Com. Sub. for H. B. 2989, Relating to increasing the number of out-of-state medical students receiving in-state tuition rates who agree to practice for a specific time within West Virginia; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 332**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez.

Absent and Not Voting: Honaker, Ridenour, Steele, Westfall, Willis and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2989) passed.

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

Com. Sub. for H. B. 3035, Relating generally to high-quality education programs and school operations; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 333**), and there were—yeas 71, nays 20, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Dean, Dillon, Fluharty, Griffith, A. Hall, Hansen, Hornbuckle, Kirby, Longanacre, Nestor, E. Pritt, Pushkin, Ridenour, Rowe, Skaff, Steele, Vance, Walker, Williams and Young.

Absent and Not Voting: Bridges, Foster, Garcia, Heckert, Kelly, Martin, Pinson, Shamblin and Zatezalo.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3035) passed.

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

Com. Sub. for H. B. 3035 – “A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-2E-13; to amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code; and to amend said code by adding thereto a new section, designated §18A-5-9, all relating generally to high quality education programs and school operations; replacing transformative intervention framework with a statewide multi-tiered system of support that addresses both reading and mathematics; requiring identification and monitoring of student progress; requiring use of screener and/or benchmark assessments; providing for assessment system and requiring state board adoption of approved list of not more than three screener assessments and setting forth considerations therefore; requiring that the state board establish

of cut scores for screener and/or benchmark assessments; requiring development of best practices document; providing for services to be provided to students exhibiting substantial deficiency; specifying minimum information and notice to parent or guardian; providing for professional learning for certain teachers and assistant teachers and specifying subjects; ensuring certain training and instruction be provided by education preparation programs that prepare candidates seeking licensure for elementary education; authorizing extended year attendance requirement as condition for promotion if certain conditions are met; providing for data from the screening and /or benchmark assessments and other data to be used to inform classroom teacher's recommendation regarding grade level retention; requiring county board implementation; requiring reports by state board; requiring certain legislative appropriation and other funds be used for implementation; requiring retention in third grade of public school student who demonstrates minimal grade level understanding and ability upon recommendation of teacher and student assistance team; providing exceptions; requiring students starting in the fourth grade who score below proficient in English language arts or mathematics on general summative assessment to continue to be provided intervention until grade level proficient; establishing the Grow Your Own West Virginia Pathway to Teaching Program; requiring state board to promulgate rules to govern the program and grant funds; requiring reporting by state superintendent on program; requiring early childhood classroom assistant teacher in certain grade levels and enrollment levels in said grade levels; removing outdated provisions; increasing ratios of service personnel per student net enrollment in state basic foundation program; requiring early childhood classroom assistant teachers exercise authority and control over students in certain instances and within certain limits; prohibiting assignment of noninstructional duties to early childhood classroom assistant teacher in excess of contractual requirements unless mutually agreed upon; and requiring in-service training for early childhood classroom assistant teachers on responsibilities and appropriate measures for exercising authority and control over students; requiring in-service training for classroom teachers on utilization of early childhood classroom assistant teachers."

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

H. B. 3066, Supplementing and amending appropriations to the Department of Education, State Board of Education - State Aid to Schools; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 334**), and there were—yeas 91, nays 1, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Bridges, Garcia, Hite, Kelly, Pushkin, Smith, Williams and Zatezalo.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3066) passed.

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

On this question, the yeas and nays were taken (**Roll No. 335**), and there were—yeas 90, nays none, absent and not voting 10, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Garcia, Hite, Kelly, Kump, Linville, Pushkin, Smith, Williams and Zatezalo.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3066) takes effect from its passage.

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

H. B. 3072, Supplementing and amending appropriations to Department of Homeland Security, Division of Administrative Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 336**), and there were—yeas 89, nays 1, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Bridges, Foggin, Garcia, Hite, Kump, Linville, E. Pritt, Pushkin, Williams and Zatezalo.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3072) passed.

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

On this question, the yeas and nays were taken (**Roll No. 337**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Foggin, Linville, E. Pritt, Ross and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3072) takes effect from its passage.

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

Com. Sub. for H. B. 3084, Relating to revising provisions related to public charter schools; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 338**), and there were—yeas 65, nays 24, absent and not voting 11, with the nays and the absent and not voting being as follows:

Nays: Adkins, Anderson, Dean, Dillon, Dittman, Ferrell, Fluharty, Garcia, A. Hall, W. Hall, Hansen, Hornbuckle, Kirby, E. Pritt, Pushkin, Reynolds, Rohrbach, Shamblin, Storch, Toney, Vance, Walker, Warner and Williams.

Absent and Not Voting: Barnhart, Bridges, Foster, Hanna, Hardy, Keaton, Riley, Skaff, Street, Worrell and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 3084) passed.

Delegate Householder moved that the bill take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 339**), and there were—yeas 74, nays 15, absent and not voting 11, with the nays and the absent and not voting being as follows:

Nays: Adkins, Dean, Dillon, Dittman, Ferrell, Garcia, A. Hall, Hansen, Kirby, E. Pritt, Pushkin, Shamblin, Vance, Walker and Williams.

Absent and Not Voting: Barnhart, Bridges, Foster, Hanna, Hardy, Keaton, Riley, Skaff, Street, Worrell and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 3084) takes effect July 1, 2023.

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

Com. Sub. for H. B. 3095, Creating special revenue account known as School Building Authority Agricultural, Vocational and Technical Training Facilities Grant Fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 340**), and there were—yeas 73, nays 24, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Adkins, Bridges, Burkhammer, Butler, Chiarelli, Coop-Gonzalez, Dean, Dillon, Fast, Foster, A. Hall, Horst, Jeffries, Kimble, Kirby, Longanacre, Martin, McGeehan, C. Pritt, Ridenour, Steele, Summers, Tully and Vance.

Absent and Not Voting: Hardy, Riley and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 3095) passed.

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

H. B. 3146, Establishing in West Virginia Code, the contents of the Uniform Public Meetings During Emergencies Act; on third reading, coming up in regular order, was read a third time.

Mr. Speaker, Delegate Hanshaw in the Chair

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 341**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Clark, Foggin, Hardy, Longanacre and Riley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3146) passed.

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

H. B. 3156, Raising the compensation rates of panel attorneys; on third reading, coming up in regular order, was read a third time.

Delegates Fast, Kirby and Steele requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegates were members of a class of persons possibly to be affected and did not excuse the Members from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 342**), and there were—yeas 86, nays 11, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Foster, Gearheart, A. Hall, Heckert, Hornby, Longanacre, Ridenour, Ross, Tully and Vance.

Absent and Not Voting: Hardy, E. Pritt and Riley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3156) passed.

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

Com. Sub. for H. B. 3224, Adding West Virginia Junior College to the list of eligible institutions that accept PROMISE scholarship recipients; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 343**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hardy and Riley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3224) passed.

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

Com. Sub. for H. B. 3270, To amend the deliberate intent statute to limit noneconomic damages to \$500,000; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 344**), and there were—yeas 52, nays 45, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Adkins, Bridges, Brooks, Chiarelli, Clark, Dean, Dillon, Dittman, Ferrell, Fluharty, Foggin, Garcia, Griffith, A. Hall, Hanna, Hansen, Heckert, Holstein, Hornbuckle, Horst, Kirby, Kump, Linville, Longanacre, Mallow, Martin, Miller, Petitto, E. Pritt, Pushkin, Reynolds, Rowe, Sheedy, Skaff, Statler, Steele, Storch, Toney, Tully, Vance, Walker, Williams, Willis, Worrell and Young.

Absent and Not Voting: Hardy, Ridenour and Riley.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3270) passed.

Com. Sub. for H. B. 3315, Relating generally to readiness enhancement and commission bonuses; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 345**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Gearheart.

Absent and Not Voting: Hardy, Holstein, Kirby and Warner.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3315) passed.

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

H. B. 3331, Relating generally to support staff in the family courts and magistrate courts of this state; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 346**), 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: Hardy, Kirby and Warner.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3331) passed.

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

H. B. 3342, Relating to cooperation between municipal and county economic development authorities; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 347**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hardy and Warner.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3342) passed.

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

H. B. 3360, Creating an office of the Inspector General within the Department of Homeland Security; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 348**), and there were—yeas 99, nays none, absent and not voting 1, with the absent and not voting being as follows:

Absent and Not Voting: Hardy.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3360) passed.

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

H. B. 3360 - “A Bill to amend and reenact §15A-1-9 of the Code of West Virginia, 1931, as amended, relating to the Department of Homeland Security; and authorizing the Secretary of the Department of Homeland Security to establish within the department an Office of the Inspector General; specifying the authority of the Office of the Inspector General; providing for the appointment of an Inspector General; specifying that the Inspector General will report directly to the Secretary; specifying duties of the Inspector General; providing the procedure for removal of the Inspector General; prohibiting interference with the Inspector General; specifying the Inspector General is classified-exempt; specifying qualifications of the Inspector General; and specifying the Inspector General may propose legislative and procedural rules for promulgation.”

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

Com. Sub. for H. B. 3369, Creating a School Safety Unit within the Division of Protective Services; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 349**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hardy and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3369) passed.

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

Com. Sub. for H. B. 3370, Creating loan program for certain properties and developments on U. S. Army Corps of Engineers land, state parks and resorts; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 350**), and there were—yeas 85, nays 11, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Butler, Coop-Gonzalez, Foster, Gearheart, A. Hall, Longanacre, McGeehan, Miller, C. Pritt, Sheedy and Vance.

Absent and Not Voting: Fluharty, Forsht, Hardy and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3370) passed.

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

H. B. 3396, Supplementing, amending, and increasing existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 351**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Fluharty, Hardy, Honaker, Pinson, Ross and Worrell.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3396) passed.

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

On this question, the yeas and nays were taken (**Roll No. 352**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Fluharty, Hardy, Honaker and Worrell.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3396) takes effect from its passage.

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

H. B. 3439, To limit the civil liability of child placing agencies that obtain an insurance policy in an amount not less than \$1 million per incident; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 353**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Kirby.

Absent and Not Voting: Cooper, Fluharty, Hardy, Honaker and Hott.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3439) passed.

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

H. B. 3443, Relating to a development or improvement on land subject to review by the State Historic Preservation Office; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 354**), and there were—yeas 89, nays 4, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Hansen, Pushkin, Sheedy and Walker.

Absent and Not Voting: Burkhammer, Cooper, Hardy, Honaker, Hornbuckle, Hott and Steele.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3443) passed.

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

H. B. 3464, Relating to the transfer of certain revenues derived from lottery activities; on third reading, coming up in regular order, was read a third time.

Delegate Foster asked if the bill could be laid over a day and Delegate Household moved to table the motion.

The Speaker replied that there was no motion pending, and Delegate Householder asked unanimous consent to withdraw his motion.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 355**), and there were—yeas 63, nays 31, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Bridges, Brooks, Burkhammer, Butler, Chiarelli, Coop-Gonzalez, Dillon, Dittman, Fast, Foster, Gearheart, A. Hall, Hanna, Jeffries, Jennings, Keaton, Kirby, Kump, Linville, Longanacre, Martin, Pinson, C. Pritt, Ross, Street, Thorne, Toney, Vance, Ward, Warner and Worrell.

Absent and Not Voting: Anderson, Hardy, Hornbuckle, Kelly, Kimble and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3464) passed.

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

H. B. 3464 - "A Bill to amend and reenact §29-22A-10d and §29-22A-10e of the Code of West Virginia, 1931, as amended; and to amend and reenact §29-22C-27a of said code, all relating to changes in distribution of racetrack video lottery net terminal income and changes in distribution

of lottery racetrack table games adjusted gross receipts; and to restore moneys previously removed from net terminal income and adjusted gross receipts in 2014.”

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

H. B. 3509, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission – Consumer Advocate Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 356**), and there were—yeas 93, nays 2, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Longanacre and Vance.

Absent and Not Voting: Devault, Hardy, Hornbuckle, Kelly and Pushkin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3509) passed.

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

On this question, the yeas and nays were taken (**Roll No. 357**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Devault, Hardy, Hornbuckle, Kelly and Pushkin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3509) takes effect from its passage.

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

H. B. 3510, Making a supplementary appropriation to the Department of Administration, Office of Technology – Chief Technology Officer Administration Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 358**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Hardy and Hornbuckle.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3510) passed.

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

On this question, the yeas and nays were taken (**Roll No. 359**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Kimble.

Absent and Not Voting: Hardy, Hornbuckle and Williams.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3510) takes effect from its passage.

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

H. B. 3526, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 360**), 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: W. Hall, Hardy, Hornbuckle and Williams.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3526) passed.

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

On this question, the yeas and nays were taken (**Roll No. 361**), 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: W. Hall, Hardy and Hornbuckle.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3526) takes effect from its passage.

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

H. B. 3527, Supplementing and amending appropriations to Department of Education, School Building Authority; on third reading, coming up in regular order, was read a third time.

Delegate Foster moved that the bill be divided.

The Speaker ruled that the motion was not in order.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 362**), and there were—yeas 77, nays 21, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Butler, Chiarelli, Coop-Gonzalez, Dean, Dillon, Foster, Gearheart, A. Hall, Jeffries, Kimble, Kirby, Longanacre, McGeehan, Pinson, C. Pritt, Ridenour, Ross, Street and Vance.

Absent and Not Voting: W. Hall and Hardy.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3527) passed.

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

On this question, the yeas and nays were taken (**Roll No. 363**), and there were—yeas 80, nays 17, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Coop-Gonzalez, Dean, Dillon, Foster, Gearheart, A. Hall, Kimble, Kirby, Longanacre, Martin, McGeehan, C. Pritt, Ridenour, Ross and Vance.

Absent and Not Voting: W. Hall, Hardy and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3527) takes effect from its passage.

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

H. B. 3529, Making a supplementary appropriation to the Department of Commerce, State Board of Rehabilitation – Division of Rehabilitation Services; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 364**), and there were—yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Longanacre.

Absent and Not Voting: W. Hall, Hardy and Reynolds.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3529) passed.

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

On this question, the yeas and nays were taken (**Roll No. 365**), 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: Foggin, W. Hall, Hardy and Reynolds.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3529) takes effect from its passage.

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

H. B. 3554, Relating to prohibiting a municipality or the governing body of any municipality from limiting rental of a property; on third reading, coming up in regular order, was reported by the Clerk.

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

On motion of Delegates Brooks and Howell the bill was amended on page 1, section 5h, line 1, immediately following the word “may” by striking the following: “by ordinance or otherwise” and inserting in lieu thereof the following: “other than by a uniform zoning ordinance”

And,

On page 2, section 5h, line 11, immediately following the word “awarded” by inserting the words “up to”.

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

Subsequently,

On motion of Delegate Howell the bill be postponed one day.

H. B. 3559, Relating to defining a newborn safety device; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 366**), and there were—yeas 90, nays 5, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Adkins, Kirby, Longanacre, McGeehan and E. Pritt.

Absent and Not Voting: W. Hall, Hardy, Hornby, Reynolds and Ridenour.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3559) passed.

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

H. B. 3560, Relating to expanding the definitions of land and recreational purposes; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 367**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Steele, Toney and Vance.

Absent and Not Voting: W. Hall, Hardy, Hornby and Reynolds.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3560) 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 then asked and obtained unanimous consent to return to further consideration of Com. Sub. for H. B. 3270.

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

Com. Sub. for H. B. 3270 - "A Bill to amend and reenact §23-4-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §23-4-2a, all relating to the deliberate intent exception to the immunities provided under Workers Compensation; clarifying certain definitions of employee; clarifying the proof required for certain claims; clarifying the recoverable amount payable for compensatory damages for noneconomic losses; and requiring a yearly increase in certain limitations for compensatory damages to account for inflation."

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

At 3:27 p.m., on motion of Delegate Householder, the House of Delegates recessed until 5:30 p.m.

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Evening Session

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

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Householder announced that H. B. 2955, Com. Sub. for H. B. 3046 and Com. Sub. for H. B. 3092, on Third Reading, House Calendar, had been transferred to the Special Calendar; and Com. Sub. for H. B. 3018, H. B. 3408 and Com. Sub. for H. B. 3480, on Second Reading, House Calendar, had been transferred to the Special Calendar.

Delegate Crouse asked and obtained unanimous consent to be added as a cosponsor of H. B. 3408.

Delegate Cannon asked and obtained unanimous consent to be added as a cosponsor of Com. Sub. for H. B. 3480.

Special Calendar

-continued-

Third Reading

H. B. 2955, Relating to the establishment and operation of regional water, wastewater and stormwater authorities; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

Com. Sub. for H. B. 3046, Fast Track for Agriculture Education Endorsement; on third reading, coming up in regular order, was read a third time.

Delegate Householder asked unanimous consent that the bill be postponed one day.

Whereupon,

There being no objection, the House proceeded with consideration of the bill.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 368**), and there were—yeas 81, nays 7, absent and not voting 12, with the nays and the absent and not voting being as follows:

Nays: Clark, Hornby, Riley, Smith, Walker, Willis and Young.

Absent and Not Voting: Bridges, Cooper, Dillon, Hanna, Hardy, Heckert, Kirby, Kump, Lucas, Martin, Ross and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3046) passed.

Com. Sub. for H. B. 3092, Relating to in-state food service permit reciprocity; on third reading, coming up in regular order, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, the bill was postponed one day.

At the request of Delegate Householder, and by unanimous consent, the House of Delegates returned to the Third Order of Business for the purpose of receiving committee reports.

Committee Reports

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

Your Committee on Technology and Infrastructure has had under consideration:

H. C. R. 12, To place Purple Heart Signs at the entrances to the state,

H. C. R. 33, Lt. Col. Mitchell M. Mickel Memorial Bridge,

H. C. R. 36, Charles A. White Memorial Bridge,

H. C. R. 51, U. S. Army SFC Samuel Evans Miller Memorial Bridge,

H. C. R. 54, U.S. Army PFC Russell Richard Ferguson Memorial Bridge,

H. C. R. 55, U. S. Army SP4 Lee Thomas Memorial Bridge,

H. C. R. 56, George M. Hall Memorial Bridge,

H. C. R. 58, U. S. Army SSG Steven “Todd” Shay Memorial Bridge,

Com. Sub. for S. C. R. 3, Dr. Roland P Sharp Memorial Road,

And,

Com. Sub. for S. C. R. 6, US Army SGT Vincent DiBacco Memorial Bridge,

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

In accordance with the former direction of the Speaker, the resolutions (H. C. R. 12, H. C. R. 33, H. C. R. 36, H. C. R. 51, H. C. R. 54, H. C. R. 55, H. C. R. 56, H. C. R. 58, Com. Sub. for S. C. R. 3 and Com. Sub. for S. C. R. 6) were each referred to the Committee on Rules.

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

Your Committee on Finance has had under consideration:

H. B. 2908, Supplementing and amending appropriations to the Department of Commerce, Division of Forestry,

And reports back a committee substitute therefor, as follows:

Com. Sub. for H. B. 2908 – “A Bill supplementing and amending the appropriations of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Commerce, Division of Forestry, fund 0250, fiscal year 2023, organization 0305, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023,”

With the recommendation that the committee substitute do pass.

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

Your Committee on Finance has had under consideration:

H. B. 2904, Supplementing and amending appropriations to the Department of Commerce, Office of the Secretary,

H. B. 3557, Making a supplementary appropriation to the Department of Veterans' Assistance,

And,

S. B. 510, Supplementing and amending appropriations to BOE, Department of Education,

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

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 526, Including Alzheimer's disease in existing public health programs,

Com. Sub. for S. B. 577, Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription,

S. B. 605, Requiring state medical examiner to enter into contracts with procurement organization,

S. B. 679, Requiring Office of Inspector General to promulgate rules concerning location of forensic group homes,

And,

Com. Sub. for S. B. 730, Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability,

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

Delegate Summers, Chair of the Committee on Health and Human Resources, submitted the following report, which was received:

Your Committee on Health and Human Resources has had under consideration:

Com. Sub. for S. B. 613, Relating generally to certificates of need,

And reports the same back with the recommendation that it do pass.

Special Calendar

-continued-

Second Reading

Com. Sub. for H. B. 2862, Relating generally to requirements for shareholder voting by the West Virginia Investment Management Board and the Board of Treasury Investments; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 2878, To grant the Fleet Management Division oversight authority of the state vehicle fleet; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Government Organization, on page 2, section 3, line 28, striking the words ", except for law enforcement vehicles"

And,

On page 3, section 6, line 3, by striking the words "law enforcement vehicles and "

And,

On page 3, section 9, line 4, by inserting "may request an exemption from part or all of the services provided by the Fleet Management Division. The division shall review each request and may recommend approval of the request by the secretary. The division shall submit a legislative rule identifying each spending unit for which an exemption has been approved, which rule shall further state the nature of the proposed exemption, and which services will be used, as well as the manner in which the spending unit will comply with all other requirements of this article, including the requirements to report certain information to the division after the word "agencies"

And,

On page 3, section 9, line 10, strike "are exempt from all of the services provided by the Fleet Management Division:" after the word "division"

Delegate Linville asked and obtained unanimous consent that an amendment offered by Delegates Smith, Linville and Howell be considered before the committee amendment.

On motion of Delegates Smith, Linville, and Howell the bill was amended on page 4, section 9, line 13, immediately following the word "code" by inserting the following "*Provided however, That undercover law enforcement vehicles are exempt from all provisions of this article.*"

The Committee on Government Organization amendment was then adopted.

On motion of Delegate Foster, the bill was amended on page 3, section 5A-12-6, line 4, after the word "July 1," by striking the number "2024" and inserting in lieu thereof the following:

"2025".

The bill was then ordered to engrossment and third reading.

H. B. 2939, Relating to filing of lien by municipalities for collection of refuse fees; on second reading, coming up in regular order, was read a second time.

Delegates Foster and Linville moved to amend the bill on page 3, section 13, line 56, by adding a new subsection and inserting the following:

"(j) Notwithstanding any provision in this chapter to the contrary, a municipality shall not assess a user fee for any person who is not physically present in the boundary of the municipality in the performance of his or her job; *Provided, That this subsection does not apply to refuse, fire, police, or street fees or the right to file a lien for refuse, fire, police, or street fees if service relating to these fees was provided within an area designated by the municipality to be covered by said services.*"

Delegate Fast arose to a point of order as to the germaneness of the amendment.

The being no objection, the bill was advanced to third reading with the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

Com. Sub. for H. B. 2992, Clarifying and updating school bus rules and the types of vehicles covered; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3018, Establishing that 18 is the age of consent and removing the ability of an underage person to obtaining a consent to marry through their parents, legal guardians, or by petition to the circuit court; on second reading, coming up in regular order, was read a second time.

An amendment offered by Delegate Chiarelli was reported by the Clerk.

Whereupon,

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

Com. Sub. for H. B. 3049, To create the American Campuses Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3133, Create a credit against the severance tax to encourage private companies to make infrastructure improvements to highways, roads and bridges in this state; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Criss, the bill was amended on page six, section four, line ten, following the words "of this code", by striking out the period and inserting a colon and the following: "Provided, That the gross amount of additional tax on coal collected under this article to §11-13A-6 of the code and the gross amount of tax on coal reallocated and dedicated under §11-13A-6a of the code shall be paid over and distributed as provided in those sections without the application of any credits against the tax allowed by this section."

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 3135, To modify the salaries of the Governor and Constitutional officers beginning January 1, 2025; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Summers, the bill was amended on page 2, line 18, by striking subdivision (c) in its entirety and inserting in lieu thereof another subdivision (c) to read as follows:

"(c) Notwithstanding the provisions of subsections (a) and (b) of this section, beginning in the calendar year 2025, and for each calendar year thereafter, salaries for each of the state Constitutional officers shall be as follows:

(1) The salary of the Governor shall be \$180,000 per year;

(2) The salary of the Attorney General shall be \$115,000 per year;

(3) The salary of the Auditor shall be \$115,000 per year;

(4) The salary of the Secretary of State shall be \$115,000 per year;

(5) The salary of the Commissioner of Agriculture shall be \$115,000 per year; and

(6) The salary of the state Treasurer shall be \$115,000 per year."

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 3153, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with amendments pending and the right to amend, and the rule was suspended to permit the offering and consideration of amendments on that reading.

H. B. 3203, Relating generally to West Virginia Real Estate License Act; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3303, Clarifying and expanding the powers and duties of the director of the Coalfield Community Development Office; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3313, Restraining county commissions from imposing rules and regulations on farmers beyond what is already prescribed through state statute; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3330, Creating family court circuits and assigning the number of family court judges in each family court circuit to be elected in the 2024 election; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3332, Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected in the 2024 election; on second reading, coming up in regular order, was read a second time.

An amendment sponsored by Delegate Capito, was reported by the Clerk on page 1, by striking everything after the enacting clause and inserting the following:

“ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES

§51-2-1. Judicial circuits; terms of office; legislative findings and declarations; elections; terms of court.

(a) The state shall be divided into the following judicial circuits with the following number of judges:

(1) The counties of Brooke, Hancock, and Ohio shall constitute the first circuit and shall have four judges;

(2) The counties of Marshall, Tyler, and Wetzel shall constitute the second circuit and shall have two judges;

(3) The counties of Doddridge, Pleasants, and Ritchie shall constitute the third circuit and shall have one judge;

(4) The counties of Wood and Wirt shall constitute the fourth circuit and shall have three judges;

(5) The counties of Calhoun, Jackson, Mason, and Roane shall constitute the fifth circuit and shall have two judges: *Provided*, That effective January 1, 2017, said circuit court shall have three judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(6) The county of Cabell shall constitute the sixth circuit and shall have four judges;

(7) The county of Logan shall constitute the seventh circuit and shall have two judges;

(8) The county of McDowell shall constitute the eighth circuit and shall have two judges;

(9) The county of Mercer shall constitute the ninth circuit and shall have three judges;

(10) The county of Raleigh shall constitute the 10th circuit and shall have three judges: *Provided*, That effective January 1, 2017, said circuit court shall have four judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(11) The counties of Greenbrier and Pocahontas shall constitute the 11th circuit and shall have two judges;

(12) The county of Fayette shall constitute the 12th circuit and shall have two judges;

(13) The county of Kanawha shall constitute the 13th circuit and shall have seven judges;

(14) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the 14th circuit and shall have two judges;

(15) The county of Harrison shall constitute the 15th circuit and shall have three judges;

(16) The county of Marion shall constitute the 16th circuit and shall have two judges;

(17) The county of Monongalia shall constitute the 17th circuit and shall have three judges;

(18) The county of Preston shall constitute the 18th circuit and shall have one judge;

(19) The counties of Barbour and Taylor shall constitute the 19th circuit and shall have one judge: *Provided*, That effective January 1, 2019, said circuit court shall have two judges; said additional circuit judge to be appointed by the Governor and subsequently elected at the next scheduled primary election to be held in 2020 for the unexpired term pursuant to §3-10-3 of this code: *Provided, however*, That said additional circuit judge shall thereafter be elected at the regularly scheduled election(s) to be held in the year 2024 and every eighth year thereafter;

(20) The county of Randolph shall constitute the 20th circuit and shall have one judge;

(21) The counties of Grant, Mineral, and Tucker shall constitute the 21st circuit and shall have two judges;

(22) The counties of Hampshire, Hardy, and Pendleton shall constitute the 22nd circuit and shall have two judges;

(23) The counties of Berkeley, Jefferson, and Morgan shall constitute the 23rd circuit and shall have five judges: *Provided*, That effective January 1, 2017, said circuit court shall have six judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(24) The county of Wayne shall constitute the 24th circuit and shall have two judges;

(25) The counties of Lincoln and Boone shall constitute the 25th circuit and shall have two judges;

(26) The counties of Lewis and Upshur shall constitute the 26th circuit and shall have one judge: *Provided*, That effective January 1, 2017, said circuit court shall have two judges; said additional circuit judge to be elected at the regularly scheduled election(s) to be held in the year 2016 and every eighth year thereafter;

(27) The county of Wyoming shall constitute the 27th circuit and shall have one judge;

(28) The county of Nicholas shall constitute the 28th circuit and shall have one judge;

(29) The county of Putnam shall constitute the 29th circuit and shall have two judges;

(30) The county of Mingo shall constitute the 30th circuit and shall have one judge; and

(31) The counties of Monroe and Summers shall constitute the 31st circuit and shall have one judge.

~~(b) The Kanawha County circuit court shall be a court of concurrent jurisdiction with each single judge circuit where the sitting judge in the single judge circuit is unavailable by reason of sickness, vacation, or other reason~~ Effective January 1, 2025, the state shall be divided into the following circuit court judicial circuits with the following number of circuit judges:

(1) The counties of Brooke, Hancock, and Ohio shall constitute the first circuit and shall have four judges;

(2) The counties of Marshall, Tyler, and Wetzel shall constitute the second circuit and shall have two judges: *Provided*, That Tyler and Wetzel shall constitute a division in which the judge and candidates for election shall reside and Marshall shall constitute a division in which the judge and candidates for election shall reside.

(3) The counties of Doddridge, Pleasants, Ritchie, and Wirt shall constitute the third circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter;

(4) The county of Wood shall constitute the fourth circuit and shall have three judges;

(5) The counties of Calhoun, Jackson, Mason, and Roane shall constitute the fifth circuit and shall have three judges;

(6) The county of Cabell shall constitute the sixth circuit and shall have four judges;

(7) The county of Putnam shall constitute the seventh circuit and shall have two judges;

(8) The county of Kanawha shall constitute the eighth circuit and shall have eight judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter. The Kanawha County circuit court shall be a court of concurrent jurisdiction with each single judge circuit where the sitting judge in the single judge circuit is unavailable by reason of sickness, vacation, or other reason.

(9) The counties of Boone and Lincoln shall constitute the ninth circuit and shall have two judges.

(10) The county of Wayne shall constitute the 10th circuit and shall have two judges;

(11) The counties of Logan and Mingo shall constitute the 11th circuit and shall have three judges;

(12) The counties of McDowell and Wyoming shall constitute the 12th circuit and shall have two judges; *Provided*, That McDowell shall constitute a division in which the judge and candidates for election shall reside and Wyoming shall constitute a division in which the judge and candidates for election shall reside.

(13) The county of Mercer shall constitute the thirteenth circuit and shall have three judges;

(14) The county of Raleigh shall constitute the 14th circuit and shall have four judges;

(15) The county of Fayette shall constitute the 15th circuit and shall have two judges;

(16) The county of Nicholas shall constitute the 16th circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter;

(17) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the 17th circuit and shall have two judges;

(18) The counties of Lewis and Upshur shall constitute the 18th circuit and shall have two judges: *Provided*, that Lewis shall constitute a division in which the judge and candidates for election shall reside and Upshur shall constitute a division in which the judge and candidates for election shall reside.

(19) The county of Harrison shall constitute the 19th circuit and shall have three judges;

(20) The county of Marion shall constitute the 20th circuit and shall have two judges;

(21) The county of Monongalia shall constitute the 21st circuit and shall have three judges;

(22) The counties of Preston and Tucker shall constitute the 22nd circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter.

(23) The counties of Barbour and Taylor shall constitute the 23rd circuit and shall have two judges.

(24) The county of Randolph shall constitute the 24th circuit and shall have two judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter;

(25) The counties of Grant and Mineral shall constitute the 25th circuit and shall have two judges.

(26) The counties of Hampshire, Hardy, and Pendleton shall constitute the 26th circuit and shall have two judges;

(27) The counties of Berkeley, Morgan, Jefferson shall constitute the 27th circuit and shall have six judges;

(28) The counties of Greenbrier, Monroe, Pocahontas and Summers shall constitute the 28th circuit and shall have three judges;

(c) Any judge in office on the effective date of the reenactment of this section shall continue as a judge of the circuit as constituted under prior enactments of this section, unless sooner removed or retired as provided by law, until ~~December 31, 2016~~ December 31, 2024.

(d) The term of office of all circuit court judges shall be for eight years. The term of office for all circuit court judges elected during an election conducted in the year 2016 shall commence on January 1, 2017, and end on December 31, 2024. The term of office for all circuit judges elected during an election conducted in 2024 shall commence on January 1, 2025 and shall end on December 31, 2032.

(e) For election purposes, in every judicial circuit having two or more judges there shall be numbered divisions corresponding to the number of circuit judges in each circuit. Each judge shall be elected at large from the entire circuit. In each numbered division of a judicial circuit, the candidates for ~~nominat~~ion or election shall be voted upon, and the votes cast for the candidates in each division shall be tallied separately from the votes cast for candidates in other numbered divisions within the circuit. The candidate receiving the highest number of the votes cast within a numbered division shall be ~~nominated or elected.~~ ~~as the case may be.~~

~~(f) Judges serving a judicial circuit comprised of four or more counties with two or more judges shall not be residents of the same county.~~ In a judicial circuit comprised of four or more counties with three or more judges, no more than two circuit judges may be residents of the same county.

(g) The Supreme Court of Appeals shall, by rule, establish the terms of court of circuit judges.”

On motion of Delegate Capito, the amendment was amended on page 4, section 1, line 81, by inserting after the word “thereafter” the words “Until January 1, 2025,”

On motion of Delegate Capito, the amendment was amended on page 3, section 1, lines 75-76, and page 5, section 1, lines 122-123 by adding:

Provided, if more than two candidates from the same county receive the highest number of the votes in more than two divisions, the two candidates from the same county with the highest number of the votes cast within the circuit shall be elected to serve and the remaining candidates from the same county shall be declared ineligible to serve. Provided, however, in the event a candidate is determined to be ineligible to serve as a result of his or her residency, the candidate residing in a different county within the circuit, receiving the next highest number of the votes cast in the division, shall be deemed elected.

And,

On page 5, section 1, lines 129-131:

~~(f) Judges serving a judicial circuit comprised of four or more counties with two or more judges shall not be residents of the same county. In a judicial circuit comprised of four or more counties with three or more judges, no more than two circuit judges may be residents of the same county.~~

Another amendment offered by Delegate Capito was reported by the Clerk.

Whereupon,

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

Another amendment offered by Delegate Capito was reported by the Clerk.

Whereupon,

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

The strike and insert amendment, as amended, was adopted.

The bill was then ordered to engrossment and third reading.

Com. Sub. for H. B. 3344, To pay certain moral obligations of the state; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3354, To authorize municipalities to combine operations with other municipalities and counties to provide governmental services; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend by Delegate Capito and the rule was suspended to permit the consideration of the amendments on that reading.

H. B. 3371, Relating to federal funds for land-grant institutions; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3405, Change the maximum time period of a protective order to one year; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3408, To clean up statutory provisions regarding the Hope Scholarship program to better reflect the intent and operation of the program; on second reading, coming up in regular order, was read a second time.

An amendment offered by Delegates Crouse and Ellington was reported by the Clerk on page 2, after the enacting clause, by striking out the remainder of the bill and inserting, in lieu thereof, the following:

“ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1. Compulsory school attendance; exemptions.

(a) Exemption from the requirements of compulsory public school attendance established in §18-8-1a of this code shall be made on behalf of any child for the causes or conditions set forth in this section. Each cause or condition set forth in this section is subject to confirmation by the attendance authority of the county. A child who is exempt from compulsory school attendance under this section is not subject to prosecution under §18-8-2 of this code, nor is such a child a status offender as defined by §49-1-202 of this code. A child who is exempt from compulsory school attendance under this section is not subject to the requirements of §18-31-1, et seq. of this code unless that child is an eligible recipient as defined by §18-31-2a of this code.

(b) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to instruction in a private, parochial, or other approved school, are met. The instruction shall be in a school approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. In all private, parochial, or other schools approved pursuant to this subsection, it is the duty of the principal or other person in control, upon the request of the county superintendent, to furnish to the county board such information and records as may be required with respect to attendance, instruction, and progress of students enrolled.

(c) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of either subdivision (1); or subdivision (2) of this subsection, both relating to home instruction, are met:

(1) The instruction shall be in the home of the child or children or at some other place approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. If the request for home instruction is denied by the county board, good and reasonable justification for the denial shall be furnished in writing to the applicant by the county board. The instruction shall be conducted by a person or persons who, in the judgment of the county superintendent and county board, are qualified to give instruction in subjects required to be taught in public elementary schools in the state. The person or persons providing the instruction, upon request of the county superintendent, shall furnish to the county board information and records as may be required periodically with respect to attendance, instruction, and progress of students receiving the instruction. The state board shall develop guidelines for the home schooling of special education students including alternative assessment measures to assure that satisfactory academic progress is achieved.

(2) The child meets the requirements set forth in this subdivision: *Provided*, That the county superintendent may, after a showing of probable cause, seek from the circuit court of the county an order denying home instruction of the child. The order may be granted upon a showing of clear

and convincing evidence that the child will suffer neglect in his or her education or that there are other compelling reasons to deny home instruction.

(A) Upon commencing home instruction under this section the parent of a child receiving home instruction shall present to the county superintendent or county board a notice of intent to provide home instruction that includes the name, address, and age of any child of compulsory school age to be instructed and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subdivision. The person providing home instruction shall notify the county superintendent upon termination of home instruction for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing home instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to provide home instruction shall be given on or before the date home instruction is to begin.

(B) The person or persons providing home instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(C) Annually, the person or persons providing home instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(i) The child receiving home instruction takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(ii) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(iii) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(iv) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(D) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing home instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of home schooling. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

~~(E) The parent or legal guardian shall submit to the county superintendent the results of the academic assessment of the child at grade levels three, five, eight, and 11, as applicable, by June 30 of the year in which the assessment was administered.~~

(3) This subdivision applies to both home instruction exemptions set forth in subdivisions (1) and (2) of this subsection.

(A) The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing home instruction. Any child receiving home instruction may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing home instruction may consider appropriate subject to normal registration and attendance requirements.

(B) A child receiving home instruction pursuant to this section may also be referred to throughout this code as a "home school student" or similar reference.

(d) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to physical or mental incapacity, are met. Physical or mental incapacity consists of incapacity for school attendance and the performance of school work. In all cases of prolonged absence from school due to incapacity of the child to attend, the written statement of a licensed physician or authorized school nurse is required. Incapacity shall be narrowly defined and in any case the provisions of this article may not allow for the exclusion of the mentally, physically, emotionally, or behaviorally handicapped child otherwise entitled to a free appropriate education.

(e) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if conditions rendering school attendance impossible or hazardous to the life, health, or safety of the child exist.

(f) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code upon regular graduation from a standard senior high school or alternate secondary program completion as determined by the state board.

(g) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child is granted a work permit pursuant to the subsection. After due investigation the county superintendent may grant work permits to youths under the termination age designated in §18-8-1a of this code, subject to state and federal labor laws and regulations. A work permit may not be granted on behalf of any youth who has not completed the eighth grade of school.

(h) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if a serious illness or death in the immediate family of the child has occurred. It is expected that the county attendance director will ascertain the facts in all cases of such absences about which information is inadequate and report the facts to the county superintendent.

(i) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to destitution in the home, are met. Exemption based on a condition of extreme destitution in the home may be granted only upon the written recommendation of the county attendance director to the county superintendent following careful investigation of the case. A copy of the report confirming the condition and school exemption shall be placed with the county director of public assistance. This enactment contemplates every reasonable effort that may properly be taken on the part of both school and public assistance authorities for the relief of home conditions officially recognized as being so destitute as to deprive children of the privilege of school attendance. Exemption for this cause is not allowed when the destitution is relieved through public or private means.

(j) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to church ordinances and observances of regular church ordinances, are met. The county board may approve exemption for religious instruction upon written request of the person having legal or actual charge of a child or children. This exemption is subject to the rules prescribed by the county superintendent and approved by the county board.

(k) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to alternative private, parochial, church, or religious school instruction, are met. Exemption shall be made for any child attending any private school, parochial school, church school, school operated by a religious order, or other nonpublic school which elects to comply with the provisions of §18-28-1 *et seq.* of this code.

(l) Completion of the eighth grade does not exempt any child under the termination age designated in §18-8-1a of this code from the compulsory attendance provision of this article.

~~(m) A child is exempt from the compulsory school attendance requirements set forth in §18-8-1a of this code if the child is an eligible recipient participating in the Hope Scholarship Program, as provided for in §18-31-1 *et seq.* of this code and provides a notice of intent to participate in the Hope Scholarship Program to the county superintendent. The county superintendent shall enter the following into the West Virginia Education Information System (WVEIS):~~

~~(1) The filing of the notice of intent pursuant to this subsection;~~

~~(2) In the case of a Hope Scholarship recipient who chooses an individualized instructional program, annually, the child's test results or determination that a student is making academic progress commensurate with his or her age and ability, as applicable, pursuant to §18-31-8(a)(4) of this code; and~~

~~(3) In the case of an eligible recipient enrolling in a participating school, annually, the filing of a notice of enrollment pursuant to §18-31-11(a)(6) of this code.~~

(m) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child participates in an Assembled Instructional Module pursuant to this subsection: *Provided*, That the county superintendent may, after a showing of probable cause,

seek from the circuit court of the county an order denying home instruction of the child. The order may be granted upon a showing of clear and convincing evidence that the child will suffer neglect in his or her education or that there are other compelling reasons to deny home instruction.

(1) For the purposes of this subsection an Assembled Instructional Module means a program of study organized and facilitated by either the child's parent or legal guardian or educational service provider or providers chosen by the child's parent or legal guardian. Participation may take place in the child's home or in a location chosen by the parent or legal guardian.

(2) Upon beginning participation in an Assembled Instructional Module pursuant to this subsection, the parent or legal guardian of the child participating shall present to the county superintendent or county board a notice of intent to participate in an Assembled Instructional Module that includes the name, address, and age of any child of compulsory school age participating and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subsection. The person providing instruction shall notify the county superintendent upon termination of participation in an Assembled Instructional Module for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to participate in an Assembled Instructional Module shall be given on or before the date participation is to begin.

(3) The person or persons providing instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(4) Annually, the person or persons providing instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(A) The child participating in an Assembled Instructional Module takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(B) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(C) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the

professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(D) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(5) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of participation in an Assembled Instructional Module. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

(6) The parent or legal guardian shall submit to the county superintendent the results of the academic assessment of the child no later than June 8th every year.

(7) The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing instruction. Any child participating in a Assembled Instructional Module may, upon approval of the county board, exercise the option to attend any class offered by the county board as the person or persons providing instruction may consider appropriate subject to normal registration and attendance requirements.

(8) Notwithstanding any provision of this code to the contrary, Assembled Instructional Module students shall have all of the educational rights and privileges this code makes available to home school students who receive instruction pursuant to subsection (c) of this section and may participate in any state or county program available to home school students: *Provided*, That nothing in this section may be construed as making Assembled Instructional Module students the same as homeschool students or as subjecting home school students to the requirements of this section.

(n) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the child participates in a learning pod or microschool pursuant to this subsection.

(1) For the purposes of this subsection:

(A) "Learning pod" means a voluntary association of parents choosing to group their children together to participate in their elementary or secondary academic studies as an alternative to enrolling in a public school, private school, homeschool, or microschool, including participation in an activity or service provided to the children in exchange for payment; and

(B) "Microschool" means a school initiated by one or more teachers or an entity created to operate a school that charges tuition for the students who enroll and is an alternative to enrolling in a public school, private school, homeschool, or learning pod.

(2) Upon beginning participation in a learning pod or microschool pursuant to this subsection, the parent or legal guardian of the child participating shall present to the county superintendent

or county board a notice of intent to participate in a learning pod or microschool that includes the name, address, and age of any child of compulsory school age participating and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subsection. The person providing instruction shall notify the county superintendent upon termination of participation in a learning pod or microschool for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: *Provided*, That if a child is enrolled in a public school, notice of intent to participate in a learning pod or microschool shall be given on or before the date participation is to begin.

(3) The person or persons providing instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(4) Annually, the person or persons providing instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(A) The child participating in a learning pod or microschool takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(B) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(C) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(D) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(5) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education

services. Identification of a disability does not preclude the continuation of participation in a learning pod or microschool. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

~~(6) The parent, legal guardian, learning pod, or microschool shall submit to the county superintendent the results of the academic assessment of the child with the same frequency prescribed in §18-8-1(c)(2)(E) of this code: *Provided*, That instead of the academic assessment results being submitted individually, the learning pod or microschool may submit the school composite results.~~

~~(7)~~ (6) The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing instruction. Any child participating in a learning pod or microschool may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing instruction may consider appropriate subject to normal registration and attendance requirements.

~~(8)~~ (7) No learning pod or microschool which meets the requirements of this subsection is subject to any other provision of law relating to education: *Provided*, That any learning pod or microschool which has a student requiring special education instruction must comply with the provisions of §18-20-11 of this code, including, but not limited to, placement of video cameras for the protection of that exceptional student.

~~(9) Making learning pods and microschoools subject to the home instruction provisions and requirements does not make learning pods and microschoools the same as homeschooling. (8) Notwithstanding any provision of this code to the contrary, learning pod and microschool students shall have all of the educational rights and privileges this code makes available to home school students who receive instruction pursuant to subsection (c) of this section and may participate in any state or county program available to home school students: *Provided*, That nothing in this section may be construed as making learning pod or microschool students the same as homeschool students or as subjecting home school students to the requirements of this section.~~

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-25. Funding for Hope Scholarship Program.

(a) Notwithstanding any other provision of this article to the contrary, for fiscal year 2023 and each fiscal year thereafter, in addition to all other amounts required by this article, the Department of Education shall include in its budget request, and the Governor shall include in each budget bill submitted to the Legislature, an appropriation to the Department of Education for the greater of an amount not less than two percent of net public school enrollment adjusted for state aid purposes or the total number of ~~eligible Hope Scholarship applications received by the Hope Scholarship Board, if available~~ estimated Hope Scholarship applications for the fiscal year, multiplied by the prior year's statewide average net state aid allotted per pupil. The Hope Scholarship Board shall certify the estimated number of Hope Scholarship applications for the fiscal year to the Department of Education by December 10 of each year. The amount appropriated shall be transferred by the Department of Education to the Hope Scholarship Board to be used solely to meet the Hope Scholarship Program obligations set forth in §18-31-1 *et seq.* of this code except as otherwise provided in this section. The Governor shall also provide in each budget for the reappropriation for expenditure during the ensuing fiscal year the unused

~~accumulated balance to the Department of Education that was not transferred to the Hope Scholarship Board due to an accumulated balance from prior years as provided under subsection (b) of this section in the Hope Scholarship Fund.~~

(b) Each fiscal year, the amount required to be requested and included in the budget bill for appropriation under subsection (a) of this section shall be reduced by ~~the sum of:~~

~~(1) Any any unused accumulated amounts transferred to the Hope Scholarship Board for these purposes from previous years; and~~

~~(2) Any unused appropriations made to the Department of Education for these purposes that were not transferred to the Hope Scholarship Board due to an accumulated balance from prior years.~~

ARTICLE 31. HOPE SCHOLARSHIP PROGRAM.

§18-31-2. Definitions.

The following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

~~(1) 'Account' or 'scholarship' means a Hope Scholarship account, awarded pursuant to this article, to which funds are allocated by the board to the parent or parents of an eligible Hope Scholarship student in order to pay qualifying education expenses to educate the student pursuant to the requirements and conditions of this article;~~

~~(2) 'Board' means the Hope Scholarship Board created pursuant to §18-31-3 of this code;~~

~~(3) 'Curriculum' means a complete course of study for a particular content area or grade level, including any supplemental materials required by the curriculum;~~

~~(4) 'Education service provider' means a person or organization that receives payments from Hope Scholarship accounts to provide educational goods and services to Hope Scholarship students;~~

~~(5) 'Eligible recipient' means a child who is eligible to participate in the Hope Scholarship Program according to §18-31-2a of this code.~~

~~(A) Is a resident of this state; and~~

~~(B) Is enrolled full-time and attending a public elementary or secondary school program in this state for at least 45 calendar days during an instructional term at the time of application and until an award letter is issued by the board under §18-31-5(c) of this code, or enrolled full-time in a public elementary or secondary school program in this state for the entire instructional term the previous year, or is eligible at the time of application to enroll in a kindergarten program in this state pursuant to §18-8-1a of this code, except that if on July 1, 2024, the participation rate of the combined number of students in the Hope Scholarship Program and students eligible who have applied to participate in the Hope Scholarship program during the previous school year is less than five percent of net public school enrollment adjusted for state aid purposes for the previous school year, then, effective July 1, 2026, a child is considered to meet the requirements of this paragraph if he or she is enrolled, eligible to be enrolled, or required to be enrolled in a~~

~~kindergarten program or public elementary or secondary school program in this state at the time of application~~

~~(6) 'Hope scholarship funds' means the moneys deposited in a Hope Scholarship student's account in accordance with the requirements of this article.~~

~~(7) 'Hope scholarship student' means a student who receives a scholarship pursuant to this article;~~

~~(8) 'Parent' means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible recipient or Hope Scholarship student;~~

~~(9) 'Participating school' means any private school that provides education to elementary and/or secondary students and has notified the board of its intention to participate in the program and comply with the program's requirements;~~

~~'Public school' means a kindergarten, elementary, or secondary county school, a public charter school, a virtual public charter school, or any other publicly supported elementary or secondary school in this state.~~

~~(10) 'Resident school district' means the county school district in which the student resides; and~~

~~(11) 'Treasurer' means the West Virginia State Treasurer.~~

§18-31-2a. Eligibility for the Hope Scholarship Program.

(a) To participate in the Hope Scholarship Program, a student must:

(1) Be a resident of the State of West Virginia;

(2) Have filed a notice of intent or notice of enrollment pursuant to §18-8-1(b), (k), (m), or (n) of this code to pursue a kindergarten, elementary, or secondary educational option authorized by that section in lieu of compulsory public school attendance for the applicable year;

(3) Have indicated in the notice of intent or notice of enrollment that the student will participate in the Hope Scholarship Program;

(4) Meet all requirements of this code and the Department of Education related to the exemption in §18-8-1(b), (k), (m), or (n) of this code that applies to the student; and

(5) Meet one of the following criteria:

(A) Is eligible at the time of application to enroll in a kindergarten program in this state pursuant to §18-8-1a of this code;

(B) Is enrolled full-time and attending a public elementary or secondary school program in this state for at least 45 calendar days during an instructional term at the time of application and until an award letter is issued by the board pursuant to §18-31-5(c) of this code;

(C) Is enrolled full-time in a public elementary or secondary school program in this state for the entire instructional term the previous year, or

(D) Is eligible to renew his or her Hope Scholarship according to §18-31-8 of this code.

(b) Notwithstanding subsection (a) of this section, if on July 1, 2024, the participation rate of the combined number of students in the Hope Scholarship Program and students eligible who have applied to participate in the Hope Scholarship program during the previous school year is less than five percent of net public school enrollment, adjusted for state aid purposes for the previous school year, a student is eligible to participate in the Hope Scholarship Program beginning on July 1, 2026, if he or she meets the following eligibility criteria:

(1) The student is a resident of West Virginia; and

(2) On or after July 1, 2026, the student is enrolled, eligible to be enrolled, or required to be enrolled in a public school program in this state at the time of application.

(c) Notwithstanding subsection (a) of this section, a child is not eligible to participate or continue to participate in the Hope Scholarship Program if:

(1) The student has successfully completed a secondary education program;

(2) The student is no longer a resident of the State of West Virginia; or

(3) The student is enrolled full-time in a public school.

(d) For each student participating in the Hope Scholarship Program, the county superintendent shall enter the information provided in the student's notice of intent or notice of enrollment into West Virginia Education Information System (WVEIS). The WVEIS entry must clearly indicate that the student will participate in the Hope Scholarship Program, along with any information required by the Hope Scholarship Board to determine program eligibility.

§18-31-3. West Virginia Hope Scholarship board; members; terms; compensation; proceedings generally.

(a) The West Virginia Hope Scholarship Program shall be administered by the West Virginia Hope Scholarship Board.

(b) The board shall consist of nine members and include the following:

(1) The State Treasurer or his or her designee;

(2) The State Auditor, or his or her designee;

(3) The State Attorney General, or his or her designee;

(4) The State Superintendent of Schools, or his or her designee;

(5) The Chancellor of Higher Education, or his or her designee;

(6) The Director of the Herbert Henderson Office of Minority Affairs, or his or her designee; and

(7) Three members appointed by the Governor with the advice and consent of the Senate who are parents of Hope Scholarship students, or for the initial appointments of board members

following the effective date of this article, parents who intend to apply for the Hope Scholarship on behalf of eligible recipients, to be appointed as follows:

- (A) Only state residents are eligible for appointment to the board;
- (B) The members shall reside in geographically diverse areas of the state;
- (C) Members shall be initially appointed to staggered terms as follows:
 - (i) One member appointed by the Governor to a one-year term;
 - (ii) One member appointed by the Governor to a two-year term; and
 - (iii) One member each appointed by the Governor to a three-year term.

After the initial staggering of terms, appointed board members shall serve for three-year terms and are eligible for reappointment at the expiration of their terms; and

(D) If there is a vacancy among appointed members, the vacancy shall be filled by appointment to the unexpired term of a person meeting the requirements of this section by the Governor with the advice and consent of the Senate. Members of the board shall serve until the later of the expiration of the term for which the member was appointed or the appointment of his or her successor.

(c) Members of the board shall serve without compensation. The board may reimburse members for all reasonable and necessary expenses, including travel expenses, actually incurred by board members in the conduct of their official duties. Any expense reimbursements shall be made from the West Virginia Hope Scholarship Program Expense Fund at the same rate paid to state employees.

(d) The Treasurer is the chairman and presiding officer of the board. The Treasurer may provide office space and staff to the board upon request of the board.

(e) The State Superintendent of Schools may provide staff to the board, upon request of the board.

(f) A majority of the members of the board constitutes a quorum for the transaction of the business of the board.

(g) Members of the board are subject to the ethical standards and financial disclosure requirements of the West Virginia Governmental Ethics Act in Chapter 6B of this code.

§18-31-4. Powers of the board.

The board is authorized to take any action necessary to effectuate the provisions of this article and to successfully administer the Hope Scholarship Program, subject to applicable state and federal law, including, but not limited to the following:

- (1) Adopt and amend bylaws;
- (2) Execute contracts and other instruments for necessary goods and services, employ necessary personnel and engage the services of private consultants, actuaries, auditors, counsel,

managers, trustees, and any other contractor or professional needed for rendering professional and technical assistance and advice: *Provided*, That election of these services is not subject to the provisions of §5A-3-1 *et seq.* of this code;

(3) Implement the program through the use of financial organizations as account depositories and managers;

(4) Develop and impose requirements, policies, procedures, and guidelines to implement and manage the program, including the authority to propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* of this code, including emergency rules, if necessary;

(5) Determine whether an expenditure of Hope Scholarship funds is or was a qualifying expense to educate a Hope Scholarship student pursuant to §18-31-7 of this code. The board may approve or deny expenditures by a majority vote;

(6) Review any appeals made pursuant to §18-31-10(b) and §18-31-10(d) of this code;

(7) Establish the method by which moneys in the Hope Scholarship Expense Fund shall be allocated to pay for administrative costs and assess, collect and expend administrative fees, charges, and penalties;

(8) Authorize the assessment, collection and retention of fees and charges against the amounts paid into and the earnings on the Hope Scholarship funds by a financial institution, investment manager, fund manager, West Virginia Investment Management Board, West Virginia Board of Treasury Investments, or other professional managing or investing the Hope Scholarship funds and accounts;

(9) Invest and reinvest any of the funds and accounts under the board's control with a financial institution, an investment manager, a fund manager, the West Virginia Investment Management Board, West Virginia Board of Treasury Investments, or other professionals investing the funds and accounts: *Provided*, That investments made under this article shall be made in accordance with the provisions of §44-6C-1 *et seq.* of this code; and

(10) Solicit and accept gifts, including bequests and other testamentary gifts made by will, trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from any source, or to participate in any other way in any federal, state, or local governmental programs in carrying out the purposes of this article: *Provided*, That the board shall use the property received to effectuate the desires of the donor, and shall convert the property received into cash within 180 days of receipt.

§18-31-5. Award of Hope Scholarships.

(a) The Hope Scholarship Program is established to provide the option for a parent to better meet the individual education needs of his or her eligible child. The program shall be operational no later than July 1, 2022.

(b) The board shall create a standard application form that a parent can submit to establish his or her student's eligibility for the award of Hope Scholarship funds, to be placed in a personal education savings account to be used for qualifying education expenses on behalf of the eligible recipient as provided for in §18-31-7 of this code. Information about scholarship funds and the application process shall be made available on the board's website.

(c) The board shall make such applications available no later than March 1, 2022 and shall begin accepting applications immediately thereafter. The board may update the application as needed. The board shall issue an award letter to eligible recipients within 45 days of receipt of a completed application and all required documentation.

(d) The board shall approve an application for a Hope Scholarship if all of the following circumstances are met:

(1) A parent submits an application for a Hope Scholarship in accordance with the legislative rules promulgated by the board;

(2) A student on whose behalf the parent is applying is an eligible recipient, as provided for in ~~§18-31-2(5)~~ §18-31-2a of this code;

(3) The parent signs an agreement with the board, promising to do all of the following:

(A) To provide an education for the eligible recipient in at least the subjects of reading, language, mathematics, science, and social studies;

(B) To use the Hope Scholarship funds exclusively for qualifying expenses as provided for in §18-31-7 of this code;

(C) To comply with the rules and requirements of the Hope Scholarship program; and

(D) To afford the Hope Scholarship student opportunities for educational enrichment such as organized athletics, art, music, or literature; and

(4) The board confirms with the West Virginia Department of Education that the student satisfies ~~§18-31-2(5)(B)~~ §18-31-2a of this code: *Provided*, That if the department does not reply within 30 days, this criteria is considered satisfied.

(e) ~~An application for a Hope Scholarship is~~ All records accepted or maintained by the Board containing personally identifying information of a Hope Scholarship student, applicant, or parent are confidential and not a public record subject to release pursuant to the West Virginia Freedom of Information Act, as codified in §29B-1-1 *et seq.* of this code.

§18-31-6. Funding of Hope Scholarships; program and expense funds.

(a) There is hereby created in the State Treasury a special revenue fund designated and known as the West Virginia Hope Scholarship Program Fund. The fund shall be administered by the Treasurer and shall consist of funds transferred by the Department of Education in accordance with §18-9A-25 of this code. All interest and other returns derived from the deposit and investment of moneys in the Hope Scholarship Fund shall be credited to the fund. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(b) The amount of Hope Scholarship funds made available to an eligible recipient on a yearly basis shall be equal to 100 percent of the prior year's statewide average net state aid share allotted per pupil based on net enrollment adjusted for state aid purposes, subject to the provisions of subsection (c) of this section: *Provided*, That the amount of the funding to an eligible recipient

who is awarded a Hope Scholarship account for less than a full fiscal year shall be prorated based on the portion of the fiscal year the eligible recipient is awarded the Hope Scholarship account. On or prior to the submission of the Department of Education's budget request each year, the board shall notify the Department of Education of the total number of eligible Hope Scholarship applications received by the board, for purposes of facilitating the necessary transfer of moneys pursuant to §18-9A-25 of this code.

(c) Expenditures from the Hope Scholarship Fund shall be limited to the purposes set forth in this article: *Provided*, That an amount not to exceed five percent of the fund shall be transferred annually to the West Virginia Hope Scholarship Program Expense Fund established in subsection (h) of this section to cover the annual administrative costs of the Hope Scholarship Program. If the number of Hope Scholarship accounts increases significantly after any fiscal year, the Treasurer may request an appropriation by the Legislature to the West Virginia Hope Scholarship Program Expense Fund in an amount equal to the administrative costs associated with the increase in Hope Scholarship accounts.

(d) The first deposit of Hope Scholarship funds into an eligible recipient account shall be subject to the execution of the parental agreement required by §18-31-5 of this code. Upon execution of the required parental agreement, and subject to the provisions of §18-31-9(e) of this code, one half of the total annually required deposit shall be made no later than August 15 of every year into an eligible recipient's Hope Scholarship account, and one half of the total annually required deposit shall be made no later than January 15 of every year. Any funds remaining in a Hope Scholarship account at the end of the fiscal year may be carried over to the next fiscal year upon successful renewal of the account.

(e) Funds deposited in a student's Hope Scholarship account, other than those funds expended on transportation services pursuant to §18-31-7(44) (12) of this code, do not constitute taxable income to the parent or the Hope Scholarship student.

(f) The board shall continue to make deposits into an eligible recipient's Hope Scholarship account in accordance with the provisions of this section unless any of the following conditions have occurred:

(1) A parent of an eligible recipient fails to renew a Hope Scholarship account or withdraws from the Hope Scholarship Program;

(2) The board determines that a student is no longer eligible for a Hope Scholarship;

(3) The board suspends or revokes participation in the Hope Scholarship Program for failure to comply with the requirements of this article;

(4) The Hope Scholarship student successfully completes a secondary education program; or

(5) The Hope Scholarship student reaches 21 years of age.

(g) If any of the conditions in subsection (f) of this section occur, the board shall notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent fails to adequately address the condition or conditions upon which closure is based or does not respond within 30 calendar days of receipt of notice, the board shall close the account and any remaining moneys shall be returned to the state.

(h)(1) There is hereby created in the State Treasury a special revenue fund designated and known as the West Virginia Hope Scholarship Program Expense Fund. The account shall consist of moneys received pursuant to this section; moneys, if any, transferred from special revenue funds administered by the Treasurer; or any governmental or private grants and any state general fund appropriations, if any, for the Hope Scholarship Program. All interest and other returns derived from the deposit and investment of moneys in the Hope Scholarship Program Expense Fund shall be credited to the fund. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(2) All expenses incurred by the Treasurer or the board in developing and administering the Hope Scholarship Program shall be payable from the West Virginia Hope Scholarship Expense Fund.

§18-31-7. Qualifying expenses for Hope Scholarship accounts.

(a) Parents of a Hope Scholarship student shall agree to use the funds deposited in their student's Hope Scholarship account only for the following qualifying expenses to educate the student pursuant to an exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code:

(1) Ongoing services provided by a public school district pursuant to §18-31-8(f) of this code, including without limitation, individual classes and extracurricular activities and programs;

(2) Tuition and fees at a participating school;

(3) Tuition and fees at a microschool established pursuant to §18-8-1(n) of this code;

~~(3)~~ (4) Tutoring services provided by an individual or a tutoring facility: *Provided*, That such tutoring services are not provided by a member of the Hope Scholarship student's immediate family;

(4) (5) Fees for nationally standardized assessments, advanced placement examinations, any examinations related to college or university admission, and tuition and/or fees for preparatory courses for the aforementioned exams;

~~(5)~~ (6) Tuition and fees for programs of study or the curriculum of courses that lead to an industry-recognized credential that satisfies a workforce need;

~~(6)~~ (7) Tuition and fees for nonpublic online learning programs;

~~(7)~~ (8) Tuition and fees for alternative education programs;

~~(8)~~ (9) Fees for after-school or summer education programs;

~~(9)~~ (10) Educational services and therapies, including, but not limited to, occupational, behavioral, physical, speech-language, and audiology therapies;

~~(10)~~ (11) Curriculum as defined in §18-31-2 of this code;

~~(11)~~ (12) Fees for transportation paid to a fee-for-service transportation provider for the student to travel to and from an education service provider; and

~~(12)~~ (13) Any other qualified expenses as approved by the board established pursuant to §18-31-3 of this code.

(b) Hope Scholarship funds may only be used for educational purposes in accordance with subsection (a) of this section. Nothing in this section requires that a Hope Scholarship student be enrolled, full- or part-time, in either a private school or nonpublic online school. Hope Scholarship funds may only be used for qualifying expenses incurred to provide the student with a kindergarten, elementary, or secondary education pursuant to an exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code.

(c) Hope Scholarship funds may not be refunded, rebated, or shared with a parent or student in any manner. Any refund or rebate for goods or services purchased with Hope Scholarship funds shall be credited directly to a student's Hope Scholarship account.

(d) Nothing in this section prohibits the parents of a Hope Scholarship student from making payments for the costs of educational goods and services not covered by the funds in their student's Hope Scholarship account. However, personal deposits into a Hope Scholarship account are not permitted.

§18-31-8. Renewal of Hope Scholarship accounts; participation in public school system.

(a) A parent must renew an eligible recipient's Hope Scholarship on an annual basis. Notwithstanding any changes in eligibility, a Hope Scholarship student who has previously qualified for a Hope Scholarship account remains eligible to apply for renewal until one of the conditions set forth in §18-31-6(f) occurs: *Provided*, That the board shall verify with the Department of Education the following information by July 1 of every year:

(1) A list of all active Hope Scholarship Accounts;

(2) The resident school district of each Hope Scholarship student; and

~~(3) For a Hope Scholarship student who chooses to attend a participating school, annual confirmation of his or her continued attendance at a nonpublic school that complies with all requirements that other nonpublic school students must comply with; and~~

~~(4) For a Hope Scholarship student who chooses an individualized instructional program:~~

~~(A) (i) He or she has annually taken a nationally normed standardized achievement test of academic achievement;~~

~~(ii) The mean of the child's test results in the subject areas of reading, language, mathematics, science and social studies for any single year is within or above the fourth stanine or, if below the fourth stanine, show improvement from the previous year's results; and~~

~~(iii) The child's test results are reported to the county superintendent; or~~

~~(B) (i) A certified teacher conducts a review of the student's academic work annually;~~

~~(ii) The certified teacher determines that the student is making academic progress commensurate with his or her age and ability; and~~

~~(iii) The certified teacher's determination is reported to the county superintendent~~

(3) That the student has met all requirements for the student's exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code.

(b) If a student is required to submit documentation of academic progress or nonpublic school attendance to the county superintendent or the Board of Education pursuant to the student's exemption from compulsory school attendance under §18-8-1(b), (k), (m), or (n) of this code, the student must submit the information at least annually to participate in the Hope Scholarship Program: *Provided*, That nothing in this Act may be construed to impose additional requirements on students who are exempt from compulsory school attendance and who do not participate in the Hope Scholarship Program.

~~(b)~~ (c) Each county superintendent shall submit the test results and determinations reported to him or her pursuant to subsection (a) of this section to the Department of Education each year on or before June 15.

~~(c)~~ (d) If a parent fails to renew an eligible recipient's Hope Scholarship, the board shall notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent chooses not to renew or does not respond within 30 calendar days of receipt of notice, the board shall close the account and any remaining moneys shall be returned to the state.

~~(d)~~ (e) If an eligible recipient decides to return to the Hope Scholarship Program after failing to renew, they must reapply.

~~(e)~~ (f) The board, in consultation with the Department of Education, may adopt rules and policies to provide the least disruptive process for Hope Scholarship students who desire to stop receiving Hope Scholarship payments and return full-time to a public school.

~~(f)~~ (g) The board, in consultation with the Department of Education, may adopt rules and policies for Hope Scholarship students who want to continue to receive services provided by a public school or district, including individual classes and extracurricular programs, in combination with an ~~individualized instructional program~~ Assembled Instructional Module as defined by §18-8-1(m)(1) of this code. The board, in consultation with the Department of Education, shall ensure that any public school or school district providing such services receives the appropriate pro rata share of a student's Hope Scholarship funds based on the percentage of total instruction provided to the student by the public school or school district. County boards shall charge tuition to Hope Scholarship students who enroll for services in a public school within the county. Hope Scholarship students who enroll for services part-time in public school shall not be included in net enrollment for state aid funding purposes under §18-9A-2 of this code. Nothing in this subsection prohibits a Hope Scholarship student from using the funds deposited in his or her account on both services provided by a public school or district and other qualifying expenses as provided for in §18-31-7 of this code.

§18-31-9. Administration of Hope Scholarship accounts.

(a) In addition to the duties, obligations, and authority stated in this section and in other parts of this article, the board has the following duties, obligations, and authority with respect to the administration of Hope Scholarship accounts:

(1) To maintain an updated list of participating schools and other education service providers and shall ensure that the list is publicly available through various sources, including the internet;

(2) To provide parents with a written explanation of the allowable uses of Hope Scholarship funds, the responsibilities of parents, the duties of the board and the role of any private financial management firms or other private organizations that the board may contract with to administer the Hope Scholarship Program or any aspect of the program; and

(3) To ensure that parents of students with a disability receive notice that participation in the Hope Scholarship Program is a parental placement under 20 U.S.C. § 1412 of the Individuals with Disabilities Education Act (IDEA) along with an explanation of the rights that parentally placed students possess under (IDEA) and any applicable state laws and regulations.

(b) The board may contract with private organizations to administer the Hope Scholarship Program. This includes, but is not limited to, private financial management firms to manage Hope Scholarship accounts.

(c) The board may contract with independent auditors to complete the audits authorized in §18-31-9 of this code.

~~(c)~~ (d) The board shall implement, or contract with a private organization to implement, a commercially viable, cost effective, and parent-friendly system for payment for services from Hope Scholarship accounts to participating schools or education service providers, including, but not limited to, the use of debit cards or other electronic or online fund transfers: *Provided*, That a Hope Scholarship account may not be reduced for debit card or electronic payment fees.

~~(d)~~ (e) The board shall also seek to implement a commercially viable, cost-effective, and parent-friendly system for publicly rating, reviewing, and sharing information about participating schools and education service providers, ideally as part of the same system that facilitates the electronic or online funds transfers so as to create a one-stop-shop for parents and Hope Scholarship students.

~~(e)~~ (f) If an education service provider requires partial payment of tuition or fees prior to the start of the academic year to reserve space for a Hope Scholarship student admitted to the education service provider, such partial payment may be paid prior to the start of the school year in which the Hope Scholarship is awarded, and deducted in an equitable manner from subsequent Hope Scholarship deposits to ensure adequate funds remain available throughout the school year; but if a Hope Scholarship student decides not to use the education service provider, the partial reservation payment must be returned to the board by such education service provider and credited to the student's Hope Scholarship account.

~~(f)~~ (g) The board may accept gifts and grants from any source to cover administrative costs, to inform the public about the Hope Scholarship Program, or to provide additional funding for Hope Scholarship Accounts.

~~(g)~~ (h) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* and §18-31-4(4) of this code, ~~including emergency rules, if necessary, to meet timelines set forth in this article, that are not inconsistent with this article and that are necessary for the administration of this article, including~~ but not limited to:

(1) Establishing or contracting for the establishment of a fraud reporting system;

(2) Policies that require a surety bond for education service providers receiving more than \$100,000 in Hope Scholarship funds;

(3) Procedures for refunding payments from education service providers back to Hope Scholarship accounts; and

(4) Procedures for entering into reciprocal agreements with other state education savings account agencies or entities, whether public or private, to recognize and allow education service providers approved in other states to receive payments from Hope Scholarship accounts under this article.

~~(h)~~ (i) The rules or policies adopted by the board should avoid excessive bureaucracy and overly prescriptive mandates and instead shall focus on encouraging participation in the program and encouraging education service providers to provide parents and Hope Scholarship students with a broad array of educational options.

§18-31-10. Auditing of Hope Scholarship Program; suspension of accounts and providers.

(a) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* of this code for the auditing of individual Hope Scholarship accounts and shall conduct or contract for the random auditing of individual Hope Scholarship accounts as needed to ensure compliance with the requirements of this article and rules promulgated pursuant to this article.

(b) As part of the auditing process, the board may remove a parent or eligible recipient from the Hope Scholarship program and close a Hope Scholarship account for failure to comply with the terms of the parental agreement required by §18-31-5 of this code, failure to comply with the applicable laws, failure of the student to remain eligible, or intentional and fraudulent misuse of Hope Scholarship funds: *Provided*, That the board shall create procedures to ensure that a fair process exists to determine the removal of a parent or eligible recipient from the Hope Scholarship program and a parent or Hope Scholarship student may appeal the decision to make the student ineligible for funds to the board.

~~(c) The board may conduct or contract for the audit of education service providers accepting payments from Hope Scholarship accounts. if it determines that the education service provider has:~~

~~(1) Intentionally and substantially misrepresented information or failed to refund any overpayments in a timely manner; or~~

~~(2) Routinely failed to provide students with promised educational goods or services.~~

(c) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* and §18-31-4(4) of this code for the auditing of education service providers and shall conduct or contract for the random auditing of individual providers as needed to ensure compliance with the requirements of this article and rules promulgated pursuant to this article.

(d) If the board determines that an education service provider has intentionally and substantially misused Hope Scholarship funds, the board may bar the education service provider from continuing to receive payments. The board shall create procedures to ensure that a fair process exists to determine whether an education service provider may be barred from receiving payment from Hope Scholarship accounts and an education service provider may appeal a

decision to bar it from receiving payments to the board. If the board bars an education service provider from receiving payments from Hope Scholarship accounts, it shall notify parents and students of its decision as quickly as possible.

(e) If the board obtains evidence of potential fraudulent use of Hope Scholarship funds, it may refer suspected cases to the State Auditor for purposes of investigation, collection and potential criminal investigation.

§18-31-11. Requirements for and rights of education service providers.

(a) To be eligible to accept payments from a Hope Scholarship account, an education service provider shall:

(1) Submit notice to the board that they wish to participate in the Hope Scholarship Program;

(2) Provide participating parents with a receipt for all qualifying educational expenses for the Hope Scholarship student;

(3) Agree not to refund, rebate, or share Hope Scholarship funds with parents or students in any manner, except that funds may be remitted or refunded to a Hope Scholarship account in accordance with §18-31-7(c) of this code;

(4) Certify that it will not discriminate on any basis prohibited by 42 U.S.C. § 1981;

(5) ~~Agree to submit~~ Submit any employee or other person who will have contact with Hope Scholarship students receiving benefits from the provider to a criminal background check and certify the results of said background check to the Board: *Provided*, That the Board may propose rules pursuant §29A-3-1 *et seq.* and §18-31-4(4) of this code to suspend or disqualify a person from serving as an education service provider, based on charges, indictment, or conviction of sexual offenses or felonies involving violence against another person; and

(6) In the case of a participating school, provide notice of enrollment annually to the county superintendent of any student for which a student's tuition is being paid through the Hope Scholarship Program.

(b) This article does not limit the independence or autonomy of an education service provider or make the actions of an education service provider the actions of the state government.

(c) Education service providers shall be given maximum freedom to provide for the educational needs of Hope Scholarship students without governmental control.

(d) A participating school or education service provider is not required to alter its creed, practices, admission policy, hiring policy or curriculum in order to accept eligible recipients whose parents pay tuition or fees from a Hope Scholarship account pursuant to this article: *Provided*, That an education service provider is prohibited from requiring a student or family to pay tuition or fees above the provider's regular tuition or fee schedule based in whole or in part upon a student or family member's participation in the Hope Scholarship program.

(e) This article does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of education service providers beyond those necessary to enforce the requirements of the program."

Whereupon,

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend and the rule was suspended to permit the consideration of amendments on that reading.

H. B. 3451, Updating the veteran preference ratings in state code for state employment; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

Com. Sub. for H. B. 3480, Enact the West Virginia Consumer Financial Privacy Act of 2023; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend and the rule was suspended to permit the consideration of amendments on that reading.

Com. Sub. for H. B. 3482, To create the Coal Fired Grid Stabilization and Security Act of 2023; on second reading, coming up in regular order, was read a second time.

At the request of Delegate Householder, and by unanimous consent, the bill was advanced to third reading with the right to amend and the rule was suspended to permit the consideration of amendments on that reading.

H. B. 3500, Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee's designated office; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3561, Relating generally to creating the Joint Legislative Committee on Civic Life; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3562, Relating to the West Virginia Fusion Center; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Phillips, the bill was amended on page 11, section 3, line 98, after the word "Fusion" by inserting the word "Center".

And,

On page 14, section 5, line 42, after the word "confined" by striking the words "in shall be imprisoned".

The bill was then ordered to engrossment and third reading.

First Reading

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

S. B. 136, Requiring persons convicted of certain offenses to undergo psychological or psychiatric testing and have treatment plan to be eligible for probation,

Com. Sub. for S. B. 208, Relating to criminal justice training for all law-enforcement and correction officers regarding individuals with autism spectrum disorders,

Com. Sub. for S. B. 270, Adding exemption to permit requirement for cremation,

S. B. 276, Awarding service weapon of retiring State Fire Marshal,

Com. Sub. for S. B. 300, Relating to law-enforcement training and certification,

S. B. 481, Extending sunset provision of Upper Kanawha Valley Resiliency and Revitalization Program,

S. B. 553, Allowing for evaluation of prequalified bidders to be based on best value,

H. B. 3511, Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program,

H. B. 3512, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services,

H. B. 3513, Making a supplementary appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority,

H. B. 3514, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund,

H. B. 3515, Making a supplementary appropriation to the Department of Veterans' Assistance, Veterans' Facilities Support Fund,

H. B. 3516, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Safe Drinking Water Treatment,

H. B. 3517, Making a supplementary appropriation to the Division of Human Services – Child Care and Development,

H. B. 3518, Making a supplementary appropriation to the Department of Agriculture.

And,

H. B. 3524, Making a supplementary appropriation to the Department of Agriculture – West Virginia Spay Neuter Assistance Fund.

Delegate Householder asked and obtained unanimous consent to return to further consideration of Com. Sub. for H. B. 3046.

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

Com. Sub. for H. B. 3046 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-44, relating to the creation of the Fast Track for Agriculture Education Endorsement Program."

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

Miscellaneous Business

In the absence of objection, Com. Sub. for S. B. 534 was reassigned to the Committee on the Judiciary.

At 9:03 p.m., the House of Delegates adjourned until 9:30 a.m., Wednesday, March 1, 2023.

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470

SPECIAL CALENDAR

Wednesday, March 1, 2023

50th Day

9:30 A. M.

THIRD READING

- Com. Sub. for H. B. 2862 - Relating generally to requirements for shareholder voting by the West Virginia Investment Management Board and the Board of Treasury Investments (CAPITO) (REGULAR)
- H. B. 2878 - To grant the Fleet Management Division oversight authority of the state vehicle fleet (PHILLIPS) (REGULAR)
- H. B. 2939 - Relating to filing of lien by municipalities for collection of refuse fees (CAPITO) (REGULAR) [RIGHT TO AMEND]
- H. B. 2955 - Relating to the establishment and operation of regional water, wastewater and stormwater authorities (PHILLIPS) (REGULAR)
- Com. Sub. for H. B. 2992 - Clarifying and updating school bus rules and the types of vehicles covered (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 3018 - Establishing that 18 is the age of consent and removing the ability of an underage person to obtaining a consent to marry through their parents, legal guardians, or by petition to the circuit court (CAPITO) (REGULAR)
- Com. Sub. for H. B. 3049 - To create the American Campuses Act (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 3092 - Relating to in-state food service permit reciprocity (PHILLIPS) (REGULAR)
- Com. Sub. for H. B. 3133 - Create a credit against the severance tax to encourage private companies to make infrastructure improvements to highways, roads and bridges in this state (CRISS) (REGULAR)
- Com. Sub. for H. B. 3135 - To modify the salaries of the Governor and Constitutional officers beginning January 1, 2025 (CRISS) (REGULAR)
- Com. Sub. for H. B. 3153 - Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers (CRISS) (REGULAR) [AMENDMENTS PENDING] [RIGHT TO AMEND]
- H. B. 3203 - Relating generally to West Virginia Real Estate License Act (PHILLIPS) (REGULAR)

- Com. Sub. for H. B. 3303 - Clarifying and expanding the powers and duties of the director of the Coalfield Community Development Office (CRISS) (REGULAR)
- Com. Sub. for H. B. 3313 - Restraining county commissions from imposing rules and regulations on farmers beyond what is already prescribed through state statute (CAPITO) (REGULAR)
- H. B. 3330 - Creating family court circuits and assigning the number of family court judges in each family court circuit to be elected in the 2024 election (CAPITO) (REGULAR)
- Com. Sub. for H. B. 3332 - Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected in the 2024 election (CAPITO) (REGULAR)
- Com. Sub. for H. B. 3344 - To pay certain moral obligations of the state (CAPITO) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 3354 - To authorize municipalities to combine operations with other municipalities and counties to provide governmental services (CAPITO) (REGULAR) [RESTRICTED RIGHT TO AMEND]
- H. B. 3371 - Relating to federal funds for land-grant institutions (CRISS) (REGULAR)
- Com. Sub. for H. B. 3405 - Change the maximum time period of a protective order to one year (CAPITO) (REGULAR)
- H. B. 3408 - To clean up statutory provisions regarding the Hope Scholarship program to better reflect the intent and operation of the program (ELLINGTON) (REGULAR) [RIGHT TO AMEND]
- H. B. 3451 - Updating the veteran preference ratings in state code for state employment (PHILLIPS) (REGULAR)
- Com. Sub. for H. B. 3480 - Enact the West Virginia Consumer Financial Privacy Act of 2023 (CAPITO) (REGULAR) [RIGHT TO AMEND]
- Com. Sub. for H. B. 3482 - To create the Coal Fired Grid Stabilization and Security Act of 2023 (HOWELL) (REGULAR) [RIGHT TO AMEND]
- H. B. 3500 - Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee's designated office (CAPITO) (REGULAR)
- H. B. 3554 - Relating to prohibiting a municipality or the governing body of any municipality from limiting rental of a property (HOWELL) (REGULAR)
- H. B. 3561 - Relating generally to creating the Joint Legislative Committee on Civic Life (PHILLIPS) (REGULAR)
- H. B. 3562 - Relating to the West Virginia Fusion Center (PHILLIPS) (REGULAR)

SECOND READING

- S. B. 136 - Requiring persons convicted of certain offenses to undergo psychological or psychiatric testing and have treatment plan to be eligible for probation (CAPITO) (REGULAR)
- Com. Sub. for S. B. 208 - Relating to criminal justice training for all law-enforcement and correction officers regarding individuals with autism spectrum disorders (CAPITO) (REGULAR)
- Com. Sub. for S. B. 270 - Adding exemption to permit requirement for cremation (PHILLIPS) (REGULAR)
- S. B. 276 - Awarding service weapon of retiring State Fire Marshal (CAPITO) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 300 - Relating to law-enforcement training and certification (PHILLIPS) (REGULAR)
- S. B. 481 - Extending sunset provision of Upper Kanawha Valley Resiliency and Revitalization Program (PHILLIPS) (REGULAR)
- S. B. 553 - Allowing for evaluation of prequalified bidders to be based on best value (PHILLIPS) (REGULAR)
- H. B. 3511 - Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3512 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3513 - Making a supplementary appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3514 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3515 - Making a supplementary appropriation to the Department of Veterans' Assistance, Veterans' Facilities Support Fund (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3516 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Safe Drinking Water Treatment (CRISS) (EFFECTIVE FROM PASSAGE)

- H. B. 3517 - Making a supplementary appropriation to the Division of Human Services – Child Care and Development (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3518 - Making a supplementary appropriation to the Department of Agriculture (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3524 - Making a supplementary appropriation to the Department of Agriculture – West Virginia Spay Neuter Assistance Fund (CRISS) (EFFECTIVE FROM PASSAGE)

FIRST READING

- Com. Sub. for S. B. 430 - Relating to State Treasurer's authority to contract with financial institutions for banking goods and services (PHILLIPS) (REGULAR)
- Com. Sub. for S. B. 490 - Patrol Officer Cassie Marie Johnson Memorial Act (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- S. B. 510 - Supplementing and amending appropriations to BOE, Department of Education (CRISS) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 526 - Including Alzheimer's disease in existing public health programs (SUMMERS) (REGULAR) [HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 577 - Reducing copay cap on insulin and devices and permitting purchase of testing equipment without prescription (SUMMERS) (REGULAR) [HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING]
- S. B. 605 - Requiring state medical examiner to enter into contracts with procurement organization (SUMMERS) (EFFECTIVE FROM PASSAGE) [HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 613 - Relating generally to certificates of need (SUMMERS) (EFFECTIVE FROM PASSAGE)
- S. B. 679 - Requiring Office of Inspector General to promulgate rules concerning location of forensic group homes (SUMMERS) (EFFECTIVE FROM PASSAGE) [HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 730 - Expanding authority of Legislative Oversight Commission on Health and Human Resources Accountability (SUMMERS) (EFFECTIVE FROM PASSAGE) [HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING]

- H. B. 2904 - Supplementing and amending appropriations to the Department of Commerce, Office of the Secretary (CRISS) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2908 - Supplementing and amending appropriations to the Department of Commerce, Division of Forestry (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3557 - Making a supplementary appropriation to the Department of Veterans' Assistance (CRISS) (EFFECTIVE FROM PASSAGE)

HOUSE CALENDAR

Wednesday, March 1, 2023

50th Day

9:30 A. M.

THIRD READING

- Com. Sub. for H. B. 2075 - To provide a means to classify when medications should be continued or stopped for patients (SUMMERS) (REGULAR)
- Com. Sub. for H. B. 2498 - To require medication-assisted treatment programs to have written policies concerning community relations (SUMMERS) (REGULAR)
- H. B. 3459 - To allow for a best value procurement evaluation for prequalified bidders (PHILLIPS) (REGULAR)

SECOND READING

- Com. Sub. for S. B. 188 - Grid Stabilization and Security Act of 2023 (CRISS) (REGULAR)
- Com. Sub. for S. B. 594 - Specifying fairness in cost sharing calculations for certain high deductible health plans (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2017 - Relating to service of process in child abuse cases (CAPITO) (REGULAR)
- Com. Sub. for H. B. 2196 - To remove opioid treatment programs from requiring a certificate of need (SUMMERS) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2471 - Relating to the suspension of driver's license for unpaid tickets (CAPITO) (REGULAR)
- H. B. 2510 - To establish the Rare Earth Element and Critical Mineral Investment Tax Credit Act (HOWELL) (EFFECTIVE FROM PASSAGE)
- H. B. 3427 - Relating to consumers sales and service tax and use tax exemption for certain goods to be incorporated into a qualified, new or expanded warehouse or distribution facility (CRISS) (REGULAR)
- H. B. 3430 - To prohibit the bureau from assessing a fee upon local health departments (SUMMERS) (REGULAR)
- Com. Sub. for H. B. 3484 - Relating to SNAP benefits (PHILLIPS) (REGULAR)
- H. B. 3487 - Relating to cost-sharing calculations for certain Health Savings Account-qualified High Deductible Health Plans (SUMMERS) (REGULAR)

H. B. 3558 - Relating to providing an exception to the provisions of the Uniform Common Interest Ownership Act (UCOIA) (HOWELL) (REGULAR)

FIRST READING

Com. Sub. for S. B. 51 - Requiring impact statement in certain instances of school closing or consolidation (ELLINGTON) (REGULAR)

S. B. 131 - Allowing municipal fire marshals to receive service weapon upon retirement (MALLOW) (REGULAR)

Com. Sub. for S. B. 160 - WV Rail Trails Program (HOWELL) (REGULAR) [ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE AMENDMENT PENDING]

Com. Sub. for S. B. 205 - Relating to registration plates (LINVILLE) (REGULAR) [TECHNOLOGY AND INFRASTRUCTURE COMMITTEE AMENDMENT PENDING]

S. B. 246 - Revising membership of Broadband Enhancement Council (LINVILLE) (REGULAR)

Com. Sub. for S. B. 439 - Establishing design-build program for DEP (LINVILLE) (REGULAR)

Com. Sub. for S. B. 463 - Increasing validity of CDL instruction permit (LINVILLE) (REGULAR)

S. B. 591 - Allowing counties and municipalities to jointly undertake development projects (HOWELL) (REGULAR)

Com. Sub. for H. B. 2189 - To create the "Protection of Property from Warrantless Searches Act." (CAPITO) (REGULAR)

Com. Sub. for H. B. 3421 - Recodifying the code to eliminate conflicts (CAPITO) (REGULAR)

WEST VIRGINIA HOUSE OF DELEGATES

WEDNESDAY, MARCH 1, 2023

HOUSE CONVENES AT 9:30 A.M.

**COMMITTEE ON RULES
9:15 A.M. – BEHIND CHAMBER**

**COMMITTEE ON THE JUDICIARY
1:00 P.M. – ROOM 410-M**

**COMMITTEE ON FINANCE
2:00 P.M. – ROOM 460-M**

**COMMITTEE ON GOVERNMENT ORGANIZATION
3:00 P.M. – ROOM 215-E**

HOUSE OF DELEGATES
STEPHEN J. HARRISON, Clerk
Building 1, Room M-212
1900 Kanawha Blvd., East
Charleston, WV 25305-0470