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March 1, 2023
FIFTIETH DAY

Wednesday, March 1, 2023

FIFTIETH 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 Tuesday, February 28, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Messages from the Executive
and Other Communications**

The Clerk announced that H. B. 3272 was presented to the Governor on March 1, 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. 3042, Relating to forbidding excessive government limitations on exercise of religion.

A message from the Senate, by

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

Com. Sub. for H. B. 3308, Authorizing PSC consider and issue financing orders to certain utilities to permit the recovery of certain costs through securitization via consumer rate relief bonds.

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. 422 - "A Bill to amend and reenact §18-5-27 of the Code of West Virginia, 1931, as amended, relating to a school's requirement to publish curriculum online at the beginning of each new school year, or within 30 days after curriculum is revised or new curriculum is adopted; and requiring schools to publish adopted, up-to-date, county-adopted classroom curriculum"; 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. 440 - "A Bill to amend and reenact §17-3-2 of the Code of West Virginia, 1931, as amended, relating to payments from the State Road Fund; authorizing transfer of spending authority between appropriations; and requiring reporting by the Division of Highways"; 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. 476 - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §9-5-31, relating to managed care contracts; providing that the Bureau for Medical Services is exempt from the requirements of the Purchasing Division with respect to managed care contracts; and providing for exceptions"; 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. 541 - "A Bill to amend and reenact §3-5-7, §3-5-11, and §3-5-19 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-2-1 of said code; and to amend and reenact §18-5-1a of said code, all relating generally to elections; clarifying the contents of the certificate of announcement of candidacy; specifying what information must be sworn or affirmed by candidates for office; clarifying the timing of challenges to candidate qualifications; amending the authority of political parties to fill ballot vacancies caused by voluntary withdrawals after the primary election; and prohibiting persons who have been convicted of certain crimes against minors from being eligible to hold positions on boards of education"; which was referred to the Committee on the Judiciary.

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. 547 - "A Bill to amend and reenact §60A-4-401, §60A-4-409, §60A-4-414, and §60A-4-416 of the Code of West Virginia, 1931, as amended, all relating to controlled substances violations; increasing sentences for certain controlled substances offenses; making certain offenses ineligible for suspension of sentence or probation, or alternative sentencing; making possession of Schedule I and II narcotics and methamphetamine a felony; expressing legislative intent; authorizing reduction from felony to misdemeanor under certain circumstances; declaring that minimum period of 10 years' incarceration for the offense of drug delivery causing death; requiring inert substances mixed with controlled substances to be considered a controlled substance for purposes of weight measurement; setting forth method for measurement where more than one controlled substance is in a mixture; and modifying sentences for certain offenses"; which was referred to the Committee on the Judiciary.

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. 572 - "A Bill to amend and reenact §8-12-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §55-7-

32, all relating to reforming the cause of action for public nuisance; providing definitions; outlining appropriate remedies; clarifying when municipal entities and individuals have standing to pursue a public nuisance action; and noting that any changes to current law of public nuisance have only prospective effect”; which was referred to the Committee on the Judiciary.

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. 573 - “A Bill to amend and reenact §48-1-205 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-13-301, §48-13-303, §48-13-403, §48-13-404, §48-13-501, and §48-13-502 of said code, all relating generally to the child support guidelines and the Support Enforcement Commission; clarifying circumstances and factors for attributed income; updating monthly basic child support obligations to reflect 2022 financial data; updating income amount requiring manual calculation to determine basic child support obligation; updating amount for the ability to pay calculation and self-support reserve; and amending the multiplier for extended shared parenting adjustment”; which was referred to the Committee on the Judiciary.

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. 650 - “A Bill to amend and reenact §30-3-14 and §30-3-15 of the Code of West Virginia, 1931, as amended; and to amend and reenact §31B-13-1301 of said code, all relating to physician assistants owning a practice; establishing grounds for discipline or denial of a license or other authorization for physician assistants; clarifying physician assistant shareholder eligibility for medical corporations; permitting physician assistants to serve as designated corporate representatives; and designating the profession of physician assistant as a professional service for the purposes of the Uniform Limited Liability Company Act”; 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. 660 - “A Bill to amend and reenact §17C-5-3 of the Code of West Virginia, 1931, as amended, relating to reckless driving; establishing the aggravated felony offense of reckless driving resulting in the death of another; and providing the criminal penalties for the offense”; which was referred to the Committee on the Judiciary.

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. 666 - “A Bill to amend and reenact §61-2-12 of the Code of West Virginia, 1931, as amended, relating to the crime of robbery; establishing the maximum term of years that may be imposed as a penalty upon conviction of robbery in the first degree; and eliminating the separate crime of bank robbery”; which was referred to the Committee on the Judiciary.

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. 681 - “A Bill to amend and reenact §49-4-728, §49-4-729, and §49-4-734 of the Code of West Virginia, 1931, as amended, all relating to clarifying that the juvenile competency determination process extends to status offenders; and clarifying that there is no presumption of incompetence based on age for status offenders”; which was referred to the Committee on the Judiciary.

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. 732 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §33-15-23; to amend said code by adding thereto a new section designated §33-16-19; to amend said code by adding thereto a new section designated §33-24-7x; to amend said code by adding thereto a new section designated §33-25-8u; and to amend said code by adding thereto a new section designated §33-25A-8x, all relating to prohibiting an insurer from imposing a copayment, for services rendered by a licensed occupational therapist, licensed occupational therapist assistant, licensed speech-language pathologist, licensed speech-language pathologist assistant, licensed physical therapist or a licensed physical therapist assistant, that is more than a copayment imposed for the services of a primary care physician or an osteopathic physician”; 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. 734 – “A Bill to amend and reenact §5A-3-3c of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto two new sections, designated §5A-6-4d and §5A-6-4e; and to amend and reenact §5A-6B-4 of said code, all relating to state data accessibility and infrastructure resiliency; requiring adoption of cloud computing services by state agencies; requiring development of a cloud strategy by Chief Information Officer; encouraging digitization of state agency forms; and requiring annual reporting on information technology modernization”; which was referred to the Committee on Government Organization.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 10 - “Requesting the Division of Highways name a 1.7 mile stretch of highway, beginning at the intersection of Route 20/1 and County Route 20, also known as Mulberry Ridge Road, in Roane County, West Virginia, the “U.S. Army Air Corps PVT Albert J. Sutphin Memorial Highway”.

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 13 - "Requesting the Division of Highways name a portion of road, beginning at north and southbound 21-079/00-101.34 (39.05393, -80.40043) and ending at north and southbound County Overpass 14, carrying Interstate 79 over Rt. 14 in Lewis County, West Virginia, the "Wyant Brothers WWII Veterans Memorial Road".

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 16 - "Requesting the Division of Highways name bridge number 23-005/00-004.52 (23A383), (37.85814, -82.07508), locally known as North Shegon Bridge, carrying CR 05 over Mud Fork in Logan County, the 'U.S. Army 1SG James Arnold Browning Memorial Bridge'".

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate and requested the concurrence of the House of Delegates in the adoption of the following concurrent resolution, which was read by its title and referred to the Committee on Rules:

Com. Sub. for S. C. R. 17 - "Requesting the Division of Highways name bridge number 23-007/00-000.78 (23A370), (37.9747, -81.98155), locally known as New Garrett Fork Box Beam, carrying CR 07 over Garrett Fork in Logan County, the "U.S. Navy PO2 Phillip Joseph "P.J." Hainer Memorial Bridge".

Resolutions Introduced

Resolutions were introduced and severally referred as follows:

By Delegates Mazzocchi, Holstein, Adkins, Ridenour, Bridges, Butler, Honaker, Heckert, Smith, Longanacre and Cooper:

H. C. R. 62 – "Requesting the Division of Highways to name a bridge bearing Bridge Number: 23-007/00-003.44 (23A374), (37.96246, -81.93843) locally known as NEW GORE FORK BRIDGE, carrying CR 07 over GORE FORK CREEK in Logan County as the 'U. S. Army PFC Clayton Collins Memorial Bridge'"; to the Committee on Rules

And,

By Delegates Sheedy, Butler, Hanna, Hillenbrand, Street, DeVault, Heckert, Chiarelli, Longanacre, Willis and Crouse:

H. C. R. 63 – "Proclaiming and making the AR-15 the official rifle of the State of West Virginia"; to the Committee on Veterans' Affairs and Homeland Security then Rules.

Bills Introduced

On motions for leave, bills were introduced and severally referred as follows:

By Delegates Hanshaw (Mr. Speaker) and Skaff

[By Request of the Executive]:

H. B. 3563 – "A Bill making a supplementary appropriation of public moneys out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending

June 30, 2023, to the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2023, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023; to the Committee on Finance.

**By Delegates Hanshaw (Mr. Speaker) and Skaff
[By Request of the Executive]:**

H. B. 3564 – “A Bill making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2023, to the Division of Human Services – Energy Assistance, fund 8755, fiscal year 2023, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2023; to the Committee on Finance.

Motions

At the request of Delegate Ridenour, consent was obtained for the comments of the Delegate regarding H. C. R. 2 and H. C. R. 25 to be printed in the Appendix to the Journal.

Special Calendar

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; 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. 369**), and there were—yeas 73, nays 23, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Anderson, Criss, Dittman, Espinosa, Fehrenbacher, Fluharty, Garcia, Hansen, Heckert, Hornbuckle, Marple, Miller, Pushkin, Riley, Rowe, Skaff, Statler, Storch, Walker, Westfall, Williams, Young and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Hardy, Petitto and Ross.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2862) 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. 2878, To grant the Fleet Management Division oversight authority of the state vehicle fleet; 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. 370**), and there were—yeas 90, nays 1, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Young.

Absent and Not Voting: Barnhart, Bridges, Criss, Hardy, Householder, McGeehan, Shamblin, Skaff and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2878) 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. 2939, Relating to filing of lien by municipalities for collection of refuse fees; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

Whereupon,

Delegate Linville asked and obtained unanimous consent that the amendment sponsored by Delegates Foster and Linville which was reported on yesterday be withdrawn.

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 may not file a lien against any employer, or against any self-employed person for failure to pay any part of 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.”

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

The yeas and nays having been ordered, they were taken (**Roll No. 371**), and there were—yeas 61, nays 33, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Anderson, Capito, Cooper, Ellington, Espinosa, Fluharty, Garcia, Griffith, W. Hall, Hansen, Heckert, Hornbuckle, Kelly, Marple, E. Pritt, Pushkin, Reynolds, Riley, Rohrbach, Rowe, Shamblin, Skaff, Statler, Storch, Summers, Thorne, Toney, Walker, Williams, Worrell, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Hardy, Householder, McGeehan, Warner and Westfall.

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

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 372**), and there were—yeas 64, nays 34, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Anderson, Capito, Coop-Gonzalez, Criss, Dillon, Dittman, Fehrenbacher, Fluharty, Garcia, Griffith, A. Hall, Hansen, Heckert, Holstein, Hornbuckle, Hornby, Horst, Kelly, McGeehan, Nestor, Petitto, E. Pritt, Pushkin, Riley, Rowe, Skaff, Storch, Thorne, Walker, Warner, Williams, Worrell, Young and Zatezalo.

Absent and Not Voting: Bridges and Hardy.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2939) 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. 2955, Relating to the establishment and operation of regional water, wastewater and stormwater 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. 373**), and there were—yeas 90, nays 6, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Dillon, Foster, A. Hall, Horst, Street and Vance.

Absent and Not Voting: Bridges, Hardy, Linville and Skaff.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 2955) passed.

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

H. B. 2955 - "A Bill to amend and reenact §16-13D-1, §16-13D-2, §16-13D-3, §16-13D-4, §16-13D-5, §16-13D-6, §16-13D-8, §16-13D-9, §16-13D-10, §16-13D-11, §16-13D-12, §16-13D-13, §16-13D-14, §16-13D-15, §16-13D-17, and §16-13D-21 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-13D-22, all relating to the establishment of water authorities; enabling public agencies to cooperate to manage stormwater; authorizing public agencies to create a regional stormwater authority; authorizing public agencies to create a regional authority providing any combination of services; providing that public agencies may manage stormwater and creating regional authorities to manage stormwater, regional water, and wastewater; specifying the required contents of the regional authority's organizational document; requiring the filing of the organizational document; providing that public agencies may enter into contracts; requiring the Public Service Commission to confirm that all required contract-related documentation has been filed; stating requirements for the governing body of a regional authority; granting powers to the governing body of a regional authority; stating procedures by which a regional authority may seek a rate increase from the Public Service Commission; authorizing the governing body of any regional authority to issue revenue bonds; providing for the creation of and payments into a sinking fund; regulating management of the sinking fund; creating a statutory mortgage lien upon the stormwater system of any regional authority; granting the governing body authority to make provisions for the payment of stormwater-system-related bonds; requiring the regional authority to maintain a certain working capital reserve; requiring the Public Service Commission to review rate filings by regional authorities; granting authorities the right of eminent domain."

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. 2992, Clarifying and updating school bus rules and the types of vehicles covered; 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. 374**), and there were—yeas 75, nays 20, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Butler, Cannon, Chiarelli, Coop-Gonzalez, Crouse, Dillon, Fast, Foster, Hite, Keaton, Kirby, Martin, McGeehan, Miller, Pinson, C. Pritt, Ridenour and Ross.

Absent and Not Voting: Bridges, Hardy, Skaff, Smith and Storch.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2992) 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. 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 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. 375**), and there were—yeas 84, nays 13, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barnhart, Brooks, Butler, Cooper, Dillon, Foggin, Kump, Marple, Martin, Mazzocchi, Phillips and Smith.

Absent and Not Voting: Bridges, 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. 3018) 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. 3049, To create the American Campuses Act; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 376**), 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: Bridges, Hardy, Linville and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3049) 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. 3092, Relating to in-state food service permit reciprocity; 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. 377**), 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: Bridges, Chiarelli, Hardy, Householder and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3092) 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. 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 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. 378**), and there were—yeas 89, nays 7, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Hansen, Hornbuckle, Pushkin, Rowe, Walker and Young.

Absent and Not Voting: Bridges, Chiarelli, Hardy and C. Pritt.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3133) passed.

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

Com. Sub. for H. B. 3133 – “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, §11-13MM-6, §11-13MM-7, §11-13MM-8, §11-13MM-9, §11-13MM-10 and §11-13MM-11, all relating to establishing a road or highway infrastructure improvement projects or coal production and processing facilities tax credit for taxpayers subject to the tax imposed by West Virginia code §11-13A-3; specifying a short title; specifying legislative findings and purpose for new credit; defining terms; specifying the amount of the credit, application of credit, and carry forward of unused credit; excluding application of any credits against any portion of severance taxes dedicated to counties and municipalities; requiring filing of application for road or highway infrastructure improvement project credit as condition precedent to claiming credit, specifying procedure for application for certification, contents of application and limitation on maximum amount of credits which can be approved; specifying computation of qualified investment in coal production and processing facilities; allowing transfer of credits to successors; providing for forfeiture of unused tax credits and redetermination of credit allowed; providing penalties for failure to maintain records of qualified property; and establishing an effective date.”

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

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

Delegate Hornbuckle requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegate was a member of a class of persons possibly to be affected prospectively and directed the Member to vote.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 379**), and there were—yeas 73, nays 22, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Butler, Dean, Dillon, Fluharty, Foster, Gearheart, A. Hall, Hillenbrand, Holstein, Keaton, Kirby, Kump, Linville, Longanacre, McGeehan, E. Pritt, Pushkin, Ross, Thorne, Vance, Worrell and Young.

Absent and Not Voting: Bridges, Chiarelli, Hanna, Hansen and Hardy.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3135) 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. 3153, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers; on third reading, coming up in regular order with amendments pending and the right to amend, was reported by the Clerk.

In the absence of objection, a pending amendment sponsored by Delegates Jennings and Mallow; and a pending amendment and title amendment sponsored by Delegates Linville, Westfall, Ellington, Gearheart and Jeffries were withdrawn.

Delegates Linville, Westfall, Ellington, Gearheart and Jeffries moved to amend the bill on page 1, following the enacting clause, by striking the remainder of the bill and inserting in lieu thereof the following:

“CHAPTER 16. PUBLIC HEALTH

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT§16-4C-24. EMERGENCY MEDICAL SERVICES EQUIPMENT AND TRAINING FUND; ESTABLISHMENT OF GRANT PROGRAM FOR EQUIPMENT AND TRAINING OF EMERGENCY MEDICAL SERVICE PROVIDERS AND PERSONNEL.

(a) There is hereby created in the State Treasury a special revenue fund to be known as the Emergency Medical Services Equipment and Training Fund. Expenditures from the fund by the Office of Emergency Medical Services, Bureau for Public Health, Department of Health and

Human Resources are authorized from collections. The fund may only be used for the purpose of providing grants to equip emergency medical services providers and train emergency medical services personnel, as defined in §16-4C-3 of this code. Any balance remaining in the fund at the end of any fiscal year does not revert to the General Revenue Fund but remains in the special revenue fund.

(b) The Commissioner of the Bureau for Public Health shall establish a grant program for equipment and training of emergency medical services providers and personnel. Such grant program shall be open to all emergency medical services personnel and providers, but priority shall be given to rural and volunteer emergency medical services providers.

(c) The Commissioner of the Bureau for Public Health shall propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code to implement the grant program established pursuant to this section.

(d) On July 1, 2023, and each July 1 thereafter, the State Lottery Commission shall transfer to the Emergency Medical Services Equipment and Training Fund \$6,173,475.11 from the balance of the funds remaining as an unappropriated balance in the State Excess Lottery Revenue Fund for the fiscal year just ended.

CHAPTER 33. INSURANCE. ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURERS.

§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments; Public Employees Insurance Agency and municipal pension plans; special fund created; Fire Protection Fund; allocation of proceeds; effective date.(a) (1) For the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and certain retired teachers and the teachers retirement reserve fund, there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions (2) and (3) of this subsection.

(2) After June 30, 2005, through December 31, 2005, for the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and to provide additional revenue to the Public Employees Insurance Agency and municipal pension plans, there is hereby authorized and imposed on and after July 1, 2005, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy.

(3) After December 31, 2005, For the purpose of providing additional revenue for volunteer fire departments and part-volunteer fire departments, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to 0.55% of the taxable premium for each such policy.

(4) For purposes of this section, casualty insurance ~~may~~ does not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or

insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. The policy surcharges ~~may~~ are not be subject to premium taxes, agent commissions, or any other assessment against premiums.

(b) The policy surcharges imposed by this section shall be collected and remitted to the commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention group. The amount required to be collected under this section shall be remitted to the commissioner on a quarterly basis on or before the 25th day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharges shall be remitted on or before March 1 of the succeeding year.

(c) Any person failing or refusing to collect and remit to the commissioner any policy surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing is liable for a civil penalty of up to \$100 for each day of delinquency, to be assessed by the commissioner. The commissioner may suspend the insurer, broker, or risk retention group until all surcharge payments and penalties are remitted in full to the commissioner.

(d) Fire Protection Fund allocation and distribution. —

(1) All money from the policy surcharge shall be collected by the Commissioner who shall disburse the money received from the surcharge into a special account in the state Treasury, designated the Fire Protection Fund. The net proceeds of this portion of the tax and the interest thereon, after appropriation by the Legislature, shall be distributed quarterly on the first day of the months of January, April, July, and October to each volunteer fire company or department, on an equal share basis by the state Treasurer. After June 30, 2005, the money received from the surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.

(2)(A) After June 30, 2005, through December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse one half of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.

(B) The remaining portion of moneys collected shall be transferred into the fund in the state Treasury of the Public Employees Insurance Agency into which are deposited the proportionate shares made by agencies of this state of the Public Employees Insurance Agency costs of those agencies, until November 1, 2005. After the October 31, 2005, through December 31, 2005, the remain portion shall be transferred to the special account in the state Treasury, known as the Municipal Pensions and Protection Fund.

(3) After December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse all of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection. Before each distribution date to volunteer fire companies or departments, the State Fire Marshal shall report to the State Treasurer: The names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet the eligibility requirements established in §8-15-8a of this code during the preceding quarter.

(e) The allocation, distribution, and use of revenues provided in the Fire Protection Fund are subject to the provisions of §8-15-8a and §8-15-8b of this code.

(f) On July 1, 2023, and each July 1 thereafter, the State Lottery Commission shall transfer to the Fire Protection Fund \$6,173,475.11 from the balance of the funds remaining as an unappropriated balance in the State Excess Lottery Revenue Fund for the fiscal year just ended.”

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

The yeas and nays having been ordered, they were taken **(Roll No. 380)**, and there were—yeas 94, nays 3, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Criss, Riley and Storch.

Absent and Not Voting: Bridges, Chiarelli and Hardy.

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

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

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

On this question, the yeas and nays were taken **(Roll No. 381)**, and there were—yeas 53, nays 39, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Adkins, Barnhart, Butler, Cannon, Capito, Dean, Dittman, Espinosa, Fast, Fluharty, Hanna, Hansen, Hillenbrand, Holstein, Hornbuckle, Horst, Hott, Householder, Jennings, Keaton, Kelly, Kirby, Linville, Maynor, Mazzocchi, Pushkin, Riley, Rohrbach, Rowe, Skaff, Statler, Storch, Summers, Toney, Walker, Warner, Worrell, Young and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Chiarelli, Forsht, Garcia, Hardy, Ridenour, Street and Williams.

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

The question being on the passage of the bill, the yeas and nays were taken **(Roll No. 382)**, 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: Criss.

Absent and Not Voting: Bridges, Chiarelli, Forsht, 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. 3153) passed.

On motion of Delegates Linville, Westfall, Ellington, Gearheart and Jeffries, the title of the bill was amended to read as follows:

Com. Sub. for H. B. 3153 - "A Bill to amend and reenact §16-4C-24 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-3-33 of said code, all relating to requiring certain transfers and disbursements of certain surplus funds."

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

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 383**), and there were—yeas 80, nays 5, absent and not voting 15, with the nays and the absent and not voting being as follows:

Nays: Butler, Coop-Gonzalez, Foggin, Foster and Vance.

Absent and Not Voting: Bridges, Burkhammer, Chiarelli, Crouse, Dittman, Hardy, Horst, Householder, Kirby, Mazzocchi, Ross, Skaff, Street, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3203) 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. 3303, Clarifying and expanding the powers and duties of the director of the Coalfield Community Development 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. 384**), and there were—yeas 86, nays 2, absent and not voting 12, with the nays and the absent and not voting being as follows:

Nays: Hansen and Young.

Absent and Not Voting: Bridges, Burkhammer, Chiarelli, Hardy, Honaker, Horst, Householder, Marple, Rowe, Skaff, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3303) 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. 3313, Restraining county commissions from imposing rules and regulations on farmers beyond what is already prescribed through state statute; 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. 385**), and there were—yeas 82, nays 7, absent and not voting 11, with the nays and the absent and not voting being as follows:

Nays: Butler, Garcia, Hansen, E. Pritt, Rowe, Walker and Young.

Absent and Not Voting: Bridges, Burkhammer, Chiarelli, Hardy, Horst, Householder, Marple, Ward, Westfall, Williams and Zatezalo.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3313) 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. 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 third reading, coming up in regular order, was read a third time.

Delegate C. Pritt asked and obtained unanimous consent to be added as a cosponsor of H. B. 3330, Com. Sub. for H. B. 3332, and H. B. 3562.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 386**), and there were—yeas 86, nays 2, absent and not voting 12, with the nays and the absent and not voting being as follows:

Nays: Howell and Miller.

Absent and Not Voting: Bridges, Hardy, Hite, Householder, Mallow, Marple, Pinson, Smith, Ward, Westfall, Williams and Zatezalo.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3330) passed.

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

At 12:58 p.m., the House of Delegates recessed until 1:15 p.m.

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Afternoon Session

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

Special Calendar

Third Reading

-continued-

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

Delegate Vance asked and obtained unanimous consent to be added as a cosponsor of Com. Sub. for H. B. 3332.

At the request of Delegate Capito, and by unanimous consent, the bill was placed at the foot of all bills on third reading.

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

At the request of Delegate Criss, and by unanimous consent, the bill was placed at the foot of all bills.

Com. Sub. for H. B. 3354, To authorize municipalities to combine operations with other municipalities and counties to provide governmental services; on third reading, coming up in regular order with the right to amend by Delegate Capito, was reported by the Clerk.

On motion of Delegate Capito, the bill was amended by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 12. GENERAL AND SPECIFIC POWERS, DUTIES AND ALLIED RELATIONS OF MUNICIPALITIES, GOVERNING BODIES AND MUNICIPAL OFFICERS AND EMPLOYEES; SUITS AGAINST MUNICIPALITIES.

§8-12-5. General powers of every municipality and the governing body thereof.

In addition to the powers and authority granted by: (i) The Constitution of this state; (ii) other provisions of this chapter; (iii) other general law; and (iv) any charter, and to the extent not inconsistent or in conflict with any of the foregoing except special legislative charters, every municipality and the governing body thereof shall have plenary power and authority therein by ordinance or resolution, as the case may require, and by appropriate action based thereon:

(1) To lay off, establish, construct, open, alter, curb, recurb, pave or repave and keep in good repair, or vacate, discontinue and close, streets, avenues, roads, alleys, ways, sidewalks, drains and gutters, for the use of the public, and to improve and light the same, and have them kept free from obstructions on or over them which have not been authorized pursuant to the succeeding provisions of this subdivision; and, subject to such terms and conditions as the governing body shall prescribe, to permit, without in any way limiting the power and authority granted by the provisions of article sixteen of this chapter, any person to construct and maintain a passageway, building or other structure overhanging or crossing the airspace above a public street, avenue, road, alley, way, sidewalk or crosswalk, but before any permission for any person to construct and maintain a passageway, building or other structure overhanging or crossing any airspace is granted, a public hearing thereon shall be held by the governing body after publication of a notice of the date, time, place and purpose of the public hearing has been published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area for the publication shall be the municipality: *Provided*, That any permit so granted shall automatically cease and terminate in the event of abandonment and nonuse thereof for the purposes intended for a period of ninety days, and all rights therein or thereto shall revert to the municipality for its use and benefit;

(2) To provide for the opening and excavation of streets, avenues, roads, alleys, ways, sidewalks, crosswalks and public places belonging to the municipality and regulate the conditions under which any such opening may be made;

(3) To prevent by proper penalties the throwing, depositing or permitting to remain on any street, avenue, road, alley, way, sidewalk, square or other public place any glass, scrap iron, nails, tacks, wire, other litter or any offensive matter or anything likely to injure the feet of individuals or animals or the tires of vehicles;

(4) To regulate the use of streets, avenues, roads, alleys, ways, sidewalks, crosswalks and public places belonging to the municipality, including the naming or renaming thereof, and to consult with local postal authorities, the Division of Highways and the directors of county emergency communications centers to assure uniform, nonduplicative addressing on a permanent basis;

(5) To regulate the width of streets, avenues and roads, and, subject to the provisions of article eighteen of this chapter, to order the sidewalks, footways and crosswalks to be paved, repaved, curbed or recurbed and kept in good order, free and clean, by the owners or occupants thereof or of the real property next adjacent thereto;

(6) To establish, construct, alter, operate and maintain, or discontinue, bridges, tunnels and ferries and approaches thereto;

(7) To provide for the construction and maintenance of water drains, the drainage of swamps or marshlands and drainage systems;

(8) To provide for the construction, maintenance and covering over of watercourses;

(9) To control and administer the waterfront and waterways of the municipality and to acquire, establish, construct, operate and maintain and regulate flood control works, wharves and public landings, warehouses and all adjuncts and facilities for navigation and commerce and the utilization of the waterfront and waterways and adjacent property;

(10) To prohibit the accumulation and require the disposal of garbage, refuse, debris, wastes, ashes, trash and other similar accumulations whether on private or public property: *Provided*, That, in the event the municipality annexes an area which has been receiving solid waste collection services from a certificated solid waste motor carrier, the municipality and the solid waste motor carrier may negotiate an agreement for continuation of the private solid waste motor carrier services for a period of time, not to exceed three years, during which time the certificated solid waste motor carrier may continue to provide exclusive solid waste collection services in the annexed territory;

(11) To construct, establish, acquire, equip, maintain and operate incinerator plants and equipment and all other facilities for the efficient removal and destruction of garbage, refuse, wastes, ashes, trash and other similar matters;

(12) To regulate or prohibit the purchase or sale of articles intended for human use or consumption which are unfit for use or consumption, or which may be contaminated or otherwise unsanitary;

(13) To prevent injury or annoyance to the public or individuals from anything dangerous, offensive or unwholesome;

~~(14) To regulate the keeping of gunpowder and other combustibles;~~

~~(15)~~(14) To make regulations guarding against danger or damage by fire;

~~(16)~~(15) To arrest, convict and punish any individual for carrying about his or her person any revolver or other pistol, dirk, bowie knife, razor, slingshot, billy, metallic or other false knuckles or any other dangerous or other deadly weapon of like kind or character: *Provided*, That with respect to any firearm a municipality may only arrest, convict and punish someone if they are in violation of ~~an ordinance authorized by subsection five a of this article~~, a state law proscribing certain conduct with a firearm ~~or applicable federal law~~;

~~(17)~~(16) To arrest, convict and punish any person for importing, printing, publishing, selling or distributing any pornographic publications;

~~(18)~~(17) To arrest, convict and punish any person for keeping a house of ill fame, or for letting to another person any house or other building for the purpose of being used or kept as a house of ill fame, or for knowingly permitting any house owned by him or her or under his or her control to be kept or used as a house of ill fame, or for loafing, boarding or loitering in a house of ill fame, or frequenting same;

~~(19)~~(18) To prevent and suppress conduct and practices which are immoral, disorderly, lewd, obscene and indecent;

~~(20)~~(19) To prevent the illegal sale of intoxicating liquors, drinks, mixtures and preparations;

~~(21)~~(20) To arrest, convict and punish any individual for driving or operating a motor vehicle while intoxicated or under the influence of liquor, drugs or narcotics;

~~(22)~~(21) To arrest, convict and punish any person for gambling or keeping any gaming tables, commonly called "A, B, C," or "E, O," table or faro bank or keno table, or table of like kind, under any denomination, whether the gaming table be played with cards, dice or otherwise, or any person who shall be a partner or concerned in interest, in keeping or exhibiting the table or bank, or keeping or maintaining any gaming house or place, or betting or gambling for money or anything of value;

~~(23)~~(22) To provide for the elimination of hazards to public health and safety and to abate or cause to be abated anything which in the opinion of a majority of the governing body is a public nuisance;

~~(24)~~(23) To license, or for good cause to refuse to license in a particular case, or in its discretion to prohibit in all cases, the operation of pool and billiard rooms and the maintaining for hire of pool and billiard tables notwithstanding the general law as to state licenses for any such business and the provisions of section four, article thirteen of this chapter; and when the municipality, in the exercise of its discretion, refuses to grant a license to operate a pool or billiard room, mandamus may not lie to compel the municipality to grant the license unless it shall clearly appear that the refusal of the municipality to grant a license is discriminatory or arbitrary; and in the event that the municipality determines to license any business, the municipality has plenary

power and authority and it shall be the duty of its governing body to make and enforce reasonable ordinances regulating the licensing and operation of the businesses;

~~(25)~~(24) To protect places of divine worship and to preserve peace and order in and about the premises where held;

~~(26)~~(25) To regulate or prohibit the keeping of animals or fowls and to provide for the impounding, sale or destruction of animals or fowls kept contrary to law or found running at large;

~~(27)~~(26) To arrest, convict and punish any person for cruelly, unnecessarily or needlessly beating, torturing, mutilating, killing, or overloading or overdriving or willfully depriving of necessary sustenance any domestic animal;

~~(28)~~(27) To provide for the regular building of houses or other structures, for the making of division fences by the owners of adjacent premises and for the drainage of lots by proper drains and ditches;

~~(29)~~(28) To provide for the protection and conservation of shade or ornamental trees, whether on public or private property, and for the removal of trees or limbs of trees in a dangerous condition;

~~(30)~~(29) To prohibit with or without zoning the location of occupied house trailers or mobile homes in certain residential areas;

~~(31)~~(30) To regulate the location and placing of signs, billboards, posters and similar advertising;

~~(32)~~(31) To erect, establish, construct, acquire, improve, maintain and operate a gas system, a waterworks system, an electric system or sewer system and sewage treatment and disposal system, or any combination of the foregoing (subject to all of the pertinent provisions of articles nineteen and twenty of this chapter and particularly to the limitations or qualifications on the right of eminent domain set forth in articles nineteen and twenty), within or without the corporate limits of the municipality, except that the municipality may not erect any system partly without the corporate limits of the municipality to serve persons already obtaining service from an existing system of the character proposed and where the system is by the municipality erected, or has heretofore been so erected, partly within and partly without the corporate limits of the municipality, the municipality has the right to lay and collect charges for service rendered to those served within and those served without the corporate limits of the municipality and to prevent injury to the system or the pollution of the water thereof and its maintenance in a healthful condition for public use within the corporate limits of the municipality;

~~(33)~~(32) To acquire watersheds, water and riparian rights, plant sites, rights-of-way and any and all other property and appurtenances necessary, appropriate, useful, convenient or incidental to any system, waterworks or sewage treatment and disposal works, as aforesaid, subject to all of the pertinent provisions of articles nineteen and twenty of this chapter;

~~(34)~~(33) To establish, construct, acquire, maintain and operate and regulate markets and prescribe the time of holding the same;

~~(35)~~(34) To regulate and provide for the weighing of articles sold or for sale;

~~(36)~~(35) To establish, construct, acquire, maintain and operate public buildings, municipal buildings or city halls, auditoriums, arenas, jails, juvenile detention centers or homes, motor vehicle parking lots or any other public works;

~~(37)~~(36) To establish, construct, acquire, provide, equip, maintain and operate recreational parks, playgrounds and other recreational facilities for public use and in this connection also to proceed in accordance with the provisions of article two, chapter ten of this code;

~~(38)~~(37) To establish, construct, acquire, maintain and operate a public library or museum or both for public use;

~~(39)~~(38) To provide for the appointment and financial support of a library board in accordance with the provisions of article one, chapter ten of this code;

~~(40)~~(39) To establish and maintain a public health unit in accordance with the provisions of section two, article two, chapter sixteen of this code, which unit shall exercise its powers and perform its duties subject to the supervision and control of the West Virginia Board of Health and State Bureau for Public Health;

~~(41)~~(40) To establish, construct, acquire, maintain and operate hospitals, sanitariums and dispensaries;

~~(42)~~(41) To acquire, by purchase, condemnation or otherwise, land within or near the corporate limits of the municipality for providing and maintaining proper places for the burial of the dead and to maintain and operate the same and regulate interments therein upon terms and conditions as to price and otherwise as may be determined by the governing body and, in order to carry into effect the authority, the governing body may acquire any cemetery or cemeteries already established;

~~(43)~~(42) To exercise general police jurisdiction over any territory without the corporate limits owned by the municipality or over which it has a right-of-way;

~~(44)~~(43) To protect and promote the public morals, safety, health, welfare and good order;

~~(45)~~(44) To adopt rules for the transaction of business and the government and regulation of its governing body;

~~(46)~~(45) Except as otherwise provided, to require and take bonds from any officers, when considered necessary, payable to the municipality, in its corporate name, with such sureties and in a penalty as the governing body may see fit, conditioned upon the faithful discharge of their duties;

~~(47)~~(46) To require and take from the employees and contractors such bonds in a penalty, with such sureties and with such conditions, as the governing body may see fit;

~~(48)~~(47) To investigate and inquire into all matters of concern to the municipality or its inhabitants;

~~(49)~~(48) To establish, construct, require, maintain and operate such instrumentalities, other than free public schools, for the instruction, enlightenment, improvement, entertainment,

recreation and welfare of the municipality's inhabitants as the governing body may consider necessary or appropriate for the public interest;

~~(50)~~(49) To create, maintain and operate a system for the enumeration, identification and registration, or either, of the inhabitants of the municipality and visitors thereto, or the classes thereof as may be considered advisable;

~~(54)~~(50) To require owners, residents or occupants of factory-built homes situated in a factory-built rental home community with at least ten factory-built homes, to visibly post the specific numeric portion of the address of each factory-built home on the immediate premises of the factory-built home of sufficient size to be visible from the adjoining street: *Provided*, That in the event no numeric or other specific designation of an address exists for a factory-built home subject to the authorization granted by this subdivision, the municipality has the authority to provide a numeric or other specific designation of an address for the factory-built home and require that it be posted in accordance with the authority otherwise granted by this section.

~~(52)~~(51) To appropriate and expend not exceeding twenty-five cents per capita per annum for advertising the municipality and the entertainment of visitors;

~~(53)~~(52) To conduct programs to improve community relations and public relations generally and to expend municipal revenue for such purposes;

~~(54)~~(53) To reimburse applicants for employment by the municipality for travel and other reasonable and necessary expenses actually incurred by the applicants in traveling to and from the municipality to be interviewed;

~~(55)~~(54) To provide revenue for the municipality and appropriate the same to its expenses;

~~(56)~~(55) To create and maintain an employee benefits fund which may not exceed one tenth of one percent of the annual payroll budget for general employee benefits and which is set up for the purpose of stimulating and encouraging employees to develop and implement cost-saving ideas and programs and to expend moneys from the fund for these purposes;

~~(57)~~(56) To enter into reciprocal agreements with governmental subdivisions or agencies of any state sharing a common border for the protection of people and property from fire and for emergency medical services and for the reciprocal use of equipment and personnel for these purposes;

~~(58)~~(57) To provide penalties for the offenses and violations of law mentioned in this section, subject to the provisions of section one, article eleven of this chapter, and such penalties may not exceed any penalties provided in this chapter and chapter sixty-one of this code for like offenses and violations; ~~and~~

~~(59)~~(58) To participate in a purchasing card program for local governments authorized and administered by the State Auditor as an alternative payment method; and

(59) To enter into agreements with one or more other municipalities, and with county commissions to combine and share selected governmental services by combining operations, equipment, and employees into a unified government service."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 387**), 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: Chiarelli.

Absent and Not Voting: Bridges, Hardy, McGeehan, Ward, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3354) passed.

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

Com. Sub. for H. B. 3354 - “A Bill to amend and reenact §8-12-5 of the Code of West Virginia, 1931, as amended, relating to the power and duties of municipalities; authorizing municipalities to combine operations with other municipalities and counties to provide governmental services; removing authority for regulation of keeping gunpowder and other combustibles; and clarifying that a firearm violation is a violation of only state law.”

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

H. B. 3371, Relating to federal funds for land-grant institutions; 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. 388**), 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: Bridges, Hardy, Ward, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3371) 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. 3405, Change the maximum time period of a protective order to one year; 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. 389**), and there were—yeas 81, nays 13, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Butler, Cannon, Dillon, Garcia, Hansen, Holstein, Hornby, Keaton, E. Pritt, Pushkin, Summers, Walker and Young.

Absent and Not Voting: Bridges, Hardy, Skaff, Ward, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3405) passed.

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

Com. Sub. for H. B. 3405 - "A Bill to amend and reenact §48-27-505 of the Code of West Virginia, 1931, as amended, relating to changing the time period of a protective order or protective language to one year; and allowing a protective order or protective language of longer than one year if the family court finds, after hearing, that extraordinary circumstances exist."

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

H. B. 3408, To clean up statutory provisions regarding the Hope Scholarship program to better reflect the intent and operation of the program; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

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 microschools subject to the home instruction provisions and requirements does not make learning pods and microschools 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;

~~(14)~~ (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.

~~(e)~~ (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.

Delegate Fluharty moved to amend the amendment on page 2, section 1, line 36, following the words "deny home instruction" by striking out the period, inserting a colon and the following proviso:

"Provided, however, That the county superintendent may not authorize instruction in the home if there is a pending child abuse or neglect investigation pursuant to §49-2-801 et seq. of this code against either custodial parent or a person instructing the child, or if either custodial parent or a person instructing the child has ever been convicted of domestic violence pursuant to §48-27-101 et seq. of this code or child abuse or neglect pursuant to §61-8D-1 et seq. of this code."

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

The yeas and nays having been ordered, they were taken (**Roll No. 390**), and there were—yeas 25, nays 71, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Capito, Clark, Dittman, Fast, Ferrell, Fluharty, Garcia, Griffith, Hansen, Hite, Hornbuckle, Kirby, Marple, E. Pritt, Pushkin, Reynolds, Rowe, Shamblin, Skaff, Storch, Vance, Walker, Westfall, Williams and Young.

Absent and Not Voting: Bridges, Hardy, Nestor and Ward.

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

The amendment sponsored by Delegates Crouse and Ellington was then adopted.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 391**), 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: Bridges, Hardy, Nestor, E. Pritt and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3408) passed.

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

H. B. 3408 - “A Bill to amend and reenact §18-8-1 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-9A-25 of said code; to amend and reenact §18-31-2, §18-31-3, §18-31-4, §18-31-5, §18-31-6, §18-31-7, §18-31-8, §18-31-9, §18-31-10, and §18-31-11 of said code; and to amend said code by adding thereto a new section, designated §18-31-2a, all relating generally to nonpublic kindergarten, elementary, and secondary school education; clarifying that a child exempt from compulsory school attendance is not subject to the requirements of the Hope Scholarship Program unless that child is an eligible recipient; removing requirement that academic assessments of home school students be submitted to county superintendent; clarifying use of “home school student” in code; removing participation in the Hope Scholarship Program as a standalone exemption to compulsory school attendance and replacing it with an exemption from compulsory school attendance for those who choose to participate in an Assembled Instructional Module; setting forth parameters of participation in an Assembled Instructional Module; providing that students participating in an Assembled Instructional Module, learning pod students and microschool students have the same educational rights and privileges as home school students; removing requirement that academic assessments of learning pod students and microschool students be submitted to county superintendent; establishing the method of calculating the annual Hope Scholarship Program appropriation; providing that certain students exempt from compulsory school attendance and participating in nonpublic educational programs may participate in the Hope Scholarship Program if other eligibility requirements are met; defining terms; establishing eligibility requirements for the Hope Scholarship Program; setting forth procedure for notice of Hope Scholarship Program participation; requiring county superintendents to enter certain information into the state’s educational information system; permitting the State Treasurer to appear by designee at Hope Scholarship Board meetings; providing the State Treasurer’s Office with rulemaking authority; clarifying that all records containing personally identifying information of a Hope Scholarship student, applicant, or parent are confidential and not subject to disclosure pursuant to the West Virginia Freedom of Information Act; clarifying qualifying expenses under the Hope Scholarship Act; requiring Hope Scholarship students to meet all standardized testing and portfolio requirements for his or her exemption from compulsory school attendance as a condition of scholarship renewal; requiring the board to maintain and publish a list of all education service providers; authorizing the board to contract with independent auditors to complete Hope Scholarship Program audits; clarifying the board’s rulemaking authority with regard to certain functions, requiring education service providers to submit required criminal background screening results to the board; and clarifying that education service providers may not assess students additional tuition or fees based on participation in the Hope Scholarship Program.”

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

On this question, the yeas and nays were taken (**Roll No. 392**), 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: Bridges, Hardy, Nestor, E. Pritt and Ward.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3408) 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. 3451, Updating the veteran preference ratings in state code for state employment; 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. 393**), 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: Bridges, Hardy, Nestor, E. Pritt and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3451) passed.

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

H. B. 3451 – “A Bill to amend and reenact §6-13-1 of the Code of West Virginia, 1931, as amended, relating to updating the veteran preference ratings in state code for state employment; providing definitions; and creating an exemption.”

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. 3480, Enact the West Virginia Consumer Financial Privacy Act of 2023; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment sponsored by Delegates Keaton and Cannon was reported by the Clerk.

Whereupon,

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

Delegates Keaton and Cannon moved to amend the bill on page 1, immediately following the article header by striking the remainder of the bill and inserting in lieu thereof the following:

§46A-6O-1. Definitions.

As used in this article, unless the context requires a different meaning:

‘Affiliate’ means a legal entity that controls, is controlled by, or is under common control with another legal entity or shares common branding with another legal entity. For the purposes of this definition, ‘control’ or ‘controlled’ means:

(1) Ownership of, or the power to vote, more than 50 percent of the outstanding shares of any class of voting security of a company;

(2) Control in any manner over the election of a majority of the directors or of individuals exercising similar functions; or

(3) The power to exercise controlling influence over the management of a company.

‘Authenticate’ means verifying through reasonable means that the consumer, entitled to exercise his consumer rights in §46A-6O-3 of this code, is the same consumer exercising such consumer rights with respect to the personal data at issue.

‘Biometric data’ means data generated by automatic measurements of an individual’s biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique

biological patterns or characteristics that is used to identify a specific individual. 'Biometric data' does not include a physical or digital photograph, a video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under HIPAA.

'Business associate' means the same meaning as the term established by HIPAA.

'Child' means any natural person younger than 13 years of age.

'Consent' means a clear affirmative act signifying a consumer's freely given, specific, informed, and unambiguous agreement to process personal data relating to the consumer. Consent may include a written statement, including a statement written by electronic means, or any other unambiguous affirmative action. Consent does not include consent induced by use of a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decision-making, or choice.

'Consumer' means a natural person who is a resident of the State acting only in an individual or household context. It does not include a natural person acting in a commercial or employment context.

'Controller' means the natural or legal person that, alone or jointly with others, determines the purpose and means of processing personal data.

'Covered entity' means the same as the term is established by HIPAA.

'Decisions that produce legal or similarly significant effects concerning a consumer' means a decision made by the controller that results in the provision or denial by the controller of financial and lending services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care services, or access to basic necessities, such as food and water.

'De-identified data' means data that cannot reasonably be linked to an identified or identifiable natural person, or a device linked to such person. A controller that possesses 'de-identified data' shall comply with the requirements of subsection (a) of §46A-6O-7.

'Fund' means the Consumer Privacy Fund established pursuant to §46A-6O-11 of this code.

'Health record' means any written, printed or electronically recorded material maintained by a health care entity in the course of providing health services to an individual concerning the individual and the services provided. 'Health record' also includes the substance of any communication made by an individual to a health care entity in confidence during or in connection with the provision of health services or information otherwise acquired by the health care entity about an individual in confidence and in connection with the provision of health services to the individual.

'Health care provider' means the same as that term is defined in §16-30-3 of this code.

'HIPAA' means the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §1320d *et seq.*).

'Identified or identifiable natural person' means a person who can be readily identified, directly or indirectly.

'Institution of higher education' means a state institution of higher education as defined in §18B-1-2 of this code and, includes further, any private institution of higher education.

'Nonprofit organization' means any corporation organized under the West Virginia Nonprofit Corporation Act, Chapter §31-1-101 of this code, et seq., or any organization exempt from taxation under §§501(c)(3), 501(c)(6), or 501 (c)(12) of the Internal Revenue Code.

'Personal data' means any information that is linked or reasonably linkable to an identified or identifiable natural person. 'Personal data' does not include de-identified data or publicly available information.

'Precise geolocation data' means information derived from technology, including, but not limited to, global positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the specific location of a natural person with precision and accuracy within a radius of 1,750 feet. 'Precise geolocation data' does not include the content of communications or any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

'Process' or 'processing' means any operation or set of operations performed, whether by manual or automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

'Processor' means a natural or legal entity that processes personal data on behalf of a controller.

'Profiling' means any form of automated processing performed on personal data to evaluate, analyze, or predict personal aspects related to an identified or identifiable natural person's economic situation, health, personal preferences, interests, reliability, behavior, location, or movements.

'Protected health information' means the same as the term is established by HIPAA.

'Pseudonymous data' means personal data that cannot be attributed to a specific natural person without the use of additional information, provided that such additional information is kept separately and is subject to appropriate technical and organizational measures to ensure that the personal data is not attributed to an identified or identifiable natural person.

'Publicly available information' means information that is lawfully made available through federal, state, or local government records, or information that a business has a reasonable basis to believe is lawfully made available to the general public through widely distributed media, by the consumer, or by a person to whom the consumer has disclosed the information, unless the consumer has restricted the information to a specific audience.

'Sale of personal data' means the exchange of personal data for monetary consideration by the controller to a third party. 'Sale of personal data' does not include:

(1) The disclosure of personal data to a processor that processes the personal data on behalf of the controller;

(2) The disclosure of personal data to a third party for purposes of providing a product or service requested by the consumer;

(3) The disclosure or transfer of personal data to an affiliate of the controller;

(4) The disclosure of information that the consumer (i) intentionally made available to the general public via a channel of mass media and (ii) did not restrict to a specific audience; or

(5) The disclosure or transfer of personal data to a third party as an asset that is part of a merger, acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the controller's assets.

'Sensitive data' means a category of personal data that includes:

(1) Personal data revealing racial or ethnic origin, religious beliefs, mental or physical health diagnosis, sexual orientation, or citizenship or immigration status;

(2) The processing of genetic or biometric data for the purpose of uniquely identifying a natural person;

(3) The personal data collected from a known child; or

(4) Precise geolocation data.

'State agency' means the same as that term is defined in §6D-1-1 of this code and

'Targeted advertising' means displaying advertisements to a consumer where the advertisement is selected based on personal data obtained from that consumer's activities over time and across nonaffiliated websites or online applications to predict such consumer's preferences or interests. 'Targeted advertising' does not include:

(1) Advertisements based on activities within a controller's own websites or online applications;

(2) Advertisements based on the context of a consumer's current search query, visit to a website, or online application;

(3) Advertisements directed to a consumer in response to the consumer's request for information or feedback; or

(4) Processing personal data processed solely for measuring or reporting advertising performance, reach, or frequency.

'Third party' means a natural or legal person, public authority, agency, or body other than the consumer, controller, processor, or an affiliate of the processor or the controller.

§46A-6O-2. Scope; exemptions.

(a) This article applies to persons that conduct business in the state or produce products or services that are targeted to residents of the state and that (i) during a calendar year, control or process personal data of at least 100,000 consumers or (ii) control or process personal data of at least 25,000 consumers and derive over 50 percent of gross revenue from the sale of personal data.

(b) This article shall not apply to any:

(1) Body, authority, board, bureau, commission, district, or agency of the state or of any political subdivision of the state;

(2) Financial institutions or data subject to Title V of the federal Gramm-Leach-Bliley Act (15 U.S.C. §6801 *et seq.*);

(3) Covered entity or business associate governed by the privacy, security, and breach notification rules issued by the United States Department of Health and Human Services, 45 C.F.R. Parts 160 and 164 established pursuant to HIPAA, and the Health Information Technology for Economic and Clinical Health Act (Public Law 111-5);

(4) Nonprofit organization; or

(5) Institution of higher education.

(c) The following information and data is exempt from this article:

(1) Protected health information under HIPAA;

(2) Health records for purposes of Title 32.1;

(3) Patient identifying information for purposes of 42 U.S.C. §290dd-2;

(4) Identifiable private information for purposes of the federal policy for the protection of human subjects under 45 C.F.R. Part 46; identifiable private information that is otherwise information collected as part of human subjects research pursuant to the good clinical practice guidelines issued by The International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; the protection of human subjects under 21 C.F.R. Parts 6, 50, and 56, or personal data used or shared in research conducted in accordance with the requirements set forth in this chapter, or other research conducted in accordance with applicable law;

(5) Information and documents created for purposes of the federal Health Care Quality Improvement Act of 1986 (42 U.S.C. §11101 *et seq.*);

(6) Patient safety work product for purposes of the federal Patient Safety and Quality Improvement Act (42 U.S.C. §299b-21 *et seq.*);

(7) Information derived from any of the health care-related information listed in this subsection that is de-identified in accordance with the requirements for de-identification pursuant to HIPAA;

(8) Information originating from, and intermingled to be indistinguishable with, or information treated in the same manner as information exempt under this subsection that is maintained by a covered entity or business associate as defined by HIPAA or a program or a qualified service organization as defined by 42 U.S.C. §290dd-2;

(9) Information used only for public health activities and purposes as authorized by HIPAA;

(10) The collection, maintenance, disclosure, sale, communication, or use of any personal information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living by a consumer reporting agency,

furnisher, or user that provides information for use in a consumer report, and by a user of a consumer report, but only to the extent that such activity is regulated by and authorized under the federal Fair Credit Reporting Act (15 U.S.C. §1681 et seq.);

(11) Personal data collected, processed, sold, or disclosed in compliance with the federal Driver's Privacy Protection Act of 1994 (18 U.S.C. §2721 et seq.);

(12) Personal data regulated by the federal Family Educational Rights and Privacy Act (20 U.S.C. §1232g et seq.);

(13) Personal data collected, processed, sold, or disclosed in compliance with the federal Farm Credit Act (12 U.S.C. §2001 et seq.); and

(14) Data processed or maintained:

(A) In the course of an individual applying to, employed by, or acting as an agent or independent contractor of a controller, processor, or third party, to the extent that the data is collected and used within the context of that role;

(B) As the emergency contact information of an individual under this chapter used for emergency contact purposes; or

(C) That is necessary to retain to administer benefits for another individual relating to the individual under §46A-6O-2(c)(14)(A) of this code and used for the purposes of administering those benefits.

(d) Controllers and processors that comply with the verifiable parental consent requirements of the Children's Online Privacy Protection Act (15 U.S.C. §6501 et seq.) shall be deemed compliant with any obligation to obtain parental consent under this chapter.

§46A-6O-3. Personal data rights; consumers.

(a) A consumer may invoke the consumer rights authorized pursuant to this subsection at any time by submitting a request to a controller specifying the consumer rights the consumer wishes to invoke. A known child's parent or legal guardian may invoke such consumer rights on behalf of the child regarding processing personal data belonging to the known child. A controller shall comply with an authenticated consumer request to exercise the right:

(1) To confirm whether or not a controller is processing the consumer's personal data and to access such personal data;

(2) To correct inaccuracies in the consumer's personal data, taking into account the nature of the personal data and the purposes of the processing of the consumer's personal data;

(3) To delete personal data provided by or obtained about the consumer;

(4) To obtain a copy of the consumer's personal data that the consumer previously provided to the controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer to transmit the data to another controller without hindrance, where the processing is carried out by automated means; and

(5) To opt out of the processing of the personal data for purposes of:

(A) Targeted advertising;

(B) The sale of personal data; or

(C) Profiling in furtherance of decisions that produce legal or similarly significant effects concerning the consumer.

(b) Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to exercise the consumer rights authorized pursuant to the provisions of §46A-6O-3(a) of this code as follows:

(1) A controller shall respond to the consumer without undue delay, but in all cases within 45 days of receipt of the request submitted pursuant to the methods described in §46A-6O-3(a) of this code. The response period may be extended once by 45 additional days when reasonably necessary, taking into account the complexity and number of the consumer's requests, so long as the controller informs the consumer of any such extension within the initial 45-day response period, together with the reason for the extension.

(2) If a controller declines to take action regarding the consumer's request, the controller shall inform the consumer without undue delay, but in all cases and at the latest within 45 days of receipt of the request, of the justification for declining to take action and instructions for how to appeal the decision pursuant to §46A-6O-3(c) of this code.

(3) Information provided in response to a consumer request shall be provided by a controller free of charge, up to twice annually per consumer. If requests from a consumer are manifestly unfounded, excessive, or repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of complying with the request or decline to act on the request. The controller bears the burden of demonstrating the manifestly unfounded, excessive, or repetitive nature of the request.

(4) If a controller is unable to authenticate the request using commercially reasonable efforts, the controller shall not be required to comply with a request to initiate an action under subsection (a) of this section and may request that the consumer provide additional information reasonably necessary to authenticate the consumer and the consumer's request.

(c) A controller shall establish a process for a consumer to appeal the controller's refusal to take action on a request within a reasonable period of time after the consumer's receipt of the decision pursuant to §46A-6O-3(b)(2) of this code. The appeal process shall be conspicuously available and similar to the process for submitting requests to initiate action pursuant to §46A-6O-3(a) of this code. Within 60 days of receipt of an appeal, a controller shall inform the consumer in writing of any action taken or not taken in response to the appeal, including a written explanation of the reasons for the decisions. If the appeal is denied, the controller shall also provide the consumer with an online mechanism, if available, or other method through which the consumer may contact the Attorney General to submit a complaint.

§46A-6O-4. Data controller responsibilities; transparency.

(a) A controller shall:

(1) Limit the collection of personal data to what is adequate, relevant, and reasonably necessary in relation to the purposes for which such data is processed, as disclosed to the consumer;

(2) Except as otherwise provided in this chapter, not process personal data for purposes that are neither reasonably necessary to nor compatible with the disclosed purposes for which such personal data is processed, as disclosed to the consumer, unless the controller obtains the consumer's consent;

(3) Establish, implement, and maintain reasonable administrative, technical, and physical data security practices to protect the confidentiality, integrity, and accessibility of personal data. Such data security practices shall be appropriate to the volume and nature of the personal data at issue;

(4) Not process personal data in violation of state and federal laws that prohibit unlawful discrimination against consumers. A controller shall not discriminate against a consumer for exercising any of the consumer rights contained in this chapter, including denying goods or services, charging different prices or rates for goods or services, or providing a different level of quality of goods and services to the consumer. However, nothing in this subdivision shall be construed to require a controller to provide a product or service that requires the personal data of a consumer that the controller does not collect or maintain or to prohibit a controller from offering a different price, rate, level, quality, or selection of goods or services to a consumer, including offering goods or services for no fee, if the consumer has exercised his right to opt out pursuant to §46A-6O-3 of this code or the offer is related to a consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discounts, or club card program; and

(5) Not process sensitive data concerning a consumer without obtaining the consumer's consent, or, in the case of the processing of sensitive data concerning a known child, without processing such data in accordance with the federal Children's Online Privacy Protection Act (15 U.S.C. §6501 *et seq.*).

(b) Any provision of a contract or agreement of any kind that purports to waive or limit in any way consumer rights pursuant to §46A-6O-3 of this code shall be deemed contrary to public policy and shall be void and unenforceable.

(c) Controllers shall provide consumers with a reasonably accessible, clear, and meaningful privacy notice that includes:

(1) The categories of personal data processed by the controller;

(2) The purpose for processing personal data;

(3) How consumers may exercise their consumer rights pursuant to §46A-6O-3 of this code, including how a consumer may appeal a controller's decision with regard to the consumer's request;

(4) The categories of personal data that the controller shares with third parties, if any; and

(5) The categories of third parties, if any, with whom the controller shares personal data.

(d) If a controller sells personal data to third parties or processes personal data for targeted advertising, the controller shall clearly and conspicuously disclose such processing, as well as the manner in which a consumer may exercise the right to opt out of such processing.

(e) A controller shall establish, and shall describe in a privacy notice, one or more secure and reliable means for consumers to submit a request to exercise their consumer rights under this chapter. Such means shall take into account the ways in which consumers normally interact with the controller, the need for secure and reliable communication of such requests, and the ability of the controller to authenticate the identity of the consumer making the request. Controllers shall not require a consumer to create a new account in order to exercise consumer rights pursuant to §46A-6O-3 of this code but may require a consumer to use an existing account.

§46A-6O-5. Responsibility according to role; controller and processor.

(a) A processor shall adhere to the instructions of a controller and shall assist the controller in meeting its obligations under this chapter. Such assistance shall include:

(1) Taking into account the nature of processing and the information available to the processor, by appropriate technical and organizational measures, insofar as this is reasonably practicable, to fulfill the controller's obligation to respond to consumer rights requests pursuant to the provisions of §46A-6O-3 of this code;

(2) Taking into account the nature of processing and the information available to the processor, by assisting the controller in meeting the controller's obligations in relation to the security of processing the personal data and in relation to the notification of a breach of security of the system of the processor pursuant to §46-2A-102 of this code in order to meet the controller's obligations;

(3) Providing necessary information to enable the controller to conduct and document data protection assessments pursuant to the provisions of §46A-6O-6 of this code.

(b) A contract between a controller and a processor shall govern the processor's data processing procedures with respect to processing performed on behalf of the controller. The contract shall be binding and clearly set forth instructions for processing data, the nature and purpose of processing, the type of data subject to processing, the duration of processing, and the rights and obligations of both parties. The contract shall also include requirements that the processor shall:

(1) Ensure that each person processing personal data is subject to a duty of confidentiality with respect to the data;

(2) At the controller's direction, delete or return all personal data to the controller as requested at the end of the provision of services, unless retention of the personal data is required by law;

(3) Upon the reasonable request of the controller, make available to the controller all information in its possession necessary to demonstrate the processor's compliance with the obligations in this chapter;

(4) Allow, and cooperate with, reasonable assessments by the controller or the controller's designated assessor; alternatively, the processor may arrange for a qualified and independent assessor to conduct an assessment of the processor's policies and technical and organizational

measures in support of the obligations under this chapter using an appropriate and accepted control standard or framework and assessment procedure for such assessments. The processor shall provide a report of such assessment to the controller upon request; and

(5) Engage any subcontractor pursuant to a written contract in accordance with subsection (c) of this section that requires the subcontractor to meet the obligations of the processor with respect to the personal data.

(c) Nothing in this section shall be construed to relieve a controller or a processor from the liabilities imposed on it by virtue of its role in the processing relationship as defined by this chapter.

(d) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data is to be processed. A processor that continues to adhere to a controller's instructions with respect to a specific processing of personal data remains a processor.

§46A-6O-6. Data protection assessments.

(a) A controller shall conduct and document a data protection assessment of each of the following processing activities involving personal data:

(1) The processing of personal data for purposes of targeted advertising;

(2) The sale of personal data;

(3) The processing of personal data for purposes of profiling, where such profiling presents a reasonably foreseeable risk of:

(A) Unfair or deceptive treatment of, or unlawful disparate impact on, consumers;

(B) Financial, physical, or reputational injury to consumers;

(C) A physical or other intrusion upon the solitude or seclusion, or the private affairs or concerns, of consumers, where such intrusion would be offensive to a reasonable person; or

(D) Other substantial injury to consumers;

(4) The processing of sensitive data; and

(5) Any processing activities involving personal data that present a heightened risk of harm to consumers.

(b) Data protection assessments conducted pursuant to §46A-6O-6(a) of this code shall identify and weigh the benefits that may flow, directly and indirectly, from the processing to the controller, the consumer, other stakeholders, and the public against the potential risks to the rights of the consumer associated with such processing, as mitigated by safeguards that can be employed by the controller to reduce such risks. The use of de-identified data and the reasonable expectations of consumers, as well as the context of the processing and the relationship between the controller and the consumer whose personal data will be processed, shall be factored into this assessment by the controller.

(c) The Attorney General may request, pursuant to an investigative civil demand, that a controller disclose any data protection assessment that is relevant to an investigation conducted by the Attorney General, and the controller shall make the data protection assessment available to the Attorney General. The Attorney General may evaluate the data protection assessment for compliance with the responsibilities set forth in §46A-6O-4 of this code. Data protection assessments shall be confidential and exempt from public inspection and copying under the West Virginia Freedom of Information Act, §29B-1-1, et seq. The disclosure of a data protection assessment pursuant to a request from the Attorney General shall not constitute a waiver of attorney-client privilege or work product protection with respect to the assessment and any information contained in the assessment.

(d) A single data protection assessment may address a comparable set of processing operations that include similar activities.

(e) Data protection assessments conducted by a controller for the purpose of compliance with other laws or regulations may comply under this section if the assessments have a reasonably comparable scope and effect.

(f) Data protection assessment requirements shall apply to processing activities created or generated after January 1, 2024, and are not retroactive.

§46A-6O-7. Processing de-identified data; exemptions.

(a) The controller in possession of de-identified data shall:

(1) Take reasonable measures to ensure that the data cannot be associated with a natural person;

(2) Publicly commit to maintaining and using de-identified data without attempting to re-identify the data; and

(3) Contractually obligate any recipients of the de-identified data to comply with all provisions of this chapter.

(b) Nothing in this chapter shall be construed to require a controller or processor to:

(1) Re-identify de-identified data or pseudonymous data; or

(2) Maintain data in identifiable form, or collect, obtain, retain, or access any data or technology, in order to be capable of associating an authenticated consumer request with personal data.

(c) Nothing in this chapter shall be construed to require a controller or processor to comply with an authenticated consumer rights request, pursuant to §46A-6O-3 of this code, if all of the following are true:

(1) The controller is not reasonably capable of associating the request with the personal data or it would be unreasonably burdensome for the controller to associate the request with the personal data;

(2) The controller does not use the personal data to recognize or respond to the specific consumer who is the subject of the personal data, or associate the personal data with other personal data about the same specific consumer; and

(3) The controller does not sell the personal data to any third party or otherwise voluntarily disclose the personal data to any third party other than a processor, except as otherwise permitted in this section.

(d) The consumer rights contained in §46A-6O-3 and §46A-6O-4 of this code do not apply to pseudonymous data in cases where the controller is able to demonstrate any information necessary to identify the consumer is kept separately and is subject to effective technical and organizational controls that prevent the controller from accessing such information.

(e) A controller that discloses pseudonymous data or de-identified data shall exercise reasonable oversight to monitor compliance with any contractual commitments to which the pseudonymous data or de-identified data is subject and shall take appropriate steps to address any breaches of those contractual commitments.

§46A-6O-8. Limitations.

(a) Nothing in this article shall be construed to restrict a controller's or processor's ability to:

(1) Comply with federal, state, or local laws, rules, or regulations;

(2) Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities;

(3) Cooperate with law-enforcement agencies concerning conduct or activity that the controller or processor reasonably and in good faith believes may violate federal, state, or local laws, rules, or regulations;

(4) Investigate, establish, exercise, prepare for, or defend legal claims;

(5) Provide a product or service specifically requested by a consumer, perform a contract to which the consumer is a party, including fulfilling the terms of a written warranty, or take steps at the request of the consumer prior to entering into a contract;

(6) Take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or of another natural person, and where the processing cannot be manifestly based on another legal basis;

(7) Prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity; preserve the integrity or security of systems; or investigate, report, or prosecute those responsible for any such action;

(8) Engage in public or peer-reviewed scientific or statistical research in the public interest that adheres to all other applicable ethics and privacy laws and is approved, monitored, and governed by an institutional review board, or similar independent oversight entities that determine:

(A) If the deletion of the information is likely to provide substantial benefits that do not exclusively accrue to the controller;

(B) The expected benefits of the research outweigh the privacy risks; and

(C) If the controller has implemented reasonable safeguards to mitigate privacy risks associated with research, including any risks associated with reidentification; or

(D) Assist another controller, processor, or third party with any of the obligations under this subsection.

(b) The obligations imposed on controllers or processors under this chapter shall not restrict a controller's or processor's ability to collect, use, or retain data to:

(1) Conduct internal research to develop, improve, or repair products, services, or technology;

(2) Effectuate a product recall;

(3) Identify and repair technical errors that impair existing or intended functionality; or

(4) Perform internal operations that are reasonably aligned with the expectations of the consumer or reasonably anticipated based on the consumer's existing relationship with the controller or are otherwise compatible with processing data in furtherance of the provision of a product or service specifically requested by a consumer or the performance of a contract to which the consumer is a party.

(c) The obligations imposed on controllers or processors under this chapter shall not apply where compliance by the controller or processor with this chapter would violate an evidentiary privilege under the laws of this state. Nothing in this article shall be construed to prevent a controller or processor from providing personal data concerning a consumer to a person covered by an evidentiary privilege under the laws of the state as part of a privileged communication.

(d) A controller or processor that discloses personal data to a third-party controller or processor, in compliance with the requirements of this article, is not in violation of this article if the third-party controller or processor that receives and processes such personal data is in violation of this article, provided that, at the time of disclosing the personal data, the disclosing controller or processor did not have actual knowledge that the recipient intended to commit a violation. A third-party controller or processor receiving personal data from a controller or processor in compliance with the requirements of this article is likewise not in violation of this article for the transgressions of the controller or processor from which it receives such personal data.

(e) Nothing in this article shall be construed as an obligation imposed on controllers and processors that adversely affects the rights or freedoms of any persons, such as exercising the right of free speech pursuant to the First Amendment to the United States Constitution, or applies to the processing of personal data by a person in the course of a purely personal or household activity.

(f) Personal data processed by a controller pursuant to this section shall not be processed for any purpose other than those expressly listed in this section unless otherwise allowed by this article. Personal data processed by a controller pursuant to this section may be processed to the extent that such processing is:

(1) Reasonably necessary and proportionate to the purposes listed in this section; and

(2) Adequate, relevant, and limited to what is necessary in relation to the specific purposes listed in this section. Personal data collected, used, or retained pursuant to §46A-6O-8(b) of this code, shall, where applicable, take into account the nature and purpose or purposes of such collection, use, or retention. Such data shall be subject to reasonable administrative, technical, and physical measures to protect the confidentiality, integrity, and accessibility of the personal data and to reduce reasonably foreseeable risks of harm to consumers relating to such collection, use, or retention of personal data.

(g) If a controller processes personal data pursuant to an exemption in this section, the controller bears the burden of demonstrating that such processing qualifies for the exemption and complies with the requirements in §46A-6O-8(f) of this code.

(h) Processing personal data for the purposes expressly identified in §46A-6O-8(a) of this code shall not solely make an entity a controller with respect to such processing.

§46A-6O-9. Violations of chapter; civil penalty.

(a) The Attorney General shall have exclusive authority to enforce violations of this article.

(b) Prior to initiating any action under this article, the Attorney General shall provide a controller or processor 30 days' written notice identifying the specific provisions of this article the Attorney General, on behalf of a consumer, alleges have been or are being violated. If within the 30 days the controller or processor cures the noticed violation and provides the Attorney General an express written statement that the alleged violations have been cured and that no further violations shall occur, no action for statutory damages shall be initiated against the controller or processor.

(c) If a controller or processor continues to violate this article in breach of an express written statement provided to the consumer under this section, the Attorney General may initiate an action and seek damages for up to \$7,500 for each violation under this chapter.

(d) Nothing in this article shall be construed as providing the basis for, or be subject to, a private right of action to violations of this article or under any other law.

§46A-6O-10 Enforcement; civil penalty.

(a) The Attorney General retains exclusive authority to enforce this article by bringing an action in the name of the state, or on behalf of persons residing in the state. The Attorney General may issue a civil investigative demand to any controller or processor believed to be engaged in, or about to engage in, any violation of this article. The provisions of §47-18-1 of this code shall apply to civil investigative demands issued under this section.

(b) Any controller or processor that violates this article is subject to an injunction and liable for a civil penalty of not more than \$10,000 for each violation.

(c) The Attorney General may recover reasonable expenses incurred in investigating and preparing the case, including attorney fees, of any action initiated under this article.

(d) The Attorney General may negotiate a settlement with any alleged violator in the course of his or her enforcement of this article.

§46A-6O-11. Attorney General's assistance in personal data claims.

(a) In order to effectuate the protection of personal data as defined in §46A-6O-1 of this code, the Attorney General shall establish a process whereby a consumer may seek to utilize any of the personal data protections established in §46A-6O-3 of this code through the agency of the Attorney General's Office. This process shall include:

(1) An ability to discover what controllers and processors may hold such data about the consumer;

(2) An ability to discover what third-party controllers or processors may have received such data about the consumer;

(3) An ability to formally request from each controller, third-party controller, processor, and third-party processor copies of the personal data of the requesting person held by those entities, and to call for modification and/or deletion thereof.

(b) The Attorney General shall promulgate legislative rules necessary to carry out the provisions of this section.

§46A-6O-12. Consumer Privacy Fund.

There is hereby created in the state treasury a special nonreverting fund to be known as the Consumer Privacy Fund. The Fund shall be established on the books of the Comptroller. All civil penalties collected pursuant to this article shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used to support the work of the Office of the Attorney General to enforce the provisions of this article, subject to appropriation.

§46A-6O-13. Construction and Enactment.

(a) Nothing in this article shall be construed to authorize a locality to enact any law regarding the controlling or processing of personal data.

(b) Any reference to federal law or statute in this article shall be deemed to include any accompanying rules or regulations or exemptions thereto. Further, this enactment is declaratory of existing law.

(c) This article shall become effective on January 1, 2024.

ARTICLE 6P. THE WEST VIRGINIA CONSUMER CREDIT PRIVACY ACT OF 2023.**§46A-6P-1. Definitions.**

For purposes of this article:

(1) 'Consumer' means a natural person to whom a sale, lease, or offer of a line of credit is made in a consumer transaction.

(2) 'Consumer financial information' means any personally identifiable financial information unless the information is otherwise publicly available, and includes information that a credit report was obtained by a financial institution, creditor, mortgage lender, or mortgage broker.

§46A-6P-2. Prohibitions on disclosure or sale of financial information.

A credit reporting agency which receives consumer financial information resulting from an application for a line of credit from any financial institution or any creditor utilizing any credit reporting agency shall not disclose or sell such consumer financial information without the consent of the consumer, except as required to process the line of credit application.

§46A-6P-3. Enforcement.

(a) The Attorney General retains exclusive authority to enforce the provisions of this article by bringing an action in the name of the state, or on behalf of persons residing in the state. The Attorney General may issue a civil investigative demand to any controller or processor believed to be engaged in, or about to engage in, any violation of this article. The provisions of §47-18-1 of this code shall apply to civil investigative demands issued under this section.

(b) Any entity violating the provisions of this article is subject to an injunction and liable for a civil penalty of not more than \$10,000 for each violation.

(c)The Attorney General may negotiate a settlement with any alleged violator in the course of his or her enforcement of this article."

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

The yeas and nays having been ordered, they were taken (**Roll No. 394**), and there were—yeas 30, nays 66, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Brooks, Burkhammer, Cannon, Chiarelli, Clark, Crouse, Dean, Dillon, Fluharty, Forsht, Foster, A. Hall, Hanna, Hillenbrand, Holstein, Keaton, Linville, Longanacre, Lucas, Marple, Martin, Maynor, McGeehan, Miller, Petitto, E. Pritt, Pushkin, Walker and Young.

Absent and Not Voting: Bridges, Hardy, C. Pritt and Ward.

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

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 395**), 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: Bridges, DeVault, Hardy and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3480) 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. 3482, To create the Coal Fired Grid Stabilization and Security Act of 2023; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

On motion of Delegate Howell, the bill was amended on page on page 7, section 22B-1-7, line 58, after the word “appeal” by striking the words “from a permit issued or denied”.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 396**), 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: Hansen, Miller and Walker.

Absent and Not Voting: Bridges, Hardy, Ward and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3482) passed.

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

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

H. B. 3500, Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee’s designated 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. 397**), 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: Bridges, Hardy, Ward and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3500) 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. 3554, Relating to prohibiting a municipality or the governing body of any municipality from limiting rental of a property; having been read a third time on yesterday, was reported by the Clerk.

On motion of Delegate Kelly, the bill was postponed indefinitely.

H. B. 3561, Relating generally to creating the Joint Legislative Committee on Civic Life; 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. 398**), and there were—yeas 42, nays 51, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Anderson, Brooks, Cannon, Capito, Chiarelli, Clark, Criss, Dean, Garcia, W. Hall, Hanna, Holstein, Honaker, Hornby, Hott, Howell, Jeffries, Keaton, Kelly, Kimble, Linville, Lucas, Mallow, Mazzocchi, McGeehan, Nestor, Phillips, C. Pritt, E. Pritt, Pushkin, Ridenour, Shamblin, Steele, Storch, Toney, Vance, Willis, Worrell, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Ellington, Hardy, Longanacre, Skaff, Ward and Westfall.

So, a majority of the members present not having voted in the affirmative, the bill (H. B. 3561) was rejected.

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

H. B. 3562, Relating to the West Virginia Fusion Center; 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. 399**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Ellington, Hardy, Longanacre, Skaff, Ward, Westfall and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3562) passed.

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

At the request of Delegate Householder, and by unanimous consent, the House returned to further consideration of **Com. Sub. for H. B. 3344**, To pay certain moral obligations of the state.

Delegate Summers requested to be excused from voting under the provisions of House Rule 49.

The Speaker ruled that the Delegate was a claimant in the bill and excused the Member from voting.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 400**), and there were—yeas 90, nays 1, excused 1, absent and not voting 8, with the absent and not voting being as follows:

Nays: Sheedy.

Excused from Voting: Summers.

Absent and Not Voting: Bridges, Ellington, Hardy, Longanacre, Ward, Westfall, Young and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3344) passed.

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

On this question, the yeas and nays were taken (**Roll No. 401**), and there were—yeas 92, nays none, excused 1, absent and not voting 7, with the absent and not voting being as follows:

Excused from Voting: Summers.

Absent and Not Voting: Bridges, Ellington, Hardy, Longanacre, Ward, Westfall and Young.

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. 3344) 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.

The House then returned to consideration of **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.

Delegate Capito, 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.

Delegate Capito then moved to amend the bill 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; *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 the different county within the circuit, receiving the next highest number of the votes cast in the division, shall be deemed elected.

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

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

(8) The counties of McDowell and Wyoming shall constitute the eighth 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.

(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 four judges;

(11) The county of Putnam 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 eight judges with the additional circuit judge to be elected at the regularly scheduled election held in 2024 and every eighth year thereafter. Until January 1, 2025 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.

(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 counties of Preston and Tucker shall constitute the 18th 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.

(19) The counties of Barbour and Taylor shall constitute the 19th circuit and shall have two judges.

(20) The county of Randolph shall constitute the 20th 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;

(21) The counties of Grant and Mineral 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, Morgan, Jefferson shall constitute the 23rd circuit and shall have six judges;

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

(25) The counties of Boone and Lincoln 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 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.

(27) The counties of Greenbrier, Monroe, Pocahontas and Summers shall constitute the 27th circuit and shall have three judges; *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 the different county within the circuit, receiving the next highest number of the votes cast in the division, shall be deemed elected.

(28) The county of Nicholas shall constitute the 28th 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;

(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.~~

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

Delegate Reynolds moved to amend the amendment on page 3, section 1, line 70, by striking out “:” and inserting in lieu thereof “.”

And,

On page 3, section 1, lines 70-72 by striking: 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.

On the adoption of the amendment to the amendment, the yeas and nays were demanded, which demand was not sustained.

Subsequently, the yeas and nays were again demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 402**), 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: Barnhart, Cannon, Coop-Gonzalez, Espinosa, Garcia, Gearheart, W. Hall, Honaker, Horst, Hott, Householder, Jeffries, Keaton, Kelly, Kimble, Linville, Martin, McGeehan, Phillips, C. Pritt, Pushkin, Riley, Smith, Statler, Steele, Summers, Toney, Tully, Vance, Worrell and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Ellington, Hardy, Ridenour, Ward and Westfall.

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

The amendment offered by Delegate Capito, as amended, was then adopted.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 403**), 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, Ellington, Hardy, Hillenbrand, Ward and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3332) passed.

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

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; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 208, Relating to criminal justice training for all law-enforcement and correction officers regarding individuals with autism spectrum disorders; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 270, Adding exemption to permit requirement for cremation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 276, Awarding service weapon of retiring State Fire Marshal; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 300, Relating to law-enforcement training and certification; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 481, Extending sunset provision of Upper Kanawha Valley Resiliency and Revitalization Program; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 553, Allowing for evaluation of prequalified bidders to be based on best value; on second reading, coming up in regular order, was read a second time.

On motion of Delegate Phillips, the bill was amended on page 2, section 10e, line 37, by inserting at the end of the sentence following the words "awarded the procurement" by inserting "*Provided*, That the solicitation for a best value procurement include the scoring criteria and all factors used to determine the highest scoring responsive and responsible bidder when the procurement request is released".

The bill was then ordered to third reading.

H. B. 3511, Making a supplementary appropriation to the Department of Education, State Board of Education – School Lunch Program; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3512, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3513, Making a supplementary appropriation to the Department of Homeland Security, Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3514, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Birth-to-Three Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3515, Making a supplementary appropriation to the Department of Veterans' Assistance, Veterans' Facilities Support Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3516, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Health – West Virginia Safe Drinking Water Treatment; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3517, Making a supplementary appropriation to the Division of Human Services – Child Care and Development; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3518, Making a supplementary appropriation to the Department of Agriculture; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

H. B. 3524, Making a supplementary appropriation to the Department of Agriculture – West Virginia Spay Neuter Assistance Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

First Reading

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

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

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

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

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,

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

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

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

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

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

And,

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

Leaves of Absence

At the request of Delegate Kelly, and by unanimous consent, leaves of absence for the day were granted Delegates Bridges and Hardy.

Messages from the Executive

The following communication was laid before the House of Delegates and reported by the Clerk:

STATE OF WEST VIRGINIA
Jim Justice
Governor of West Virginia

March 1, 2023

HOUSE EXECUTIVE MESSAGE NO. 2
2023 REGULAR SESSION

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

Dear Speaker Hanshaw:

The following amends and replaces the "General Revenue Fund - Statement of Revenues, Expenditures, and Changes in Cash Balance" which I submitted to you on January 11, 2023 as part of my Budget Document for the fiscal year ending June 30, 2024:

General Revenue Fund

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

Actual Beginning Cash Balance July 1, 2022	\$ 1,994,018,233
Less: 31 Day Disbursements (July 1, 2022 - July 31, 2022)	(52,861,583)
Plus: Prior Year Reimbursements (July 1, 2022 - July 31, 2022)	137,305

Less: Prior Year Appropriations Forwarded	(597,407,798)	
Less: Cash Balance - Adjustments and Accruals	<u>(451,758)</u>	
Accumulated Surplus from FY 2022 @ July 31, 2022	\$1,343,434,399	
Less: Transfer to Revenue Shortfall Reserve Fund (Statutory)	0	
Less: FY 2023 Surplus Appropriations (FY 2022 Surplus) (Senate Bill 250) 2022 Regular Session	(793,370,787)	
Less: FY 2023 Surplus Supplemental Appropriation to the Division of Highways (SB 4002) (2022 4th EX)	(150,000,000)	
Plus: Prior Year Reimbursements (August 1, 2022 - February 27, 2023)	36,566	
Plus: Recommended FY 2023 Surplus Supplemental Appropriation - Expiration of State Excess Lottery Funds to General Revenue Surplus Balance (2023 Regular Session)	30,500,000	
Plus: Recommended FY 2023 Surplus Supplemental Appropriation - Expiration of Lottery Funds to General Revenue Surplus Balance (2023 Regular Session)	21,550,000	
Less: FY 2023 Recommended Various Surplus Supplemental Appropriations (2023 Regular Session)	<u>(451,810,251)</u>	
Unappropriated Surplus Balance @ December 31, 2022		\$339,927
Plus: FY 2023 Revenue Estimate (as revised)	\$4,636,024,000	
Less: FY 2023 Appropriations (FY 2023 Budget Bill) (SB 250) (2022 Regular Session)	(4,635,701,389)	
Plus: FY 2023 Recommended Supplemental Appropriation (Education) (School Aid Formula) (2023 Regular Session)	4,559,900	
Less: FY 2023 Recommended Supplemental Appropriation Various Supplemental Appropriations (2023 Regular Session)	<u>(4,681,766)</u>	
Total Estimated Unappropriated Balance @ June 30, 2023		\$200,745
Plus: FY 2024 Revenue Estimate (as revised 3/1/2023)	\$5,734,000,000	
FY 2024 Appropriations (FY 2024 Budget Bill) (2023 Regular Session)	<u>{4,883,768,346}</u>	
Total Estimated Unappropriated Balance@ June 30, 2024		<u>\$850,231,654</u>
		<u>\$850,772,326</u>

Thank you for your cooperation in this matter.

Sincerely,

Jim Justice
Governor

At 4:09 p.m., the House of Delegates adjourned until 11:00 a.m., Thursday, March 2, 2023.

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

SPECIAL CALENDAR

Thursday, March 2, 2023

51st Day

11:00 A. M.

THIRD 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)

SECOND 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

Thursday, March 2, 2023

51st Day

11:00 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

THURSDAY, MARCH 2, 2023

HOUSE CONVENES AT 11:00 A.M.

**COMMITTEE ON THE JUDICIARY
9:00 A.M. – ROOM 410-M**

**COMMITTEE ON RULES
10:45 A.M. – BEHIND CHAMBER**

**COMMITTEE ON ENERGY AND MANUFACTURING
1:00 P.M. – ROOM 410-M**

**TECHNOLOGY AND INFRASTRUCTURE
1:00 P.M. – ROOM 432-M**

**ECONOMIC DEVELOPMENT AND TOURISM
2:00 P.M. – ROOM 460-M**

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