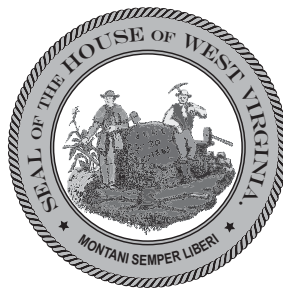


West Virginia Legislature

JOURNAL  
of the  
HOUSE of DELEGATES

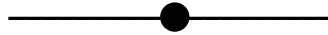
Eighty-Sixth Legislature  
First Regular Session

Held at Charleston  
Published by the Clerk of the House



March 7, 2023  
FIFTY-SIXTH DAY





Tuesday, March 7, 2023

**FIFTY-SIXTH DAY**

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

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

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

The Clerk proceeded to read the Journal of Monday, March 6, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Reordering of the Calendar**

Pursuant to the action of the Committee on Rules, Delegate Householder announced that S. B. 597, on Second Reading, House Calendar, had been transferred to the Special Calendar; Com. Sub. for S. B. 462, on Second Reading, Special Calendar, had been transferred to the House Calendar; and S. B. 262 on First Reading, Special Calendar, had been transferred to the House Calendar.

**Committee Reports**

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

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 298**, Relating to non-federally declared emergencies and non-states of emergency,

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

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

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 426**, Banning use of certain products and platforms deemed unsafe or high risk on government systems,

**Com. Sub. for S. B. 495**, Providing correctional institutions and juvenile facilities video and audio records be confidential,

And,

**S. B. 544**, Increasing power purchase agreement cap,

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

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

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 527**, Allowing family members of military personnel access to discharge records,

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

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

Your Committee on Government Organization has had under consideration:

**S. B. 240**, Requiring state board of examination or registration proceedings to be open to public inspection,

**Com. Sub. for S. B. 467**, Providing county commissioners ongoing mechanism to consider compensation increases for elected officials every two years,

**Com. Sub. for S. B. 661**, Clarifying preferential recall rights for employees sustaining compensable injury,

And,

**S. B. 735**, Clarifying department responsible for administration of certain programs,

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

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

Your Committee on Government Organization has had under consideration:

**H. C. R. 52**, Study the financial effects of raising the threshold from \$25,000 to \$50,000 for the requirement of bids for municipal, public service district, county and state public works project,

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

In accordance with the former direction of the Speaker, the resolution (H. C. R. 52) was referred to the Committee on Rules.

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

Your Committee on Government Organization has had under consideration:

**S. B. 734**, Requiring adoption of cloud computing services by state agencies,

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

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

Your Committee on Government Organization has had under consideration:

**Com. Sub. for S. B. 271**, Modifying approval process requirements for First Responders Honor Board,

**Com. Sub. for S. B. 665**, Amending licensure requirements for massage therapist,

And,

**S. B. 733**, Relating to wildlife licenses and stamps,

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

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

**Com. Sub. for S. B. 274**, Third Grade Success Act,

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

In accordance with the former direction of the Speaker, the bill (Com. Sub. for S. B. 274) was referred to the Committee on Finance.

**Messages from the Executive  
and Other Communications**

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 7, 2023

HOUSE EXECUTIVE MESSAGE NO. 3  
2023 REGULAR SESSION

The Honorable Roger Hanshaw  
Speaker, West Virginia House of Delegates  
Building I, 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 March 1, 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 Accumulated Surplus from FY 2022 @ July 31, 2022	<u>(451,758)</u>
	\$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	<b>\$339,927</b>
Plus: FY 2023 Revenue Estimate ( <i>as revised</i> )	\$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		<b>\$200,745</b>
Plus: FY 2024 Revenue Estimate ( <i>as revised 3/7/2023</i> )	\$4,884,000,000	
FY 2024 Appropriations (FY 2024 Budget Bill) (2023 Regular Session)	<u>(4,883,768,346)</u>	
Total Estimated Unappropriated Balance @ June 30, 2024		<b><u>\$231 654</u></b>
		<b><u>\$772,326</u></b>

Thank you for your cooperation in this matter.

Sincerely,

Jim Justice  
Governor

Communications from the Clerk of the Senate to His Excellency, the Governor, advised that S. B. 136, Com. Sub. for S. B. 208, Com. Sub. for S. B. 270, S. B. 276, Com. Sub. for S. B. 300, S. B. 481 and S. B. 553 were presented to the Governor on March 6, 2023; and that Com. Sub. for S. B. 268, Com. Sub. for S. B. 423 and S. B. 609 were presented to the Governor on March 7, 2023.

The Clerk announced that Com. Sub. for H. B. 2526, Com. Sub. for H. B. 2587, H. B. 2611, H. B. 2899, Com. Sub. for H. B. 3210 and H. B. 3218 were presented to the Governor on March 7, 2023.

### **Messages from the Senate**

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect from passage, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 3013**, Relating to authorizing the Jefferson County Commission to levy a special district excise tax.

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

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

**“ARTICLE 22. COUNTY ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.**

**§7-22-9. Authorization to levy special district excise tax.**

(a) General. — County commissions have no inherent authority to levy taxes and have only that authority expressly granted to them by the Legislature. The Legislature is specifically

extended, and intends by this article, to exercise certain relevant powers expressed in section six-a, article X of the Constitution of this state as follows: (1) The Legislature may appropriate state funds for use in matching or maximizing grants-in-aid for public purposes from the United States or any department, bureau, commission or agency thereof, or any other source, to any county, municipality or other political subdivision of the state, under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe by law; and (2) the Legislature may impose a state tax or taxes or dedicate a state tax or taxes or any portion thereof for the benefit of and use by counties, municipalities or other political subdivisions of the state for public purposes, the proceeds of any such imposed or dedicated tax or taxes or portion thereof to be distributed to such counties, municipalities or other political subdivisions of the state under such circumstances and subject to such terms, conditions and restrictions as the Legislature may prescribe.

Because a special district excise tax would have the effect of diverting, for a specified period of years, tax dollars which to the extent, if any, are not essentially incremental to tax dollars currently paid into the General Revenue Fund of the state, the Legislature finds that in order to substantially ensure that such special district excise taxes will not adversely impact the current level of the General Revenue Fund of the state, it is necessary for the Legislature to separately consider and act upon each and every economic development district which is proposed, including the unique characteristics of location, current condition and activity of and within the area included in such proposed economic opportunity development district and that for such reasons a statute more general in ultimate application is not feasible for accomplishment of the intention and purpose of the Legislature in enacting this article. Therefore, no economic opportunity development district excise tax may be levied by a county commission until after the Legislature expressly authorizes the county commission to levy a special district excise tax on sales of tangible personal property and services made within district boundaries approved by the Legislature.

(b) Authorizations. — The Legislature authorizes the following county commissions to levy special district excise taxes on sales of tangible personal property and services made from business locations in the following economic opportunity development districts:

(1) The Ohio County Commission may levy a special district excise tax for the benefit of the Fort Henry Economic Opportunity Development District which comprises five hundred contiguous acres of land. Notwithstanding the time limitations provisions of subdivision (2), subsection (a), section fifteen of this article, the Fort Henry Economic Opportunity Development District shall not be abolished under subdivision (2), subsection (a), section fifteen of this article until the year 2044, unless sooner abolished and terminated in accordance with the provisions of subdivision (1), subsection (a), section fifteen of this article or any other provision of this code, or sooner abolished for any other reason: *Provided*, That on December 31, 2044, the provisions of subdivision (2), subsection (a), section fifteen of this article shall apply to abolish the Fort Henry Economic Opportunity Development District, if the district has not been abolished prior to that date.

(2) The Harrison County Commission may levy a special district excise tax for the benefit of the Charles Pointe Economic Opportunity Development District which comprises 437 acres of land; ~~and.~~

(3) The Monongalia County Commission may levy a special district excise tax for the benefit of the University Town Centre Economic Opportunity Development District which comprises approximately 1,450 contiguous acres of land. Notwithstanding the time limitations provisions of §7-22-15(a)(2) of this code, the University Town Centre Economic Opportunity Development



District shall not be abolished pursuant to §7-22-15(a)(2) of this code until the year 2053, unless sooner abolished and terminated in accordance with the provisions of subdivision §7-22-15(a)(1) of this code or any other provision of this code, or sooner abolished for any other reason: *Provided*, That on December 31, 2053, the provisions of §7-22-15(a)(2) of this code shall apply to abolish the University Town Centre Economic Opportunity Development District, if the district has not been abolished prior to that date.

(4) The Jefferson County Commission may levy a special district excise tax for the benefit of the Hill Top House Hotel Economic Opportunity District which comprises approximately 11 contiguous acres of land: *Provided*, That notwithstanding any other provision of this article to the contrary:

(A) The Jefferson County Commission may create the district and levy the special district excise tax by order entered of record as provided in §7-22-10 of this code without the approval of the executive director of the development office; and

(B) The Jefferson County Commission may determine the base district tax, the base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount in lieu of that determination by the development office as provided in §7-22-7 of this code. For purposes of determining the base tax revenue amount, the Jefferson County Commission shall promptly request a certification from the Tax Commissioner of the base tax revenue amount and the Tax Commissioner shall provide the certification to the Jefferson County Commission within thirty days.”

And,

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

**Com. Sub. for H. B. 3013** – “A Bill to amend and reenact §7-22-9 of the Code of West Virginia, 1931, as amended, , all relating to county economic opportunity development districts; providing when the University Town Centre Economic Opportunity Development District may be abolished or terminated; authorizing the Jefferson County Commission to levy a special district excise tax; authorizing the special district excise tax for the benefit of the Hill Top House Hotel Economic Opportunity District; setting forth the land area within the special district subject to the special district excise tax; authorizing the commission to create the district and levy the special district excise tax without the approval of the executive director of the development office; authorizing the commission to determine the base district tax, the base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount; and requiring the Tax Commissioner to provide the commission with certification of the base tax revenue amount.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 531**), and there were—yeas 68, nays 28, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Brooks, Butler, Cannon, Coop-Gonzalez, Dean, Dillon, Fast, Foggin, A. Hall, Hanna, Holstein, Horst, Keaton, Kimble, Kirby, Kump, Linville, Longanacre, Martin, McGeehan, Pinson, C. Pritt, E. Pritt, Ross, Steele, Vance, Ward and Young.

Absent and Not Voting: Fehrenbacher, Honaker, Hornbuckle and Shamblin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3013) passed.

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

On this question, the yeas and nays were taken (**Roll No. 532**), and there were—yeas 77, nays 20, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Brooks, Butler, Coop-Gonzalez, Dean, Dillon, Fast, A. Hall, Hanna, Kimble, Kirby, Kump, Linville, Longanacre, Martin, McGeehan, E. Pritt, Steele, Vance, Ward and Young.

Absent and Not Voting: Honaker, Hornbuckle and Shamblin.

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. 3013) takes effect from its passage.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 3114**, Deny severance pay to employees of DOT for failure or refusal of drug testing.

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

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

**“ARTICLE 2. TRANSFER OF AGENCIES AND BOARDS.**

**§5F-2-8. Special merit-based personnel system for Department of Transportation employees.**

(a) In order to attract and retain employees in the Department of Transportation, the Secretary of Transportation shall establish a system of personnel administration based on merit principles and scientific methods governing the appointment, promotion, transfer, layoff, removal, discipline, classification, compensation, and welfare of its employees, and other incidents of state employment. All appointments and promotions to positions shall be made solely on the basis of merit and fitness for the position.

(b) The Department of Transportation personnel system shall be founded on effective performance management principles that set clear goals, provide efficient and effective services for our citizens, and appraise and reward employees for being responsible and performing as required.

(c) Beginning on January 1, 2022, notwithstanding any provision of this code or any rule to the contrary, employees and positions within the various agencies, boards, commissions, and divisions within the Department of Transportation currently governed by the provisions of §29-6-1 *et seq.* of this code shall be subject to the personnel system created pursuant to this section: *Provided*, That such employees and positions shall be deemed to retain their classified or classified-exempt status and all rights and privileges thereof. The employees of the Department of Transportation shall be afforded due process protections through §6C-2-1 *et seq.* of this code or other procedures established by the department that assure all of the protections required by law.

(d) The Department of Transportation personnel system is not exempt from the provisions of this code prohibiting nepotism, favoritism, discrimination, or unethical practices related to the employment process.

(e) The Department of Transportation personnel system may not be applied in any manner that would disqualify the department or its agencies, boards, commissions, or divisions for eligibility for any federal funding or assistance.

(f) The Division of Personnel shall, upon request of the Secretary of Transportation, take any action necessary to assist the Department of Transportation in completing the transition to the department's personnel system in an orderly and efficient manner.

(g) The Secretary of Transportation may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code and may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code to implement the provisions of this section.

(h) Notwithstanding any provision of this code to the contrary, the Department of Transportation personnel system shall require that any probationary employee of the Department of Transportation who is terminated for failing a drug or alcohol screen or refusing a drug or alcohol screen shall not be entitled to severance pay."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 533**), 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: Honaker, Hornbuckle, Shamblyn and Statler.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3114) passed.

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

A message from the Senate, by

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

**H. B. 3444**, Relating to the creation of the West Virginia Semiquincentennial Commission and Fund.

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

On this question, the yeas and nays were taken (**Roll No. 534**), and there were—yeas 95, nays 1, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Honaker, Hornbuckle, C. Pritt and Shamblin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3444) takes effect from its passage.

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

A message from the Senate, by

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

**H. B. 3448**, Relating generally to probation officer field training.

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

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

## **“ARTICLE 12. PROBATION AND PAROLE.**

### **§62-12-5. PROBATION OFFICERS AND ASSISTANTS.**

(a) Each circuit court, subject to the approval of the Supreme Court of Appeals and in accordance with its rules, is authorized to appoint one or more probation officers and clerical assistants.

(b) The appointment of probation officers and clerical assistants shall be in writing and entered on the order book of the court by the judge making such appointment and a copy of the order of appointment shall be delivered to the Administrative Director of the Supreme Court of Appeals. The order of appointment shall state the annual salary, fixed by the judge and approved by the Supreme Court of Appeals, to be paid to the appointed probation officer or clerical assistants.

(c) The salary of probation officers and clerical assistants shall be paid at least twice per month, as the Supreme Court of Appeals by rule may direct, and they shall be reimbursed for all reasonable and necessary expenses actually incurred in the line of duty in the field. The salary and expenses shall be paid by the state from the judicial accounts thereof. The county commission shall provide adequate office space for the probation officer and his or her assistants to be approved by the appointing court. The equipment and supplies as may be needed by the

probation officer and his or her assistants shall be provided by the state and the cost thereof shall be charged against the judicial accounts of the state.

(d) A judge may not appoint any probation officer, assistant probation officer, or clerical assistant who is related to him or her either by consanguinity or affinity.

(e) Subject to the approval of the Supreme Court of Appeals and in accordance with its rules, a judge of a circuit court whose circuit comprises more than one county may appoint a probation officer and a clerical assistant in each county of the circuit or may appoint the same persons to serve in these respective positions in two or more counties in the circuit.

(f) Nothing contained in this section alters, modifies, affects, or supersedes the appointment or tenure of any probation officer, medical assistant, or psychiatric assistant appointed by any court under any special act of the Legislature heretofore enacted, and the salary or compensation of those persons shall remain as specified in the most recent amendment of any special act until changed by the court, with approval of the Supreme Court of Appeals, by order entered of record, and any such salary or compensation shall be paid out of the State Treasury.

(g) In order to carry out the supervision responsibilities set forth in §62-26-12 of this code, the Administrative Director of the Supreme Court of Appeals, or his or her designee, in accordance with the court's procedures, may hire multijudicial-circuit probation officers, to be employed through the court's Division of Probation Services. Such officers may also supervise probationers who are on probation for sexual offences with the approval of the administrative director of the Supreme Court of Appeals or his or her designee.

(h) In recognition of the duties of their employment supervising confinement and supervised release, and the inherent arrest powers for violation of the same which constitute law enforcement, state probation officers are determined to be qualified law-enforcement officers as that term is used in 18 U.S.C. § 926B.

(i) Any state probation officer may carry a concealed firearm for self-defense purposes pursuant to the provisions of 18 U.S.C. § 926B if the following criteria are met:

(1) The Supreme Court of Appeals has a written policy authorizing probation officers to carry a concealed firearm for self-defense purposes.

(2) There is in place a requirement that the state probation officers annually qualify in the use of a firearm with standards for qualification which are equal to, or exceed those required of sheriff's deputies by the Law-Enforcement Professional Standards Program;

(3) The Supreme Court of Appeals issues a photographic identification and certification card which identify the state probation officers as qualified law-enforcement employees pursuant to the provisions of §30-29-12 of this code.

(j) Any policy instituted pursuant to this subsection shall include provisions which:

(1) Preclude or remove a person from participation in the concealed firearm program;

(2) Preclude from participation persons prohibited by federal or state law from possessing or receiving a firearm and;

(3) Prohibit persons from carrying a firearm pursuant to the provisions of this subsection while in an impaired state as defines in §17C-5-2 of this code.

(k) Any state probation officer who participates in a program authorized by the provisions of this subsection is responsible, at his or her expense, for obtaining and maintaining a suitable firearm and ammunition.

(l) It is the intent of the Legislature in enacting the amendments to this section during the 2022 regular session of the Legislature to authorize state probation officers wishing to do so to meet the requirements of the federal Law-Enforcement Officer's Safety Act, 18 U.S.C. § 926B.

(m) The privileges authorized by the amendments to this section enacted during the 2022 regular session of the Legislature are wholly within the discretion of the Supreme Court of Appeals.

(n) The Administrative Director of the Supreme Court of Appeals, or his or her designee, may hire field training probation officers to provide uniform training to new and current probation officers statewide. A field training probation officer shall have all the powers granted to a probation officer under this code while performing his or her duties."

And,

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

**Com. Sub. for H. B. 3448** – "A Bill to amend and reenact §62-12-5 of the Code of West Virginia, 1931, as amended, relating to probation officer field training; and granting field training probation officers the power of a full probation officer while on duty."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 535**), 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: Honaker, Hornbuckle, C. Pritt and Shamblin.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3448) passed.

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

A message from the Senate, by

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

**S. B. 738** - "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §19-39-1, §19-39-2, §19-39-3, §19-39-4, §19-39-5, §19-39-6, §19-39-7, §19-39-8, §19-39-9, and §19-39-10, all relating to creation of the Right to Repair Act; creating a short title; defining terms; establishing jurisdiction of the Commissioner of Agriculture; establishing requirements; establishing limitations; establishing prohibitions; providing for

rulemaking; establishing violations; imposing civil penalties; authorizing civil actions, penalties, and injunctive relief; and providing for applicability and effective date of article"; which was referred to the Committee on the Judiciary.

### Motions

At the request of Delegate Householder, and by unanimous consent, the House took up **Com. Sub. for S. B. 205** for further consideration.

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

**Com. Sub. for S. B. 205** – “A Bill to amend and reenact §17A-3-14 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto nine new sections, designated as §17A-3-14a, §17A-3-14b, §17A-3-14c, §17A-3-14d, §17A-3-14e, §17A-3-14f, §17A-3-14g, §17A-3-14h, and §17A-3-14i, all relating to registration plates; authorizing special registration plates; establishing fees; authorizing the suspension of registration of any owner who displays a damaged or illegible plate or otherwise fails to comply with legal requirements; voiding license plates issued or renewed and paid for by worthless check; authorizing Division of Motor Vehicles to accept or authorize electronic signatures; authorizing waiver of certain costs and fees related to special registration plates by concurrent resolution of the Legislature; and authorizing rulemaking by the Division of Motor Vehicles.”

*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 took up **Com. Sub. for S. B. 463** for further consideration.

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

**Com. Sub. for S. B. 463** – “A Bill to amend and reenact §17E-1-9 of the Code of West Virginia, 1931, as amended, relating to commercial driver's license instruction permits.”

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

### Special Calendar

#### Third Reading

**Com. Sub. for S. B. 51**, Requiring impact statement in certain instances of school closing or consolidation; 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. 536**), 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: Espinosa, Ferrell, W. Hall, Kump, Mallow, Miller, E. Pritt, Reynolds, Sheedy, Steele, Summers, Toney and Tully.

Absent and Not Voting: Honaker, Shamblin and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 51) passed.

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

**Com. Sub. for S. B. 267**, Updating law regarding prior authorizations; 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. 537**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Honaker, Shamblin and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 267) passed.

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

**Com. Sub. for S. B. 267** – “A Bill to amend and reenact §5-16-7f of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §9-5-31; to amend and reenact §33-15-4s of said code; to amend and reenact §33-16-3dd of said code; to amend and reenact §33-24-7s of said code; to amend and reenact §33-25-8p of said code; and to amend and reenact §33-25A-8s of said code, all relating to prior authorizations; defining terms; requiring prior authorizations and related communications to be submitted via an electronic portal; requiring electronic notification to the health care provider confirming receipt of the prior authorization; establishing timelines for compliance; providing communication via the portal regarding the current status of the prior authorization; reducing time frames for prior authorization requests; providing a time frame for a decision to be rendered after the receipt of additional information; providing a time frame for a claim to be submitted to audit; stating provisions pertaining to patient communications about step therapy protocols; establishing time frame for peer-to-peer appeals; reducing timeline for prior authorization appeal process; revising the percentage approval for a health care provider to be considered for an exemption from prior authorization criteria; revising time frame for prior authorization exemption process; removing limitation on prior authorization exemption that applied exemption to procedures used to justify granting of exemption; expanding auditing of prior authorization exemption process; requiring plan to give health care practitioner rationale for revocation of exemption; providing for limitations to exemption; removing criteria related to electronic submission of pharmacy benefits; amending effective date; requiring oversight and data collection by the Office of the Insurance Commissioner and the Inspector General; and providing for civil penalties.”

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

**Com. Sub. for S. B. 476**, Exempting managed care contracts from purchasing requirements; on third reading, coming up in regular order, with the right to amend, was reported by the Clerk.

An amendment was recommended by the Committee on Health and Human Resources, and adopted, on page 1, line 3, by striking the period and inserting a colon, and the following:



*“Provided, That for purposes of continuity of care, the Bureau for Medical Services may not:*

(1) Disrupt existing WV Medicaid and WV Children’s Health Insurance Plan enrollment within an existing managed care organization as part of any such purchasing exemption; or

(2) Redistribute or reassign membership of an existing managed care organization to any new, qualifying managed care entrant as part of any contract awarded pursuant to such exemption.

The Bureau for Medical Services shall integrate any and all new and qualifying managed care entrants into the State’s auto-assignment logic for new members and shall publicize any eligible managed care organization for purposes of self-selection by the member. No plan shall have preferential assignment of new members and each plan will be assigned equally.”

On motion of Delegate Summers, the bill was amended on page 1, section 9-5-31, line 3, by striking the word “contacts” and inserting in lieu thereof “contracts.”

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. 538**), and there were—yeas 80, nays 17, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Bridges, Dean, Foggin, Garcia, Griffith, Hansen, Hornbuckle, Kirby, E. Pritt, Pushkin, Ross, Rowe, Skaff, Steele, Walker, Williams and Young.

Absent and Not Voting: Honaker, McGeehan and Shamblin.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 476) passed.

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

**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; providing for exceptions; providing that the Bureau for Medical Services may not disrupt certain existing enrollments with managed care organizations; prohibiting the Bureau for Medical Services from redistributing or reassigning membership; providing for the integration of new managed care entrants; providing that no plan shall have preferential assignment of new members.”

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

On this question, the yeas and nays were taken (**Roll No. 539**), and there were—yeas 86, nays 9, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Garcia, Hansen, Kirby, E. Pritt, Pushkin, Skaff, Steele, Walker and Williams.

Absent and Not Voting: DeVault, Foster, Honaker, McGeehan and Shamblin.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 476) takes effect from its passage.

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

**Com. Sub. for S. B. 613**, Relating generally to certificates of need; on third reading, coming up in regular order, was reported by the Clerk.

At 12:23 p.m., on motion of Delegate Householder, the House of Delegates recessed until 5:00 p.m.

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### Evening Session

\* \* \* \* \*

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

### Special Calendar

-continued-

### Second Reading

**S. B. 99**, Relating to meetings among county boards of education; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 191**, Relating to liability for payment of court costs as condition of pretrial diversion agreement; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary on page one, by striking everything after the enacting clause and inserting in lieu thereof the following:

#### **“ARTICLE 11C. THE WEST VIRGINIA COMMUNITY CORRECTIONS ACT.**

##### **§62-11C-9. Use of community corrections programs for those not under court supervision.**

(a) Subject to the availability of community corrections programs in the county, a written pretrial diversion agreement, entered into pursuant to the provisions of ~~section twenty-two, article eleven, chapter sixty-one~~ §61-11-22 of this code, may require participation or supervision in a community corrections program as part of the prosecution and resolution of charges. A court ordered deferred adjudication proceeding, pursuant to the provisions of 61-11-22a of this code, may require, through terms and conditions imposed upon a defendant, participation or supervision in a community corrections program

(b) Any pretrial diversion program for a defendant charged with a violation of the provisions of ~~section twenty-eight, article two, chapter sixty-one of this code, subsection (b) or (c), section nine of said article~~ §61-2-9b, §61-2-9c, or §61-2-28 of this code, where the alleged victim is a family or household member, or the provisions of ~~section two, article five, chapter seventeen-c~~ §17C-5-2 of this code ~~is to~~ shall require the person charged to appear before the presiding judge or

magistrate and either acknowledge his or her understanding of the terms of the agreement or tender a plea of guilty or nolo contendere to the charge or charges. Upon the defendant's motion, the court shall continue the matter for the period of time necessary for the person charged to complete the pretrial diversion program. If the person charged successfully completes the pretrial diversion program, the matter is to be resolved pursuant to the terms of the pretrial diversion agreement. If the person charged fails to successfully complete the pretrial diversion program, the matter, if ~~he~~ a plea of guilty or nolo contendere has not been tendered, ~~is to~~ shall be returned to the court's docket for resolution. If the person charged has tendered a plea of guilty or nolo contendere and fails to successfully complete the pretrial diversion program, the court shall accept the tendered plea of guilty or nolo contendere and proceed to sentencing.

(c) No provision of this article may be construed to limit the prosecutor's discretion to prosecute an individual who has not fulfilled the terms of a written pretrial diversion by not completing the required supervision or participation in a community corrections program.

(d) Notwithstanding any provision of this code to the contrary, any person whose case is disposed of by entering into a pretrial diversion agreement, pursuant to the provisions of ~~section twenty-two, article eleven of this chapter~~ §61-11-22 of this code shall be ~~is~~ liable for any applicable court costs. Payment of the court costs shall be made a condition of the pretrial diversion agreement: Provided, That financial inability to pay court costs may not be a basis for denying a person a pretrial diversion.

(e) Subject to the availability of community corrections programs in the county, a written pretrial diversion agreement, entered into pursuant to the provisions of §61-11-22 of this code, may require participation or supervision in a community corrections program as part of the prosecution and resolution of charges. A court ordered deferred adjudication proceeding, pursuant to the provisions of §61-11-22a of this code, may require, through terms and conditions imposed upon a defendant, participation or supervision in a community corrections program

(f) Any deferred adjudication for a defendant charged with a violation of the provisions of §61-2-9b, §61-2-9c, or §61-2-28 of this code, where the alleged victim is a family or household member, or the provisions of §17C-5-2 of this code shall require the person charged to appear before the presiding judge or magistrate and either acknowledge his or her understanding of the terms of the agreement or tender a plea of guilty or nolo contendere to the charge or charges. Upon the defendant's motion, the court shall continue the matter and defer adjudication for the period of time necessary for the person charged to complete the period of deferred adjudication. If the person charged successfully completes the period of deferred adjudication, the matter is to be resolved pursuant to the terms and conditions of the deferred adjudication as outlined by the court. If it is determined by the court that the defendant did not successfully complete the period of deferred adjudication, the court may accept the tendered plea of guilty or nolo contendere and proceed to sentencing or impose such other terms and conditions as the court deems appropriate, pursuant to the provisions of §61-11-22a of this code.

(g) Notwithstanding any provision of this code to the contrary, any person whose case is disposed of by entering into a deferred adjudication, pursuant to the provisions of §61-11-22a of this code is liable for any applicable court costs. Payment of the court costs shall be made a term and condition of the deferred adjudication. Payment of restitution may be made a term and condition of the deferred adjudication: *Provided, That financial inability to pay court costs and restitution may not be a basis for denying a person deferred adjudication.*

On motion of Delegate Fast, the amendment was amended on page 1, section 9, subsection (b), line 8, by striking through the following words: "charged with a violation of the provisions of §61-2-9b, §61-2-9c, or §61-2-28 of this code,"

On page 1, section 9, subsection (b), line 11, by striking through the following words: "or the provisions of §17C-5-2 of this code"

On page 1, section 9, subsection (b), line 13, by striking through the word "either".

On page 1, section 9, subsection (b), line 13, by striking through the following words: "or tender a plea of guilty or nolo contendere"

On page 2, section 9, subsection (b), line 19, by striking through the following words: ", if a plea of guilty or nolo contendere has not been tendered"

On page 2, section 9, subsection (b), line 20, by striking through the following words: "If the person charged has tendered a plea of guilty or nolo contendere and fails to successfully complete the pretrial diversion program, the court shall accept the tendered plea of guilty or nolo contendere and proceed to sentencing."

On page 2, section 9, subsection (e), line 35, by striking through the words "court ordered".

On page 2, section 9, subsection (f), line 38, by striking through the following words: "for a defendant charged with a violation of the provisions of 61-2-9b, 61-2-9c, 61-2-28, of this code,"

And,

On page 2, section 9, subsection (f), line 42, by striking through the word "or" and inserting in lieu thereof the word "and"

The Judiciary Committee amendment, as amended, was then adopted.

The bill was ordered to third reading.

**Com. Sub. for S. B. 273**, Relating to allocation of child protective workers in counties based upon population of county; on second reading, coming up in regular order, was reported by the Clerk.

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

**Com. Sub. for S. B. 356**, Authorizing DOT to promulgate legislative rules; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 451**, Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 452**, Relating to Emergency Medical Services Retirement System; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**S. B. 457**, Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page one by striking out everything after the enacting clause and inserting in lieu thereof the following:

**“ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

**§60-7-12. Certain acts of licensee prohibited; criminal penalties.**

(a) It is unlawful for any licensee, or agent, employee, or member thereof, on such licensee's premises to:

(1) Sell, offer for sale, tender, or serve any alcoholic liquors other than by the drink poured from the original package or container, except as authorized in §60-6-8 of this code;

(2) Authorize or permit any disturbance of the peace, obscene, lewd, immoral, or improper entertainment, conduct, or practice; ~~gambling or any slot machine, multiple coin console machine, multiple coin console slot machine, or device in the nature of a slot machine; however, various games, gaming, and wagering conducted by duly licensed persons of the West Virginia State Lottery Commission, charitable bingo games conducted by a duly licensed charitable or public service organization (or its auxiliaries), pursuant to §47-20-1 et seq. of this code, and charitable raffle games conducted by a duly licensed charitable or public service organization (or its auxiliaries), pursuant to §47-21-1 et seq. of this code, all of which are permissible on a licensee's licensed premises when operated in accordance with this code and rules promulgated thereunder.~~ A private resort hotel holding a license issued pursuant to §60-7-1 et seq. of this code, may sell, tender, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on the premises licensed under §29-22A-1 et seq. and §29-22C-1 et seq., or §29-25-1 et seq. of this code, during hours of operation authorized by §29-22A-1 et seq. and §29-22C-1 et seq., or §29-25-1 et seq. of this code.

(3) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine, or alcoholic liquors for or to, or permit the consumption of nonintoxicating beer, wine, or alcoholic liquors on the licensee's premises, by any person less than 21 years of age;

(4) Sell, give away, or permit the sale of, gift to, or the procurement of any nonintoxicating beer, wine, or alcoholic liquors, for or to any person known to be considered legally incompetent, or for or to any person who is physically incapacitated due to consumption of nonintoxicating beer, wine or alcoholic liquor or the use of drugs;

(5) Sell, give, or dispense nonintoxicating beer, wine, or alcoholic liquors in or on any licensed premises, or in any rooms directly connected therewith between the hours of 3:00 a.m. and 6:00 a.m. on weekdays, Saturdays, and Sundays, or, between the hours of 3:00 a.m. and 1:00 p.m. in any county upon approval as provided for in §7-1-3ss of this code, on any Sunday; and

(6) Permit the consumption by, or serve to, on the licensed premises any nonintoxicating beer, wine, or alcoholic liquors, covered by this article, to any person who is less than 21 years of age;

(7) With the intent to defraud, alter, change, or misrepresent the quality, quantity, or brand name of any alcoholic liquor;

(8) Sell or offer for sale any alcoholic liquor to any person who is not a duly elected or approved dues-paying member in good standing of the private club or a guest of the member;

(9) Sell, offer for sale, give away, facilitate the use of or allow the use of carbon dioxide, cyclopropane, ethylene, helium, or nitrous oxide for purposes of human consumption, except as authorized by the commissioner;

(10)(A) Employ any person who is younger than 16 years of age in a position where the primary responsibility for such employment is to sell, furnish, tender, serve, or give nonintoxicating beer, wine, or alcoholic liquors to any person;

(B) Employ any person who is between 16 years of age and younger than 21 years of age who is not directly supervised by a person aged 21 or over in a position where the primary responsibility for such employment is to sell, furnish, tender, serve or give nonintoxicating beer, wine, or alcoholic liquors to any person; or

(11) Violate any reasonable rule of the commissioner.

(b) It is lawful for any licensee to advertise price and brand in any news media or other means, outside of the licensee's premises.

(c) Any person who violates any of the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$1,000, or imprisoned in jail for a period not to exceed one year, or both fined and imprisoned."

The bill was then ordered to third reading.

**S. B. 487**, Extending additional modification reducing federal adjusted gross income; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 558**, Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media; on second reading, coming up in regular order, was read a second time.

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

## **ARTICLE 1. PRELIMINARY PROCEDURE.**

### **§62-1-6a. Booking photographs of criminal defendants.**

(a) Except as authorized by the provisions of this section, a law enforcement agency may not share on social media the booking photograph of an individual arrested for the alleged commission of a minor offense.

(b) As used in this section, unless context clearly indicates, otherwise:

'Booking photograph' means a photograph or still, non-video image of an individual taken, generated, or otherwise created by a law enforcement agency pursuant to an arrest or while an individual is in the agency's lawful custody.

'Law enforcement agency' means any duly authorized state, county, or municipal organization employing one or more persons whose responsibility is the enforcement of laws of the state or any county or municipality of the state: *Provided*, That the Division of Corrections and Rehabilitation and its subordinate organizations may not be considered a law enforcement agency for purposes of this section.

'Social media' means a publicly available Internet-based platform that allows a user to produce, post, or curate content and interact with other users via text, images, video, and audio, for the purpose of informing, sharing, promoting, collaborating, or networking.

'Minor offense' means an offense that:

Is a misdemeanor or nonviolent felony eligible for expungement as provided by §61-11-26(a) of this code, and not excepted from eligibility for expungement under §61-11-26(c) of this code: *Provided*, That, for purposes of this section, offenses under §17B-4-3 of this code and misdemeanor offenses under §17C-5-2 of this code, shall be considered minor offenses for purposes of this section.

(c) *Exceptions.* — A law enforcement agency may share on social media the booking photograph of an individual arrested for the alleged commission a minor offense, if:

(1) The individual is convicted of a criminal offense based upon the conduct for which the individual was in custody for at the time the booking photograph was taken;

(2) A law-enforcement agency has determined that the suspect is a fugitive or an imminent threat to an individual or to public safety and reasonably believes that releasing or disseminating the suspect's booking photograph will assist in locating or apprehending the suspect or reducing or eliminating that threat; or

(3) A court of competent jurisdiction orders the release or dissemination of the booking photograph based upon a finding that doing so is in furtherance of a legitimate interest.

(d) A law-enforcement agency may not be subject to civil action or be held liable when the publication, release, or dissemination of a booking photograph was made by mistake of fact or error, and that publication, release, or dissemination was done in good faith.

(e) A law-enforcement agency that shares on social media a booking photograph of an individual arrested for the suspected commission of any crime shall remove the booking photograph from its social media page within 14 days upon the request of the individual who is the subject of the social media post, or that individual's authorized representative, if any of the following have occurred:

(1) The criminal charge for which the booking photograph was taken has been dismissed;

(2) A grand jury has declined to return an indictment on the charge for which the booking photograph was taken; or

(3) A circuit court or jury has entered a judgment of acquittal on the charge for which the booking photograph was taken, or a court of competent jurisdiction has issued an order or opinion reversing, vacating, or otherwise nullifying the conviction for which the booking photograph was taken."

The bill was then ordered to third reading.

**S. B. 559**, Relating to spousal privilege; on second reading, coming up in regular order, was reported by the Clerk.

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

**S. B. 597**, Allowing Workforce WV to hire classified service exempt employees; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for S. B. 688**, Allowing BOE to hire retired teachers to assist with tutoring; on second reading, coming up in regular order, was read a second time and ordered to third reading.

**Com. Sub. for H. B. 2905**, Supplementing and amending appropriations to State Board of Education - State Department of Education - Classroom Aide Program; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 2907**, Supplementing and amending appropriations to the Department of Administration, Division of General Services; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 2913**, Supplementing and amending appropriations to the DHHR, Consolidated Medical Services Fund; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**Com. Sub. for H. B. 2928**, Supplementing and amending appropriations to DHHR, Division of Health; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 3039**, Making a supplementary appropriation to Adjutant General - State Militia; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 3073**, Supplementing and amending appropriations to Adjutant General - State Militia; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 3553**, Supplementing and amending appropriations to Department of Health and Human Resources; on second reading, coming up in regular order, was read a second time and ordered to engrossment and third reading.

**H. B. 3563**, 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. 3564**, Making a supplementary appropriation to the Division of Human Services - Energy Assistance; 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:

**S. B. 146**, Modifying regulations of peer-to-peer car sharing program,

**S. B. 149**, Exempting certain organizations from property taxation,

**Com. Sub. for S. B. 151**, Levying tax on pass-through entity's income,

**S. B. 244**, Making rosters of individuals who obtain professional, occupational, and trade licenses, registrations, and certificates available to public,

**Com. Sub. for S. B. 294**, Clarifying amount of deputy sheriff annual salary increase,

**Com. Sub. for S. B. 345**, Authorizing Department of Revenue to promulgate legislative rules,

**S. B. 465**, Increasing limit on moneys placed in county's rainy day fund,

**Com. Sub. for S. B. 478**, Relating to Jumpstart Savings Program,

**S. B. 488**, Aligning state and federal accreditation rules,

**Com. Sub. for S. B. 543**, Authorizing rule-making changes to terms, procedures and reporting duties in higher education,

**S. B. 625**, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs,

**Com. Sub. for S. B. 649**, Authorizing Berkeley County Council to change its name to Berkeley County Commission,

**Com. Sub. for S. B. 667**, Requiring periodic performance audits of WV Secondary Schools Athletic Commission,

**H. B. 3109**, Supplementing and amending appropriations to the State Board of Education - State Department of Education,

And,

**H. B. 3542**, Expiring funds to the Department of Administration, Board of Risk and Insurance Management, Public Entity Insurance Trust Fund.

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

### Committee Reports

Delegate Ellington, Chair of the Committee on Education, submitted the following report, which was received:

Your Committee on Education has had under consideration:

**Com. Sub. for S. B. 422**, Requiring public schools to publish curriculum online at beginning of each new school year,

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

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

Your Committee on Government Organization has had under consideration:

**S. B. 129**, Limiting gubernatorial authority to spend certain federal funds without appropriation of Legislature,

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

In accordance with the former direction of the Speaker, the bill (S. B. 129) was referred to the Committee on Finance.

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

Your Committee on Technology and Infrastructure has had under consideration:

**Com. Sub. for S. C. R. 4**, US Navy S1 Ira "Noon" Copley and Marie Copley Memorial Bridge,

And,

**S. C. R. 8**, US Army PV 2 Harold Richard Plumley Memorial Bridge,

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

In accordance with the former direction of the Speaker, the resolutions (Com. Sub. for S. C. R. 4 and S. C. R. 8) were each referred to the Committee on Rules.

Delegate Howell, Chair of the Committee on Economic Development and Tourism, submitted the following report, which was received:

Your Committee on Economic Development and Tourism has had under consideration:

**H. C. R. 57**, Requesting Department of Economic Development to create a plan of incentives to encourage small businesses in highly regulated states to relocate to WV,

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

In accordance with the former direction of the Speaker, the resolution (H. C. R. 57) was referred to the Committee on Rules.

Delegate Howell, Chair of the Committee on Economic Development and Tourism, submitted the following report, which was received:

Your Committee on Economic Development and Tourism has had under consideration:

**H. C. R. 59**, Requesting a study to establish a motorsport events welcome center and implement a program to promote motorsport events in West Virginia,

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

In accordance with the former direction of the Speaker, the resolution (H. C. R. 59) was referred to the Committee on Rules.

Delegate Howell, Chair of the Committee on Economic Development and Tourism, submitted the following report, which was received:

Your Committee on Economic Development and Tourism has had under consideration:

**H. C. R. 60**, Requesting the Joint Committee on Government and Finance study the economic and tourism impacts creating a cross state biking and hiking trail,

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

In accordance with the former direction of the Speaker, the resolution (H. C. R. 60) was referred to the Committee on Rules.

Delegate Anderson, Chair of the Committee on Energy and Manufacturing, submitted the following report, which was received:

Your Committee on Energy and Manufacturing has had under consideration:

**S. B. 739**, Relating to moratorium on carbon capture agreements,

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

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

Your Committee on the Judiciary has had under consideration:

**Com. Sub. for S. B. 461**, Relating to WV public employees grievance procedure,

And,

**Com. Sub. for S. B. 573**, Relating to child support guidelines and Support Enforcement Commission,

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

On motion for leave the following resolutions were introduced (Originating in the Committee on Technology and Infrastructure and reported with the recommendation that they each be adopted, but that they first be referred to the Committee on Rules), which was read by their title, as follows:

**By Delegates Linville and Cannon:**

**H. C. R. 65** - "Requesting the Joint Committee on Government and Finance study the effects of eliminating the mandatory inspection of motor vehicles, trailers, semitrailers, pole trailers, antique motor vehicles, and motorcycles registered in the state,"

**By Delegates Linville and Cannon:**

**H. C. R. 66** - "Requesting the Joint Committee on Government and Finance study the effects of conservation easements on broadband deployment within the State of West Virginia,"

**By Delegates Linville and Cannon:**

**H. C. R. 67** - "Requesting the Joint Committee on Government and Finance study the effects of using blockchain technology on vital public and government data security,"

**By Delegates Linville and Cannon:**

**H. C. R. 68** - "Requesting the Joint Committee on Government and Finance study the effects of site preparedness on economic development and its potential draw of business investment in the State of West Virginia,"

And,

**By Delegates Linville and Cannon:**

**H. C. R. 69** - "Requesting the Joint Committee on Government and Finance study the use of larger crews and continuous working hours on smaller roadway infrastructure construction and maintenance projects in an effort to lower overall costs and disruption to residents."

The Speaker referred the resolutions (H. C. R. 65, H. C. R. 66, H. C. R. 67, H. C. R. 68 and H. C. R. 69) were each referred to the Committee on Rules.

### **Leaves of Absence**

At the request of Delegate Householder, and by unanimous consent, leave of absence for the day was granted Delegate Shamblin.

### **Miscellaneous Business**

Delegate Espinosa noted to the Clerk that had he been present when the votes were taken on the passage of Com. Sub. for H. B. 2605, and the passage of and effective dates for Com. Sub. for H. B. 2640, Com. Sub. for H. B. 2648 and H. B. 3547, he would have voted "Yea" thereon.

At 5:54 p.m., the House of Delegates adjourned until 11:00 a.m., Wednesday, March 8, 2023.

## **SPECIAL CALENDAR**

**Wednesday, March 8, 2023**

**57<sup>th</sup> Day**

**11:00 A. M.**

### **THIRD READING**

- S. B. 99 - Relating to meetings among county boards of education (ELLINGTON) (REGULAR)
- Com. Sub. for S. B. 191 - Relating to liability for payment of court costs as condition of pretrial diversion agreement (CAPITO) (REGULAR)
- Com. Sub. for S. B. 356 - Authorizing DOT to promulgate legislative rules (CAPITO) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 451 - Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System (CRISS) (REGULAR) [FINANCE COMMITTEE TITLE AMENDMENT PENDING]
- S. B. 452 - Relating to Emergency Medical Services Retirement System (CRISS) (REGULAR)
- S. B. 457 - Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises (CAPITO) (REGULAR)
- S. B. 487 - Extending additional modification reducing federal adjusted gross income (CRISS) (REGULAR)
- Com. Sub. for S. B. 558 - Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media (CAPITO) (REGULAR)
- S. B. 597 - Allowing Workforce WV to hire classified service exempt employees (PHILLIPS) (REGULAR)
- Com. Sub. for S. B. 613 - Relating generally to certificates of need (SUMMERS) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 688 - Allowing BOE to hire retired teachers to assist with tutoring (ELLINGTON) (REGULAR)
- Com. Sub. for H. B. 2905 - Supplementing and amending appropriations to State Board of Education - State Department of Education - Classroom Aide Program (CRISS) (EFFECTIVE FROM PASSAGE)

- H. B. 2907 - Supplementing and amending appropriations to the Department of Administration, Division of General Services (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 2913 - Supplementing and amending appropriations to the DHHR, Consolidated Medical Services Fund (CRISS) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for H. B. 2928 - Supplementing and amending appropriations to DHHR, Division of Health (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3039 - Making a supplementary appropriation to Adjutant General - State Militia (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3073 - Supplementing and amending appropriations to Adjutant General - State Militia (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3553 - Supplementing and amending appropriations to Department of Health and Human Resources (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3563 - Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3564 - Making a supplementary appropriation to the Division of Human Services - Energy Assistance (CRISS) (EFFECTIVE FROM PASSAGE)

## **SECOND READING**

- S. B. 146 - Modifying regulations of peer-to-peer car sharing program (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- S. B. 149 - Exempting certain organizations from property taxation (CRISS) (REGULAR)
- Com. Sub. for S. B. 151 - Levying tax on pass-through entity's income (CRISS) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING]
- S. B. 244 - Making rosters of individuals who obtain professional, occupational, and trade licenses, registrations, and certificates available to public (PHILLIPS) (REGULAR)
- Com. Sub. for S. B. 273 - Relating to allocation of child protective workers in counties based upon population of county (SUMMERS) (EFFECTIVE FROM PASSAGE) [HEALTH AND HUMAN RESOURCES COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 294 - Clarifying amount of deputy sheriff annual salary increase (CRISS) (REGULAR)

- Com. Sub. for S. B. 345 - Authorizing Department of Revenue to promulgate legislative rules (CAPITO) (EFFECTIVE FROM PASSAGE) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- S. B. 465 - Increasing limit on moneys placed in county's rainy day fund (CRISS) (REGULAR)
- Com. Sub. for S. B. 478 - Relating to Jumpstart Savings Program (CRISS) (EFFECTIVE FROM PASSAGE) [FINANCE COMMITTEE AMENDMENT PENDING]
- S. B. 488 - Aligning state and federal accreditation rules (ELLINGTON) (REGULAR)
- Com. Sub. for S. B. 543 - Authorizing rule-making changes to terms, procedures and reporting duties in higher education (ELLINGTON) (EFFECTIVE FROM PASSAGE)
- S. B. 559 - Relating to spousal privilege (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- S. B. 625 - Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs (ELLINGTON) (REGULAR) [EDUCATION COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 649 - Authorizing Berkeley County Council to change its name to Berkeley County Commission (PHILLIPS) (REGULAR)
- Com. Sub. for S. B. 667 - Requiring periodic performance audits of WV Secondary Schools Athletic Commission (ELLINGTON) (REGULAR) [EDUCATION COMMITTEE AMENDMENT PENDING]
- H. B. 3109 - Supplementing and amending appropriations to the State Board of Education - State Department of Education (CRISS) (EFFECTIVE FROM PASSAGE)
- H. B. 3542 - Expiring funds to the Department of Administration, Board of Risk and Insurance Management, Public Entity Insurance Trust Fund (CRISS) (EFFECTIVE FROM PASSAGE)

#### **FIRST READING**

- S. B. 240 - Requiring state board of examination or registration proceedings to be open to public inspection (PHILLIPS) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 271 - Modifying approval process requirements for First Responders Honor Board (PHILLIPS) (REGULAR)
- Com. Sub. for S. B. 298 - Relating to non-federally declared emergencies and non-states of emergency (CAPITO) (EFFECTIVE FROM PASSAGE)

- Com. Sub. for S. B. 422 - Requiring public schools to publish curriculum online at beginning of each new school year (ELLINGTON) (REGULAR) [EDUCATION COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 426 - Banning use of certain products and platforms deemed unsafe or high risk on government systems (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 461 - Relating to WV public employees grievance procedure (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 467 - Providing county commissioners ongoing mechanism to consider compensation increases for elected officials every two years (PHILLIPS) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 495 - Providing correctional institutions and juvenile facilities video and audio records be confidential (CAPITO) (EFFECTIVE FROM PASSAGE) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 527 - Allowing family members of military personnel access to discharge records (CAPITO) (REGULAR)
- S. B. 544 - Increasing power purchase agreement cap (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 573 - Relating to child support guidelines and Support Enforcement Commission (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 661 - Clarifying preferential recall rights for employees sustaining compensable injury (PHILLIPS) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 665 - Amending licensure requirements for massage therapist (PHILLIPS) (REGULAR)
- S. B. 733 - Relating to wildlife licenses and stamps (PHILLIPS) (REGULAR)
- S. B. 734 - Requiring adoption of cloud computing services by state agencies (PHILLIPS) (REGULAR)
- S. B. 735 - Clarifying department responsible for administration of certain programs (PHILLIPS) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]
- S. B. 739 - Relating to moratorium on carbon capture agreements (ANDERSON) (EFFECTIVE FROM PASSAGE) [ENERGY AND MANUFACTURING COMMITTEE AMENDMENT PENDING]



## HOUSE CALENDAR

Wednesday, March 8, 2023

57<sup>th</sup> 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. 160 - WV Rail Trails Program (HOWELL) (REGULAR) [ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 462 - Modifying certain guidelines for motor vehicle dealers, distributors, wholesalers, and manufacturers (CAPITO) (REGULAR)
- 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. 121 - Creating Student Journalist Press Freedom Protection Act (CAPITO) (REGULAR)

S. B. 262 - Allowing students to transfer schools and retain athletic eligibility (ELLINGTON) (REGULAR) [EDUCATION COMMITTEE AMENDMENT PENDING]

S. B. 533 - Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations (PHILLIPS) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]

Com. Sub. for S. B. 539 - Authorizing state and subdivisions to negotiate price for construction when all bids received exceed maximum budget (PHILLIPS) (REGULAR)

Com. Sub. for S. B. 656 - Verifying legal employment status of workers to governmental agencies (PHILLIPS) (REGULAR) [GOVERNMENT ORGANIZATION COMMITTEE AMENDMENT PENDING]

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**

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**WEDNESDAY, MARCH 8, 2023**

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**HOUSE CONVENES AT 11:00 A.M.**

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

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