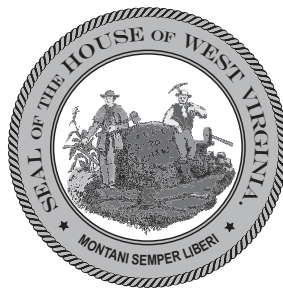


West Virginia Legislature

JOURNAL
of the
HOUSE of DELEGATES

Eighty-Sixth Legislature
First Regular Session

Held at Charleston
Published by the Clerk of the House



March 9, 2023
FIFTY-EIGHTH DAY

Thursday, March 9, 2023

FIFTY-EIGHTH 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 Wednesday, March 8, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

Reordering of the Calendar

Pursuant to the action of the Committee on Rules, Delegate Householder announced that Com. Sub. for S. B. 293 and Com. Sub. for S. B. 593, on Second Reading, Special Calendar, had been transferred to the House Calendar.

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

The Honorable Craig Blair
President of the Senate
State Capitol, Building 1, Room 229-M
Charleston, West Virginia 25305

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

Dear President Blair and Speaker Hanshaw:

After submission of my recommended FY 2024 Executive Budget on January 11, 2023, there are areas that require adjustment.

Therefore, pursuant to Section 51, Article VI of the Constitution of the State of West Virginia, I submit revisions to the FY 2024 Budget Bill for the following sections:

TITLE II – APPROPRIATIONS

Section 1. Appropriations from general revenue.**Executive**

Governor's Office – Civil Contingent Fund, Fund 0105, Fiscal Year 2024, Org 0100

(To add reappropriation language.)

- After “2012 Natural Disasters – Surplus (fund 0105, appropriation 13500),” add “Congressional Earmark Maintenance of Effort – Surplus (fund 0105, appropriation 22599),”.
- Remove the word “and” after “Natural Disasters – Surplus (fund 0105, appropriation 76400),”. Then insert “and Federal Funds/Grant Match – Surplus (fund 0105, appropriation 85700)” after “Local Economic Development Assistance (fund 0105, appropriation 81900)”.

Department of Administration

Division of General Services, Fund 0230, Fiscal Year 2024, Org 0211

(To add reappropriation language.)

- Strike and replace the reappropriation language with the following: “Any unexpended balances remaining in the appropriations for Capital Outlay, Repairs and Equipment (fund 0230, appropriation 58900) and Capital Outlay, Repairs and Equipment – Surplus (fund 0230, appropriation 67700) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.”

Public Defender Services, Fund 0226, Fiscal Year 2024, Org 0221

(To add reappropriation language.)

- Strike and replace the reappropriation language with the following: “Any unexpended balances remaining in the appropriations for Appointed Counsel Fees (fund 0226, appropriation 78800) and Appointed Counsel Fees – Surplus (fund 0226, appropriation 43500) at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.”

Department of Commerce

Division of Natural Resources, Fund 0265, Fiscal Year 2024, Org 0310

(To add reappropriation language.)

- After “Any unexpended balances remaining in the appropriations for Buildings (fund 0265, appropriation 25800),” add “Equine Enrichment – Surplus (fund 0265, appropriation 22899),”.

- After “Capital Outlay – Parks (fund 0265, appropriation 28800),” add “Upper Mud River Flood Control (fund 0265, appropriation 65400),”.

Department of Education

State Board of Education – State Department of Education, Fund 0313, Fiscal Year 2024, Org 0402

(To add reappropriation language, decrease Teacher Retirement Savings Realized appropriation per CPRB actuary, and insert a new item of appropriation.)

- Decrease “Teachers’ Retirement Savings Realized” (fund 0313, appropriation 09500) by \$16,104,000.
- Insert a new item of appropriation: “Grown Your Own West Virginia Pathway to Teaching Program” Appropriation XXXXX for \$5,000,000.
- After “National Teacher Certification (fund 0313, appropriation 16100),” insert “Hope Scholarship Program (fund 0313, appropriation 30401),”.
- After “21st Century Learners (fund 0313, appropriation 88600),” insert “Classroom Aide Program – Surplus (fund 0313, appropriation XXXXX),”.

State Board of Education – State Aid to Schools, Fund 0317, Fiscal Year 2024, Org 0402

(To adjust School Aid Formula based on the passage of SB 423 (\$2,300 pay raise), certified property valuations, and actuarial requirement from the West Virginia Consolidated Public Retirement Board.)

- Strike the entirety of item 46 and replace it with the following:

46 - State Board of Education –

State Aid to Schools

(W.V. Code Chapters 18 and 18A)

Fund 0317 FY 2024 Org 0402

Other Current Expenses	02200	\$ 179,624,115
Advanced Placement	05300	635,238
Professional Educators	15100	940,631,329
Service Personnel.....	15200	327,141,159
Fixed Charges.....	15300	110,082,365

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Transportation.....	15400	87,405,241
Improved Instructional Programs	15600	57,738,239
Professional Student Support Services	65500	64,943,783
21 st Century Strategic Technology Learning Growth	93600	37,971,242
Teacher and Leader Induction	93601	<u>17,006,361</u>
Basic Foundation Allowances		1,823,179,072
Less Local Share		(533,898,170)
Adjustments		<u>(1,679,011)</u>
Total Basic State Aid.....		1,287,601,891
Public Employees' Insurance Matching.....	01200	212,341,880
Teachers' Retirement System	01900	69,085,343
School Building Authority	45300	66,500,000
Retirement Systems – Unfunded Liability.....	77500	<u>285,469,999</u>
Total.....		\$ 1,920,999,113

The above appropriation for School Building Authority (fund 0317, appropriation 45300) shall be transferred to the School Construction Fund (fund 3952).

Department of Health and Human Resources

Division of Human Services, Fund 0403, Fiscal Year 2024, Org 0511

(To adjust appropriations per agency request)

- Decrease “CHIP Services” Appropriation 85602 by \$4,096,995.
- Increase “Medical Services” Appropriation 18900 by \$2,466,346.

Division of Health – Central Office, Fund 0407, Fiscal Year 2024, Org 0506

- Increase “Chief Medical Examiner (R)” Appropriation 04500 by \$1,630,649.

Consolidated Medical Services Fund, Fund 0525, Fiscal Year 2024, Org 0506

(To provide funds for contract nurses in Institutional Facilities and add transfer language.)

- Increase “Institutional Facilities Operations (R)” Appropriation 33500 by \$12,031,796.

- On page 49, after line 35 add “The above appropriation for Institutional Facilities Operations (fund 0525, appropriation 33500) shall be transferred to Hopemont Hospital, Lakin Hospital, John Manchin Senior Health Care Center, Jackie Withrow Hospital, Welch Community Hospital, William R. Sharpe Jr. Hospital, Mildred Mitchell-Bateman Hospital, and William R. Sharpe Jr. Hospital – Transitional Living Facility.”

Department of Homeland Security

Division of Corrections and Rehabilitation – Correctional Units, Fund 0450, Fiscal Year 2024, Org 0608

(To add reappropriation language.)

- After “Capital Improvements – Surplus (fund 0450, appropriation 66100),” insert “Capital Outlay, Repairs and Equipment – Surplus (fund 0450, appropriation 67700),”.

West Virginia State Police, Fund 0453, Fiscal Year 2024, Org 0612

(To reduce pension contribution per CPRB actuary)

- Decrease “Retirement Systems – Unfunded Liability” Appropriation 77500 by \$26,000.

Division of Administrative Services – Criminal Justice Fund, Fund 0546, Fiscal Year 2024, Org 0623

(To add reappropriation language.)

- After “Qualitative Analysis and Training for Youth Services (fund 0546, appropriation 76200),” insert “Victims of Crime Act – Surplus (fund 0546, appropriation XXXXX),”.

Department of Transportation

Division of Public Transit, Fund 0510, Fiscal Year 2024, Org 0810

(To address funding for Potomac Highlands Airport Authority’s operating expenses.)

- Increase “Current Expenses (R)” Appropriation 13000 by \$200,000.

Insert a new budget item as follows:

“78a - Division of Multimodal Transportation Facilities, Fund 0580, Fiscal Year 2024, Org 0810”

(To include the new Division of Multimodal Transportation Facilities fund with new items of appropriation.)

78a – Division of Multimodal Transportation Facilities

(W.V. Code Chapter 17)

Fund 0580 FY 2023 Org 0810

Personal Services and Employee Benefits (R).....	00100	\$	700,000
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Current Expenses (R)	13000	750,000
BRIM Premium.....	91300	7,500
Total		\$ 1,457,500

Any unexpended balances remaining in the appropriations for Personal Services and

Employee Benefits – Surplus (fund 0580, appropriation 00100) and Current Expenses (fund 0580, appropriation 13000 at the close of the fiscal year 2023 are hereby reappropriated for expenditure during the fiscal year 2024.

Department of Veterans' Assistance

Department of Veterans' Affairs, Fund 0456, Fiscal Year 2024, Org 0613

(To replenish the special revenue fund used for contract nurses and add transfer language.)

- Insert a new item of appropriation: "Directed Transfer" Appropriation 70000 for \$1,500,000.
- After the reappropriation language, add "The above appropriation for Directed Transfer (fund 0456, appropriation 70000) shall be transferred to Veterans' Facilities Support Fund (fund 6703)."

Sec. 2. Appropriations from state road fund.

Department of Transportation

Division of Highways, Fund 9017, Fiscal Year 2024, Org 0803

(To increase state road spending authority for Equipment.)

- Increase "Equipment Revolving" Appropriation 27600 by \$24,954,134.

Sec. 3. Appropriations from other funds.

Department of Administration

Department of Administration – Office of the Secretary – Employee Pension and Health Care Benefit Fund, Fund 2044, Fiscal Year 2024, Org 0201

(To align appropriation with amount transferred from fund 0313 appropriation 09500 for FY 2024.)

- Decrease "Current Expenses" Appropriation 13000 by \$16,104,000.

Department of Health and Human Resources

Division of Health – Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations, Fund 5156, Fiscal Year 2024, Org 0506

(To correct the fiscal year on directive language.)

- On page 114, line 7, change “fiscal year 2023” to “fiscal year 2024”.

Division of Human Services – James “Tiger” Morton Catastrophic Illness Fund, Fund 5454, Fiscal Year 2024, Org 0511

(To add Personal Services and Employee Benefits appropriation.)

- Insert a new item of appropriation: “Personal Services and Employee Benefits” Appropriation 00100 for \$136,984.

Department of Homeland Security

Division of Corrections and Rehabilitation – Regional Jail and Correctional Facility Authority, Fund 6675, Fiscal Year 2024, Org 0608

(To adjust spending authority to address deferred maintenance issues.)

- Decrease “Debt Service” Appropriation 04000 by \$7,100,000.
- Insert a new item of appropriation: “Unclassified” Appropriation 09900 for \$100,000.
- Insert a new item of appropriation: “Repairs and Alterations” Appropriation 06400 for \$5,000,000.
- Insert a new item of appropriation: “Equipment” Appropriation 07000 for \$2,000,000.

Sec. 6. Appropriations of federal funds.

Executive

Department of Agriculture, Fund 8736, Fiscal Year 2024, Org 1400

(To increase Federal spending authority for American Rescue Plan [ARPA] funds.)

- Increase “Federal Coronavirus Pandemic” Appropriation 89101 by \$753,762.

Attorney General – Medicaid Fraud Unit, Fund 8882, Fiscal Year 2024, Org 1500

(To increase spending authority to align amounts received for federal awards.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$87,520.

Department of Homeland Security

Division of Emergency Management, Fund 8727, Fiscal Year 2024, Org 0606

(To add Federal spending authority for Emergency Management Grant Awards.)

- Increase “Personal Services and Employee Benefits” Appropriation 00100 by \$200,000.

West Virginia State Police, Fund 8741, Fiscal Year 2024, Org 0612

(To add Federal spending authority for Federal Opioid Settlement Award.)

- Increase “Current Expenses” Appropriation 13000 by \$125,000.
- Increase “Equipment” Appropriation 07000 by \$10,853,750.
- Increase “Buildings” Appropriation 25800 by \$990,000.
- Increase “Other Assets” Appropriation 69000 by \$921,250.

Sec. 9. Appropriations from general revenue fund surplus accrued.

Department of Economic Development

Department of Economic Development - Office of the Secretary, Fund 0256, Fiscal Year 2024, Org 0307

(To amend directive language and remove an extra word.)

- On line 3, remove the word “used”.

Department of Health and Human Resources

Division of Health – Central Office, Fund 0407, Fiscal Year 2024, Org 0506

(To correct an appropriation.)

- On page 188, line 2, strike and replace “State Aid for Local and Basic Public Health Services – Surplus, Appropriation 18499” with “Current Expenses – Surplus, Appropriation 13099”.
- Insert the following language under the appropriation “The above appropriation for Current Expenses – Surplus (fund 0407, appropriation 13099) shall be used for the Hardy County Health Department.”

Department of Homeland Security

Division of Corrections and Rehabilitation – Correctional Units, Fund 0450, Fiscal Year 2024, Org 0608

(To correct an error for the Org listed.)

- On page 187, strike and replace Org “0308” with “0608.”

Department of Administration

(To provide for startup costs associated with a state-run records management system.)

Insert a new budget item as follows:

409a - Office of Technology

(W.V. Code Chapter 5A)

Fund 0204 FY 2024 Org 0231

Directed Transfer - Surplus..... 70099 \$ 500,000

The above appropriation for Directed Transfer – Surplus (fund 0204, appropriation 70099) shall be transferred to the Department of Administration, Office of Technology – Chief Technology Officer Administration Fund (fund 2531).

Department of Economic Development

(To provide funding to Water Development Authority for critical needs.)

Insert a new budget item as follows:

409b- Department of Economic Development –

Office of the Secretary

(WV Code Chapter 5B)

Fund 0256 FY 2024 Org 0307

Directed Transfer - Surplus 70099 \$ 15,000,000

The above appropriation for Directed Transfer – Surplus (fund 0256, appropriation 70099) shall be transferred to the Water Development Authority (fund 3382).

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

Sincerely,

Jim Justice
Governor

Communication from His Excellency, the Governor, advised that on March 8, 2023, he approved **Com. Sub. for H. B. 2062** and **S. B. 591**.

The Clerk announced that H. B. 2309, H. B. 2597, Com. Sub. for H. B. 2638, Com. Sub. for H. B. 2762, H. B. 2839, H. B. 3215, Com. Sub. for H. B. 3364 and H. B. 3391 were presented to the Governor on March 9, 2023

Messages from the Senate

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

Com. Sub. for H. B. 2002, Relating to providing support for families.

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

On page 2, section 7, line 6, by striking out the word “federal” and inserting in lieu thereof the words “federally approved”.

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. 581**), and there were—yeas 84, nays 7, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Hansen, Hornbuckle, Pushkin, Walker, Williams and Young.

Absent and Not Voting: Foster, Griffith, Hanna, Mallow, Nestor, Rohrbach, Ross, Steele and Summers.

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. 2002) passed.

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

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

Com. Sub. for H. B. 2221, Relating to bankruptcy.

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 10. FEDERAL TAX LIENS; ORDERS AND DECREES IN BANKRUPTCY.

§38-10-4. Exemptions of property in bankruptcy proceedings.

Any person who files a petition under the federal bankruptcy law may exempt from property of the estate in a bankruptcy proceeding the following property:

(a) The debtor’s interest, not to exceed \$35,000 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence, in a cooperative that owns

property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or a dependent of the debtor: *Provided*, That when the debtor is a physician licensed to practice medicine in this state under §30-3-1 *et seq.* or §30-14-1 *et seq.* of this code, and has commenced a bankruptcy proceeding in part due to a verdict or judgment entered in a medical professional liability action, if the physician has current medical malpractice insurance in the amount of at least \$1 million for each occurrence, the debtor physician's interest that is exempt under this subdivision may exceed \$35,000 in value but may not exceed \$250,000 per household.

(b) The debtor's interest, not to exceed \$7,500 in value, in one motor vehicle.

(c) The debtor's interest, not to exceed ~~\$400~~ 800 in value in any particular item, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor: *Provided*, That the total amount of personal property exempted under this subdivision may not exceed ~~\$8,000~~ \$16,000.

(d) The debtor's interest, not to exceed ~~\$1,000~~ \$2,000 in value, in jewelry held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.

(e) The debtor's interest, not to exceed in value \$800 plus any unused amount of the exemption provided under subdivision (a) of this subsection in any property.

(f) The debtor's interest, not to exceed ~~\$1,500~~ \$3,000 in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor.

(g) Any ~~unmeasured~~ unmatured life insurance contract owned by the debtor, other than a credit life insurance contract.

~~(h) The debtor's interest, not to exceed in value \$8,000 less any amount of property of the estate transferred in the manner specified in 11 U.S.C. § 542(d), in any accrued dividend or interest under, or loan value of, any unmeasured life insurance contract owned by the debtor under which the insured is the debtor or an individual of whom the debtor is a dependent~~

(i) (h) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(j) (i) The debtor's right to receive:

(1) A Social Security benefit, unemployment compensation, or a local public assistance benefit;

(2) A veterans' benefit;

(3) A disability, illness, or unemployment benefit;

(4) Alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(5) A payment under a stock bonus, pension, profit sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, and funds on deposit in

an individual retirement account, including a simplified employee pension regardless of the amount of funds, unless:

(A) The plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose;

(B) The payment is on account of age or length of service;

(C) The plan or contract does not qualify under Section 401(a), 403(a), 403(b), 408, or 409 of the Internal Revenue Code of 1986; and

(D) With respect to an individual retirement account, including a simplified employee pension, the amount is subject to the excise tax on excess contributions under Section 4973 and/or Section 4979 of the Internal Revenue Code of 1986, or any successor provisions, regardless of whether the tax is paid.

~~(k)~~ (j) The debtor's right to receive or property that is traceable to:

(1) An award under a crime victim's reparation law;

(2) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

~~(3) A payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of the individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor~~

All life insurance proceeds paid to the debtor as a beneficiary, any annuities, other than those annuities included in §38-10-4(i)(5), which are paid to the debtor as a beneficiary, or any annuities or life insurance policies owned by the debtor which are payable to someone other than the debtor, including any applicable cash surrender value.

(4) A payment, not to exceed ~~\$15,000~~ \$50,000 on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;

(5) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(6) Payments made to the prepaid tuition trust fund or to the savings plan trust fund, including earnings, in accordance with §18-30-1 *et seq.* of this code on behalf of any beneficiary.

~~(k)~~ (k) Solely for the purpose of applying the provisions of 11 U.S.C. § 522(b)(2) in a federal bankruptcy proceeding and only to the extent otherwise allowed by applicable federal law, an individual debtor domiciled in this state may exempt from property of the debtor's bankruptcy estate the property specified under 11 U.S.C. § 522(d).

~~(m)~~ (l) The amendments made to this section during the ~~2024~~ 2023 regular session of the Legislature, as amended during the first extraordinary session of the Legislature, 2024, shall apply to bankruptcies filed on or after the effective date of those amendments.”

And,

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

Com. Sub. for H. B. 2221 – “A Bill to amend and reenact §38-10-4 of the Code of West Virginia, 1931, as amended, relating to bankruptcy; correcting an erroneous term; updating the monetary amounts of certain exemptions to account for inflation, including those amounts related to household goods, jewelry, tools of the trade, and payments made on account of a personal bodily injury; excluding life insurance proceeds paid to the debtor as a beneficiary; excluding any annuities, other than those annuities included in §38-10-4(i)(5), which are paid to the debtor as a beneficiary; and, excluding any annuities or life insurance policies owned by the debtor which are payable to someone other than the debtor, including any applicable cash surrender value, from inclusion in the bankruptcy estate used to satisfy creditors in a bankruptcy proceeding.”

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. 582**), and there were—yeas 86, nays 8, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Butler, Coop-Gonzalez, Fast, Foggin, Hite, Hornby and Street.

Absent and Not Voting: Griffith, Hanna, Mallow, Nestor, Ross and Storch.

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. 2221) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2509, Creating the Uniform Premarital Agreement Act.

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 1A. UNIFORM PREMARITAL AGREEMENT ACT.

§48-1A-101. Definitions.

As used in this article:

(a) 'Premarital agreement' means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage and includes the definition of the term prenuptial agreement as set forth in §48-1-203 of this code.

(b) 'Property' means an interest, present or future, legal or equitable, vested or contingent, in real or personal property including income and earnings.

§48-1A-201. Formalities.

A premarital agreement must be in writing and signed by both parties and contain an acknowledgement that both parties have had an opportunity to consult with separate legal counsel. It is enforceable without consideration.

§48-1A-301. Content.

(a) Parties to a premarital agreement may contract with respect to:

(1) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(2) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of or otherwise manage and control property;

(3) The disposition of property upon separation, marital dissolution, death or the occurrence or nonoccurrence of any other event;

(4) The modification or elimination of spousal support;

(5) The making of a will, trust, or other arrangement to carry out the provisions of the agreement;

(6) The ownership rights in and disposition of the death benefit from a life insurance policy;

(7) The choice of law governing the construction of the agreement; and

(8) Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(b) The right of a child to support may not be adversely affected by premarital agreement.

§48-1A-401. Effect of marriage.

A premarital agreement becomes effective upon marriage.

§48-1A-501. Amendment; revocation.

After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement, or the revocation, is enforceable without consideration.

§48-1A-601. Enforcement.

(a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(1) That party did not execute the agreement voluntarily;

(2) Either party was under the age of 18 when the marriage occurred; or

(3) The agreement was unconscionable when it was executed and, before execution of the agreement, that party:

(A) Was not provided adequate financial disclosures of the other party as set forth in subsection (b) of this section;

(B) Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(C) Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) A party has adequate financial disclosure under this section if the party:

(1) Receives a reasonably accurate description and good-faith estimate of value of the property, liabilities, and income of the other party;

(2) Expressly waives, in a separate signed record, the right to financial disclosure beyond the disclosure provided; or

(3) Has adequate knowledge, or a reasonable basis for having adequate knowledge, of the information described in subdivision (1) of this section.

(c) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, the family court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(d) A court may refuse to enforce a term of a premarital agreement if, in the context of the agreement taken as a whole:

(1) The term was unconscionable at the time of signing; or

(2) Enforcement of the term would result in substantial hardship for a party because of a material change in circumstances arising after the agreement was signed.

(e) The issues of unconscionability of a premarital agreement or substantial hardship shall be decided by the family court as a matter of law.

§48-1A-701. Unenforceable terms.

(a) A term in a premarital agreement or marital agreement is not enforceable to the extent that it:

(1) Adversely affects a child's right to support;

(2) Limits or restricts a remedy available to a victim of domestic violence under law of this state;

(3) Purports to modify the grounds for a court-decreed separation or marital dissolution available under the law of this state; or

(4) penalizes a party for initiating a legal proceeding leading to a court-decreed separation or marital dissolution.

(b) A term in a premarital agreement or marital agreement which defines the rights or duties of the parties regarding custodial responsibility is not binding on the court.

§48-1A-801. Enforcement; void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

§48-1A-901. Limitation of actions.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

§48-1A-1001. Application; construction; and effective date.

(a) This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among states enacting it.

(b) This article applies to premarital agreements signed on or after July 1, 2023.

§48-1A-1101. Short title.

This article may be cited as the "Uniform Premarital Agreement Act."

And,

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

Com. Sub. for H. B. 2509 – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §48-1A-101, §48-1A-201, §48-1A-301, §48-1A-401, §48-1A-501, §48-1A-601, §48-1A-701, §48-1A-801, §48-1A-901 §48-1A-1001, and §48-1A-1101 all relating to the Uniform Premarital Agreement Act; defining terms; providing requirements and content of agreement; providing for the effect of marriage; describing amendment, revocation and enforcement of such agreements; describing unenforceable terms; providing for tolling of statute of limitations; providing application and construction of article; providing effective date; and setting forth short title.”

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. 583**), and there were—yeas 93, nays 2, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Dillon and Keaton.

Absent and Not Voting: Griffith, Mallow, Nestor, Ross and Storch.

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. 2509) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 2515, Require agencies to develop and maintain an inventory of available services for single parents wanting to obtain degrees, secure training or reenter the workforce.

On motion of Delegate Kimble, 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:

“CHAPTER 9. HUMAN SERVICES.

ARTICLE 3. APPLICATION FOR AND GRANTING OF ASSISTANCE.

§9-3-1. Application for and granting of federal-state or federal assistance.

(a) Any person domiciled in this state, who shall make, or have made in his or her behalf, an application therefor and who is otherwise in all respects qualified to receive the same, shall be granted federal-state assistance or federal assistance in such form and amount, to such extent, and for such period, as authorized by applicable federal and state laws, rules and regulations and as determined by the department in accordance with such laws, rules and regulations and within limits of available funds.

(b) In conjunction with the Higher Education Policy Commission and Workforce West Virginia, the Bureau for Family Assistance must compile and maintain a list of those services available to assist and support individuals who are qualified to receive federal, federal-state, or state assistance and who want to obtain a degree, secure workforce training, or reenter the workforce. This document must be maintained on the Bureau for Family Assistance’s website and any hard copy requested for this document must be supplied to the person requesting the information via first-class mail.

§9-3-2. Application for and granting of state assistance.

(a) Any indigent person domiciled in this state, who shall make, or have made in his or her behalf, an application therefor and who is otherwise in all respects qualified to receive the same, shall be granted state assistance in such form and amount, to such extent, and for such period, as authorized by applicable state laws, rules and regulations of the department and as determined by the department in accordance with such laws, rules and regulations and within limits of available funds.

(b) In conjunction with the Higher Education Policy Commission and Workforce West Virginia, the Bureau for Family Assistance must compile and maintain a list of those services available to assist and support individuals who are qualified to receive federal, federal-state, or state assistance and who want to obtain a degree, secure workforce training, or reenter the workforce. This document must be maintained on the Bureau for Family Assistance's website and any hard copy requested for this document must be supplied to the person requesting the information via first-class mail.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1B. HIGHER EDUCATION POLICY COMMISSION.

§18B-1B-4. Powers and duties of Higher Education Policy Commission.

(a) The primary responsibility of the commission is to provide shared services in a cost-effective manner upon request to the state colleges and universities, the West Virginia Council for Community and Technical College Education, and the community and technical colleges; undertake certain statewide and regional initiatives as specifically designated in this chapter, including those related to the administration of grants and scholarships and including those in conjunction with the council; to review, confirm, or approve certain actions undertaken by governing boards, as delineated in this chapter; and assist in the development of policy that will achieve the goals, objectives and priorities found in §18B-1-1a and §18B-1D-1 of this code. The commission shall exercise its authority and carry out its responsibilities in a manner that is consistent and not in conflict with the powers and duties assigned by law to the West Virginia Council for Community and Technical College Education and the powers and duties assigned to the governing boards. To that end, the commission has the following powers and duties relating to the governing boards under its jurisdiction:

(1) Develop and advance the public policy agenda pursuant to §18B-1D-1 *et seq.* of this code to address major challenges facing the state, including, but not limited to, the goals, objectives, and priorities established in this chapter;

(2) In conjunction with the council, propose emergency and legislative rules in accordance with §29A-3A-1 and §18B-1-6 of this code to establish a performance-based funding formula model the commission and council shall use, beginning in the fiscal year 2024 budget cycle, in developing their annual budget requests to ensure the fair and equitable distribution and use of public funds among the state's institutions of higher education, including the statutorily and administratively exempted schools. This funding formula model shall advance the goals of the state's postsecondary education system by emphasizing outcomes focused on student success and institutional mission achievement. The formula shall include a range of variables that shall be weighted in a manner that corresponds to each institution's mission and provides incentives for productivity improvements consistent with the goal of strengthening the state's economy and workforce by developing the most competitive and capable graduates in the nation. The rule shall, at a minimum:

(A) Establish a set of objective performance metrics that reflect and support the state's higher education goals and priorities and the methodology by which those metrics shall be used in the allocation of state funds;

(B) Ensure that a portion of each institution's base appropriation is allocated based on outcomes achieved over a defined period of time;

(C) Incentivize postsecondary program offerings that align with the state's higher education and workforce development priorities; and

(D) Establish safeguards to ensure stability of the funding formula model including, but not limited to, providing for periodic reviews of and revision to the performance metrics and funding methodology in addition to accounting for inflation;

(3) In collaboration with the council and the governing boards:

(A) ~~Building~~ Build public consensus around and ~~sustaining~~ sustain attention to a long-range public policy agenda. In developing the agenda, the commission and council shall seek input from the Legislature, the Governor, the governing boards, and the State Board of Education and local school districts to create the necessary linkages to assure smooth, effective and seamless movement of students through the public education and post-secondary education systems and to ensure that the needs of public school courses and programs can be fulfilled by the graduates produced and the programs offered;

(B) ~~Assisting~~ Assist governing boards in carrying out their duty effectively to govern the individual institutions of higher education;

(4) Serve as a point of contact to state policymakers:

(A) The Governor for the public policy agenda; and

(B) The Legislature by maintaining a close working relationship with the legislative leadership and the Legislative Oversight Commission on Education Accountability;

(5) Upon request, provide shared services to a state institution of higher education;

(6) Administer scholarship and grant programs as provided for in this code;

(7) Establish and implement the benchmarks and performance indicators for state colleges and universities necessary to measure institutional progress in achieving state policy priorities and institutional missions pursuant to §18B-1D-7 of this code;

(8) Establish a formal process for recommending capital investment needs and for determining priorities for state colleges and universities for these investments for consideration by the Governor and the Legislature as part of the appropriation request process pursuant to §18B-19-1 *et seq.* of this code;

(9) Except the statutorily and administratively exempted schools, develop standards and evaluate governing board requests for capital project financing in accordance with §18B-19-1 *et seq.* of this code;

(10) Except the statutorily and administratively exempted schools, ensure that governing boards manage capital projects and facilities needs effectively, including review and approval of capital projects, in accordance with §18B-19-1 *et seq.* of this code;

(11) Acquire legal services as considered necessary, including representation of the commission, the governing boards, employees, and officers before any court or administrative body, notwithstanding any other provision of this code to the contrary. The counsel may be employed either on a salaried basis or on a reasonable fee basis. In addition, the commission may, but is not required to, call upon the Attorney General for legal assistance and representation as provided by law;

(12) Employ a chancellor, and any interim chancellor employed shall meet all criteria required of the chancellor, pursuant to §18B-1B-5 of this code;

(13) Employ other staff as necessary and appropriate to carry out the duties and responsibilities of the commission and the council, in accordance with §18B-4-1 *et seq.* of this code;

(14) Provide suitable offices in Kanawha County for the chancellor, vice chancellors, and other staff;

(15) Approve the total compensation package from all sources for presidents of institutions under its jurisdiction, except the statutorily exempted schools, as proposed by the governing boards. The governing boards, except the governing boards of the statutorily exempted schools, must obtain approval from the commission of the total compensation package both when institutional presidents are employed initially and afterward when any change is made in the amount of the total compensation package: *Provided*, That the commission shall receive notice, but need not approve or confirm, an increase in the compensation of an institutional president that is exactly in the ratio of compensation increases allocated to all institutional employees and approved by the governing board to expressly include the president;

(16) Assist and facilitate the work of the institutions to implement the policy of the state to assure that parents and students have sufficient information at the earliest possible age on which to base academic decisions about what is required for students to be successful in college, other post-secondary education and careers related, as far as possible, to results from current assessment tools in use in West Virginia;

(17) Approve and implement a uniform standard jointly with the council to determine which students shall be placed in remedial or developmental courses. The standard shall be aligned with college admission tests and assessment tools used in West Virginia and shall be applied uniformly by the governing boards. The chancellors shall develop a clear, concise explanation of the standard which they shall communicate to the State Board of Education and the state superintendent of schools;

(18) Jointly with the council and in conjunction with the West Virginia Network, support systemwide technology needs through leveraged consortium purchasing, software, database and networking support, and other services including, but not limited to, the following:

(A) Expanding distance learning and technology networks to enhance teaching and learning, and promoting access to quality educational offerings with minimum duplication of effort; and

(B) Increasing the delivery of instruction to nontraditional students, providing services to business and industry, and increasing the management capabilities of the higher education system.

(C) Notwithstanding any other provision of law or this code to the contrary, the council, commission, and governing boards are not subject to the jurisdiction of the Chief Technology Officer for any purpose;

(19) Propose rules in accordance with §29A-3A-1, *et seq.* and §18B-1-6 of this code to ensure that, within sound academic policy, a student may transfer and apply toward the requirements of any postsecondary credential the maximum number of credits earned at any regionally accredited in-state or out-of-state institution of higher education in a manner that minimizes the need to repeat courses or incur additional costs. This requirement applies to transfer processes for all levels of postsecondary programs delivered at community and technical colleges, baccalaureate-degree-granting institutions, and graduate-degree-granting institutions;

(20) Propose rules in accordance with §29A-3A-1, *et seq.* and §18B-1-6 of this code to develop a program through which a student who has gained knowledge and skills through employment, participation in education, and training at vocational schools or other education institutions, or Internet-based education programs, may demonstrate by competency-based assessment that he or she has the necessary knowledge and skills to be granted academic credit or advanced placement standing toward the requirements of an associate's degree or a bachelor's degree at a state institution of higher education;

(21) Seek out and attend regional, national, and international meetings and forums on education and workforce development-related topics as, in the commission's discretion, are critical for the performance of their duties as members, for the purpose of keeping abreast of education trends and policies to aid it in developing the policies for this state to meet the established education goals, objectives, and priorities pursuant to §18B-1-1a and §18B-1D-1 *et seq.* of this code;

(22) Promulgate and implement a rule for governing boards and institutions to follow when considering capital projects pursuant to §18B-19-1 *et seq.* of this code, which rule shall provide for appropriate deference to the value judgments of governing boards and may not apply to the statutorily or administratively exempted schools;

(23) Submit to the appropriate agencies of the executive and legislative branches of state government an appropriation request that reflects recommended appropriations for the commission and the governing boards under its jurisdiction including the statutorily and administratively exempted schools. The commission shall submit as part of its appropriation request the separate recommended appropriation request it received from the council, both for the council and for the governing boards under the council's jurisdiction. The commission annually shall submit the proposed allocations based on the funding formula model required by subdivision (a)(2) of this section;

(24) Promulgate rules allocating reimbursement of appropriations, if made available by the Legislature, to governing boards for qualifying noncapital expenditures incurred in providing services to students with physical, learning, or severe sensory disabilities;

(25) Pursuant to §29A-3A-1 *et seq.* and §18B-1-6 of this code, promulgate rules necessary or expedient to fulfill the purposes of this chapter and Chapter 18C of this code;

(26) Determine when a joint rule among the governing boards under its jurisdiction is necessary or required by law and, in those instances, in consultation with the governing boards under its jurisdiction, promulgate the joint rule;

(27) Promulgate and implement a rule jointly with the council whereby course credit earned at a community and technical college transfers for program credit at any other state institution of higher education and is not limited to fulfilling a general education requirement;

(28) Promulgate a rule pursuant to §18B-10-1 of this code establishing tuition and fee policy for all governing boards under the jurisdiction of the commission, except the statutorily and administratively exempted schools. The rule shall include, but is not limited to, the following:

(A) Differences among institutional missions;

(B) Strategies for promoting student access;

(C) Consideration of charges to out-of-state students; and

(D) ~~Such~~ Any other policies as the commission and council consider appropriate;

(29) Notwithstanding any other provision of this code to the contrary sell, lease, convey, or otherwise dispose of all or part of any real property that it owns, in accordance with §18B-19-1 *et seq.* of this code;

(30) ~~Policy~~ Provide policy analysis and research focused on issues affecting institutions of higher education generally or a geographical region thereof;

(31) ~~Development and approval of~~ Develop and approve institutional mission definitions except for the statutorily and administratively exempted schools: *Provided*, That the commission may use funds appropriated by the Legislature for incentive funds to influence institutional behavior in ways that are consistent with public priorities, including the statutorily and administratively exempted schools;

(32) ~~Academic program review and approval~~ Review and approve academic programs for governing boards under its jurisdiction, except the statutorily and administratively exempted schools. The review and approval includes use of institutional missions as a template to judge the appropriateness of both new and existing programs and the authority to implement needed changes.

(A) The commission's authority to review and approve academic programs for the statutorily and administratively exempted schools is limited to programs that are proposed to be offered at a new location not presently served by that institution: *Provided*, That West Virginia University and the West Virginia University Institute of Technology are subject to the commission's authority as provided in §18B-1C-2 of this code.

(B) In reviewing and approving academic programs, the commission shall focus on the following policy concerns:

(i) New programs may not be implemented which change the institutional mission, unless the institution also receives approval for expanding the institutional mission;

(ii) New programs which require significant additional expense investments for implementation may not be implemented unless the institution demonstrates that:

(I) The expenses shall be addressed by effective reallocations of existing institutional resources; or

(II) The expenses can be legitimately spread out over future years and shall be covered by reasonably anticipated additional net revenues from new enrollments;

(iii) A new undergraduate program which is significantly similar to an existing program already in the geographic service area may not be implemented unless the institution requesting the new program demonstrates a compelling need in the service area that is not being met by the existing program: *Provided*, That the academic programs of the statutorily and administratively exempted schools are not to be taken into consideration except as it relates to academic programs offered at West Virginia University in Beckley and West Virginia University Institute of Technology in Beckley.

(C) The commission shall approve or disapprove proposed academic degree programs in those instances where approval is required as soon as practicable. The commission shall maintain by rule a format model by which a new program approval shall be requested by an institution. When a request for approval of a new program is submitted to the commission, the chancellor shall provide notice within two weeks as to whether the submission meets the required format, and if it does not the chancellor shall identify each specific deficiency and return the request to the institution. The institution may refile the request for approval with the commission to address any identified deficiencies. Within 30 days after the chancellor's confirmation that the request meets the required format, the commission shall either approve or disapprove the request for the new program. The commission may not withhold approval unreasonably.

(33) ~~Distribution of~~ Distribute funds appropriated to the commission, including incentive and performance-based funds;

(34) ~~Administration of~~ Administer state and federal student aid programs under the supervision of the vice chancellor for administration, including promulgation of rules necessary to administer those programs;

(35) ~~Serving~~ Serve as the agent to receive and disburse public funds when a governmental entity requires designation of a statewide higher education agency for this purpose;

(36) ~~Developing and distributing~~ Develop and distribute information, assessment, accountability and personnel systems for state colleges and universities, including maintaining statewide data systems that facilitate long-term planning and accurate measurement of strategic outcomes and performance indicators;

(37) Jointly with the council, ~~promulgating and implementing~~ promulgate and implement rules for licensing and oversight for both public and private degree-granting and nondegree-granting institutions that provide post-secondary education courses or programs in the state. The council has authority and responsibility for approval of all post-secondary courses or programs providing community and technical college education as defined in §18B-1-2 of this code;

(38) ~~Developing, facilitating, and overseeing~~ Develop, facilitate, and oversee statewide and regional projects and initiatives related to providing post-secondary education at the

baccalaureate level and above such as those using funds from federal categorical programs or those using incentive and performance-based funds from any source;

(39) (A) For all governing boards under its jurisdiction, except for the statutorily exempted schools, ~~the commission shall~~ review institutional operating budgets, review and approve capital budgets, and distribute incentive and performance-based funds.

(B) For the governing boards of the statutorily exempted schools, the commission shall distribute incentive and performance-based funds and may review and comment upon the institutional operating budgets and capital budgets. The commission's comments, if any, shall be made part of the governing board's minute record and shall be filed with the Legislative Oversight Commission on Education Accountability;

(40) ~~May provide~~ Provide information, research, and recommendations to state colleges and universities relating to programs and vocations with employment rates greater than 90 percent within six months post-graduation; and

(41) ~~May provide~~ Provide information, research, and recommendations to state colleges and universities on coordinating with the West Virginia State Board of Education about complimentary programs.

(b) In addition to the powers and duties provided in this section and any other powers and duties assigned to it by law, the commission has other powers and duties necessary or expedient to accomplish the purposes of this chapter and Chapter 18C of this code: *Provided*, That the provisions of this subsection ~~may do not be construed to~~ shift management authority from the governing boards to the commission.

(c) The commission may withdraw specific powers of a governing board under its jurisdiction for a period not to exceed two years, if the commission determines that either of the following conditions exist:

(1) The commission has received information, substantiated by independent audit, of significant mismanagement or failure to carry out the powers and duties of the governing board according to state law; or

(2) Other circumstances which, in the view of the commission, severely limit the capacity of the governing board to exercise its powers or carry out its duties and responsibilities.

The commission may not withdraw specific powers for a period exceeding two years. During the withdrawal period, the commission shall take all steps necessary to reestablish sound, stable and responsible institutional governance.

(d) On or after July 1, 2024, nothing in this section authorizes the commission to restrict or regulate the carrying of a concealed pistol or revolver by a person who holds a current and valid license to carry a concealed deadly weapon except as expressly authorized in §18B-4-5b of this code.

(e) In conjunction with Workforce West Virginia and the Bureau for Family Assistance, the Higher Education Policy Commission must compile and maintain a list of those services available to assist and support individuals who are qualified to receive federal, federal-state, or state assistance and who want to obtain a degree, secure workforce training, or reenter the workforce.

This document must be maintained on the Higher Education Policy Commission's website, and any hard copy requested for this document must be supplied to the person requesting the information via first-class mail.

CHAPTER 21A. UNEMPLOYMENT COMPENSATION.

ARTICLE 10. UNEMPLOYMENT COMPENSATION.

§21A-10-24. List of services and support available to individuals who are qualified to receive federal, federal-state, or state assistance.

(a) In conjunction with the Higher Education Policy Commission and the Bureau for Family Assistance, Workforce West Virginia must compile and maintain a list of those services available to assist and support individuals who are qualified to receive federal, federal-state, or state assistance and who want to obtain a degree, secure workforce training, or reenter the workforce. This document must be maintained on Workforce West Virginia's website, and any hard copy requested for this document must be supplied to the person requesting the information via first-class mail."

And,

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

Com. Sub. for H. B. 2515 – "A Bill to amend and reenact §9-3-1 and §9-3-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-1B-4; and to amend said code by adding thereto a new section, designated §21A-10-24, all relating to requiring certain agencies to work together to create an inventory of occupational and educational resources for certain persons qualified to receive assistance and to maintain and distribute that document; requiring that the Bureau for Family Assistance, the Higher Education Policy Commission, and Workforce West Virginia develop and maintain an inventory of available services and supports for individuals qualified to receive federal, federal-state, or state assistance and who wish to obtain a degree, secure workforce training, or reenter the workforce; requiring the Bureau for Family Assistance, the Higher Education Policy Commission, and Workforce West Virginia to maintain the document on their websites and to distribute the document via first-class mail upon request; and eliminating authority of Higher Education Policy Commission to restrict or regulate the carrying of concealed pistols or revolvers in certain circumstances."

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. 584**), 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: Griffith, Mallow, Nestor and Ross.

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. 2515) passed.

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

A message from the Senate, by

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

H. B. 3146, Establishing in West Virginia Code, the contents of the Uniform Public Meetings During Emergencies Act.

On motion of Delegate Kimble, 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 9C. UNIFORM PUBLIC MEETINGS DURING EMERGENCIES ACT.

§6-9C-1. Short title.

This article may be cited as the Public Meetings During Emergencies Act.

§6-9C-2. Definitions.

In this article:

‘Electronic’ means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

‘Emergency’ means an event or condition that is an emergency, disaster, or public health emergency as addressed in §15-5-2 and §15-5-6 of this code.

‘Emergency declaration’ means a declaration of emergency issued by a person or agency authorized to do so under §15-5-6 of this code and that is in effect.

‘Meeting’ has the same definition as in §6-9A-2 of this code.

‘Person’ has the same definition as in §6-9A-2 of this code. The term does not include a public corporation, government or governmental subdivision, agency, or instrumentality.

‘Public agency’ has the same definition as in §6-9A-2 of this code, however, for purposes of this article, it does not include the Legislature.

‘Record’ means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

‘Virtual meeting’ or ‘virtually’ means a meeting of a public agency or any part thereof, at which some or all of the members of the public agency participate wholly or partly by electronic means.

§6-9C-3. Virtual meetings.

(a) A public agency may meet virtually during an emergency that is the subject of an emergency declaration if otherwise permitted by law, or all or part of the jurisdiction of the public agency is subject to the emergency declaration; and the person authorized by law or by rule of the public agency to act for the public agency determines that due to the emergency it would not be practical or prudent for the public agency to meet physically or if the emergency declaration prohibits physical meetings.

(b) If a virtual meeting of a public agency authorized by §6-9C-3(a) of this code complies with the requirements of §6-9C-4, §6-9C-5, and §6-9C-6 of this code, then any action taken at a virtual meeting has the same legal force and effect as an action taken at a physical meeting of the public agency. All other laws of the state that apply to a physical meeting of a public agency shall, to the extent practicable and not inconsistent with a virtual meeting, apply to a virtual meeting of the public agency.

§6-9C-4. Authorization for virtual meeting.

(a) A public agency may conduct a virtual meeting while an emergency declaration is in effect that applies to all or part of the jurisdiction of the public agency if:

(1) The emergency declaration prohibits, limits, or has the effect of prohibiting or limiting an in-person meeting of the public agency; or

(2) The presiding officer of the public agency or other individual authorized to act for the public agency determines it is not practical or prudent for the public agency to conduct an in-person meeting because of the emergency; and

(A) Communicates to the members of the public agency that the meeting shall be a virtual meeting; and

(B) Takes reasonable steps to inform members of the public that the meeting shall be a virtual meeting.

§6-9C-5. Conduct of virtual meeting.

(a) A public agency shall, to the extent practicable, select a means to conduct a virtual meeting that is compatible with assistive technology commonly used by individuals with disabilities and that facilitates the accommodation needs of individuals with disabilities to access the meeting.

(b) Except as provided in §6-9C-5(c) or §6-9C-5(d) of this code, the means used to conduct a virtual meeting shall permit each member of the public agency who attends the meeting to see and hear during the meeting and to be seen and heard by, the other members of the public agency who attend the meeting.

(c) If a member of a public agency is unable to obtain visual access to the virtual meeting but is able to obtain audio access that permits the member, during the meeting, to hear and be heard by the other members of the public agency who attend the meeting, the member may attend by audio access.

(d) If a public agency lacks the capacity to provide contemporaneous visual access to a virtual meeting for members of the public agency, the public agency may conduct the meeting by audio-

only access that permits each member of the public agency who attends the meeting, to hear and be heard during the meeting by the other members of the public agency who attend the meeting.

(e) A member of a public agency who attends a virtual meeting is considered present for all purposes, including for determination of a quorum and voting, if during the meeting, the member may:

(1) For a meeting conducted in compliance with §6-9C-5(b) of this code, see and hear and be seen and heard by the other members of the public agency who attend; or

(2) For a meeting conducted in compliance with §6-9C-5(c) or (d) of this code, may hear and be heard by the other members of the public agency who attend.

(f) A member of a public agency who attends a virtual meeting through electronic means that provide audio-only access to the meeting shall state the member's name each time the member speaks. Failure by a member to state the member's name does not invalidate an action taken at the virtual meeting.

(g) A vote taken at a virtual meeting shall be by a process that identifies how each member of the public agency votes.

(h) The minutes of a virtual meeting shall include any vote taken, that the meeting was conducted by electronic means, the technology used, and which members of the public agency attended by electronic means.

§6-9C-6. Public observation.

(a) If the open meetings law requires that the public be able to observe all or part of a meeting of a public agency in real time:

(1) The public agency shall permit the public to observe a virtual meeting or the part of the virtual meeting that would be required to be open to the public if it were part of an in-person meeting; and

(2) The public agency shall provide the technological means to allow the members of the public who observe the virtual meeting to see and hear or, if the public agency conducts the meeting by audio-only access under §6-9C-5(d) of this code, to hear any members of the public authorized by the public agency to speak in the meeting.

(b) A document, exhibit, or other record presented to a public agency at a virtual meeting that, under the open meetings law, would have been available to the public at an in-person meeting, including members of the public observing or participating in a virtual meeting under §6-9C-7 of this code, shall be made available to the public at the same time as the virtual meeting to the extent practicable.

§6-9C-7. Public participation.

(a) If a law of this state or a political subdivision of the state or a rule, practice, or procedure adopted by the public agency requires that members of the public be permitted to participate in a meeting of the public agency, the public agency to the extent practicable shall permit members of

the public to participate in a virtual meeting, subject to the conditions that apply at an in-person meeting of the public agency.

(b) If members of the public are permitted to speak at a virtual meeting, the technology used to conduct the meeting shall permit the members of the public agency and members of the public attending the meeting to hear the members of the public who speak at the meeting.

(c) If a public agency considers at a virtual meeting a matter affecting the right or interest of a person entitled by other law of the state or a political subdivision of this state or by rule of the public agency to participate, present evidence, or examine or cross-examine witnesses at an in-person meeting, the public agency shall permit the person to use the same technology that the public agency uses to conduct the virtual meeting, or provide equivalent access, to attend the meeting and present evidence, or examine or cross-examine witnesses in the meeting.

(d) If a person to which §6-9C-7(c) of this code applies objects that the virtual meeting does not allow the person to effectively protect the right or interest referred to in §6-9C-7(c) of this code, the public agency shall consider the objection and may proceed with the matter at a virtual meeting if the agency determines that the virtual meeting will allow the person to effectively protect the right or interest. The determination and the reason for the determination shall be stated in a record.

§6-9C-8. Notice.

(a) In addition to any other requirement concerning notice, a public agency, for a meeting of the public agency, shall give notice of a virtual meeting and shall specify that the meeting will be a virtual meeting and the technology that will be used for the virtual meeting.

(b) Notice of a virtual meeting shall specify how:

(1) Members of the public may observe the meeting in real time pursuant to §6-9C-6 of this code;

(2) Members of the public permitted to participate, present evidence, or examine or cross-examine witnesses at the meeting pursuant to §6-9C-7 of this code may do so;

(3) A member of the public may alert the public agency of a technical or quality problems that prevents the member from accessing the meeting; and

(4) A member of the public with a disability may request a reasonable accommodation to access the meeting.

§6-9C-9. Procedural rules.

A public agency may adopt rules for conducting a virtual meeting under this article, comparable to rules for conducting an in-person meeting of the public agency. The rules may include:

(1) The means by which the public agency will inform members of the public that a virtual meeting will be held;

(2) The effect of a technical or quality problems that interferes with meeting or access to a meeting by a member of the public agency or the public;

(3) The means by which a record considered at a meeting is made available to the public agency and, if required by other law, the public;

(4) The means for access to a meeting by an individual with a disability; and

(5) The process by which a person may object under §6-9C-7 of this code to the conduct of a meeting on the ground that the procedure denies the person due process of law.

§6-9C-10. Electronic Signatures in Global and National Commerce Act.

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 *et seq.*, but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103 (b) of that act, 15 U.S.C. § 7003(b)."

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. 585**), 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: Street.

Absent and Not Voting: Griffith, Mallow, Nestor and Ross.

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

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

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. 3233, Relating generally to uniform and equipment allowances for the National Guard.

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 1B. NATIONAL GUARD.

§15-1B-11. Uniforms, arms, equipment and supplies.

(a) The uniforms, arms, equipment, and supplies necessary for performance of duties shall be those prescribed by applicable federal laws and regulations. Officers shall provide themselves with uniforms and equipment prescribed, and there shall be annually allowed, to aid them in procuring and maintaining the same in condition for service, the sum of \$100 each or a higher sum not to exceed \$750 as determined at the discretion of the Adjutant General. Such sum shall be paid during the last month of each fiscal year for such year. In the event of service for less than the full fiscal year one-twelfth of such sum shall be allowed for each month of service during such year.

(b) Any member of the National Guard requiring a maternity or other specialty uniform, may request a sum or reimbursement to offset any expenses incurred in procuring such uniform, not to exceed the amount provided in subsection (a) of this section once in a 36-month period. Sums or reimbursements made pursuant to this subsection are made at the discretion of the Adjutant General. Any approved sum or reimbursement shall be paid during the last month of the fiscal year in which the request was approved.

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. 586**), 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: Griffith, Mallow, Nestor and Ross.

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. 3233) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3261, Relating to Social Workers Qualifications.

Delegate Kelly moved that the House concur in the following amendment of the bill by the Senate, with further amendment.

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

“CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 30. SOCIAL WORKERS.

§30-30-16. PROVISIONAL LICENSE TO PRACTICE AS A SOCIAL WORKER.

(a) To be eligible for a provisional license to practice as a social worker, the applicant must:

(1) Submit an application to the board;

(2) Be at least 18 years of age;

(3) Have a baccalaureate degree in a related field, as provided by legislative rule;

(4) Have obtained regular supervised employment, or the reasonable promise of regular supervised employment, contingent upon receiving a provisional license, in a critical social work workforce shortage position, area, or setting requiring a social work license: *Provided*, That such employment shall not be as an independent practitioner, contracted employee, sole proprietor, consultant, or other nonregular employment;

(5) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;

(6) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program, may be considered;

(7) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license, which conviction remains unreversed;

(8) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed; and

(9) Meet any other requirements established by the board.

(b) The board shall promulgate emergency rules, in accordance with §29A-3-15 of this code, to implement the provisions of subsection (a) of this section.

(c) A provisionally licensed social worker may become a licensed social worker by completing the following:

(1) Be continuously employed for four years as a social worker and supervised: *Provided*, That should an individual lose his or her employment due to a reduction in force, or be unable to work due to medical reasons, the individual may request that the Board allow for a reasonable interruption in continuous employment and provide additional time for the individual to complete the requirements of the provisional license. The board shall promulgate by legislative rule the supervision requirements;

(2) Complete 12 credit hours of core social work study from a program accredited by the council on social work education, as defined by legislative rule, within the four-year provisional license period;

(3) Complete continuing education as required by legislative rule; and

(4) Pass an examination approved by the board.

(d) On or before July 1, 2020, the Legislative Auditor shall cause to be performed a performance audit of the provisional license to practice as a social worker application process and the application process by which a provisional licensee may become a licensed social worker.

(e) Any employee of the Department of Health and Human Resources with a provisional license as of the effective date of this section who opted to take the department-provided courses previously allowed has until June 30, 2022, to convert his or her license to a social work license or provisional license under this section. If the individual cannot or desires not to complete this process, he or she shall be eligible for registration as provided in §30-30-30 of this code.

CHAPTER 49. CHILD WELFARE.

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN.

§49-2-110a Bureau of Social Service authority to hire and employ workers who are not social workers in geographical areas of critical shortage.

(a) The Legislature hereby finds that there is a crisis in West Virginia in certain geographical regions of the state, that is caused by an absence of people employed by the Department of Health and Human Resources as child protective services workers, youth case workers, and support staff for these positions.

(b) Notwithstanding any other provisions of this code to the contrary, the Bureau of Social Services, pursuant to the provisions of this section, may employ persons who do not hold a social worker's license and persons who are not on the social work register to work for the bureau as child protective services workers, youth case workers and support staff, in geographical areas of critical shortage of this state.

(c) For purposes of this section "geographical areas of critical shortage" means those regions of West Virginia where the West Virginia Bureau of Social Services has a vacancy rate for child protective services workers, or youth service workers, that exceeds 25% of allocated positions.

(d) Workers hired by the bureau under this section to work in geographical areas of critical shortage may be employed by the bureau and work in said geographical areas as child protective services workers, youth service workers, case managers, clerical staff and in other related positions for the bureau.

(e) The provisions of this section shall operate independently of, and in addition to, any other provisions of law or policy that allow persons to be employed in these jobs, and the provisions of this section do not eliminate any other provisions of law that permit persons to be employed in the jobs described in this section.

(f) In order for a person to be eligible for employment under this section, he or she shall:

(1) Be at least 18 years of age.

(2)(A) Have an associate's degree in social work or a related field from an accredited college, university, community and technical college, community college or junior college; or

(B) Be an honorably retired law enforcement officer or be an honorably retired parole officer or honorably retired federal or state probation officer.

(3) Provide to the bureau three letters of recommendation from persons not related to the applicant.

(4) Not be an alcohol or drug abuser, as these terms are defined in §27-1A-11 of this code: Provided, That an applicant in an active recovery process, which may, in the discretion of the bureau, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program, may be considered;

(5) Satisfy the requirements of the West Virginia Clearance for Access Registry and Employment Screening Act, §30-1-24 of this code.

(C) Meet any other requirements established by the bureau.

(g) The bureau shall provide training to any and all persons hired and employed hereunder, as the bureau deems appropriate.

(h) The provisions of this section authorizing the hiring of persons shall sunset, expire, and be of no force and effect on or after the 31st day of December, 2028, but shall not serve to require the termination of persons hired pursuant to this section.”

And,

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

Com. Sub. for H. B. 3261- “A Bill to amend and reenact §30-30-16 of the Code of West Virginia, 1931, as amended; and to further amend said code by adding thereto a new section, designated §49-2-110a all relating to social work and child welfare generally; directing that provisional social workers who are laid off or ill during the four year provisional licensure period may request the West Virginia Board of Social Work allow a reasonable interruption in service and allow additional time to complete the licensure requirements; declaring a crisis exists in certain parts of the state due to an absence of child protective services, youth services workers, youth case workers and support staff; defining affected geographical areas; authorizing the hiring of persons not on the social work register to fill positions; establishing the criteria for employment; requiring the development to train the new workers; and establishing a sunset date for the program.”

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

On page 4, section §49-2-110a, line 35, by striking “§30-1-24 of this code” and inserting in lieu thereof the following:

“§16-49-1 *et seq.* of this code;

(6) Satisfy the requirements provided in §30-1-24 of this code”.

The motion to concur with further amendment was rejected.

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request that the Senate recede.

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. 3286, Relating to an additional modification decreasing federal taxable income.

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

On page 2, section 6c, line 21, by striking out “2028” and inserting in lieu thereof “2033”.

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. 587**), and there were—yeas 82, nays 11, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Dillon, Gearheart, Kirby, Kump, Linville, Longanacre, Miller, C. Pritt and Vance.

Absent and Not Voting: Criss, Griffith, Hanna, Mallow, Nestor, Ross and Ward.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3286) passed.

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

A message from the Senate, by

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

Com. Sub. for H. B. 3302, To recognize unborn child as distinct victim in a DUI causing death.

Delegate Householder moved that the House concur in the following amendment of the bill by the Senate:

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

“CHAPTER 17C. TRAFFIC REGULATIONS AND RULES OF THE ROAD.

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-2. Driving under influence of alcohol, controlled substances, or drugs; penalties.

(a) *Definitions.* —

(1) "Impaired state" means a person:

(A) Is under the influence of alcohol;

(B) Is under the influence of any controlled substance;

(C) Is under the influence of any other drug or inhalant substance;

(D) Is under the combined influence of alcohol and any controlled substance or any other drug; or

(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight.

(2) "Bodily injury" means injury that causes substantial physical pain, illness, or any impairment of physical condition.

(3) "Controlled substance" has the meaning provided in §60A-1-101 of this code.

(4) "Serious bodily injury" means bodily injury that creates a substantial risk of death, that causes serious or prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(5) "Test and lock program" means the Motor Vehicle Test and Lock Program, established in §17C-5A-3a and administered by the Division of Motor Vehicles.

(b) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes the death of any person, which for purposes of this subsection, includes an embryo or fetus as authorized by the provisions of §61-2-30 of this code, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than three nor more than 15 years and shall be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of 10 years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That any death charged under this subsection must occur within one year of the offense: *Provided, however*, That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code.

(c) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes serious bodily injury to any person, other than himself or herself, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than 10 years and shall be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of five years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code.

(d) Any person who drives a vehicle in this state while he or she is in an impaired state, and such impaired state proximately causes a bodily injury to any person other than himself or herself, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than one year and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of two years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*,

That if the person has previously been convicted under this section, the person shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. Any jail term imposed pursuant to this subsection shall include actual confinement of not less than 24 hours: *Provided, however,* That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(e) Any person who drives a vehicle on any public highway or private road in this state: (1) while he or she is in an impaired state; or (2) while he or she is in an impaired state but has an alcohol concentration in his or her blood of less than fifteen hundredths of one percent, by weight, is guilty of a misdemeanor and, upon conviction thereof, may be confined in jail for up to six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided,* That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(f) Any person who drives a vehicle on any public highway or private road in this state while he or she has an alcohol concentration in his or her blood of fifteen hundredths of one percent or more, by weight, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(g) Any person who, being a habitual user of narcotic drugs or amphetamines, or any derivative thereof, drives a vehicle on any public highway or private road in this state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than one day nor more than six months, which jail term is to include actual confinement of not less than 24 hours, and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months. A person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(h) Any person who knowingly permits his or her vehicle to be driven on any public highway or private road in this state by any other person who is in an impaired state is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code.

(i) Any person who knowingly permits his or her vehicle to be driven on any public highway or private road in this state by any other person who is a habitual user of narcotic drugs or amphetamines, or any derivative thereof, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not more than six months and shall be fined not less than \$100 nor

more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of six months.

(j) (1) Any person under the age of 21 years who drives a vehicle on any public highway or private road in this state while he or she has an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, for a first offense under this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$25 nor more than \$100, and have his or her license to operate a motor vehicle suspended by the Commissioner of the Division of Motor Vehicles for a period of 60 days or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. For a second or subsequent offense under this subsection, the person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for 24 hours and shall be fined not less than \$100 nor more than \$500, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or until the person's 21st birthday, whichever period is longer, or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code. A person who is charged with a first offense under the provisions of this subsection may move for a continuance of the proceedings, from time to time, to allow the person to participate in the test and lock program as provided in §17C-5A-3a of this code. Upon successful completion of the program, the court shall dismiss the charge against the person and expunge the person's record as it relates to the alleged offense. In the event the person fails to successfully complete the program, the court shall proceed to an adjudication of the alleged offense. A motion for a continuance under this subsection may not be construed as an admission or be used as evidence.

(2) (A) Notwithstanding subdivision (1) of this subsection, a person shall have his or her license to operate a motor vehicle suspended or revoked for a minimum period of one year or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code, if the person:

(i) Has previously been convicted under this subsection and is subsequently convicted of an offense under another subsection of this section; or

(ii) Is convicted under this subsection and has previously been convicted of an offense under another subsection of this section.

(B) Nothing in this subdivision permits a shorter period of license revocation, license suspension, or participation in the test and lock program than is mandatory for the specific offense for which the person is convicted.

(3) A person arrested and charged with an offense under the provisions of this subsection or subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section may not also be charged with an offense under this subsection arising out of the same transaction or occurrence.

(k) Any person who drives a vehicle on any public highway or private road in this state while he or she is in an impaired state and has within the vehicle one or more other persons who are unemancipated minors who have not yet reached their 16th birthday is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than 12 months, and shall be fined not less than \$200 nor more than \$1,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for a period of one year or for a period of time conditioned on participation in the test and lock

program in accordance with §17C-5A-3a of this code: *Provided*, That such jail term shall include actual confinement of not less than 48 hours: *Provided, however*, That a person sentenced pursuant to this subsection shall receive credit for any period of actual confinement he or she served upon arrest for the subject offense.

(l) A person convicted of an offense under this section, who has previously been convicted of any offense under this section on one occasion, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than six months nor more than one year, may be fined not less than \$1,000 nor more than \$3,000, and shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for 10 years or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code: *Provided*, That if the second conviction is for an offense as described in subsections (b), (c), or (d) of this section and the subsection creating the offense requires a period of incarceration, period of license revocation, or fine that is greater than what is required for a conviction under this subsection, the greater period of incarceration, period of revocation, or fine shall be imposed: *Provided, however*, That this section does not apply to a second conviction that is subject to a period of license revocation under subsection (j) of this section.

(m) A person convicted of an offense under this section, who has previously been convicted of any offense under this section on two or more occasions, is guilty of a felony and, upon conviction thereof, shall be imprisoned in a state correctional facility for not less than two nor more than five years, shall have his or her license to operate a motor vehicle revoked by the Commissioner of the Division of Motor Vehicles for life or for a period of time conditioned on participation in the test and lock program in accordance with §17C-5A-3a of this code, and the court may, in its discretion, impose a fine of not less than \$3,000 nor more than \$5,000: *Provided*, That if the third or subsequent conviction is for an offense as described in subsections (b), (c), or (d) of this section and the subsection creating the offense requires a period of incarceration, period of license revocation, or fine that is greater than what is required for a conviction under this subsection, the greater period of incarceration, period of revocation, and fine shall be imposed: *Provided, however*, That this section does not apply to a third or subsequent conviction that is subject to a period of license revocation under subsection (j) of this section.

(n) For purposes of subsections (l) and (m) of this section relating to second, third, and subsequent offenses, the following events shall be regarded as offenses and convictions under this section:

(1) Any conviction under the provisions of subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section, or under a prior enactment of this section, for an offense which occurred within the 10-year period immediately preceding the date of arrest in the current proceeding;

(2) Any conviction under a municipal ordinance of this state or any other state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section, which offense occurred within the 10-year period immediately preceding the date of arrest in the current proceeding; and

(3) Any period of conditional probation imposed pursuant to §17C-5-2b of this code for violation of subsection (e) of this section, which violation occurred within the 10-year period immediately preceding the date of arrest in the current proceeding.

(o) A person may be charged in a warrant, indictment, or information for a second or subsequent offense, as described in subsection (j), (l), or (m) of this section, if the person has

been previously arrested for, or charged with, a violation of this section which is alleged to have occurred within the applicable time period for prior offenses, notwithstanding the fact that there has not been a final adjudication of the charges for the alleged previous offense. In that case, the warrant or indictment or information must set forth the date, location, and particulars of the previous offense or offenses. No person may be convicted of a second or subsequent offense under this section unless the conviction for the previous offense has become final, or the person has previously had a period of conditional probation imposed pursuant to §17C-5-2b of this code.

(p) The fact that any person charged with a violation of subsection (b), (c), (d), (e), (f), or (g) of this section, or any person permitted to drive as described under subsection (h) or (i) of this section, is or has been legally entitled to use alcohol, a controlled substance, or a drug does not constitute a defense against any charge of violating subsection (b), (c), (d), (e), (f), (g), (h), or (i) of this section.

(q) The sentences provided in this section upon conviction for a violation of this article are mandatory and are not subject to suspension or probation: *Provided*, That the court may apply the provisions of §62-11A-1 *et seq.* of this code to a person sentenced or committed to a term of one year or less for a first offense under this section: *Provided, however*, That the court may impose a term of conditional probation pursuant to §17C-5-2b of this code to persons adjudicated thereunder. An order for home detention by the court pursuant to the provisions of §62-11B-1 *et seq.* of this code may be used as an alternative sentence to any period of incarceration required by this section for a first or subsequent offense: *Provided further*, That for any period of home incarceration ordered for a person convicted of a second offense under this section, electronic monitoring shall be required for no fewer than five days of the total period of home confinement ordered and the offender may not leave home for those five days notwithstanding the provisions of §62-11B-5 of this code: *And provided further*, That for any period of home incarceration ordered for a person convicted of a third or subsequent violation of this section, electronic monitoring shall be included for no fewer than 10 days of the total period of home confinement ordered and the offender may not leave home for those 10 days notwithstanding §62-11B-5 of this code.

(r) A person whose license to operate a motor vehicle has been revoked or suspended by the Commissioner of the Division of Motor Vehicles pursuant to this section must complete a comprehensive safety and treatment program as set forth in §17C-5A-3 of this code before his or her license to operate a motor vehicle can be reinstated and his or her driving privileges restored.

(s) For any offense for which an alternative revocation period is permitted conditioned upon participation in the test and lock program, an alternative sentence may not be imposed without the consent of the driver.

(t) Upon entering the order of conviction for an offense under this section, or the imposition of conditional probation as provided in §17C-5-2b of this code, the clerk of the court shall immediately transmit the order to the Commissioner of the Division of Motor Vehicles.

(u) The amendments made to this section during the 2020 regular session of the Legislature shall become effective on July 1, 2020.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-30. Recognizing an embryo or fetus as a distinct unborn victim of certain crimes of violence against the person.

(a) This section may be known and cited as the Unborn Victims of Violence Act.

(b) For the purposes of this article, the following definitions shall apply: *Provided*, That these definitions only apply for purposes of prosecution of unlawful acts under this section and may not otherwise be used: (i) To create or to imply that a civil cause of action exists; or (ii) for purposes of argument in a civil cause of action, unless there has been a criminal conviction under this section.

(1) "Embryo" means the developing human in its early stages. The embryonic period commences at fertilization and continues to the end of the embryonic period and the beginning of the fetal period, which occurs eight weeks after fertilization or ten weeks after the onset of the last menstrual period.

(2) "Fetus" means a developing human that has ended the embryonic period and thereafter continues to develop and mature until termination of the pregnancy or birth.

(c) For purposes of enforcing the provisions of §61-2-1, §61-2-4, §61-2-7, §61-2-9(a), §61-2-9(c), §61-2-10, §61-2-10b, 61-2-28(a), and §17C-5-2(b), a pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims.

(d) *Exceptions.* — The provisions of this section do not apply to:

(1) Acts committed during a legal abortion to which the pregnant woman, or a person authorized by law to act on her behalf, consented or for which the consent is implied by law;

(2) Acts or omissions by medical or health care personnel during or as a result of medical or health-related treatment or services, including, but not limited to, medical care, abortion, diagnostic testing or fertility treatment;

(3) Acts or omissions by medical or health care personnel or scientific research personnel in performing lawful procedures involving embryos that are not in a stage of gestation in utero;

(4) Acts involving the use of force in lawful defense of self or another, but not an embryo or fetus; and

(5) Acts or omissions of a pregnant woman with respect to the embryo or fetus she is carrying.

(e) For purposes of the ~~enforcement~~ of the provisions of this section, a violation of the provisions of ~~article two-i, chapter sixteen~~ §16-2R-1 et seq. of this code shall not serve as a waiver of the protection afforded by the provisions of subdivision (1), subsection (d) of this section.

(f) *Other convictions not barred.* — A prosecution for or conviction under this section is not a bar to conviction of or punishment for any other crime committed by the defendant arising from the same incident.

And,

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

Com. Sub. for H. B. 3302 – “A Bill to amend and reenact §17C-5-2 of the Code of West Virginia, 1931, as amended, and to amend and reenact §61-2-30 of said code; all relating to including an embryo or fetus as a distinct unborn victim for the offense of DUI causing death; and clarifying that a pregnant woman and the embryo or fetus she is carrying in the womb constitute separate and distinct victims as applied to the offenses of DUI causing death.”

On the motion to concur in the Senate amendments, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 588**), and there were— yeas 34, nays 60, absent and not voting 6, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Dittman, Espinosa, Fehrenbacher, Fluharty, Forsht, Garcia, W. Hall, Hansen, Hornbuckle, Hott, Householder, Jeffries, Jennings, Kelly, Marple, McGeehan, Petitto, Phillips, E. Pritt, Pushkin, Riley, Rohrbach, Skaff, Smith, Storch, Walker, Warner, Westfall, Williams, Willis, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Criss, Griffith, Mallow, Nestor, Ross and Ward.

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

Ordered, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request that the Senate recede.

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. 3479, Creating requirements for use of unmanned aerial vehicles.

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 16. USE OF UNMANNED AIRCRAFT SYSTEMS AERIAL VEHICLE.

§61-16-1. Definitions.

As used in this article:

(1) ‘Aircraft’ means any device now known or subsequently invented, used, or designed for flight in the air, including, but not limited to, unmanned ~~aircraft vehicles or systems~~ aerial vehicles;

(2) ‘Targeted facility’ means a critical infrastructure facility, as defined in §61-10-34 of this Code.

(3) ‘Unmanned ~~aircraft system~~’ or ‘system aerial vehicles’ means an aircraft that is operated without direct human intervention from inside or on the aircraft and includes the crewmember, the

associated support equipment, the control station, data links, telemetry, communications, and navigation equipment necessary to operate the unmanned aircraft, including, but not limited to, drones;

(3) (4) 'Unmanned ~~aircraft system~~ aerial vehicle operator' or 'operator' means a person exercising control over an unmanned ~~aircraft system~~ aerial vehicle during flight.

§61-16-2. Prohibited use of an unmanned ~~aircraft system~~ aerial vehicle; criminal penalties.

(a) Except as authorized by the provisions of this article, ~~a person may~~ it is unlawful for any person to not operate an unmanned ~~aircraft system~~ aerial vehicle:

(1) To knowingly and intentionally capture or take photographs, images, video, or audio of another person or the private property of another, without the other person's permission, in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, capturing, or recording through a window;

(2) To knowingly and intentionally view, follow, or contact another person or the private property of another without the other person's permission in a manner that would invade the individual's reasonable expectation of privacy, including, but not limited to, viewing, following, or contacting through a window;

(3) To knowingly and intentionally harass another person;

(4) To violate a restraining order or similar judicial order;

(5) To act with a willful wanton disregard for the safety of persons or property; or

(6) To knowingly and intentionally operate an unmanned ~~aircraft system~~ aerial vehicle in a manner that interferes with the official duties of law enforcement personnel or emergency medical personnel.

(b) It is unlawful for any person to operate an unmanned aerial vehicle over the property of a targeted facility to:

(A) intentionally deploy any substance, material, projectile, or object,

(B) to conduct surveillance of, or gather evidence and information about such facility, with the intent to do harm to such facility the public or any person, or

(C) to engage in any attempt to obtain:

(i) business trade secrets, proprietary information, or,

(ii) protected Federal or state information for the operator's own use or profit.

(c) Nothing in this section prohibits a person from operating an unmanned aerial vehicle to conduct surveillance of, gather evidence and information about, or photographically or electronically record the person's own property or immovable property owned by another person under a valid lease, servitude, right-of-way, right of use, permit, license, or other right: *Provided*, That nothing in this section prohibits third persons retained by the owner of immovable property from operating an unmanned aerial vehicle over, or to otherwise conduct surveillance of, gather

evidence and information about, or to photographically or electronically record the property: *Provided, however,* That nothing in this section prohibits a person from operating an unmanned aerial vehicle in connection with production of a motion picture, television program, or similar production if the operation of the unmanned aerial vehicle is authorized by the property owner.

(d) The provisions of this section do not apply to a law-enforcement agency acting in compliance with the provisions of this article: *Provided,* That a law enforcement agency's operation of an unmanned aerial vehicle for the purpose of surveillance, investigation into crime, or any other purpose related to the enforcement of the criminal laws of this state or those of the United States shall be in accordance with the Fourth Amendment to the United States Constitution and Article III, § 6 of the constitution of this state.

(e) The provisions of this section do not apply to a news organization using a camera-carrying unmanned aerial vehicle at altitudes greater than 400 feet over private property for legitimate newsgathering purposes.

(f) Any person violating the provisions of subsection (a) or (b) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 or confined in jail for not more than one year, or both fined and confined.

~~(e)(g)~~ Any person who equips an unmanned ~~aircraft system~~ aerial vehicle with any deadly weapon or operates any unmanned ~~aircraft system~~ aerial vehicle equipped with any deadly weapon, other than for military purposes in an official capacity, is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

~~(d)(h)~~ Any person who operates an unmanned ~~aircraft system~~ aerial vehicle with the intent to cause damage to or disrupt in any way the flight of a manned aircraft is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$5,000 imprisoned for not less than one nor more than five years, or both fined and imprisoned.

~~(e)(i)~~ A person that is authorized by the Federal Aviation Administration to operate unmanned ~~aircraft systems~~ aerial vehicles for commercial purposes may operate an unmanned ~~aircraft system~~ aerial vehicle in this state for such purposes if the unmanned ~~aircraft system~~ aerial vehicle is operated in a manner consistent with federal law."

And,

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

Com. Sub. for H. B. 3479 – "A Bill to amend and reenact §61-16-1 and §61-16-2 of the Code of West Virginia, 1931, as amended, all relating to unmanned aerial vehicles; adding definitions; updating terminology to be consistent with the new definitions; establishing the crime of operating an unmanned aerial vehicle over the property of a targeted facility; establishing exceptions to the prohibitions contained in the article for law enforcement activity conducted in accordance with the provisions of this article and the federal and state constitutions; clarifying that these regulations do not prohibit the authorized operation of drones by landowners or third parties hired by a landowner to surveil, photograph, or otherwise involving their own land; and requiring compliance with federal laws and regulations relating to unmanned aerial vehicles."

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. 589**), and there were—yeas 92, nays 1, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Criss, Griffith, Mallow, Martin, Nestor, Ross and Ward.

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. 3479) passed.

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

Resolutions Introduced

By Delegate Hanshaw (Mr. Speaker):

H. C. R. 78 – “Proclaiming the extension of a state of emergency in our correctional institutions”, was reported by the Clerk.

At the respective requests of Delegate Householder, and by unanimous consent, H. C. R. 78 was taken up for immediate consideration, and adopted.

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

By Delegate Hornby:

H. C. R. 79 – “Requesting the Department of Economic Development to create a plan of incentives to encourage small businesses based in agri-tourism, craft breweries, distilleries, vineyards, wineries, and other specialized agricultural tourism interests to locate or relocate to West Virginia”; which was referred to the Committee on Rules

Special Calendar

Unfinished Business

The following resolutions, coming up in regular order as unfinished business, were, in the absence of objection, considered en bloc, and adopted:

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

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

Com. Sub. for S. C. R. 10, US Army Air Corps PVT Albert J Sutphin Memorial Highway,

Com. Sub. for S. C. R. 13, Wyant Brothers WWII Veterans Memorial Road,

And,

Com. Sub. for S. C. R. 16, US Army 1SG James Arnold Browning Memorial Bridge.

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

The following resolutions, coming up in regular order as unfinished business, were reported by the Clerk and, there being no requests for separate votes, adopted with one voice vote:

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.,

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,

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,

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.,

H. C. R. 65, Requesting a study of the effects of eliminating the mandatory inspection of motor vehicles,

H. C. R. 66, Requesting a study on the effects of conservation easements,

H. C. R. 67, Requesting a study of the effects of using blockchain technology on vital public and government data security.,

H. C. R. 68, Requesting a study on the effects of site preparedness on economic development.,

And,

H. C. R. 69, Requesting a study on the use of larger crews and continuous working hours on smaller roadway projects.

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

Third Reading

S. B. 146, Modifying regulations of peer-to-peer car sharing program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 590**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Foggin, Garcia, Griffith, Hardy, Mallow, Nestor, Ross, Ward and Willis.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 146) passed.

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

S. B. 149, Exempting certain organizations from property taxation; 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. 591**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Garcia, Griffith, Hardy, Mallow, Nestor, Ross and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 149) passed.

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

Com. Sub. for S. B. 151, Levying tax on pass-through entity's income; on third reading, coming up in regular order, was read a third time.

Delegates Brooks, Burkhammer, Cannon, Clark, Criss, DeVault, Ellington, Fast, Forsht, Foster, Gearheart, A. Hall, Hanna, Hansen, Hardy, Heckert, Holstein, Hornby, Hott, Householder, Howell, Jennings, Kirby, Linville, Martin, Maynor, C. Pritt, Riley, Skaff, Steele, Street and Tully requested to be excused from voting under the provisions of House Rule 49.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 592**), and there were—yeas 91, nays 1, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Garcia, Griffith, Hillenbrand, Kump, Mallow, Nestor, Ross and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 151) passed.

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

Com. Sub. for S. B. 151 - "A Bill to amend and reenact §11-21-3 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §11-21-3a; and to amend and reenact §11-21-20 of said code, all relating to West Virginia income tax paid by pass-through entities; authorizing certain entities to elect to pay West Virginia income tax; defining terms; imposing a tax on pass-through entities which elect to pay West Virginia income tax at the entity level; authorizing an income tax credit for an owner for such tax paid; providing rulemaking authority; providing for a tax credit for income tax paid to another state; and providing effective dates."

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

S. B. 244, Making rosters of individuals who obtain professional, occupational, and trade licenses, registrations, and certificates available to public; 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. 593**), and there were—yeas 91, nays 2, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Holstein and Young.

Absent and Not Voting: Garcia, Griffith, Mallow, Nestor, E. Pritt, Ross and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 244) passed.

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

Com. Sub. for S. B. 273, Relating to allocation of child protective workers in counties based upon population of county; 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. 594**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Foster, Garcia, Griffith, Honaker, Mallow, Nestor, E. Pritt, Ross and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 273) passed.

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

Com. Sub. for S. B. 273 - “A Bill to amend and reenact §49-2-101, §49-2-102, and §49-2-809 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new article, designated §49-10-101, §49-10-102, and §49-10-103; to amend said code by adding thereto a new article, designated §49-11-101, all relating to child welfare; continuing the Bureau for Social Services; providing authority to the bureau; providing how the commissioner shall allocate child protective service workers; requiring reporting; requiring the department to have a redundancy centralized intake system; setting forth requirements for data submission in the event a system exists; providing that the Bureau for Social Services shall develop a merit-based system; providing legislative findings; providing the merit-based system shall be subject to the grievance process, except that there is no grievance available for the same classification description impacted by regional pay disparities; providing that for existing employees there is no grievance procedure for a regional pay disparity for the same job classification and establishing timeframes for implementation.”

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

On this question, the yeas and nays were taken (**Roll No. 595**), and there were—yeas 91, nays none, absent and not voting 9, with the absent and not voting being as follows:

Absent and Not Voting: Foster, Garcia, Griffith, Honaker, Mallow, Nestor, E. Pritt, Ross and Ward.

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. 273) 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. 294, Clarifying amount of deputy sheriff annual salary increase; 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. 596**), and there were—yeas 88, nays none, absent and not voting 12, with the absent and not voting being as follows:

Absent and Not Voting: Foster, Garcia, Griffith, A. Hall, Honaker, Jennings, Mallow, Nestor, E. Pritt, Ross, Ward and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 294) passed.

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

Com. Sub. for S. B. 345, Authorizing Department of Revenue to promulgate legislative rules; on third reading, coming up in regular order, with amendment pending, was reported by the Clerk.

An amendment was recommended by the Committee on the Judiciary, and adopted, on page 2, section 2, subsection (a), line 3, by striking the period and inserting in lieu thereof the following:

“with the amendment set forth below:

On page 1, section 2, by striking out the words “Nothing in this rule shall be construed to create or imply a private cause of action for a violation of this rule or to subject a producer to civil liability under the best interest standard of care outline in Section 5 of this rule or under standards governing the conduct of a fiduciary or a fiduciary relationship.”;

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 597**), and there were—yeas 76, nays 15, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Dillon, Fluharty, A. Hall, Hansen, Hornbuckle, Pushkin, Reynolds, Rowe, Sheedy, Storch, Vance, Walker, Williams and Young.

Absent and Not Voting: DeVault, Griffith, Linville, Mallow, Nestor, C. Pritt, Ross, Ward and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 345) passed.

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

On this question, the yeas and nays were taken (**Roll No. 598**), and there were—yeas 76, nays 14, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Barnhart, Dillon, Fluharty, A. Hall, Hansen, Pushkin, Reynolds, Rowe, Storch, Vance, Walker, Williams, Willis and Young.

Absent and Not Voting: DeVault, Griffith, Linville, Mallow, Nestor, C. Pritt, Ross, Steele, Ward and Westfall.

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. 345) 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.

S. B. 465, Increasing limit on moneys placed in county's rainy day fund; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 599**), 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: Griffith, Linville, Mallow, Nestor, Ross, Steele, Ward and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 465) passed.

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

Com. Sub. for S. B. 478, Relating to Jumpstart Savings Program; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 600**), 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: Griffith, Mallow, McGeehan, Nestor, Ross, Steele, Ward and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 478) passed.

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

On this question, the yeas and nays were taken (**Roll No. 601**), 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: Griffith, Mallow, McGeehan, Nestor, Ross, Steele, Ward 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 S. B. 478) 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.

S. B. 488, Aligning state and federal accreditation rules; on third reading, coming up in regular order, was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 602**), and there were—yeas 91, nays 1, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Foster.

Absent and Not Voting: Griffith, Mallow, McGeehan, Nestor, Pushkin, Ross, Ward and Young.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 488) passed.

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

S. B. 488 – “A Bill to amend and reenact §18B-4-7 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18B-4-7a, all relating to aligning state and federal accreditation rules; requiring the Higher Education Policy Commission, the Council for Community and Technical College Education and the institutional governing boards of the exempted schools to regularly update their rules regarding accreditation to conform to federal regulations; requiring the council, commission, and governing boards to promulgate rules, by December 31, 2023, to permit institutions to choose to pursue accreditation with a recognized accreditor; making findings; requiring the council, commission, and governing boards to amend their regulations regarding accreditation by December 31, 2023; and providing that any regulations that imply or state that certain accreditors must be used are incorrect and must be amended.”

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. 543, Authorizing rule-making changes to terms, procedures and reporting duties in higher education; 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. 603**), 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: Coop-Gonzalez, Griffith, Mallow, McGeehan, Nestor, Pushkin, Ross and Ward.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 543) passed.

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

Com. Sub. for S. B. 543 - “A Bill to amend and reenact §29A-3A-1 and §29A-3A-2 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §29A-3A-2a; to amend and reenact §29A-3A-3, §29A-3A-4, §29A-3A-5, §29A-3A-6, §29A-3A-7, §29A-3A-8, §29A-3A-9, §29A-3A-10, §29A-3A-11, §29A-3A-11a, §29A-3A-12, §29A-3A-13, §29A-3A-14, §29A-3A-15, §29A-3A-16, §29A-3A-16a, §29A-3A-17, §29A-3A-18, and §29A-3A-20, all relating to higher education and school building authority rule-making authority; revising definitions; requiring all sections of rule to be filed when proposing an amendment to an existing rule; requiring rule to be accompanied by note of explanation; requiring agency proposing to repeal a rule to file the rule in its entirety with the provisions of the rule struck through; making provisions applicable to procedural and interpretive rules applicable to legislative exempt rules; allowing an agency to hold a public hearing, schedule a public comment period, or both; requiring agency to respond to public comments and explain the reasoning for comments being incorporated or not incorporated into the rule; reducing time period for filing of notices of hearings for receiving public comment on a proposed rule; allowing repeal of a legislative exempt, procedural, or interpretive rule by filing notice of repeal with the Secretary of State; establishing timelimit for filing of notice of approval with the Secretary of State and the Legislative Oversight Commission on Education Accountability (LOCEA); requiring LOCEA make a continuing investigation, study, and review of the practices, policies, and procedures of the State Board of Education; requiring electronic submission of agency-approved rule to LOCEA; requiring electronic filing of notice of approval in the State Register; adding to information that electronic copies of the proposed legislative rule is to include; modifying topics LOCEA’s review of a proposed legislative rule is to include; modifying LOCEA’s options in making recommendations to the Legislature after reviewing a legislative rule; requiring bill authorizing legislative rule to incorporate the amendments recommended by LOCEA; modifying date after which proposed legislative rules submitted to LOCEA can be withheld from its report to the clerk of the respective houses; modifying provisions pertaining to bills of authorization; removing provisions pertaining to computation of dates; allowing disapproval of rules not approved or acted upon by the Legislature; requiring Secretary of State to publish an authorized and promulgated legislative rule in the Code of State Rules; adding to information that must be filed with emergency rules in the State Register; providing for effective date for emergency rule and amendment to emergency rule; requiring the agency to file a copy of the emergency rule and the required statement with the Secretary of State and LOCEA; reducing time periods the agency has for filing a notice of public hearing on a proposed emergency rule and for filing the proposed emergency rule with LOCEA; removing provision pertaining to emergency legislative rules currently in effect; making certain provisions pertaining to filing an emergency rule and disapproval of an emergency rule applicable to filing an amendment to an emergency rule and disapproval of an emergency rule; modifying provisions pertaining to LOCEA’s review of procedural rules, interpretive rules, or existing legislative rules; providing for prior rules to remain in full force and effect; modifying required sunset date; specifying procedure for renewing legislative rule; and requiring Secretary of State to file a notice of sunset in the State Register within 30 days following expiration of a legislative rule.”

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

On this question, the yeas and nays were taken (**Roll No. 604**), 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: Griffith, Mallow, McGeehan, Nestor and Ross.

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. 543) 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.

S. B. 559, Relating to spousal privilege; 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. 605**), 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: Griffith, Mallow, McGeehan, Nestor and Ross.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 559) passed.

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

S. B. 559 – “A Bill to amend and reenact §57-3-3 of the Code of West Virginia, 1931, as amended, relating to spousal privilege; clarifying what constitutes a valid marriage for purposes of the provisions of §48-1-101 *et seq.* for purposes of spousal privilege; clarifying the exceptions to spousal privilege to exclude therefrom cases where an offense is committed by one spouse against another spouse, or against the child, father, mother, sister or brother of either of them; expanding the exceptions to spousal privilege to exclude therefrom cases where either spouse is charged with forgery of the name of the other or uttering, or attempting to utter a writing bearing the allegedly forged signature of the other; expanding the exceptions to spousal privilege to exclude therefrom cases where a court determines that each conspired or acted jointly in the commission of the crime charged; expanding the exceptions to spousal privilege to exclude therefrom proceedings relating to a violation of the laws pertaining to §61-8B-1, *et seq.* of this code, §61-8C-1 *et seq.* of this code, §61-8D-1 *et seq.* of this code, or any violation of §61-2-1 *et seq.* where the victim is an infant or minor as that term is defined in §2-2-10 of this code; expanding the exceptions to spousal privilege to exclude therefrom cases where the victim is incompetent due to a mental disease or defect or other disability.”

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 read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 606**), 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: Cannon, Chiarelli, Foggin, A. Hall, Hansen, Hornbuckle, Hott, Keaton, Kirby, Linville, McGeehan, E. Pritt, Pushkin, Rowe, Statler, Steele, Toney, Vance, Walker and Ward.

Absent and Not Voting: Griffith, Mallow, Nestor, Ross and Street.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 613) passed.

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

Com. Sub. for S. B. 613 - "A Bill to amend and reenact §16-2D-2, §16-2D-8, §16-2D-10, and §16-2D-11 of the Code of West Virginia 1931, as amended, all relating to certificate of need; defining terms; removing reviewable services; providing a physician office practice that meets specified criteria may acquire imaging technology; providing for data verification; providing that hospitals performing hospital services are exempt from certificate of need requirements; providing that birthing centers are exempt from certificate of need review; deeming certain hospitals as trauma centers; and removing exemptions.

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

On this question, the yeas and nays were taken (**Roll No. 607**), and there were—yeas 83, nays 13, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: A. Hall, Hansen, Hott, Kirby, Linville, E. Pritt, Pushkin, Rowe, Steele, Toney, Vance, Walker and Ward.

Absent and Not Voting: Griffith, Mallow, Nestor and Ross.

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. 613) 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.

S. B. 625, Requiring certain transcripts to be accepted as record of student's performance for placement in micro school programs; on third reading, coming up in regular order, with amendment pending, was reported by the Clerk.

An amendment was recommended by the Committee on Education, and adopted, on page 2, section 1a, line 27, after the word "program" by striking out the words "Hope Scholarship kindergarten program,";

And

On page 2, section 1a, line 38, after the words "homeschool program" by inserting the word "or";

And

On page 2, section 1a, line 39, after the word "program" by striking out the comma and the words "or HOPE scholarship program".

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 608**), and there were—yeas 82, nays 9, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hansen, Hornbuckle, E. Pritt, Pushkin, Rowe, Skaff and Young.

Absent and Not Voting: Griffith, Householder, Linville, Mallow, Nestor, Ross, Walker, Westfall and Williams.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (S. B. 625) passed.

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

S. B. 625 – “A Bill to amend and reenact §18-8-1a of the Code of West Virginia, 1931, as amended, all relating to compulsory school attendance; removing references to Hope Scholarship kindergarten program and Hope Scholarship program transcripts or credentials; and providing that transcripts or credentials of microscool programs to be accepted as record of student's previous performance for placement and credit assignment.”

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. 649, Authorizing Berkeley County Council to change its name to Berkeley County Commission; 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. 609**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Griffith, Kirby, Mallow, Nestor, Ross, Steele and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 649) passed.

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

Com. Sub. for S. B. 667, Requiring periodic performance audits of WV Secondary Schools Athletic Commission; on third reading, coming up in regular order, with amendment pending, was reported by the Clerk.

An amendment was recommended by the Committee on Education, and adopted, on page 1, after the enacting clause, by striking out the remainder of the bill and inserting, in lieu thereof, the following:

“ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25e. Requiring the Legislative Auditor conduct periodic performance audits of the West Virginia Secondary Schools Activities Commission.

(a) The Legislative Auditor may, at reasonable and prudent intervals, conduct performance audits of the commission.

(b) The Legislative Auditor shall have the power and authority to examine the revenues, expenditures, and performance of the commission, which shall allow the Legislative Auditor to inspect all records and accounts of the commission and to examine the personnel of the commission. *Provided:* That for any legally protected information provided or disclosed to the Legislative Auditor pursuant to this section, the Legislative Auditor shall protect the confidentiality, privacy, or security of the protected information in like manner and with the same duty as is required of the commission.

(c) The Legislative Auditor shall complete an initial performance audit of the commission by December 1, 2023, and, on that date, deliver a report thereof to the Joint Committee on Government and Finance and to the Legislative Oversight Commission on Education Accountability.”

The bill was read a third time.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 610**), and there were—yeas 49, nays 43, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Adkins, Anderson, Barnhart, Cannon, Clark, Dittman, Fehrenbacher, Ferrell, Fluharty, Forsht, Garcia, W. Hall, Hansen, Heckert, Hillenbrand, Honaker, Hornbuckle, Householder, Howell, Jennings, Longanacre, Marple, Miller, E. Pritt, Pushkin, Reynolds, Riley, Rowe, Shamblin, Sheedy, Skaff, Statler, Storch, Street, Summers, Toney, Tully, Walker, Ward, Warner, Williams, Young and Zatezalo.

Absent and Not Voting: Dillon, Griffith, Kirby, Mallow, Nestor, Ross, Steele and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 667) passed.

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

Com. Sub. for S. B. 667 - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25e; all relating to requiring the legislative auditor to conduct periodic performance audits of the West Virginia Secondary Schools Activities Commission; granting the legislative auditor the power and authority to conduct examinations and inspections; requiring the legislative auditor to protect the confidentiality, privacy, and security of protected information; and establishing deadline for initial performance audit and reporting requirements.”

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

H. B. 3109, Supplementing and amending appropriations to the State Board of Education - State Department of Education; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 611**), and there were—yeas 83, nays 10, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Butler, Chiarelli, Dillon, Foster, A. Hall, Longanacre, Ridenour and Vance.

Absent and Not Voting: Griffith, Kirby, Mallow, Nestor, Ross, Steele and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3109) passed.

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

On this question, the yeas and nays were taken (**Roll No. 612**), and there were—yeas 85, nays 8, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Butler, Chiarelli, Dillon, Gearheart, A. Hall and Vance.

Absent and Not Voting: Griffith, Kirby, Mallow, Nestor, Ross, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3109) 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. 3542, Expiring funds to the Department of Administration, Board of Risk and Insurance Management, Public Entity Insurance Trust Fund; on third reading, coming up in regular order, was read a third time.

On the passage of the bill, the yeas and nays were taken (**Roll No. 613**), and there were—yeas 91, nays 2, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Dillon and Vance.

Absent and Not Voting: Griffith, Kirby, Mallow, Nestor, Ross, Steele and Westfall.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3542) passed.

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

On this question, the yeas and nays were taken (**Roll No. 614**), and there were—yeas 90, nays 2, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Dillon and Vance.

Absent and Not Voting: Griffith, Kirby, Mallow, Maynor, Nestor, Ross, Steele and Westfall.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3542) 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.

At 1:38 p.m., the House of Delegates recessed until 3:30 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

-continued

Second Reading

Com. Sub. for S. B. 47, Creating Charter Schools Stimulus Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 121, Creating Student Journalist Press Freedom Protection Act; on second reading, coming up in regular order, was read a second time.

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

Whereupon,

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

On motion of Delegate Fast, the bill was amended on page 2, section 4, line 11, by striking subdivision (3) of subsection (b) in its entirety and inserting in lieu thereof the following:

“(3) Is obscene, vulgar, pornographic, or of sensual or illicit sexual content;”

And

On page 4, section 4, line 39, by inserting after the word “students” the words “in conformity with this section”

The bill was then ordered to third reading.

S. B. 147, Creating pilot program for recovery residences in Cabell County; 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:

“CHAPTER 37. REAL PROPERTY.

ARTICLE 6. LANDLORD AND TENANT.

§37-6-5a. Recovery residences; pilot program.

(a) The purpose of this section is to create a pilot program in Cabell County to study the uniqueness of recovery residences as they relate to landlord-tenant law and determine an equitable resolution when circumstances arise which bring about an unanticipated cessation of an individual's participation in a recovery residence's program.

(b) For the purposes of this section:

(1) 'Recovery residence' has the meaning ascribed in §16-59-1(4) of this code and applies solely to recovery residences:

(A) Not certified by the West Virginia Alliance of Recovery Residences; and

(B) Located within Cabell County.

(2) 'Residence agreement' means an agreement between an individual residing in a recovery residence and the recovery residence.

(3) 'Resident' means a person residing in and receiving services from a recovery residence.

(c) A recovery residence may immediately discharge a resident without filing a petition for summary relief for wrongful occupation of residential rental property for any of the following reasons:

(1) The use, possession, or distribution of alcohol, any controlled substance, or prescription medication for which the resident does not have a valid prescription;

(2) Sexual misconduct;

(3) Any crime of violence against a person or threat of crime of violence against a person;

(4) Any conduct which jeopardizes the safety of another resident; or

(5) Destruction of the premises.

(d) If a recovery residence seeks to discharge a resident for a reason not enumerated in subdivisions (1) through (5), subsection (c) of this section, the resident is entitled to the due process and protections afforded a 'tenant' as that term is defined in §37-6A-1 of this code; the recovery residence shall be treated as a 'landlord' as that term is defined in §37-6A-1 of this code; and the recovery residence shall be required to proceed against the resident under §55-3A-1 of this code with the filing of a petition for summary relief seeking removal of the resident for wrongful occupation of residential rental property: *Provided*, That any provision of a recovery residence agreement seeking to waive or limit the protections afforded a resident in this section is void.

(e) If a resident is discharged, evicted, or otherwise removed from a recovery residence prior to the expiration of the time period for which he or she has previously paid rent or any other fee for residency or services, the recovery residence shall issue a refund of the rent or fee to the discharged resident in an amount prorated, on a per diem basis, to account for the remainder of that time period.

(f) If requested by the resident, a recovery residence shall first apply any refund required by subsection (e) of this section to costs related to placing the resident in a higher level care facility or transferring the resident to another recovery residence: *Provided*, That if the resident does not request to be placed in a higher level care facility or does not request to be transferred to another recovery residence, within 72 hours of a resident's discharge, eviction, or removal, the recovery residence shall issue any refund due to a resident: *Provided, however*, That if the rent or fee moneys were paid by a third party on behalf of the resident, any refund required by subsection (e) of this section shall be issued directly to the third-party payor within 72 hours of a resident's discharge, eviction, or removal.

(g) If a resident was transported by the recovery residence from a location more than 20 miles from the recovery residence and is discharged, evicted, or otherwise removed from the recovery residence, the recovery residence shall provide transportation to the location from which the resident was initially transported to the discharged, evicted, or otherwise removed resident, at the expense of the recovery residence.

(h) If the resident is discharged, evicted, or otherwise removed prior to the expiration of the time period for which he or she has previously paid rent or any other fee for residency or service, the recovery residence shall report non-identifying resident information regarding the reason for the early discharge, eviction, or removal of the resident to the Department of Health and Human Resources' Bureau for Behavioral Health.

(i) On or before July 1, 2023, the Department of Health and Human Resources' Bureau for Behavioral Health shall prepare and submit to the Joint Committee on Government and Finance a written report which includes, at a minimum:

(1) The information specified in subsection (h) of this section for the period May 1, 2022, through May 1, 2023;

(2) An evaluation of the effectiveness of the pilot program;

(3) A recommendation as to whether the pilot program created in this section should be continued, reduced, expanded, terminated, or otherwise modified;

(4) Any recommended legislation; and

(5) Any other issues deemed relevant.

(j) This section shall not be construed to affect rights under the West Virginia Fair Housing Act, W. Va. Code §5-11A-1 *et seq.*

(k) This section shall be of no further force and effect on May 1, 2024.

ARTICLE 6A. RESIDENTIAL RENTAL SECURITY DEPOSITS.

§37-6A-5. Landlord's noncompliance.

(a) If a landlord fails to comply with any of the provisions of this article, and ~~such~~ the noncompliance is willful or not in good faith, the tenant is entitled to a judgment for:

(1) The amount of any unreturned security deposit; and

(2) Damages for annoyance or inconvenience resulting from the landlord's nonconformance equal to one and a half times the amount wrongfully withheld, unless the tenant owes rent to the landlord, in which case, the court shall order an amount equal to any amount awarded to the tenant pursuant to this subsection to be credited against any rent due to the landlord: Provided, That if an individual is residing in a recovery residence as defined in §37-6-5a of this code, the recovery residence is required to comply with the provisions of this article, and if the recovery residence's noncompliance is willful or not in good faith, the court shall also award reasonable attorney's fees.

(b) Jurisdiction for any civil action brought pursuant to this article shall be in magistrate ~~court~~ or circuit court in the county where the residential rental premises or units are located.

(c) This section does not limit rights or remedies available to a landlord or tenant under any other law.

(d) The amendments to this section enacted by the Legislature during the 2023 Regular Session shall not be construed to affect rights under the West Virginia Fair Housing Act, W. Va. Code §5-11A-1 et seq.

(e) This section shall not apply to a resident of a recovery residence as defined in §37-6-5a of this code after May 1, 2024.

CHAPTER 55. ACTIONS, SUITS, AND ARBITRATION; JUDICIAL SALE.

ARTICLE 3A. REMEDIES FOR WRONGFUL OCCUPATION OF RESIDENTIAL RENTAL PROPERTY.

§55-3A-1. Petition for summary relief for wrongful occupation of residential rental property.

(a) A person desiring to remove a tenant, including a resident of a recovery residence as defined in §37-6-5a of this code who is discharged for a reason other than those enumerated in §37-6-5a(c)(1) through (5) of this code, from residential rental property may apply for ~~such~~ relief to the magistrate ~~court~~ or ~~the~~ circuit court of the county in which ~~such~~ the property is located, by verified petition, setting forth the following:

(1) That he or she is the owner or agent of the owner and as such has a right to recover possession of the property;

(2) A brief description of the property sufficient to identify it;

(3) That the tenant is wrongfully occupying ~~such~~ the property in that the tenant is in arrears in the payment of rent, has breached a warranty or a leasehold covenant, or has deliberately or negligently damaged the property or knowingly permitted another person to do so, and describing such arrearage, breach, or act or omission; and

(4) A prayer for possession of the property.

(b) Previous to the filing of the petition the person shall request from the court the time and place at which the petitioner shall be heard. The court shall fix a time for ~~such~~ the hearing, which time shall not be less than five nor more than 10 judicial days following ~~such~~ the request.

(c) Immediately upon being apprised of the time and place for the hearing, the petitioner shall ~~cause~~ have a notice of the ~~same to be~~ hearing served upon the tenant in accordance with the provisions of Rule 4 of the West Virginia Rules of Civil Procedure or by certified mail, return receipt requested. ~~Such~~ The notice shall inform the tenant that any defense to the petition ~~must~~ shall be submitted in writing to the petitioner within five days of the receipt by the tenant of the notice, and in no case later than the fifth day next preceding the date of hearing. Upon receipt of the return of service or the return receipt as the case may be, evidencing service upon the tenant, the petitioner shall file with the court his or her petition and such proof of service.

(d) The amendments to this section enacted by the Legislature during the 2023 Regular Session shall not be construed to affect rights under the West Virginia Fair Housing Act, W. Va. Code §5-11A-1 et seq.

(e) This section shall not apply to a resident of a recovery residence as defined in §37-6-5a of this code after May 1, 2025."

On motion of Delegate Capito, the amendment was amended, on page 3, section 5a, line 56, by striking the word "2023" and inserting in lieu thereof the word "2024"

And

On page 3, section 5a, line 59, by striking the word "2022" and inserting in lieu thereof the word "2023"

And

On page 3, section 5a, line 60, by striking the word "2023" and inserting in lieu thereof the word "2024"

And

On page 6, section 1, line 29, by striking the word "2025" and inserting in lieu thereof the word "2024"

Delegate Pushkin moved to amend the Judiciary Committee amendment on page 2, section 5a, line 21 by striking out the word "or";

And,

On line 22 following the word "premises" by striking out the period, inserting a semi-colon and the following: "or,

(6) For violating the express terms of a residency agreement signed by the resident prior to admission to the recovery residence.";

And,

On page 2, Section 5a, line 24, by striking out the number "(5)" and inserting in lieu thereof, the number "(6)"

And,

On page 2, Section 5a, lines 29 through 31, by striking out the colon on line 29 and inserting in lieu thereof a period and striking out the proviso on lines 29 through 31.

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. 615**), and there were— yeas 30, nays 60, absent and not voting 10, with the yeas and the absent and not voting being as follows:

Yeas: Burkhammer, Chiarelli, Coop-Gonzalez, Dittman, Ellington, Ferrell, Fluharty, Foster, Garcia, Griffith, A. Hall, Hanna, Hansen, Hite, Holstein, Hornbuckle, Hornby, Keaton, Kump, Maynor, Petitto, E. Pritt, Pushkin, Rowe, Skaff, Smith, Statler, Summers, Walker and Williams.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, Riley, Ross, Steele, Ward and Young.

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

The amendment, as amended, was adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 187, Making it felony offense for school employee or volunteer to engage in sexual contact with students; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 200, Allowing leashed dogs to track wounded elk, turkey, and wild boar when hunting; 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 2. WILDLIFE RESOURCES.

§20-2-5j. Leashed dogs for tracking mortally wounded deer, elk, turkey, wild boar, or bear.

(a) Notwithstanding any provision of this chapter to the contrary, a person who is legally hunting and reasonably believes he or she has mortally wounded a deer, elk, turkey, wild boar, or bear may use leashed dogs to track and locate the mortally wounded deer, elk, turkey, wild boar, or bear. The hunter is also permitted to use a dog handler of leashed dogs to track and locate the mortally wounded deer, elk, turkey, wild boar, or bear. The hunter or the dog handler shall always maintain physical control of the leashed dogs.

(b) The act of tracking a mortally wounded deer, elk, turkey, wild boar, or bear with a dog is hunting and the hunter and handler are subject to all applicable laws and rules. It is unlawful for

a hunter or dog handler to track deer, elk, turkey, wild boar, or bear with leashed dogs under the provisions of this section unless he or she is in possession of a valid hunting license issued pursuant to this article or is a person excepted from licensing requirements pursuant to this article, and all other lawful authorizations as prescribed in this article. The hunter shall accompany the dog handler and only the hunter may kill a mortally wounded deer, elk, turkey, wild boar, or bear. However, any hunter who is physically unable to accompany the handler in the tracking and locating of the mortally wounded deer, elk, wild turkey, boar, or bear may designate the handler to kill the deer, elk, wild turkey, boar, or bear when located by the handler. The deer, elk, turkey, wild boar, or bear shall count toward the bag limit of the hunter who fired the initial shot.

(c) Any dog handler providing tracking services for profit must be licensed as an outfitter or guide pursuant to §20-2-23 of this code.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 220, Industrial Hemp Development Act; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 232, Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system; 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 6A. COMPETENCY AND CRIMINAL RESPONSIBILITY OF PERSONS CHARGED OR CONVICTED OF A CRIME.

§27-6A-12. Development of a strategic plan for a Sequential Intercept Model to divert adults and juveniles with mental illness, developmental disabilities, cognitive disabilities, and substance use disorders away from the criminal justice system into treatment and to promote continuity of care and interventions; directing submission of a report to the Legislature.

(a) The Legislature finds that the state’s adult and juvenile forensic patient populations continue to increase and that the placement of forensic patients at state health care facilities, diversion facilities, group homes, transitional living facilities, in the community, and other settings continues to rapidly escalate. The Legislature further finds that persons with mental illness, developmental disabilities, cognitive disabilities, and/or substance use disorder may be overrepresented in the criminal justice system, and many of these people might not present a danger to the public if they could participate in a functioning community behavioral health continuum of care. The Legislature further finds that the increasing adult and juvenile forensic patient populations, the placement and treatment of adult and juvenile forensic patients, and the release of persons with mental illness, developmental disabilities, and other disabilities creates significant clinical, public safety, staffing, and fiscal needs and burdens for the judiciary, law enforcement, state health care facilities, correctional facilities, behavioral health professionals, hospitals, and the public. The Legislature further finds that there is a need for improved

coordination among the Department of Health and Human Resources, the Division of Corrections and Rehabilitation, and the Division of Rehabilitation Services to promote the identification, safe discharge, and effective community intervention and placement of persons who suffer from mental illness, a developmental disability, a cognitive disability, and/or substance use disorder. The Legislature further finds that there is a need to develop functional standards and protocols for the identification, management, qualified assessment, and treatment of adult and juvenile forensic patients.

(b) The Chairman of the Dangerousness Assessment Advisory Board (DAAB) shall convene a multi-disciplinary study group of the following persons:

(1) The Statewide Forensic Clinical Director;

(2) The Statewide Forensic Coordinator;

(3) The two forensic psychiatrists who are members of the board;

(4) The two psychologists who are members of the board;

(5) The Director of the Office of Drug Control Policy;

(6) A designee of the Supreme Court of Appeals;

(7) A designee of the Bureau of Children and Families with experience in juvenile forensic matters;

(8) A designee of the Division of Corrections and Rehabilitation;

(9) A designee of the Division of Rehabilitation Services;

(10) A designee of the Prosecuting Attorneys Institute;

(11) A designee of the Public Defender Services;

(12) A designee of the West Virginia Behavioral Healthcare Providers Association who is a licensed clinician with forensic patient experience;

(13) A designee of the West Virginia Hospital Association;

(14) A designee of the West Virginia Housing Development Fund;

(15) A designee of Disability Rights of West Virginia;

(16) A designee of the West Virginia Sheriff's Association;

(17) A designee of the Juvenile Justice Commission; and

(18) A designee of the West Virginia University Center for Excellence in Disabilities.

(c) The purpose of the multi-disciplinary study group is to provide opinion, guidance, and informed objective expertise to the Legislature regarding each of the following areas:

(1) The development and implementation of a Sequential Intercept Model to divert adults and juveniles with mental illness, developmental disabilities, cognitive disabilities, and/or substance use disorders away from the criminal justice system and into community-based treatment or other settings where appropriate;

(2) The review and recommendation of standards and protocols for the evaluation, treatment, management, and stabilization of adult and juvenile forensic patients;

(3) A recommendation regarding standards and protocols to promote continuity of care and interventions for adult and juvenile forensic patients and inmates released from correctional facilities;

(4) The recommendation of a model to coordinate services and interventions among the Department of Health and Human Resources, the Division of Corrections and Rehabilitation, the Division of Rehabilitation Services, behavioral healthcare providers, law enforcement, and the court system to facilitate the appropriate diversion, identification, evaluation, assessment, management, and placement of adults and juveniles who suffer from mental illness, a development disability, a cognitive disability, and/or substance use disorder to ensure public safety and the effective clinical management of such persons;

(5) The identification of potential funding sources and the scope of resources needed for the implementation of the study group's recommendations; and

(6) Any other issues related to addressing the Legislature's findings.

(d) The provisions of §6-9A-1 et seq. and §29B-1-1 et seq. of this code are inapplicable to the operation of the study group.

(e) The written recommendations of the study group shall be submitted to the President of the Senate and the Speaker of the House of Delegates on or before November 30, 2023.

(f) Each member of the multi-disciplinary study group whose regular salary is not paid by the State of West Virginia shall be paid the same compensation and expense reimbursement that is paid to members of the Legislature for their interim duties as recommended by the Citizens Legislative Compensation Commission and authorized by law for each day or portion thereof engaged in the discharge of official duties. Reimbursement for expenses shall not be made, except upon an itemized account, properly certified by the members of the study group. All reimbursement for expenses shall be paid out of the State Treasury upon a requisition upon the State Auditor."

The bill was then ordered to third reading.

S. B. 240, Requiring state board of examination or registration proceedings to be open to public inspection; on second reading, coming up in regular order, was read a second time

An amendment was recommended by the Committee on Government Organization, and adopted, on page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

"ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-12. Record of proceedings; register of applicants; certified copies of records prima facie evidence; report to Governor and Legislature; public access.

(a) The secretary of every board shall keep a record of its proceedings and a register of all applicants for license or registration, showing for each the date of his or her application, his or her name, age, educational and other qualifications, ~~place of residence~~ mailing address, whether an examination was required, whether the applicant was rejected or a certificate of license or registration granted, the date of this action, the license or registration number, all renewals of the license or registration, if required, and any suspension or revocation thereof. ~~The books and register of the board shall be open to public inspection at all reasonable times, and the~~ The books and register, or a copy of any part thereof, certified by the secretary and attested by the seal of the board, shall be prima facie evidence of all matters recorded therein.

(b) The record of the board's proceedings shall be open to public inspection at all reasonable times and copies provided upon oral or written request after payment of a reasonable fee, as determined by the board in accordance with the provisions of §29B-1-3 of this code.

(c) The register of applicants shall be made available upon written request on a form prescribed by the board. The form shall require the requester to provide at least the following information:

(1) Legal identity;

(2) Purpose for which the register is sought;

(3) A telephone number where the requester may be contacted by the board; and

(4) Whether copies of the register are requested.

If requested, copies of the register shall be provided after payment of a reasonable fee, as determined by the board in accordance with the provisions of §29B-1-3 of this code.

The board may deny a request that the register, or copies thereof, be made available or provided if it determines, in its discretion, that the request is made for an improper purpose.

~~(b)~~ (d) On or before January 1 of each year in which the Legislature meets in regular session, the board shall submit to the Governor and to the Legislature a report of its activities for the preceding two years, containing the following information for that period:

(1) The total receipts and disbursements for each year;

(2) A list of amounts received in each year for the following categories of receipts:

(A) License applications, registrations, and renewals;

(B) Examination fees, if applicable;

(C) Other fees, including late fees, copying charges, and fees for printed certificates;

(D) Fines or penalties;

(E) Expense reimbursements from disciplinary actions; and

(F) Grants, special appropriations, or other sources of revenue not from fees;

(3) A list of amounts spent in each year for the following categories of expenditures:

(A) Personal services;

(B) Board member per diem compensation;

(C) Travel expenses and automobile mileage;

(D) Professional contracts;

(E) Rent;

(F) Office supplies;

(G) Postage;

(H) Entertainment and hosting;

(I) Insurance; and

(J) Bank costs;

(4) A complete list of the names of all persons newly licensed or registered;

(5) A table or list showing numbers of licensees or registrants by West Virginia county of practice or, for out-of-state licensees or registrants, by state of residence, and by specialty, if appropriate to the particular profession;

(6) Complaints filed and investigations opened by the board, with a brief classification of the nature of the complaint, together with the dates of compliance with the time requirements of §30-1-5(c) of this code, and the disposition, if any;

(7) In addition to complaints reported under the preceding ~~subsection~~ subdivision, complaints resolved and investigations closed by the board, with a brief classification of the nature of the complaint, together with the dates of compliance with the time requirements of §30-1-5(c) of this code, and the disposition, if any; and

(8) Copies of the agendas for, and minutes of, board and committee or subcommittee meetings.

The report shall be certified by the president and the secretary of the board, and a copy of the report shall be filed with the Secretary of State and with the legislative librarian.

~~(e)~~ (e) To promote public access, the secretary of every board shall ensure that the address and telephone number of the board are included every year in the state government listings of the Charleston area telephone directory. Every board shall ~~regularly evaluate the feasibility of adopting additional methods of providing public access, including, but not limited to, listings in additional telephone directories, toll-free telephone numbers, facsimile and computer-based communications~~ maintain a website that provides at least the following information:

(1) Name of each board member;

(2) Names of all board staff;

(3) Contact information for each staff member, including office telephone number, office location, and office mailing address;

(4) A secure electronic means of contacting each staff member;

(5) The roster of licensed or registered practitioners;

(6) Copies of approved meeting minutes for meeting held during the preceding year;

(7) A schedule of regular meeting days for each calendar year; and

(8) Notice of each upcoming board meeting.

§30-1-12a. Prohibition against disclosure of personally identifiable information; exceptions.

(a) Definitions. —

'Personally identifiable information' or 'PII' means any information that identifies, or can be used to identify, locate, contact, or impersonate a particular individual.

'Sensitive PII' means those elements of PII that must receive heightened protection due to legal or policy requirements, including, but not limited to:

(1) Social Security numbers;

(2) Credit card numbers;

(3) Health and medical data;

(4) Driver's License numbers; and

(5) Individual financial account numbers.

(b) A board may not disclose sensitive PII of applicants, licensees, registrants, or other individuals except as necessary to comply with West Virginia or federal law, court order, or subpoena.

(c) Nothing in this section or section 12 of this article shall prohibit a board from providing information related to the qualifications and practice of licensees and registrants on the board's website, including but not limited to educational and training qualifications, specialties, and practice addresses.

§30-1-13. Roster of licensed or registered practitioners.

The secretary of every board shall prepare and maintain a complete roster of the names and office addresses of all persons licensed, or registered, and practicing in this state the profession or occupation to which such board relates, arranged alphabetically by name. ~~and also by the cities~~

~~or counties in which their offices are situated.~~ Each board shall make the roster available upon request to any member of the public and shall also place and maintain the roster on its website.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 247, Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 258, Eliminating ceiling on fair market value of consumer goods and permitting dealer to require security deposit; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 271, Modifying approval process requirements for First Responders Honor Board; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 298, Relating to non-federally declared emergencies and non-states of emergency; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 302, Relating to Law Enforcement Safety Act; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 361, Authorizing miscellaneous boards and agencies to promulgate legislative rules; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 9. AUTHORIZATION FOR DEPARTMENT OF MISCELLANEOUS AGENCIES AND BOARDS TO PROMULGATE LEGISLATIVE RULES.

§64-9-1. Board of Accountancy.

The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-9-5 of this code, relating to the Board of Accountancy (board rules of professional conduct, 1 CSR 01), is authorized.

§64-9-2. Board of Acupuncture.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-36-14(f) of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (advertising by licensed acupuncturists, 32 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (standards of practice of acupuncture by licensed acupuncturists, 32 CSR 06), is authorized with the amendment set forth below:

On page 3, by inserting a new section, designated section 6.3. to read as follows:

6.3. Hand washing – The acupuncturist shall vigorously scrub his or her hands with soap and warm water immediately before examining patients or handling acupuncture needles and other instruments and between patients.

(c) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-36-7 of this code, modified by the Board of Acupuncture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Acupuncture (continuing education requirements, 32 CSR 09), is authorized.

§64-9-3. Department of Agriculture.

(a) The legislative rule filed in the State Register on July 18, 2022, authorized under the authority of §19-13-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 3, 2022, relating to the Department of Agriculture (West Virginia apiary rule, 61 CSR 02), is authorized with the amendment set forth below:

On page 2, by striking out all of section 3.1. and inserting in lieu thereof a new section 3.1. to read as follows:

3.1. The Commissioner shall furnish an application for registration of bees to all person known to keep bees. The Commissioner shall mail the applications during the month of June to all persons who have registered their bees during the previous year. Upon receipt of a properly executed bee registration application, the Commissioner shall issue a certificate of registration which will be based upon the information provided on the application.

(b) The legislative rule filed in the State Register on May 12, 2022, authorized under the authority of §19-2-10 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (schedule of charges for inspection services: fruit, 61 CSR 08B), is authorized.

(c) The legislative rule filed in the State Register on June 14, 2022, authorized under the authority of §19-12D-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (noxious weeds rule, 61 CSR 14A), is authorized.

(d) The legislative rule filed in the State Register on July 21, 2022, authorized under the authority of §19-11E-8(1) of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on

September 22, 2022, relating to the Department of Agriculture (Grade "A" pasteurized milk, 61 CSR 15), is authorized.

(e) The legislative rule filed in the State Register on November 15, 2021, authorized under the authority of §19-29-4 of this code, modified by the Agriculture Commissioner to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 26, 2022, relating to the Agriculture Commissioner (inspection of nontraditional, domesticated animals, 61 CSR 23D), is authorized.

(f) The legislative rule filed in the State Register on July 28, 2022, authorized under the authority of §19-12E-7 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (hemp products, 61 CSR 30), is authorized.

(g) The legislative rule filed in the State Register on June 2, 2022, authorized under the authority of §19-1C-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (livestock care standards, 61 CSR 31), is authorized.

(h) The legislative rule filed in the State Register on May 18, 2022, authorized under the authority of §11-13DD-5(b) of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (farm to food bank tax credit, 61 CSR 36), is authorized with the amendments set forth below:

On page 3, after "5.2.c." by inserting the following: "No more than \$200,000 of tax credits may be allocated to the Department of Agriculture in any fiscal year."

And,

On page 4, by striking out section 5.3 and inserting in lieu thereof a new section 5.3. to read as follows:

5.3. After review of the receipt form and any supporting documentation, and after ensuring that the limit of \$200,000 of tax credits per fiscal year has not been exceeded, the Department of Agriculture shall determine the amount, if any, of the tax credit due to the farming taxpayer. The amount of the credit is equal to 30 percent of the value of the donated edible agricultural products, but not to exceed \$5,000 during a taxable year.

(i) The legislative rule filed in the State Register on June 24, 2022, authorized under the authority of §19-35-4 of this code, modified by the Department of Agriculture to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Department of Agriculture (farmers markets, 61 CSR 38), is authorized with the amendment set forth below:

On page 6, by striking out subdivision 6.2.h. and inserting in lieu thereof a new subdivision 6.2.h. to read as follows:

6.2.h. Any potentially hazardous freeze-dried foods.

§64-9-4. Athletic Commission.

(a) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §29-5A-24 of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 20, 2022, relating to the Athletic Commission (administrative rules of the West Virginia State Athletic Commission, 177 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §29-5A-3a of this code, modified by the Athletic Commission to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 20, 2022, relating to the Athletic Commission (regulation of mixed martial arts, 177 CSR 02), is authorized.

§64-9-5. State Auditor.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §12-3-13b of this code, relating to the State Auditor (standards for voluntary payroll deductions, 155 CSR 03), is authorized.

§64-9-6. Conservation Agency.

(a) The legislative rule filed in the State Register on July 12, 2022, authorized under the authority of §19-21A-4a of this code, modified by the Conservation Agency to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2022, relating to the Conservation Agency (operation of West Virginia State Conservation Committee and conservation districts, 63 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 12, 2022, authorized under the authority of §19-21A-4 of this code, modified by the Conservation Agency to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 20, 2022, relating to the Conservation Agency (conservation district accounting and auditing standards, 63 CSR 04), is authorized.

§64-9-7. Board of Dentistry.

The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §30-4-6 of this code, modified by the Board of Dentistry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Dentistry (dental recovery networks, 5 CSR 15), is authorized.

§64-9-8. Board of Funeral Service Examiners.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (funeral director, embalmer, apprentice, courtesy card holders and funeral establishment requirements, 6 CSR 01), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (crematory requirements, 6 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-6-6 of this code, modified by the Board of Funeral Service Examiners to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 4, 2022, relating to the Board of Funeral Service Examiners (fee schedule, 6 CSR 07), is authorized.

§64-9-9. Board of Landscape Architects.

The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-22-7 of this code, modified by the Board of Landscape Architects to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 22, 2022, relating to the Board of Landscape Architects (registration of landscape architects, 9 CSR 01), is authorized.

§64-9-10. Board of Medicine.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-3-7(a) of this code, relating to the Board of Medicine (licensing of physicians and podiatric physicians and disciplinary procedures for applicants, licensees, credential holders, 11 CSR 01A), is authorized.

(b) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-3E-3 of this code, relating to the Board of Medicine (licensure, practice requirements, disciplinary and complaint procedures, continuing education, physician assistants, 11 CSR 01B), is authorized.

(c) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7(c) of this code, relating to the Board of Medicine (collaborative pharmacy practice, 11 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 28, 2022, authorized under the authority of §30-3-14 of this code, relating to the Board of Medicine (prohibiting sexual misconduct by health care practitioners, 11 CSR 16), is authorized with the amendment set forth below:

On page 5, subdivision 9.1.2., after the period, by striking proviso in its entirety.

§64-9-11. Board of Optometry.

The legislative rule filed in the State Register on July 30, 2022, authorized under the authority of §30-1-26 of this code, modified by the Board of Optometry to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 28, 2022, relating to the Board of Optometry (optometric telehealth practice, 14 CSR 12), is authorized with amendment set forth below:

On page 4, by striking out all of section 5.1. and inserting in lieu thereof a new section 5.1. to read as follows:

5.1. Nothing in this section shall be construed to invalidate §30-8A-3 or to permit use of any automated refractor or other automated or remote testing device to generate refractive data.

§64-9-12. Board of Osteopathic Medicine.

The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-3E-3 of this code, relating to the Board of Osteopathic Medicine (osteopathic physician assistants, 24 CSR 02), is authorized.

§64-9-13. Board of Pharmacy.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (licensure and practice of pharmacy, 15 CSR 01), is authorized with the amendments set forth below:

On page 10, subsection 4.3, after the word “to” by inserting the words “six”;

And,

On page 40, by striking out the entirety of subdivision 24.1.b. and inserting in lieu there of a new subdivision 24.1.b. to read as follows:

24.1.b. for drug regimen review of prescription orders for a patient in an institutional facility, for the pharmacist to authorize the dispensing and administration, provided the pharmacist is licensed to practice pharmacist care in West Virginia.

(b) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §60A-3-301 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (Uniform Controlled Substance Act, 15 CSR 02), is authorized.

(c) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (registration of pharmacy technicians, 15 CSR 07), is authorized.

(d) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (pharmacy permits, 15 CSR 15), is authorized.

(e) The legislative rule filed in the State Register on April 4, 2022, authorized under the authority of §30-5-7 of this code, modified by the Board of Pharmacy to meet the objections of the

Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (inspections, 15 CSR 19), is authorized.

(f) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §60B-1-8 of this code, modified by the Board of Pharmacy to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on October 17, 2022, relating to the Board of Pharmacy (Donated Drug Repository Program, 15 CSR 20), is authorized.

§64-9-14. Psychologists.

The legislative rule filed in the State Register on September 7, 2022, authorized under the authority of §30-21-6 of this code, relating to the Board of Examiners of Psychologists (code of conduct, 17 CSR 06), is authorized.

§64-9-15. Board of Registered Professional Nurses.

(a) The legislative rule filed in the State Register on July 27, 2022, authorized under the authority of §30-7-4 of this code, relating to the Board of Registered Professional Nurses (requirements for registration and licensure and conduct constituting professional misconduct, 19 CSR 03), is authorized.

(b) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (advanced practice registered nurse licensure requirements, 19 CSR 07), is authorized with the amendment set forth below:

On page 7, by inserting a new subsection 10.2., to read as follows:

10.2. In case of national recertification, any licensure suspension shall immediately be removed, and no further discipline may occur, if information is provided indicating that recertification has not lapsed.

(c) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-15a of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (limited prescriptive authority for nurses in advanced practice, 19 CSR 08), is authorized.

(d) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (continuing education and competence, 19 CSR 11), is authorized.

(e) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-7-4 of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register

on November 10, 2022, relating to the Board of Registered Professional Nurses (fees for services rendered by the board, 19 CSR 12), is authorized with the amendments set forth below:

On page 1, subsection 2.4., by striking out the number “30.00” and inserting in lieu thereof the number “20.00”;

On page 2, subsection 2.8., by striking out the number “35.00” and inserting in lieu thereof the number “25.00”;

And,

On page 2, by striking out subsection 2.20. and renumbering the remaining subsections.

(f) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §60A-9-5a of this code, modified by the Board of Registered Professional Nurses to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Board of Registered Professional Nurses (practitioner requirements for accessing the West Virginia Controlled Substance Monitoring Program database, 19 CSR 14), is authorized.

(g) The legislative rule filed in the State Register on July 26, 2022, authorized under the authority of §30-1-26 of this code, relating to the Board of Registered Professional Nurses (telehealth practice; requirements; definitions, 19 CSR 16), is authorized.

§64-9-16. Secretary of State.

(a) The legislative rule filed in the State Register on August 1, 2022, authorized under the authority of §3-3-2a of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Secretary of State (early voting in-person satellite precincts, 153 CSR 13), is authorized.

(b) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §3-1A-6 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Secretary of State (Combined Voter Registration and Driver Licensing Fund, 153 CSR 25), is authorized.

(c) The legislative rule filed in the State Register on August 1, 2022, authorized under the authority of §3-1A-9 of this code, modified by the Secretary of State to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on November 10, 2022, relating to the Secretary of State (administrative procedures for the Nonpublic Funding for Election Administration Fund, 153 CSR 54), is authorized.

§64-9-17. State Treasurer.

(a) The legislative rule filed in the State Register on July 29, 2022, authorized under the authority of §36-8-28 of this code, modified by the State Treasurer to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 15, 2022, relating to the State Treasurer (enforcement of the Uniform Unclaimed Property Act, 112 CSR 05), is authorized.

(b) The legislative rule filed in the State Register on April 21, 2022, authorized under the authority of §18-31-9 of this code, modified by the Treasurer's Office to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on January 25, 2023, relating to the Treasurer's Office (Hope Scholarship Program, 112 CSR 18), is authorized.

(c) The legislative rule filed in the State Register on July 22, 2022, authorized under the authority of §18-30A-16 of this code, modified by the State Treasurer to meet the objections of the Legislative Rule-Making Review Committee and refiled in the State Register on September 15, 2022, relating to the State Treasurer (Jumpstart Savings Program, 112 CSR 20), is authorized.

Whereupon,

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

Com. Sub. for S. B. 409, Authorizing Department of Commerce 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. 422, Requiring public schools to publish curriculum online at beginning of each new school year; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Education, on page 1, after the enacting clause, by striking out the rest of the committee substitute and inserting, in lieu thereof, the following:

“ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-27. Requirement to publish curriculum online; Parental ~~parental~~ right to inspect instructional materials; listing books on syllabus; right to file complaint.

(a) Each public school shall ensure that the adopted, up-to-date, county-adopted class curriculum is posted on the school's internet website at the beginning of each school year or no later than 30 business days after new or revised curriculum is adopted: *Provided*, That only students, parents, or guardians of the students shall be provided the login information to gain access to the online curriculum.

(1) For purposes of this section, class curriculum shall include curriculum created pursuant to §18-5A-6 of this code.

(2) The county board of education may provide access, or authorize access, to the county-adopted class curriculum.

(3) If the public school has no accessible website, the information shall be posted on the website of the appropriate county board of education, or website authorized by the state board of education.

~~(a)~~ (b) Each classroom teacher shall comply with the request of any parent, custodian, or guardian to inspect additional instructional materials adopted by the county board pursuant to

§18-2A-10 of this code, supplementary instructional materials that were not adopted by the county board pursuant to §18-2A-10 of this code, and books in the classroom that are available for students to read, subject to the following:

(1) Only the parent, custodian, or guardian of a child enrolled in the class may make a request pursuant to this subsection;

(2) The classroom teacher may require that the parent, custodian, or guardian schedule an appointment in order to inspect the instructional materials. If the classroom teacher requires an appointment pursuant to this subdivision, the teacher shall schedule the appointment within 10 business days of the request of the parent, custodian, or guardian; and

(3) As part of the inspection and upon request of the parent, custodian, or guardian, the classroom teacher shall demonstrate how the instructional material relates to the content standards adopted by the state board.

~~(b)~~ (c) For any class in which reading a book or books will be required, the classroom teacher shall include the book or books on a class syllabus. The classroom teacher shall make the syllabus available to any parent, custodian, or guardian of a child enrolled in the class upon request.

~~(e)~~ (d) Any parent, custodian, or guardian may file a complaint with the county superintendent, on a form developed and provided by the county superintendent, if the classroom teacher fails to comply with any provision of this section. If the complaint is not resolved by the county superintendent within seven business days, the parent, custodian, or guardian may file a complaint with the State Superintendent or his or her designee. The State Superintendent shall make a form available for parents to file a complaint pursuant to this subsection.

~~(d)~~ (e) By September 1 of each year, each county superintendent shall report to the State Superintendent the number of complaints filed with him or her the previous school year. The State Superintendent, annually by October 1, shall report to the Legislative Oversight Commission on Education Accountability the number of complaints filed during the previous school year. The report shall include the number of complaints filed statewide and by county.

~~(e)~~ (f) For purposes of this section, "parent" means a parent who has some allocation of physical custody of the child or who has some share of joint decision-making authority for the child. For purposes of this section, "custodian" means a person who has some allocation of physical custody of the child or who has provided to the school written permission of a parent to have access to the information contemplated by this section. For purposes of this section, "guardian" means a person other than a parent or custodian who, pursuant to a court order, acts in loco parentis for the child."

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. 616**), and there were— yeas 70, nays 20, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Dillon, Dittman, Ferrell, Fluharty, Foggin, Garcia, Griffith, Hansen, Hornbuckle, Kirby, E. Pritt, Pushkin, Reynolds, Rowe, Shamblin, Skaff, Storch, Vance, Walker and Williams.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, Pinson, Ross, Steele, Ward and Young.

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 426, Banning use of certain products and platforms deemed unsafe or high risk on government systems; 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 6B. CYBER SECURITY PROGRAM.

§5A-6B-4a. High-risk platforms, services, applications, programs, and products.

(a) The Legislature hereby finds and declares that it is in the best interest of the citizens of West Virginia and to national security to enact measures designed to safeguard against untrustworthy and high-risk technology and to block such technology from interfering with or damaging critical state networks and infrastructure, including election systems. The use of certain information and communication technologies and services can create opportunities for hostile actors to exploit vulnerabilities and take adverse action against the United States or allies, which could directly or indirectly affect the safety and security of West Virginia citizens, and such use also creates opportunities for adversaries to exploit vulnerabilities and take adverse action against state or local government networks and infrastructure within or connected to West Virginia. As the threat landscape evolves, West Virginia shall work in cooperation with the federal government to implement appropriate safeguards to defend government networks in West Virginia and in the United States from foreign technology threats.

(b) Notwithstanding the provision of §5A-6B-1(b) of this code, all state agencies, including without limitation agencies within the executive branch, all constitutional officers, local government entities as defined by §7-1-1 or §8-1-2 of this code, county boards of education as defined by §18-1-1 of this code, and all state institutions of higher education as defined by §18B-1-2 of this code, shall enforce statewide standards developed by the Chief Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products. Additionally, all government entities subject to this subsection must, consistent with those standards and any other applicable state or federal law, restrict, remove, ban or otherwise block access to high-risk technology platforms, services, applications, programs, or products on all government systems, services, networks, devices, or locations. For purposes of this subsection, high-risk technology platforms, services, applications, programs, or products are those designated as such in the Statewide Cybersecurity Standard published and maintained by the Chief Information Security Officer: *Provided*, That any standards developed by the Chief Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products shall contain exceptions permitting, in appropriate circumstances, the use of those platforms, services, applications, programs, or products for law enforcement activities, national security interests and activities, security research, investigative efforts authorized by this code, and for other purposes related to actual or potential litigation involving the state or one of its agencies or officers: *Provided, however*, that the Chief Information Security Officer shall

develop standards and requirements designed to mitigate the risk of any such authorized use of a high-risk platform, service, application, program, or product pursuant to the exceptions set forth in this section: *Provided, further* that law enforcement agencies of the state are hereby exempt from the provisions of this section if such use of high-risk technology platforms, services, applications, programs, or products is necessary in the performance of their duties.

(c) Agencies within the legislative and judicial branches are recommended to consult these statewide standards developed by the Chief Information Security Officer regarding high-risk technology platforms, services, applications, programs, or products as part of their best management practices.

(d) The Secretary of the Department of Administration may propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code and may also promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code when necessary to facilitate

(1) completion of the duties imposed on the Chief Information Security Officer by this section, and

(2) enforcement of the standards referenced in this section.

(e) The Chief Information Security Officer will provide an annual report by June 1 of each year on threats posed by untrustworthy and high-risk platforms, services, applications, programs, or products, and the actions required to mitigate those threats to the Joint Interim Committee on Government Operations.

The bill was then ordered to third reading.

S. B. 443, Directing payment of estate administration fee to State Auditor; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 444, Transferring moneys in WV Future Fund to General Revenue Fund; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 446, Removing methanol and methanol fuel from definition of special fuel; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 461, Relating to WV public employees grievance procedure; 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 4, section 2, lines 52-53 by striking the entirety of lines 52 and 53 and renumbering thereafter;

And,

On page 5, section 3, line 2 by striking “notarize”; and, on page 5, section 3, line 4 by striking “and notarized”; and, on page 5, section 3, line 7 by striking “and notarize”;

And,

On page 15, section 6, line 7 by inserting,

“Provided, That the provisions of this subsection shall only allow the discretionary recovery of court costs and reasonable attorney’s fees from a grievant if he or she has not substantially prevailed at any level of the grievance process or in any appeal to the Intermediate Court of Appeals or the Supreme Court of Appeals of West Virginia.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 469, Providing funding for CPR instruction to high school students; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 495, Providing correctional institutions and juvenile facilities video and audio records be confidential; 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 in inserting in lieu thereof the following:

“ARTICLE 4. CORRECTIONS MANAGEMENT.

§15A-4-8a. Facility video and security records confidential; exceptions.

~~(a) The contents of any correctional or juvenile facility video, incident report, or investigation report related to the safe and secure management of inmates and residents may be disclosed or released to the commissioner’s agents, representatives, and designees, but such records are otherwise confidential and not subject to public disclosure or release except as set forth in this section.~~

~~(b) Notwithstanding any provision of this code to the contrary, the contents of any correctional or juvenile facility video, incident report, or investigation report related to the safe and secure management of inmates and residents may be disclosed or released to an appropriate law-enforcement agency, when disclosure or release is necessary for the investigation, prevention, or prosecution of a crime or to safeguard the orderly operation of the correctional institution: *Provided*, That, with respect to records relating to juvenile residents, the law-enforcement agency in receipt of any such records shall treat the records as confidential pursuant to the provisions set forth in §49-5-101(a) of this code.~~

~~(c) Disclosure or release may also be made in civil or administrative proceedings pursuant to an order of a court or an administrative tribunal with the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed or released records: *Provided*, That the disclosure or release of records from a juvenile facility required for an employee grievance shall be made strictly in accordance with the provisions of §49-5-101 of this code.~~

~~(d) The commissioner may authorize an attorney, licensed before the bar of this state and who is representing a person with a potential claim for personal injury or a violation of the United States Constitution or West Virginia Constitution allegedly caused by the division, to view facility video, incident reports, or investigation reports related to the safe and secure management of inmates and residents for purposes of determining the validity of a claim against the division, but such video, incident reports, or investigation reports related to the safe and secure management of inmates and residents shall not be released to the licensed attorney prior to institution of a suit or petition for pre-suit discovery in the appropriate forum and after the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed records.~~

~~(e) The confidentiality provisions of this section shall extend to any person receiving such records and may not be used for any unauthorized purpose except upon order of a court of record~~

(a) The contents of all records necessary for the safe and secure management of inmates and residents committed to state correctional and juvenile facilities are confidential and may only be disclosed or released:

(1) Pursuant to this section;

(2) As required by the provisions of §29B-1-1 et seq. of this code;

(3) In accordance with the discovery provisions of the West Virginia Rules of Civil Procedure or the West Virginia Rules of Criminal Procedure; or

(4) In accordance with the provisions of §49-5-101 of this code.

(b) As used in this section, "records necessary for the safe and secure management of inmates and residents" means:

(1) Video and audio recordings produced in a correctional or juvenile facility;

(2) Incident reports and attachments thereto;

(3) Investigation reports and any attachments thereto, including, but not limited to, witness statements; and

(4) Any document or recording generated within a facility containing information which would reasonably place the safety of an employee, inmate, or resident in jeopardy.

(c) Records protected pursuant to the provisions of this section may be disclosed:

(1) To the Secretary of the Department of Homeland Security, his or her designees, and the commissioner or his or her designees for official use;

(2) To law enforcement when release is determined by the commissioner or his or her designees to be necessary for the investigation, prevention, or prosecution of a crime or crimes;

(3) To the Juvenile Justice Commission and its designees acting in the course of their official duties; and

(4) Pursuant to a lawful order of a court of record or an administrative tribunal for use in a civil, criminal, or administrative matter: *Provided*, That the order shall contain a provision limiting disclosure or publication of the records to purposes necessary to the proceeding and prohibiting its unauthorized use and reproduction.

(5) The commissioner shall authorize an attorney, licensed to practice law in this state and who is representing a person with a potential claim for personal injury or a violation of the United States Constitution or West Virginia Constitution allegedly caused by the division, to view facility video, incident reports, or investigation reports related to the safe and secure management of inmates and residents for purposes of determining the validity of a claim against the division: *Provided*, That such video, incident reports, or investigation reports related to the safe and secure management of inmates and residents shall not be released to the licensed attorney prior to

institution of a suit or petition for pre-suit discovery in the appropriate forum and after the entry of an appropriate protective order prohibiting the misuse and reproduction of disclosed records.

(d) The commissioner shall authorize an attorney, licensed to practice in this state and who is representing a person related by consanguinity or affinity to an inmate or resident who has suffered an alleged injury or death while in the custody of the division to view facility video, incident reports, or investigation reports related to the safe and secure management of inmates and residents under the conditions set forth in subdivision (5), subsection (c) of this section.

(e) The confidentiality provisions of this section extend to any person receiving such records and may not be used for any unauthorized purpose except upon order of a court of record or administrative tribunal.”

The bill was then ordered to third reading.

S. B. 508, Clarifying reporting and disclosure requirements for grassroots lobbying expenditures; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 516, Relating to requirements for disclosure of donor contributions; on second reading, coming up in regular order, was read a second time.

Delegates Hansen, Fluharty, and Garcia move to amend the bill on page 11, section 2, line 21, after the word “date”, by striking out the remainder of the sentence on lines 21 and 22 and inserting in lieu thereof a semi-colon and the following proviso:

“*Provided*, That any contribution placed into a separate segregated account that is not used for campaign-related expenditures, any money received in the ordinary course of any trade or business, or any contribution that is explicitly made for a nonpolitical purpose is not required to be reported.”

And,

On page 15, section 2b, line 25, after the word “date” by striking out the remainder of the sentence on lines 25 through 27 and inserting in lieu thereof a semi-colon and the following:

“*Provided*, That any contribution placed into a separate segregated account that is not used for campaign-related expenditures, any money received in the ordinary course of any trade or business, or any contribution that is explicitly made for a nonpolitical purpose is not required to be reported.”

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. 617**), and there were—yeas 12, nays 79, absent and not voting 9, with the yeas and the absent and not voting being as follows:

Yeas: Fluharty, Garcia, Griffith, Hansen, Hornbuckle, Kirby, Longanacre, E. Pritt, Pushkin, Skaff, Walker and Williams.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, Ross, Rowe, Ward and Young.

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 522, Allocating percentage of county excise taxes for funding improvements to election administration; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page 1, following the enacting clause, by striking the remainder of the bill and inserting in lieu thereof the following:

“ARTICLE 22. EXCISE TAX ON PRIVILEGE OF TRANSFERRING REAL PROPERTY.

§11-22-2. Rate of tax; when and by whom payable; additional county tax; county clerk funding for election administration, infrastructure, and security, and other county clerk purposes.

(a) Every person who delivers, accepts, or presents for recording any document, or in whose behalf any document is delivered, accepted, or presented for recording, is subject to pay for, and in respect to the transaction or any part thereof, ~~a state an~~ excise tax upon the privilege of transferring title to real estate at the rate of \$1.10 for each \$500 value or fraction thereof as represented by the document as defined in §11-22-1 of this code: *Provided*, That beginning July 1, 2021, ten percent of each ~~state~~ excise tax collected pursuant to the provisions of this subsection shall be retained by the county wherein the tax was collected to be used for county purposes: *Provided, however*, That beginning July 1, ~~in every year thereafter, an additional 10 percent of each state excise tax collected pursuant to this subsection shall be retained by the county wherein the tax was collected to be used for county purposes~~ 2022, twenty percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used for county purposes: *Provided, further*, That beginning July 1, 2023, thirty percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used as provided in subsection (c) of this section: *And provided further*, That beginning July 1, 2024, sixty-five percent of each excise tax collected pursuant to the provisions of this section shall be retained by the county wherein the tax was collected to be used as provided in subsection (c) of this section: *Provided And provided, further*, That beginning July 1, ~~2030~~ 2025, the excise tax collected pursuant to this subsection shall be a county excise tax retained by the county wherein the tax was collected and to be used by the county ~~wherein it is collected as provided in subsection (c) of this section~~ for county purposes. The ~~state~~ excise tax collected pursuant to this subsection is payable at the time of delivery, acceptance, or presenting for recording of the document. In addition to the ~~state~~ excise tax described in this subsection, there is assessed a fee of \$20 upon the privilege of transferring real estate for consideration. The clerk of the county commission shall collect the additional \$20 fee before recording a transfer of title to real estate and shall deposit the moneys from the additional fees into the Affordable Housing Fund as provided in §31-18-20d of this code. The moneys collected from this additional fee shall be segregated from other funds of the West Virginia Housing Development Fund and shall be accounted for separately. None of these moneys may be expended by the West Virginia Housing Development Fund to defray administrative and

operating costs and expenses actually incurred by the West Virginia Housing Development Fund. The West Virginia Housing Development Fund shall publish monthly on ~~the~~ its Internet site an accounting of all revenue deposited into the fund during the month and a full disclosure of all expenditures from the fund including ~~the group~~ any person or entity receiving funds, ~~their~~ its location, and any contractor awarded ~~the~~ a construction contract.

(b) Effective January 1, 1968, and thereafter, there is imposed an additional county excise tax for the privilege of transferring title to real estate at the rate of 55 cents for each \$500 value or fraction thereof as represented by such document as defined in §11-22-1 of this code, which county tax shall be payable at the time of delivery, acceptance, or presenting for recording of such document: *Provided*, That after July 1, 1989, the county may increase said excise tax to an amount equal to the state excise tax. The additional tax hereby imposed is declared to be a county tax and to be used for county purposes: *Provided, however*, That after July 1, 2017, the county may increase the excise tax to an amount not to exceed \$1.65 for each \$500 value, or fraction thereof, as represented by a document, as defined in §11-22-1 of this code: *Provided further*, That only one such state tax and one such county tax shall be paid on any one document and shall be collected in the county where the document is first admitted to record and the tax shall be paid by the grantor therein unless the grantee accepts the document without such tax having been paid, in which event such tax shall be paid by the grantee: *And provided further*, That on any transfer of real property from a trustee or a county clerk transferring real estate sold for taxes, such tax shall be paid by the grantee. The county excise tax imposed under this section may not be increased in any county unless the increase is approved by a majority vote of the members of the county commission of such county. Any county commission intending to increase the excise tax imposed in its county shall publish a notice of its intention to increase such tax not less than 30 days nor more than 60 days prior to the meeting at which such increase will be considered, such notice to be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area shall be the county in which such county commission is located.

(c)(1) Beginning July 1, 2023, and ending June 30, 2024, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Twenty percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Five percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Five percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 *et seq.* of this code.

(2) Beginning July 1, 2024, and ending June 30, 2025, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Thirty percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Seventeen and one-half percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Seventeen and one-half percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 et seq. of this code.

(3) Beginning July 1, 2025, the excise tax retained by the county wherein the tax was collected, pursuant to subsection (a) of this section, shall be used by the county and deposited as follows:

(A) Ninety percent of the moneys received shall be deposited into the county general fund to be used for county purposes;

(B) Five percent of the moneys received shall be deposited into a separate account and allocated for use by the clerk of the county commission in improving election administration, infrastructure, and security, in accordance with the standards established by the Secretary of State as provided in subdivision (4) of this subsection; and

(C) Five percent of the moneys received shall be deposited into a separate account for use by the clerk of the county commission for other purposes including, but not limited to, establishing, maintaining, and securing infrastructure to comply with the Uniform Real Property Electronic Recording Act, §39A-4-1 et seq. of this code.

(4) The Secretary of State propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code to establish minimum standards for election administration, infrastructure, and security, which rules shall include, but not be limited to, standards regarding cyber and physical security, and a minimum reserve funding requirement for each county from funds transferred to the separate fund required by this subsection for election administration, infrastructure, and security: *Provided*, That the minimum reserve funding requirement may not exceed the cost of upgrading voting equipment at the statewide average price to upgrade a voting system by precinct. Upon a determination by the Secretary of State that a county has satisfied the minimum reserve funding requirement and standards, the moneys in excess of the minimum reserve funding requirement may be transferred to the county's general fund at the county commission's direction.

(5) Any moneys that are deposited into two separate funds for use in improving election administration, infrastructure, and security, and other purposes relating to the office of the clerk of the county commission, shall be in addition to and separate from typical county budget allocations and shall not be supplanted by a budget reduction to the clerk of the county commission's office: *Provided*, That reasonable budget reductions are permitted if made in the ordinary course for reasons other than offsetting the additional funding as provided in this section."

The bill was then ordered to third reading.

Com. Sub. for S. B. 523, Clarifying purpose and use of Economic Development Project Fund; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 527, Allowing family members of military personnel access to discharge records; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 533, Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Government Organization, on page 1, section 1, line 17, by inserting "and shall be limited to recyclable goods not collected by a certificated solid waste "motor carrier" as defined in chapter twenty-four-a of this code" after the word "association".

On motion of Delegate Young, the amendment was amended, on page 1, line 2, following the words "line 17" by striking out the remainder of the amendment and inserting in lieu thereof the following:

"after the words 'recycling association' by inserting the following: "and shall be limited to recyclable goods not collected by a certified waste 'motor carrier' as defined pursuant to §24A-1-2 of this code in the same area the recycling cooperative is located. If a motor carrier receives a certificate of need to serve the same area with the same services as the cooperative, then the cooperative shall cease providing those services."

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 534, Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements; on second reading, coming up in regular order, was read a second time.

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

S. B. 544, Increasing power purchase agreement cap; 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 out everything after the enacting clause and inserting in lieu thereof the following:

"ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1. Jurisdiction of commission; waiver of jurisdiction.

(a) The jurisdiction of the commission extends to all public utilities in this state and includes any utility engaged in any of the following public services:

(1) Common carriage of passengers or goods, whether by air, railroad, street railroad, motor, or otherwise, by express or otherwise, by land, water, or air, whether wholly or partly by land, water, or air;

(2) Transportation of oil, gas, or water by pipeline;

(3) Transportation of coal and its derivatives and all mixtures and combinations thereof with other substances by pipeline;

(4) Sleeping car or parlor car services;

(5) Transmission of messages by telephone, telegraph, or radio;

(6) Generation and transmission of electrical energy by hydroelectric or other utilities for service to the public, whether directly or through a distributing utility;

(7) Supplying water, gas, or electricity by municipalities or others: *Provided*, That natural gas producers who provide natural gas service to not more than 25 residential customers are exempt from the jurisdiction of the commission with regard to the provisions of the residential service: *Provided, however*, That upon request of any of the customers of the natural gas producers, the commission may, upon good cause being shown, exercise authority as the commission may consider appropriate over the operation, rates, and charges of the producer and for the length of time determined proper by the commission: *Provided further*, That the provision of a solar photovoltaic energy facility located on and designed to meet only the electrical needs of the premises of a retail electric customer, the output of which is subject to a power purchase agreement (PPAs) with the retail electric customer, shall not constitute a public service, subject to the following conditions and limitations:

(i) PPAs must be 11 point font or larger.

(ii) The aggregate of all PPAs and net metering arrangements in the state for any utility shall not exceed three percent of the utility's aggregate customer peak demand in the state during the previous year;

(iii) There shall be individual customer on-site generator limits of designing the photovoltaic energy facility to meet only the electrical needs of the premises of the retail electric customer and which in no case shall exceed ~~25~~ 50 kW for residential customers, ~~500~~ 1,000 kW for commercial customers, and 2,000 kW for industrial customers;

(iv) Customers who enter into PPAs relating to photovoltaic facilities are to notify the utility of its intent to enter into a transaction. In response, the utility shall notify within 30 days if any of the caps have been reached. If the utility does not respond within 30 days, the generator may proceed and the caps will be presumed not to have been reached; and

(v) The Public Service Commission may promulgate rules to govern and implement the provisions of interconnections for PPAs, except the PSC does not have authority over the power rates for the arrangements between the on-site generator and the customer;

(8) Sewer systems servicing 25 or more persons or firms other than the owner of the sewer systems: *Provided*, That if a public utility other than a political subdivision intends to provide sewer service by an innovative, alternative method, as defined by the federal Environmental Protection Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction of the Public Service Commission, regardless of the number of customers served by the innovative, alternative method;

(9) Any public service district created under the provisions of §16-13A-1 *et seq.* of this code, except that the Public Service Commission has no jurisdiction over the provision of stormwater services by a public service district;

(10) Toll bridges located more than five miles from a toll-free bridge which crosses the same body of water or obstacle, wharves, ferries; solid waste facilities; and

(11) Any other public service.

(b) The jurisdiction of the commission over political subdivisions of this state providing separate or combined water and/or sewer services and having at least 4,500 customers and annual combined gross revenues of \$3 million or more that are political subdivisions of the state is limited to:

(1) General supervision of public utilities, as granted and described in §24-2-5 of this code;

(2) Regulation of measurements, practices, acts, or services, as granted and described in §24-2-7 of this code;

(3) Regulation of a system of accounts to be kept by a public utility that is a political subdivision of the state, as granted and described in §24-2-8 of this code;

(4) Submission of information to the commission regarding rates, tolls, charges, or practices, as granted and described in §24-2-9 of this code;

(5) Authority to subpoena witnesses, take testimony, and administer oaths to any witness in any proceeding before or conducted by the commission, as granted and described in §24-2-10 of this code; and

(6) Investigation and resolution of disputes between a political subdivision of the state providing wholesale water and/or wastewater treatment or other services, whether by contract or through a tariff, and its customer or customers, including, but not limited to, rates, fees, and charges, service areas and contested utility combinations: *Provided*, That any request for an investigation related to a dispute that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission of the political subdivision and the commission shall resolve the dispute within 120 days of filing. The 120-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the rates, fees, and charges or other information required by the commission is filed: *Provided, however*, That the disputed rates, fees, and charges fixed by the political subdivision providing separate or combined water and/or sewer services shall remain in full force and effect until set aside, altered or, amended by the commission in an order to be followed in the future.

(7) Customers of water and sewer utilities operated by a political subdivision of the state may bring formal or informal complaints regarding the commission's exercise of the powers

enumerated in this section and the commission shall resolve these complaints: *Provided*, That any formal complaint filed under this section that is based on the act or omission of the political subdivision shall be filed within 30 days of the act or omission complained of and the commission shall resolve the complaint within 180 days of filing. The 180-day period for resolution of the dispute may be tolled by the commission until the necessary information showing the basis of the matter complained of is filed by the political subdivision: *Provided, however*, That whenever the commission finds any regulations, measurements, practices, acts, or service to be unjust, unreasonable, insufficient, or unjustly discriminatory, or otherwise in violation of any provisions of this chapter, or finds that any service is inadequate, or that any service which is demanded cannot be reasonably obtained, the commission shall determine and declare, and by order fix reasonable measurement, regulations, acts, practices or services, to be furnished, imposed, observed, and followed in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory, inadequate, or otherwise in violation of this chapter, and shall make an order that is just and reasonable: *Provided further*, That if the matter complained of would affect rates, fees, and charges fixed by the political subdivision providing separate or combined water and/or sewer services, the rates, fees, or charges shall remain in full force and effect until set aside, altered, or amended by the commission in an order to be followed in the future.

(8) If a political subdivision has a deficiency in either its bond revenue or bond reserve accounts, or is otherwise in breach of a bond covenant, any bond holder may petition the Public Service Commission for any redress that will bring the accounts to current status or otherwise resolve the breached covenant. The commission has jurisdiction to fully resolve the alleged deficiency or breach.

(c) The commission may, upon application, waive its jurisdiction and allow a utility operating in an adjoining state to provide service in West Virginia when:

(1) An area of West Virginia cannot be practicably and economically served by a utility licensed to operate within the State of West Virginia;

(2) The area can be provided with utility service by a utility which operates in a state adjoining West Virginia;

(3) The utility operating in the adjoining state is regulated by a regulatory agency or commission of the adjoining state; and

(4) The number of customers to be served is not substantial. The rates the out-of-state utility charges West Virginia customers shall be the same as the rate the utility may charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of jurisdiction for good cause.

(d) Any other provisions of this chapter to the contrary notwithstanding:

(1) An owner or operator of an electric generating facility located or to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be so designated prior to commercial operation of the facility, for which the facility the owner or operator holds a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, is subject to §24-2-11c(e) through §24-2-11c(j) of this code as if the certificate of public convenience and necessity for the facility were a siting certificate issued under §24-2-11c of this code, and is not otherwise subject to the jurisdiction of the commission or to the

provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(2) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has been designated as an exempt wholesale generator under applicable federal law, or will be designated prior to commercial operation of the facility, for which facility the owner or operator does not hold a certificate of public convenience and necessity issued by the commission on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(3) An owner or operator of an electric generating facility located in this state that had not been designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that generates electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had been constructed and had engaged in commercial operation on or before July 1, 2003, is not subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility, regardless of whether the facility subsequent to its construction has been or will be designated as an exempt wholesale generator under applicable federal law: *Provided*, That the owner or operator is subject to §24-2-1(d)(5) of this code if a material modification of the facility is made or constructed.

(4) Any person, corporation, or other entity that intends to construct or construct and operate an electric generating facility to be located in this state that has not been or will not be designated as an exempt wholesale generator under applicable federal law prior to commercial operation of the facility that will generate electric energy solely for sale at retail outside this state or solely for sale at wholesale in accordance with any applicable federal law that preempts state law or solely for both sales at retail and sales at wholesale and that had not been constructed and had not been engaged in commercial operation on or before July 1, 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an electric generating facility as is described in this subdivision for which a siting certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code, and is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the facility except for the making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

(5) An owner or operator of an electric generating facility described in this subsection shall, before making or constructing a material modification of the facility that is not within the terms of any certificate of public convenience and necessity or siting certificate previously issued for the facility or an earlier material modification thereof, obtain a siting certificate for the modification from the commission pursuant to the provisions of §24-2-11c of this code, in lieu of a certificate of public convenience and necessity for the modification pursuant to the provisions of §24-2-11

of this code and, except for the provisions of §24-2-11c of this code, is not otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with respect to the modification.

(6) The commission shall consider an application for a certificate of public convenience and necessity filed pursuant to §24-2-11 of this code, to construct an electric generating facility described in this subsection or to make or construct a material modification of the electric generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the application for the certificate of public convenience and necessity was filed with the commission prior to July 1, 2003, and if the commission has not issued a final order as of that date.

(7) The limitations on the jurisdiction of the commission over, and on the applicability of the provisions of this chapter to, the owner or operator of an electric generating facility as imposed by and described in this subsection do not affect or limit the commission's jurisdiction over contracts or arrangements between the owner or operator of the facility and any affiliated public utility subject to the provisions of this chapter.

(e) The commission does not have jurisdiction of Internet protocol-enabled service or voice-over Internet protocol-enabled service. As used in this subsection:

(1) "Internet protocol-enabled service" means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communication is voice, data, or video.

(2) "Voice-over Internet protocol service" means any service that:

(i) Enables real-time, two-way voice communications that originate or terminate from the user's location using Internet protocol or a successor protocol; and

(ii) Uses a broadband connection from the user's location.

(3) The term "voice-over Internet protocol service" includes any service that permits users to receive calls that originate on the public-switched telephone network and to terminate calls on the public-switched telephone network.

(f) Notwithstanding any other provisions of this article, the commission does not have jurisdiction to review or approve any transaction involving a telephone company otherwise subject to §24-2-12 and §24-2-12a of this code, if all entities involved in the transaction are under common ownership.

(g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power systems are most fairly and effectively regulated by the local governing body. Therefore, notwithstanding any other provisions of this article, the commission does not have jurisdiction over the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the jurisdiction of the Public Service Commission over municipal power systems is limited to that granted specifically in this code."

Delegate Burkhammer moved to amend the amendment on page 1, section 1, line 20, by striking out the words "a solar photovoltaic" and inserting in lieu thereof "an"

And,

On page 2, section 1, line 29, by striking out the word “photovoltaic”.

And,

On page 2, section 1, line 32, by striking out the word “photovoltaic” and inserting in lieu thereof “energy”.

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. 618**), and there were— yeas 25, nays 68, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Brooks, Burkhammer, Butler, Chiarelli, Coop-Gonzalez, Dean, Devault, Dillon, Ellington, Fast, Fehrenbacher, Foster, A. Hall, Hillenbrand, Horst, Longanacre, Martin, Petitto, Pinson, Ridenour, Rowe, Statler, Street and Vance.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, C. Pritt and Ross.

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

The amendment recommended by the Committee on the Judiciary was then adopted.

The bill was then ordered to third reading.

Com. Sub. for S. B. 546, Adding and removing certain compounds from controlled substance list; on second reading, coming up in regular order, was read a second time.

Delegate Pushkin moved to amend the bill on page 6, section 204, by striking out line 134 in its entirety.

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. 619**), and there were— yeas 16, nays 76, absent and not voting 8, with the yeas and the absent and not voting being as follows:

Yeas: Dean, Fluharty, Foggin, Garcia, Hansen, Hornbuckle, Kirby, C. Pritt, E. Pritt, Pushkin, Rowe, Skaff, Smith, Walker, Williams and Young.

Absent and Not Voting: Bridges, Cooper, A. Hall, Mallow, McGeehan, Nestor, Ross and Shamblin.

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

The bill was then ordered to third reading.

Com. Sub. for S. B. 548, Clarifying what parties can redeem delinquent property and limiting those entitled to bid; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 561, Relating to administration of WV Drinking Water Treatment Revolving Fund Act; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Finance, and adopted, on page 7, by striking section 7 in its entirety and renumbering the following section accordingly.

The bill was then ordered to third reading.

Com. Sub. for S. B. 568, Relating to Dangerousness Assessment Advisory Board; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 573, Relating to child support guidelines and Support Enforcement Commission; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for S. B. 579, Providing payment to vendors who provided services to state; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 608, Correcting list of items which are considered deadly weapons; 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 7. DANGEROUS WEAPONS.

§61-7-2. Definitions.

As used in this article, unless the context otherwise requires:

(1) ‘Antique firearm’ means:

(A) Any firearm, including, but not limited to, a firearm with a match lock, flintlock, percussion cap, or similar type of ignition system which was manufactured on or before 1898;

(B) Any replica of any firearm described in paragraph (A) of this subdivision if such replica is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; and

(C) Any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading pistol, which is designed to use black powder, or black powder substitute, and which cannot use fixed

ammunition. For purposes of this subdivision, the term 'antique firearm' shall not include any weapon which includes a firearm frame or receiver, any firearm which is converted into a muzzle-loading weapon, or any muzzle-loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(2) 'Blackjack' means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. The term 'blackjack' includes, but is not limited to, a billy, billy club, sand club, sandbag, or slapjack.

(3) 'Concealed' means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried. For purposes of concealed handgun licensees, a licensee is considered to be carrying on or about his or her person while in or on a motor vehicle if the firearm is located in a storage area in or on the motor vehicle.

(4) 'Controlled substance' has the same meaning as is ascribed to that term in §60A-1-101(e) of this code.

(5) 'Deadly weapon' means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term 'deadly weapon' includes, but is not limited to, the instruments defined in subdivisions (1) ~~through (8)~~, (2), (5), (7), (8), (9), (10), (11), (12), (13), (14), and (15), inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of §18A-5-1a of this code and §61-7-11a of this code, in addition to the definition of 'knife' set forth in subdivision (9) of this subsection, the term 'deadly weapon' also includes any instrument included within the definition of 'knife' with a blade of three and one-half inches or less in length. Additionally, for the purposes of §18A-5-1a of this code and §61-7-11a of this code, the term 'deadly weapon' includes explosive, chemical, biological, and radiological materials. Notwithstanding any other provision of this section, the term 'deadly weapon' does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes. The term 'deadly weapon' does not include pepper spray as defined in subdivision (12) of this subsection when used by any person ~~over the age of 16~~ solely for self-defense purposes.

(6) 'Drug' has the same meaning as is ascribed to that term in §60A-1-101(m) of this code.

(7) 'Firearm' means any weapon which will expel a projectile by action of an explosion: *Provided*, That it does not mean an antique firearm as defined in subdivision (1) of this subsection except for the purposes of §48-27-502 of this code.

(8) 'Gravity knife' means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force and when released is locked in place by means of a button, spring, lever, or other locking or catching device.

(9) 'Knife' means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to a handle which is capable of inflicting cutting, stabbing, or tearing wounds. The term 'knife' includes, but is not limited to, any dagger, dirk, poniard, or stiletto, with a blade over three and one-half inches in length, any switchblade knife or gravity knife, and any other instrument capable

of inflicting cutting, stabbing, or tearing wounds. A pocket knife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports, or other recreational uses, or a knife designed for use as a tool or household implement is not included within the term 'knife' as defined in this subdivision unless the knife is knowingly used or intended to be used to produce serious bodily injury or death.

(10) 'Metallic or false knuckles' means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person who was struck. The terms 'metallic or false knuckles' includes any such instrument without reference to the metal or other substance or substances from which the metallic or false knuckles are made.

(11) 'Nunchaku' means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope, or other nonrigid, flexible, or springy material, constructed in a manner that allows the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.

(12) 'Pepper spray' means a temporarily disabling aerosol that is composed partly of capsicum oleoresin and causes irritation, blinding of the eyes, and inflammation of the nose, throat, and skin that is intended for self-defense use.

(13) 'Pistol' means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.

(14) 'Revolver' means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.

(15) 'Switchblade knife' means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch, or other releasing device in its handle."

The bill was then ordered to third reading.

Com. Sub. for S. B. 617, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Health and Human Resources, and adopted, on page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

" ARTICLE 5W. REGULATION OF BEHAVIORAL HEALTH.

§16-5W-1. Definitions.

The following terms are defined for this article:

'Abuse' means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. Abuse also includes the

deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial wellbeing. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain, or mental anguish. It includes verbal abuse, sexual abuse, physical abuse, and mental abuse, including abuse facilitated or enabled through the use of technology. Willful, as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.

'Addiction' means a disease characterized by the individual's pursuing reward, relief, or both, by substance use or other behaviors. Addiction is characterized by impairment in behavioral control, craving, inability to consistently abstain, and diminished recognition of significant problems with one's behaviors and interpersonal relationships; likely to involve cycles of relapse and remission.

'Advocate' means a person or entity who has the authority via contract with the department or authority via state or federal statutory authority or court ruling to monitor and redress the care and treatment of persons with developmental, behavioral, and/or intellectual disabilities at behavioral health centers.

'Behavioral Health Center' means a provider, entity, or facility that provides behavioral health services, supports, or both.

'Behavioral disability' means a disability of a person which: (1) Is attributable to severe or persistent mental illness, emotional disorder or chemical dependency; and (2) results in substantial functional limitations in self-direction, capacity for independent living or economic self-sufficiency.

'Behavioral Health Services' means a direct service provided as an inpatient, residential or outpatient service to an individual with mental health, addictive, behavioral, or adaptive challenges that is intended to improve or maintain functioning in the community. The service is designed to provide treatment, habilitation, or rehabilitation.

'Developmental disability' means a chronic disability of a person which: (1) Is attributable to a mental or physical impairment or combination of mental and physical impairments; (2) is likely to continue indefinitely; (3) results in substantial functional limitations in self-direction, capacity for independent living or economic self-sufficiency; and (4) reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

'Group residential facility' means a facility which is owned, leased or operated by a behavioral health service provider and which: (1) Provides residential services and supervision for individuals who are developmentally disabled or behaviorally disabled; (2) is occupied as a residence by not more than eight individuals who are developmentally disabled and not more than three supervisors or is occupied as a residence by not more than twelve individuals who are behaviorally disabled and not more than three supervisors; (3) is licensed by the department; and (4) complies with the state Fire Commission for residential facilities.

'Group residential home' means a building owned or leased by developmentally disabled or behaviorally disabled persons for purposes of establishing a personal residence. A behavioral health service provider may not lease a building to such persons if the provider is providing services to the persons without a license as provided for in this article.

'Intermediate care facility' means a setting for individuals with intellectual disabilities or distinct part of that:

(1) Is primarily for the diagnosis, treatment, or rehabilitation of the intellectually disabled or persons with related conditions; and

(2) Provides, in a protected residential setting, ongoing evaluation, planning, 24-hour supervision, coordination, and integration of health or rehabilitative services to help each individual function at his greatest ability.

'Neglect' means the failure of the facility, its employees, or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.

'Office of Health Facility Licensure and Certification' or 'OHFLAC' means the West Virginia Office of Health Facility Licensure & Certification.

'Protection and advocacy system' or 'P&A' means the agency designated to serve as the protection and advocacy system for the State of West Virginia as provided in 29 U.S.C. § 794e, 42 U.S.C. § 15041 *et seq.*, and 42 U.S.C. § 10801 *et seq.*, that has the express federal statutory authority to receive information regarding and to investigate complaints involving suspected abuse and neglect.

'Specialized intermediate care facility' means a Centers for Medicare and Medicaid Services approved transitional setting that provides health-related services to individuals with conditions that require services above the level of room and board, but do not require the degree of services provided in a hospital or skilled-nursing facility. A facility may not be located within one mile of a residential area, a public or private licensed day care center, or a public or private K-12 school.

'Supportive Service' means a service provided exclusively to individuals with intellectual disabilities, developmental disabilities, ongoing mental health or addictive challenged, or traumatic brain injury. This service is designed to assist the individual to live in the community in a manner that is socially inclusive, optimally independent, and self-directed while preserving his or her health, safety, and quality of life. These services are not designed to change behavior or emotional functioning to support the individual in his or her community-based settings. Supportive services may include coaching or prompting of age appropriate living skills.

§16-5W-2. Regulation of Behavioral Health Centers – Residential Settings.

A behavioral health center, may not provide residential behavioral health services unless a license is first obtained from the Office of Health Facility Licensure and Certification. The Inspector General shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.*, in regard to the operation of behavioral health centers – residential settings. The Inspector General, or any person authorized by the Inspector General, has authority to investigate and inspect any licensed behavioral health center – residential setting. The Inspector General may impose a civil money penalty, or limit, deny, suspend, or revoke the license of any center for good cause after reasonable notice, including due process rights as provided in legislative rule. The Inspector General shall promulgate a rule to ensure adequate care, treatment, health, safety, welfare, and comfort of patients at these facilities including, but not limited to, the process to be followed by applicants seeking a license; provision of treatment; development of treatment plans and discharge plans; management, operation, staffing and equipping of these facilities; clinical,

medical, patient, and business records kept by these facilities; procedures for inspections and for review of utilization and quality of patient care; standards and procedures for the general operation of these facilities including facility operations, physical operations, infection control requirements, health and safety requirements and quality assurance; and such other standards or requirements as the Inspector General determines are appropriate.

§16-5W-3. Regulation of Behavioral Health Centers – NonResidential Settings.

A behavioral health center, may not provide community based, nonresidential behavioral health services unless a license is first obtained from the Office of Health Facility Licensure and Certification. The director shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 et seq., in regard to the operation of behavioral health centers – nonresidential settings. The Inspector General, or a person authorized by the Inspector General, has authority to investigate and inspect any licensed behavioral health center – nonresidential setting. The Inspector General may impose a civil money penalty, or limit, deny, suspend, or revoke the license of any center for good cause after reasonable notice, including due process rights as provided in legislative rule. The Inspector General shall a rule to ensure adequate care, treatment, health, safety, welfare, and comfort of patients at these facilities including, but not limited to, the process to be followed by applicants seeking a license and licensure fees and types; provision of treatment; development of treatment plans and discharge plans; management, operation, staffing and equipping of these facilities; clinical, medical, patient, and business records kept by these facilities; procedures for inspections and for review of utilization and quality of patient care; standards and procedures for the general operation of these facilities including facility operations, physical operations, infection control requirements, health and safety requirements and quality assurance; and such other standards or requirements as the Inspector General determines are appropriate.

§16-5W-4. Inspection; inspection warrant; penalty.

(a) The Office of Health Facility Licensure and Certification shall inspect each behavioral health center – residential setting annually, and as necessary, including a review of patient records, to ensure that the facility complies with this article and the applicable rules.

(b) The Office of Health Facility Licensure and Certification shall inspect each behavioral health center – nonresidential setting every two years, and as necessary, including a review of the patient records, to ensure that the facility complies with this article and applicable rules.

(c) The Office of Health Facility Licensure and Certification shall perform unannounced complaint and verification inspections at behavioral health centers – residential settings and behavioral health centers – nonresidential settings.

(d) The Office of Health Facility Licensure and Certification may assess a fine on residential or nonresidential settings up to \$100,000 and/or reduce bed capacity, as that term is defined in §16-2D-2. The provisions of the subsection shall be included in legislative rule by the director, in accordance with §29A-3-1, including when such fines or bed capacity reduction would be issued.

(e) Notwithstanding the existence or pursuit of any other remedy, the Inspector General may, in the manner provided by law, maintain an action in the name of the state for an inspection warrant against any person, partnership, association, or corporation to allow any inspection or seizure of records in order to complete any inspection allowed by this article or the rules promulgated pursuant to this article.

§16-5W-5. Access to Consumers.

(a) An individual for whom the state is the guardian shall receive a visit by his or her assigned caseworker by the agency at least once a month. Case workers and advocates shall have unlimited access to consumers. The P&A shall have access to consumers, case workers, records, and complaints in accordance with federal law.

(b) The mental health, long-term care and foster care ombudsman may investigate and resolve complaints filed on behalf of individuals with IDD in any setting.

§16-5W-6. Reporting.

(a) The Office of the Inspector General shall send to county prosecutors any findings that may be subject to criminal prosecution in cases of abuse and neglect with IDD. The Office of the Inspector General shall send to the P&A the findings of any cases involving instances of substantiated abuse or neglect involving a person with a developmental disability.

(b) An annual report shall be submitted to the Legislative Oversight Commission on Health and Human Resources Accountability including:

(1) All instances where abuse and neglect cases involving IDD at any location has been substantiated by the Office of the Inspector General.

(2) The county or region where the substantiated abuse or neglect occurred;

(2) The descriptive category of the abuse and neglect;

(3) The type of setting where the abuse and neglect occurred;

(4) Whether the abuse and neglect information was turned over to the county prosecutor and law enforcement;

(5) The name of the provider, if the provider is involved, who is charged with the care of the individual; and

(6) The age range and gender of the individual.

(c) In instances where abuse and/or neglect leads to the death of an individual, the department shall send a letter, within 30 days after the findings where substantiated, to the Senate President, the Speaker of the House, and the chairs of LOCHHRA outlining the information above about the case.

§16-5W-7. Independent Mental Health Ombudsman.

(a) (1) The Office of the Inspector General shall continue an independent mental health ombudsman;

(2) The duties of the mental health ombudsman shall include, but are not limited to, the following:

(A) Advocating for the well-being, treatment, safety, and rights of consumers of mental health care facilities or psychiatric hospital;

(B) Participating in any procedure to investigate, and resolve complaints filed on behalf of a consumer of a mental health care facility or psychiatric hospital, relating to action, inaction, or decisions of providers of mental and behavioral health, of public agencies, or social service agencies, which may adversely affect the health, safety, welfare, and rights of a consumer of a mental health care facility or psychiatric hospital; and

(C) Monitoring the development and implementation of federal, state, and local legislation, regulations, and policies with respect to mental and behavioral health care and services;

(3) The mental health ombudsman shall participate in ongoing training programs related to his or her duties or responsibilities;

(4)(A) Information relating to any investigation of a complaint that contains the identity of the complainant or consumer shall remain confidential except:

(i) Where imminent risk of serious harm is communicated directly to the mental health ombudsman or his or her staff; or

(ii) Where disclosure is necessary to the Office of Health Facility Licensure and Certification in order for such office to determine the appropriateness of initiating an investigation to determine facility compliance with applicable rules of licensure, certification, or both;

(B) The mental health ombudsman shall maintain confidentiality with respect to all matters including the identities of complainants, witnesses, or others from whom information is acquired, except insofar as disclosures may be necessary to enable the mental health care ombudsman to carry out duties of the office or to support recommendations;

(C) All information, records, and reports received by or developed by the mental health ombudsman program which relate to a consumer of a mental health care facility or psychiatric hospital, including written material identifying a consumer are confidential, and are not subject to the provisions of §29-1-1, et seq. of this code, and may not be disclosed or released by the mental health ombudsman program, except under the circumstances enumerated in this section;

(D) Nothing in this section prohibits the preparation and submission by the mental health ombudsman of statistical data and reports, as required to implement the provisions of this section or any applicable federal law, exclusive of any material that identifies any consumer or complainant; and

(E) The Inspector General shall have access to the records and files of the mental health ombudsman program to verify its effectiveness and quality.

§16-5W-8. Intellectual and Developmental Disabilities Waiver Program workforce study.

(a) By July 1, 2023, the Legislative Oversight Commission on Health and Human Resources Accountability shall conduct a workforce study pertaining to the Intellectual and Developmental Disabilities Waiver Program (IDDW Program). The study shall use data and statistics generally relied upon by reasonably prudent individuals, and shall determine/address the following:

(1) The categories of personnel offering services as part of the IDDW Program;

(2) The mean hourly pay rate for each such category of personnel, broken down by West Virginia County where service is provided to patients;

(3) The mean hourly pay rate for each such category of personnel offering services as part of programs equivalent to the IDDW Program in surrounding states.

(4) A comparison of the hourly pay rates identified in subdivisions 2 and 3 of this section, broken down by category of personnel; and

(5) Any other factor the commission reasonably deems relevant to the issues.

(b) Within the report the commission shall make recommendations as to the appropriateness of the current mean hourly pay rate for each category of IDDW Program personnel, as well as any potential pay rate increases necessary to ensure that the IDDW Programs can successfully recruit and retain qualified personnel.

(c) The commission shall issue the report by January 1, 2024.

§16-5W-9. Annual capitation rate review.

(a) The Bureau of Medicaid Services shall conduct an annual study reviewing the adequacy and appropriateness of the reimbursement rates to providers in the IDDW Program. The bureau shall also include a recommendation for any adjustment deemed appropriate, including, but not limited to, annual inflationary costs, costs arising from amendments to existing contracts, costs relating to recruiting and retaining personnel, and any other costs necessitating additional payments to IDDW providers. The bureau may require, and contracted providers shall provide financial data to the bureau to assist in the study. Without limiting the generality of the foregoing in conducting this study, the bureau shall review and compare equivalent programs both in and out of state in order to determine appropriate rates.

(b) Upon completion of the study, BMS shall provide the report to the Joint Committee of Finance beginning July 1, 2024, and annually thereafter, on its findings, conclusions, and recommendations, together with drafts of any legislation necessary to effectuate its recommendations.

CHAPTER 27. MENTALLY ILL PERSONS.

ARTICLE 8. ~~MAINTENANCE OF MENTALLY ILL OR MENTALLY RETARDED PATIENTS.~~

§27-8-2b. Local mental health programs — Separate account for receiving and expending gifts, bequests, donations, fees and miscellaneous income.

[Repealed.]

§27-8-3. Care of patients in boarding homes.

[Repealed.]

ARTICLE 9. LICENSING OF HOSPITALS.

§27-9-1. License from Secretary of Health and Human Resources; regulations.

[Repealed.]

ARTICLE 13. LAWS REPEALED; SEVERABILITY.

§27-13-1. Laws repealed.

[Repealed.]

§27-13-2. Severability.

[Repealed.]

ARTICLE 16. STERILIZATION OF MENTAL DEFECTIVES.

ARTICLE 17. GROUP RESIDENTIAL FACILITIES.

§27-17-1. Definitions.

[Repealed.]

§27-17-2. Permitted use of group residential facilities; restrictions.

[Repealed.]

§27-17-3. License from Secretary of Health and Human Resources; regulations; and penalties.

[Repealed]

§27-17-4. Exclusion by private agreement void.

[Repealed]

The bill was then ordered to third reading.

Com. Sub. for S. B. 631, Updating administration, funding, and requirements for federal elections held in WV; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 633, Requiring prompt appearances for persons detained on capiases; 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.

§62-1-7. Offense arising in other county.

~~If the warrant issued, or if the offense is alleged to have been committed, in a county other than the county of arrest, all papers in the proceeding shall be promptly transmitted to a justice of the county having jurisdiction of the offense for preliminary examination or trial. If the defendant~~

~~is unable to provide bail in the county of arrest, he or she shall be committed to the custody of an officer who shall take him or her without unnecessary delay before a justice of the county wherein the examination or trial is to be held, there to be dealt with as provided by law.~~

In all cases where a person is arrested in a county other than where the indictment or charge is pending, an arraignment shall be held pursuant to the Rules of Criminal Procedure for Magistrate Courts in West Virginia. If the person remains incarcerated after the arraignment, he or she shall be transported to the regional jail serving the charging county within five days of arrest.

ARTICLE 1C. BAIL

62-1C-17b. Procedures for failure to appear; Failure to appear penalties.

(a) Any person, who, having been released upon his or her personal recognizance pursuant to §62-1-1a of this code or having been otherwise admitted to bail and released in accordance with this article, and who shall willfully and without just cause fail to appear as and when it may be required of him or her, shall be guilty of the offense as hereinafter prescribed, and, upon conviction thereof, shall be punished in the manner hereinafter provided.

(b) If any such person was admitted to bail or released after being arrested for, charged or convicted of a felony and, shall thereafter be convicted for a violation of the provisions of subsection (a) of this section, such persons shall be guilty of a felony and, shall be fined not more than \$5,000 or imprisoned not less than one nor more than five years, or both such fine and imprisonment.

(c) If any such person was admitted to bail or released after being arrested for, charged or convicted of a misdemeanor and, shall thereafter be convicted for a violation of the provision of subsection (a) of this section, such persons shall be guilty of a misdemeanor and, shall be fined not more the \$1,000 or confined in the county jail for not more than one year, or both such fine and confinement.

(d) If any such person was admitted to bail or released pending appearance as a material witness and shall thereafter fail to appear when and where it shall have been required of him or her, such persons shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more the \$1,000 or confined in the county jail not more than one year, or both such fine and confinement.

(e) Any penalty authorized by this section shall be in addition to any forfeiture authorized or mandated by this article or by any other provision of law.

(f) If any defendant admitted to bail and released in accordance with this article fails to appear at a scheduled court appearance, the court may issue a capias or bench warrant for failure to appear if it determines that the defendant was provided effective notice of the court appearance by the court;

(g) For the purposes of this subsection, "effective notice of the court appearance" means a notice stating the date, time, location, and purpose of the hearing, transmitted to the defendant or defendant's counsel, no fewer than 10 days prior to the scheduled court appearance. The court may waive the 10 day requirement upon a finding of emergent circumstances.

(h) For purposes of capiases for failure to appear after indictment, newspaper publication alone does not constitute effective notice.

(i) Notwithstanding the provisions of subsections (a) through (d) of this section, where the record does not reflect that the person failing to appear received effective notice to appear from the court or where he or she has no documented history of failure to appear, a court, absent good cause shown, may not issue a capias until no fewer than 24 hours have elapsed since the failure to appear. If the defendant voluntarily appears within 24 hours, he or she is not subject to prosecution under this section.

(j) Nothing in subsection (f) of this section may be construed to limit a court's ability to issue a capias upon credible information of danger to a person or the community, new criminal conduct or a bail violation other than failure to appear.

(k) Upon the arrest of a defendant pursuant to a capias in the county in which the indictment or charge is pending, a hearing pursuant to §62-1C-1a of this code shall be scheduled and held within five days of the arrest.

(l) Upon the appearance in the county in which the indictment or charge is pending of a defendant against whom a capias has been issued the court shall provide written notice to the sheriff for his or her dissemination to all appropriate law-enforcement agencies, that the warrant or capias is no longer active and order it to be immediately removed from all databases.

ARTICLE 2. PRESENTMENTS AND INDICTMENTS

§62-2-17. Delivery of prisoner to court, magistrate or jailer.

(a) An officer who, under a capias from a court, arrests a person accused of an offense other than murder in the first degree shall deliver the accused to such court, if sitting, and if such court is not sitting, the officer shall deliver the accused to a magistrate who may admit the accused to bail: *Provided*, That any such bail granted by a magistrate shall be conditioned upon the appearance by the accused before the court on the date provided in the capias for such appearance, or, if no such date is provided in the capias, then such bail shall be conditioned upon the appearance of the accused on the next day on which such court is sitting.

(b) No magistrate shall admit to bail any person arrested under an alias capias.

(c) Bail set by a magistrate may be made and posted before the magistrate court clerk and the recognizance and record thereof, together with any money received therefor, shall be forthwith delivered to the clerk of the circuit court.

(d) An officer who, under a capias from a court, arrests a person accused of an offense not bailable, or for which bail is not given, shall deliver the accused to such court, if sitting, or to the jailer thereof, who shall receive and imprison him or her.

(e) In all cases where a defendant is arrested and held under a capias for failure to appear in the county wherein the charge or charges is pending, and he or she is entitled to admission to bail, an initial appearance shall be held as soon as practicable, or within five days whichever is sooner, and bail shall be considered pursuant to §62-1C-1a of this code.

(f) Upon the appearance of a defendant upon an indictment or complaint upon which a warrant or capias has been issued, the court shall provide written notice to the sheriff for his or her dissemination to all appropriate law-enforcement agencies that the warrant or capias is no longer active and order that it be immediately removed from all databases.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 647, Relating to substantiation of abuse and neglect allegations; 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 4. COURT ACTIONS.

PART VI. PROCEDURES IN CASES OF CHILD NEGLECT OR ABUSE.

§49-4-601b. Substantiation by the department of abuse and neglect; file purging; expungement; exceptions.

(a) Notwithstanding any provision of this code to the contrary, when the department substantiates an allegation of abuse ~~or~~ and/or neglect against a person, but there is no judicial finding of abuse ~~or~~ and/or neglect as a result of the allegation, the department shall provide written notice of the substantiation to the person by certified mail, return receipt requested.

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

(c) The secretary of the department shall ~~promulgate~~ propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this code, within the applicable time limit to be considered by the Legislature during its regular session in the year 2021, which rules shall include, at a minimum:

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

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

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

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

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

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

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

(d) Notwithstanding any provision of this code to the contrary:

(1) Where any allegation of abuse and/or neglect is substantiated and a petition for abuse and/or neglect could be filed and the department does not file a petition, all department records related to the allegation shall be sealed one year after the substantiation determination, unless during the one-year period another allegation of child abuse and/or neglect against the person is substantiated: *Provided*, That the provisions of this subdivision do not apply to a person against whom an allegation is substantiated but the circumstances do not allow for the filing of a petition for abuse and/or neglect;

(2) Where an allegation of child abuse and/or neglect is substantiated and a petition is filed with the circuit court which does not end in an adjudication that abuse and/or neglect occurred, the allegation shall be considered to have been unsubstantiated.

(3)(A) Where an allegation of child abuse and/or neglect is substantiated and a judicial determination of child abuse and/or neglect is found, a person may petition the circuit court which found the person to be an abusing parent to have his or her department record sealed after no less than five years have elapsed since the finding of abuse and/or neglect is rendered: *Provided*, That a petition may not be filed if the person had been the subject of a substantiated allegation of abuse and/or neglect during the period of time after the finding and prior to the filing of the petition; and

(B) In its consideration of a petition filed under this subdivision, the court, in its discretion, may look at all relevant factors related to the petition, including, but not limited to, efforts at rehabilitation and family reunification.

(e) The sealing of a record pursuant to subsection (d) of this section means that any inquiry of the department about a person having a record of child abuse and/or neglect for purposes of possible employment shall be answered in the negative.

(f) The secretary is directed to propose legislative rules pursuant to §29A-1-1 *et seq.* of this code to effectuate the amendments to this section enacted during the regular session of the Legislature, 2023.

The bill was then ordered to third reading.

Com. Sub. for S. B. 661, Clarifying preferential recall rights for employees sustaining compensable injury; on second reading, coming up in regular order, was read a second time.

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

Whereupon,

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

On motion of Delegate C. Pritt, the bill was amended on page 1, by striking everything after the enacting clause and inserting in lieu thereof the following:

“ARTICLE 5A. DISCRIMINATORY PRACTICES.

§23-5A-3. Termination of injured employees prohibited; reemployment of injured employees.

(a) It shall be a discriminatory practice within the meaning of section one of this article to terminate an injured employee while the injured employee is off work due to a compensable injury within the meaning of §23-4-1 *et seq.* of this code and is receiving or is eligible to receive temporary total disability benefits, unless the injured employee has committed a separate dischargeable offense. A separate dischargeable offense shall mean misconduct by the injured employee wholly unrelated to the injury or the absence from work resulting from the injury. A separate dischargeable offense shall not include absence resulting from the injury or from the inclusion or aggregation of absence due to the injury with any other absence from work.

(b) It shall be a discriminatory practice within the meaning of section one of this article for an employer to fail to reinstate an employee who has sustained a compensable injury to the employee's former position of employment upon demand made in writing and transmitted by the United States Postal Service, return receipt requested, to the employer's principal office for such reinstatement provided that the position in which the employee sustained the compensable injury is still available and the employee is not disabled from performing the duties of such position. If the former position is not available, the employee shall be reinstated to another comparable position which is available and which the employee is capable of performing. A comparable position for the purposes of this section shall mean a position which is comparable as to wages, working conditions and, to the extent reasonably practicable, duties to the position held at the time of injury. A written statement from a duly licensed physician that the physician approves the injured employee's return to his or her regular employment shall be prima facie evidence that the worker is able to perform such duties. In the event that neither the former position nor a comparable position is available, the employee shall have a right to preferential recall to any job which the injured employee is capable of performing which becomes open after the injured employee notifies the employer that he or she desired reinstatement. Said right of preferential recall shall be in effect for one year from the day the injured employee notifies the employer that he or she desires reinstatement: *Provided*, That the employee provides to the employer a current mailing address during this one-year period.

(c) For the preferential recall rights authorized by this section when an employee is employed by an employer defined by §30-42-3(d) of this code, the employee's right to preferential recall shall be no greater than 120 days from the date the employee is released by a duly licensed physician to return to his or her regular employment. It is the employee's obligation to continually

seek the possibility of employment during the employee's preferential recall period under this subsection. The employee's right to preferential recall authorized by this subsection terminates once the employer offers the employee his or her former position or a comparable position.

(e)(d) Any civil action brought under this section shall be subject to the seniority provisions of a valid and applicable collective bargaining agreement, or arbitrator's decision thereunder, or to any court or administrative order applying specifically to the injured employee's employer, and shall further be subject to any applicable federal statute or regulation.

(d)(e) Nothing in this section shall affect the eligibility of the injured employee to workers' compensation benefits under this chapter.”

The bill was then ordered to third reading.

Com. Sub. for S. B. 665, Amending licensure requirements for massage therapist; on second reading, coming up in regular order, was read a second time and ordered to third reading. The bill was then ordered to third reading.

S. B. 674, Providing statutory recognition and appointment of board members for WV First Foundation; on second reading, coming up in regular order, was read a second time and ordered to third reading.

Com. Sub. for S. B. 677, Clarifying role and responsibilities of State Resiliency Officer; on second reading, coming up in regular order, was read a second time.

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

“CHAPTER 15. PUBLIC SAFETY.

ARTICLE 5. DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT.

§15-5-2. Definitions.

As used in this article:

~~‘Board’ means the West Virginia Disaster Recovery Board created by this article~~

‘Code’ means the Code of West Virginia, 1931, as amended;

‘Community facilities’ means a specific work, or improvement within this state, or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

‘Critical infrastructure’ includes any systems and assets, whether physical or virtual, so vital to the state that the incapacity or destruction of such systems and assets would have a debilitating impact on security, state economic security, state public health or safety, or any combination of those matters.

‘Disaster’ means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, or terrorist, or man-made cause, including

weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation, or other public calamity requiring emergency action;

'Disaster ~~recovery~~ response activities' means activities undertaken prior to, during or immediately following a disaster to provide, or to participate in the provision of, critical infrastructure, emergency services, temporary housing, residential housing, essential business activities, and community facilities;

'Emergency services' means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to protect, respond, and ~~recover~~, to prevent, detect, deter, and mitigate, to minimize and repair injury and damage resulting from disasters or other events caused by flooding, terrorism, enemy attack, sabotage, or other natural or other man-made causes. These functions include, without limitation, critical infrastructure services, firefighting services, police services, medical and health services, communications, emergency telecommunications, radiological, chemical, and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to the health, safety, and welfare of the citizens of this state, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. Disaster includes the imminent threat of disaster as well as its occurrence and any power or authority exercisable on account of a disaster that may be exercised during the period when there is an imminent threat;

'Essential business activities' means a specific work or improvement within this state or a specific item of equipment or tangible personal property used within this state by any person to provide any essential goods or critical infrastructure services determined by the authority to be necessary for continued operations during a disaster, state of emergency, or state of preparedness, and for recovery from a disaster;

'Essential workers' means employees or contractors that fall under the definition of essential business activities during a disaster, state of emergency, or state of preparedness.

'Local organization for emergency services' means an organization created in accordance with the provisions of this article by state or local authority to perform local emergency services function;

'Mobile support unit' means an organization for emergency services created in accordance with the provisions of this article by state or local authority to be dispatched by the Governor to supplement local organizations for emergency services in a stricken area;

'Person' means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

'Political subdivision' means any county or municipal corporation in this state;

~~'Recovery fund' means the West Virginia Disaster Recovery Trust Fund created by this article~~

'Residential housing' means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or

rehabilitation of land, buildings and improvements thereto, for residential housing, including, but not limited to, facilities for temporary housing and emergency housing, and any other nonhousing facilities that are incidental or appurtenant thereto;

'Secretary' means the Secretary of the West Virginia Department of ~~Military Affairs and Public Safety~~ Homeland Security; and

'Temporary housing' means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, for temporary residential shelters or housing for victims of a disaster, and such other nonhousing facilities that are incidental or appurtenant thereto.

§15-5-4b. West Virginia Disaster Recovery Trust Fund disbursement.

[Repealed.]

§15-5-4c. Powers and duties related to the West Virginia Disaster Recovery Trust Fund.

[Repealed.]

§15-5-24. Disaster Recovery Trust Fund; disbursement of funds.

[Repealed.]

§15-5-25. Prohibition on funds inuring to the benefit of or being distributable to members, officers or private persons.

[Repealed.]

§15-5-26. Tax exemption.

[Repealed.]

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 31. STATE RESILIENCY AND FLOOD PROTECTION ~~PLAN~~ PLANNING ACT.

§29-31-1. Short title; legislative findings; purpose.

(a) This article may be known and cited as the 'Resiliency and Flood Protection Planning Act'.

(b) The West Virginia Legislature finds that:

(1) Flooding has affected each of the 55 counties and 32 major watersheds within the state;

(2) Over the past 52 years, more than 282 West Virginians have died in floods;

(3) Between January 1996 and January 2017, there ~~have been~~ were 27 federal disaster declarations in West Virginia involving flooding;

(4) Between January 2010 and December 2021, West Virginia was impacted by more than 1,600 separate flood events;

~~(4)~~ (5) In June 2016, much of West Virginia suffered devastating flooding; and

~~(5)~~ (6) Despite the many state and federal flood protection programs and projects, flooding continues to be West Virginia's most common and widespread natural disaster.

(c) It is the purpose of this article to:

(1) provide Provide a comprehensive and coordinated statewide resiliency and flood protection planning program to save lives, and develop community and economic resiliency plans including, but not limited to, reducing or mitigating flood damage while supporting economic growth and protecting the environment; and

(2) Provide for funding mechanisms to implement such state and community plans developed through the program.

§29-31-2. State resiliency office, officer, deputy and board.

(a) It is determined that a state authority is required to provide a coordinated effort and planning for ~~emergency and disaster response, recovery,~~ and resiliency between government agencies, first responders, and all other entities to reduce the loss of life and property, lessen the impact of future disasters, ~~respond quickly to save lives,~~ protect property and the environment, meet basic human needs, and provide economic growth and resilience prior to and in the aftermath of an incident. Therefore, the State Resiliency Office is hereby created. The office shall be organized within the Office of the Governor. The office will serve as the recipient of disaster recovery and resiliency funds, excluding federal Stafford Act funds, and the coordinating agency of recovery and resiliency efforts, including matching funds for other disaster recovery programs, excluding those funds and efforts under the direct control of the State Resiliency Officer pursuant to ~~§15-5-4 and §15-5-24~~ §29-31-3, §29-31-6, §29-31-7 and §29-31-8 of this code. ~~for a particular event~~

(b)(1) The State Resiliency Office Board is also established and shall consist of the following members: The State Resiliency Officer; the Secretary of the Department of Commerce or his or her designee; the Director of the Division of Natural Resources or his or her designee; the Secretary of the Department of Environmental Protection or his or her designee; the Executive Director of the State Conservation Agency or his or her designee; the President of the West Virginia Emergency Management Council or his or her designee; the Secretary of the Department of Health and Human Resources or his or her designee; the Secretary of the Department of Homeland Security or his or her designee; the Secretary of Transportation or his or her designee; the Adjutant General of the West Virginia National Guard or his or her designee; the Director of the Division of Emergency Management within the Department of Homeland Security or his or her designee; two nonvoting members of the West Virginia Senate, one from each party, to be appointed by the President of the Senate; and two nonvoting members of the West Virginia House of Delegates, one from each party, to be appointed by the Speaker of the House of Delegates.

(2) A member of the board holds office so long as he or she retains the office or position by virtue of which he or she is serving on the board. A majority of the voting members of the board is a quorum and the concurrence of a board in any matter within their duties is required for its determination. The members of the board may not receive compensation for their services on the

committee, but are entitled to reimbursement of expenses, including traveling expenses necessarily incurred in the discharge of their duties on the board.

(3) The board shall:

(A) Provide for the keeping of a full and accurate record of all proceedings and of all resolutions, rules, and orders issued or adopted, and of its other official actions;

(B) Shall adopt a seal, which shall be judicially noticed;

(C) Provide for an annual audit of the accounts of receipts and disbursements of the State Resiliency Office; and

(D) Perform those acts necessary for the execution of its functions under this article.

(1) The State Resiliency Officer shall be the chair of the State Resiliency Office Board and shall be appointed by the Governor with the advice and consent of the Senate. The State Resiliency Officer may cast a vote only in the event of a tie vote. The board shall elect from its voting membership a vice chair. The vice chair shall preside over the meetings of the board in the absence of the chair. In the absence of both the chair and the vice chair any member designated by the members present may act as chair.

(2) The State Resiliency Officer shall be vested with the authority and duties prescribed to the office within this article.

(3) The State Resiliency Officer shall be a person who has:

(A) At least five years' managerial or strategic planning experience in matters relating to flood control ~~and~~, hazard mitigation, and disaster resiliency, or alternatively, in disaster recovery, emergency management, community and economic development, regional planning, economics, or related public policy field; ~~emergency management, or emergency response~~

(B) At least a level IS-800 NIMS certification: *Provided*, That if the State Resiliency Officer does not have a level IS-800 NIMS certification when appointed, he or she shall become so certified within one year following appointment; and

(C) Be thoroughly knowledgeable in matters relating to flood control ~~and~~, hazard mitigation, and disaster resiliency, or alternatively, in matters relating to disaster recovery, emergency management, ~~and emergency response~~ community and economic development, regional planning, economics, or related public policy field.

(4) The State Resiliency Officer shall employ a deputy who shall assist the State Resiliency Officer in carrying out the duties of the office. The State Resiliency Office Board shall meet and submit a list of no more than five nor less than two of the most qualified persons to the Governor within 90 days of the occurrence of a vacancy in this deputy position. This deputy shall be appointed by the Governor with the advice and consent of the Senate. Applicants for the deputy position shall at a minimum:

(A) Have at least three years' managerial or strategic planning experience in matters relating to flood control, hazard mitigation, and disaster resiliency, or alternatively, in disaster recovery, emergency management, community and economic development, regional planning, economics,

~~or related public policy field; in matters relating to flood control and hazard mitigation or, alternatively, in disaster recovery, emergency management, or emergency response;~~

(B) Have at least a level ~~E/L 950~~ IS 800 NIMS certification: *Provided*, That if the deputy State Resiliency Officer does not have a level ~~E/L 950~~ IS 800 NIMS certification when appointed, he or she shall become so certified within one year following appointment; and

(C) Be thoroughly knowledgeable ~~in matters relating to flood control, hazard mitigation, and disaster resiliency, or alternatively, in matters relating to disaster recovery, emergency management, community and economic development, regional planning, economics, or related public policy field. in matters relating to flood control and hazard mitigation, or alternatively, in matters relating to disaster recovery, emergency management, and emergency response; and~~

~~(D) If the State Resiliency Officer has his or her primary experience in flood control and hazard mitigation then his or her deputy must have experience in disaster recovery, emergency management, or emergency response; alternatively, if the State Resiliency Officer has his or her primary experience in disaster recovery, emergency management, or emergency response then his or her deputy must have experience in flood control and hazard mitigation~~

(5) The State Resiliency Officer shall employ additional staff as necessary to assist the State Resiliency Officer in carrying out the duties of the office.

(d) The board shall meet no less than once each calendar quarter at the time and place designated by the chair and the board shall work together with the State Resiliency Officer to fulfill the mission given to the State Resiliency Office to coordinate efforts for ~~emergency and~~ disaster planning, ~~response~~, recovery, and resiliency between government agencies, first responders and others.

The board will assist and advise the State Resiliency Officer in developing policies to accomplish, at a minimum, the following specific tasks in order to achieve these goals, and will assist the State Resiliency Officer in devising plans and developing procedures which will ensure that agencies and political subdivisions of the state carry out these following specific tasks:

(1) Establish mechanisms to coordinate disaster recovery and resiliency-related programs and activities among state agencies and to encourage intergovernmental as well as cross-sector coordination and collaboration;

(2) Evaluate the state's role in construction permitting process and identify opportunities to expedite the permitting process post-disaster and for selected types of mitigation and adaptation actions;

(3) Conduct a review of laws and regulations to identify those that create or add to risk, or interfere with the ability to reduce risk or to improve disaster recovery and resiliency;

(4) Conduct an inventory of relevant critical planned activity by state agencies to determine their proposed impact upon disaster recovery and resiliency;

(5) Make recommendations regarding practical steps that can be taken to improve efficiencies, and to pool and leverage resources to improve disaster recovery and resiliency;

(6) Identify, prioritize, and evaluate issues affecting implementation of mitigation and adaptation actions, including, but not limited to, the effect of ~~loss of land~~ increasing flood risk in context of zoning and other land use regulations, possible conflicts between public hazard mitigation/adaptation planning and private property interests (e.g. buy-out programs, projects to increase flood storage), develop guidance for cities and towns, real estate professionals, property owners under existing law and regulations; and develop proposals for changes in laws, policies, and regulations, as needed;

(7) Ensure all counties and municipalities ~~have~~ are covered by up-to-date Hazard Mitigation Plans and Local Comprehensive Disaster Plans that are consistent with, and coordinated to, the state's Hazard Mitigation Plans ~~and~~, Comprehensive Disaster Plans, and the state's Flood Resiliency Plan; including, but not limited to, assisting them in developing planning guidance for cities and towns to complete and/or update Hazard Mitigation Plans; providing technical assistance to help counties and municipalities meet these standards; and provide notice to counties and municipalities of funding opportunities to implement projects outlined in their Hazard Mitigation Plans;

(8) Conduct risk assessments, including, but not limited to, examining state highway corridors and associated drainage systems for stormwater inundation, impacts of downed trees, effects on utilities, ~~etc.~~ and comparable facilities; assessment of known stormwater impacts between state highways and municipal drainage systems, options to eliminate or mitigate such impact; a housing vulnerability assessment for structures in riparian zones; a vulnerability assessment of critical infrastructure at the state and municipal levels including hospitals, schools, fire stations, and comparable facilities, and a vulnerability assessment of the state's historic and cultural resources;

(9) Establish working groups that will conduct assessments for varied sectors of the economy, such as small business, ports and river traffic, agriculture, manufacturing, and tourism; these assessments should address vulnerabilities and economic impacts, options to mitigate impacts, options to improve preparedness, response and recovery, and economic opportunities associated with design, engineering, technological and other skills and capabilities that can improve resilience;

(10) Establish emergency permitting procedures to expedite issuance of state permits following disasters, and develop guidance (model procedures) for political subdivisions to follow; and

(11) ~~Establish a model~~ Lead long-term recovery ~~plan~~ planning efforts on behalf of the state in the event of the proclamation of the existence of a state of emergency due to a natural hazards event, or upon a Presidential declaration of a major disaster under Section 406 of the Stafford Act, that would be activated after catastrophic events

All decisions of the board shall be decided by a majority vote of the members.

(e) The State Resiliency Office shall provide adequate staff from that office to ensure the meetings of the board are facilitated, board meeting minutes are taken, records and correspondence kept, and that reports of the board are produced in a timely manner.

(f) Notwithstanding any other provisions of this code:

(1) The meetings of the board are not subject to the provisions of §6-9A-1 *et seq.* of this code.

(2) The following are exempt from public disclosure under the provisions of §29B-1-1 *et seq.* of this code:

(A) All deliberations of the board;

(B) The materials, in any medium, including hard copy and electronic, placed in the custody of the board as a result of any of its duties; and

(C) All records of the board, in the possession of the board, and generated by the board, due to their falling under several exceptions to public disclosure including, but not limited to, that for security or disaster recovery plans and risk assessments.

§29-31-2a. Definitions.

As used in this article:

'Board' means the West Virginia State Resiliency Office Board created by this article;

'Code' means the Code of West Virginia, 1931, as amended;

'Community facilities' means a specific work, or improvement within this state or a specific item of equipment or tangible personal property owned or operated by any political subdivision or nonprofit corporation and used within this state to provide any essential service to the general public;

'Disaster' means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural, or terrorist, or man-made cause, including weapons of mass destruction, fire, flood, earthquake, wind, snow, storm, chemical or oil spill or other water or soil contamination, epidemic, air contamination, blight, drought, infestation or other public calamity requiring emergency action;

'Disaster recovery activities' means activities undertaken following a disaster to provide, or to participate in, the provision of long-term rehabilitation of infrastructure, housing, community facilities, and economic activity impacted by a disaster event;

'Flood Fund' means the West Virginia Flood Resiliency Trust Fund created by this article;

'Flood prevention or protection study' means the conduct of a hydraulic or hydrologic study of a flood plain with historic and predicted future floods, the assessment of current and projected future flood risk, and the development of strategies to prevent or mitigate damage from flash or riverine flooding;

'Flood resiliency' means efforts and activities intended to minimize damages during times of flooding resulting in reduced risk to people and infrastructure, and ensuring there is ample room for flooding and river adjustment to occur where the opportunity may exist;

'Low-income geographic area' means any locality, or community within a locality, that has a median household income that is not greater than 80 percent of the local median household income, or any area in the state designated as a qualified opportunity zone by the U.S. Secretary of the Treasury via his delegation of authority to the Internal Revenue Service;

'Low-income household' means any household whose income does not exceed 80 percent of the local median household income;

'Nature-based solution' means sustainable planning, design, environmental management, and engineering practices that weave natural features or processes into the built environment to promote flood resiliency and preserve or enhance natural hydrologic function;

'Person' means any individual, corporation, voluntary organization or entity, partnership, firm, or other association, organization, or entity organized or existing under the laws of this or any other state or country;

'Political subdivision' means any county or municipal corporation in this state;

'Recovery Trust Fund' means the West Virginia Disaster Recovery Trust Fund created by this article; and,

'Stafford Act' means the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Chapter 68).

§29-31-3. Authority of State Resiliency Office and State Resiliency Officer.

The State Resiliency Office will coordinate the state's disaster ~~response~~ recovery and resiliency missions and the State Resiliency Officer serves as the primary representative of the Governor in these matters. The State Resiliency Officer shall, upon the order and direction of the Governor, act on behalf of the Governor in the event of the proclamation of the existence of a state of emergency or state of preparedness due to a natural hazards event ~~or state of preparedness under the provisions of §15-5-6 of this code~~ upon a Presidential declaration of a major disaster under Section 406 of the Stafford Act. The State Resiliency Officer will assist and advise the Governor on all disaster ~~response~~ recovery and resiliency issues and serve as a liaison between the Governor's office, and all other parties, whether state, federal, public, or private to further the purposes of this article. The State Resiliency Officer will:

(1) Serve as coordinator of all economic and community resiliency planning and implementation efforts, including, but not limited to, flood protection programs and activities in the state;

(2) Develop a new state Flood Resiliency Plan due to the Board no later than June 30, 2024;

~~(2)(3)~~ Coordinate an annual review of the state ~~flood protection plan~~ Flood Resiliency Plan and update the plan no less than ~~biannually~~ biennially, with updates due to the board no later than June 30 in even-numbered years;

~~(3)(4)~~ Recommend legislation to reduce or mitigate flood damage;

~~(4)(5)~~ Report to the Joint Legislative Committee on Flooding at least quarterly;

~~(5)(6)~~ Catalog, maintain, and monitor a listing of current and proposed capital expenditures to reduce or mitigate flood damage and other hazards, and other useful and desirable resiliency efforts;

~~(6)(7)~~ Coordinate planning of flood projects with federal agencies;

~~(7)~~(8) Improve professional management of flood plains;

~~(8)~~(9) Provide education and outreach on flooding issues to the citizens of this state;

~~(9)~~(10) Establish a single website integrating all agency flood information;

~~(10)~~(11) Monitor federal funds and initiatives that become available for disaster recovery and economic and community resiliency or other flood or hazard mitigation, and to direct expenditures on behalf of the Governor;

~~(11)~~(12) Pursue additional funds and resources to assist not only with long-term recovery efforts but also long-term community and statewide resiliency efforts;

~~(12)~~(13) Coordinate, integrate, and expand planning efforts in the state for hazard mitigation, long-term disaster recovery, and economic diversification;

~~(13)~~(14) Coordinate long-term disaster recovery efforts in response to disasters as they occur;

~~(14)~~(15) Establish and facilitate regular communication between federal, state, local, and private sector agencies, and organizations to further economic and disaster resilience;

~~(15)~~(16) Receive resources, monetary or otherwise, from any other governmental entity and disburse those resources to effectuate the purposes of this article;

~~(16)~~(17) Execute cooperative agreements, where appropriate, between the State Resiliency Office and the federal and/or state governments;

~~(17)~~(18) Contract, where appropriate, on behalf of the State Resiliency Office, with the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia, and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals;

~~(18)~~(19) Use funds administered by the State Resiliency Office for the maintenance, construction, or reconstruction of capital repair and replacement items as necessary to effectuate the purposes of this article;

~~(19)~~(20) Accept and use funds from the federal government, its instrumentalities and agencies, any state, territory or the District of Columbia, and its agencies and instrumentalities, municipalities, foreign governments, public bodies, private corporations, partnerships, associations, and individuals for the purposes of disaster recovery, hazard mitigation, flood mitigation, flood prevention, and disaster response programs;

~~(20)~~(21) Hire necessary employees at an appropriate salary equivalent to a competitive wage rate;

~~(21)~~(22) Enroll appropriate employees in PERS, PEIA, and workers' compensation and unemployment programs, or their equivalents: *Provided*, That the State Resiliency Office, through the receipt of federal and/or state funds, pays the required employer contributions;

~~(22)~~(23) Develop a human resources division that will administer and manage its employees and receive state matching funds as necessary to ensure maximum federal funds are secured;

~~(23)~~(24) Have the ability to secure all other bonding, insurance, or other liability protections necessary for its employees to fulfill their duties and responsibilities;

(24)(25) Have the ability to draw upon other departments, divisions, agencies, and all other subdivisions of the state for research and input in fulfilling the requirements of this article, and its requests are to have priority over other such requests;

~~(25)~~(26) Participate in the interdepartmental transfer of permanent state employees, as if he or she were a department secretary, under the provisions of §5F-2-7 of this code.

~~(26)~~(27) Notwithstanding any other provision of this code to the contrary, acquire legal services that are necessary, including representation of the board, its employees, and officers before any court or administrative body from the office of the Attorney General, who shall provide such legal assistance and representation, and

~~(27)~~(28) Take all other actions necessary and proper to effectuate the purposes of this article.

The office shall have any other additional authority, duties, and responsibilities as prescribed by the Governor to effectuate the purposes of this article. Due to the at-will employment relationship with the office, its employees may not avail themselves of the state grievance procedure as set forth in §6C-2-1 *et seq.* of this code.

§29-31-6. West Virginia Disaster Recovery Trust Fund.

(a) There is hereby created a special trust fund which shall be designated and known as the West Virginia Disaster Recovery Trust Fund to be administered by the State Resiliency Officer. The recovery fund shall consist of: (1) Any appropriations, grants, gifts, contributions, or revenues received by the recovery fund from any source, public or private; and (2) all income earned on moneys, properties, and assets held in the Recovery Fund. When any funds are received by the State Resiliency Officer from any source for the purpose of disaster recovery, they shall be paid into the Recovery Fund, and shall be disbursed and otherwise managed in the manner set forth in this article unless such a transfer is not allowable by law. The Recovery Fund shall be treated by the Auditor and Treasurer as a special revenue fund and not as part of the general revenues of the state.

(b) All moneys, properties, and assets acquired by the State of West Virginia in the Disaster Recovery Trust Fund shall be held by it in trust for the purposes of carrying out its powers and duties and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys, properties, and assets shall at no time be commingled with other public funds except as authorized for investment under §29-31-8 of this code. Disbursements from the Recovery Fund shall be made only upon the written requisition of the the State Resiliency Officer as set forth in §29-31-7 and §29-31-8 of this code. If no need exists for immediate use or disbursement, moneys, properties, and assets in the Recovery Fund shall be invested or reinvested by the State Resiliency Officer as provided in this article.

§29-31-7. West Virginia Disaster Recovery Trust Fund disbursement.

Upon the proclamation of the existence of a state of emergency due to a natural hazards event under the provisions of §15-5-6 of this code or upon a Presidential declaration of a major disaster under Section 406 of the Stafford Act, the State Resiliency Officer shall have the power to disburse funds from the Disaster Recovery Trust Fund created pursuant to §29-31-6 of this

code to any person, political subdivision, or local organization for emergency services in such amounts and in such manner, and to take such other actions, as the State Resiliency Officer may determine is necessary or appropriate in order to provide assistance to any person, political subdivision, or local organization for recovering from the disaster, or otherwise involved in disaster recovery activities: *Provided*, That except as provided hereafter in this section, requisitions for payment shall not be made or authorized for payment by the Auditor without the express approval of the State Resiliency Officer: *Provided, however*, That all disbursements arising out of the events surrounding the aftermath of a disaster event giving rise to the relevant disbursements shall require the express approval of the State Resiliency Officer, which approval shall not be unduly withheld or delayed.

In the occurrence of a qualifying event granting the State Resiliency Officer the power to disburse funds from the Disaster Recovery Trust Fund, the following provisions and conditions shall be adhered to:

(1) Disbursements shall be prioritized to the benefit of low-income households and geographic areas, and not less than 50 percent of all funds disbursed through the Disaster Recovery Trust Fund following any particular disaster event shall be disbursed to the benefit of low-income geographic areas, low-income households, or to local organizations conducting disaster recovery activities to the benefit of low-income geographic areas or low-income households;

(2) Disbursements to the benefit of a political subdivision may only be allowed upon the verification to the State Resiliency Officer that the recipient political subdivision has adopted, or will adopt within 24 months, the following programs or measures or risk forfeiture of future funding opportunities:

(A) Town road and bridge standards consistent with or exceeding those listed under the most current version of standards published by the West Virginia Department of Transportation;

(B) A flood hazard bylaw, or an adopted interim flood hazard bylaw as an intermediary step to secure enrollment and participation in the National Flood Insurance Program (NFIP), if applicable;

(C) A local Hazard Mitigation Plan that meets the provisions of 44 CFR § 201.6 that has been approved by the local community and is approved or in the process of securing final approval by FEMA. The local mitigation plan may be part of a larger multijurisdictional or regional mitigation plan;

(D) Adoption of a local Emergency Operations Plan (EOP) in accordance with State standards; and

(E) Attainment of an active rate classification (class #1 through #9) under FEMA's Community Rating System (CRS) that includes activities that prohibit new structures in mapped flood hazard zones; and

(3) Disbursements may be further prioritized or conditioned at the discretion of the State Resiliency Officer and upon approval of the State Resiliency Office Board.

§29-31-8. Powers and duties related to the West Virginia Disaster Recovery Trust Fund.

The State Resiliency Officer is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purposes set forth in §29-31-7 of this code. The State Resiliency Officer has the power:

(1) To accept appropriations, gifts, grants, bequests, and devises from any source, public or private, for deposit into the Recovery Fund, and to use or dispose of the same to provide assistance to any person, political subdivision, or local organization for recovering from a disaster, or otherwise involved in disaster recovery activities;

(2) To make and execute contracts, leases, releases, and other instruments necessary or convenient for the exercise of its power;

(3) To make, and from time to time, amend, and repeal bylaws for the governance of its activities not inconsistent with the provisions of this article;

(4) To sue and be sued;

(5) To acquire, hold, and dispose of real and personal property;

(6) To enter into agreements or other transactions with any federal or state agency, political subdivision, or person;

(7) To provide for the deposit of any funds or assets of the West Virginia Disaster Recovery Trust Fund with the state Treasurer for investment pursuant to §12-6C-6 of this code;

(8) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(9) To provide financial assistance to state and local governmental entities for the nonfederal share for federal disaster assistance programs;

(10) To provide for financial assistance to homeowners and communities that are not eligible for Community Development Block Grant-Disaster Recovery and other federal funding assistance;

(11) To provide loans and grants to local governments in disaster areas that need immediate cash flow assistance;

(12) To provide grants to governmental entities and organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code to repair or replace infrastructure or equipment damaged as a result of a natural disaster;

(13) To provide financial assistance for verifiable losses of agricultural commodities due to a natural disaster; and

(14) Do all acts necessary and proper to carry out the powers granted to the State Resiliency Office within its disaster recovery mission.

§29-31-9. Capitalization of the West Virginia Disaster Recovery Trust Fund.

(a) The West Virginia Disaster Recovery Trust Fund may be granted an initial one-time allocation of \$10 million in state general funds for the purposes outlined in this article.

(b) The State Resiliency Officer shall, with the concurrence of the State Auditor, present an expenditure report to the State Resiliency Office Board by no later than December 1 annually.

(c) Upon review and verification by the State Resiliency Office Board that all expenditures within the West Virginia Disaster Recovery Trust Fund expenditure report are valid and justified uses of Recovery Fund resources, the State Resiliency Office Board shall submit to the Governor by no later than December 31 annually a budget and may request to replenish the Recovery Fund up to its initial \$10 million capitalization.

§29-31-10. West Virginia Flood Resiliency Trust Fund.

(a) There is hereby created a special trust fund which shall be designated and known as the West Virginia Flood Resiliency Trust Fund to be administered by the State Resiliency Officer. The Flood Fund shall consist of: (1) Any appropriations, grants, gifts, contributions, or revenues received by the Flood Fund from any source, public or private; and (2) all income earned on moneys, properties, and assets held in the Flood Fund. When any funds are received by the State Resiliency Officer from any source for flood resiliency activities, they shall be paid into the Flood Fund, and shall be disbursed and otherwise managed in the manner set forth in this article. The Flood Fund shall be treated by the Auditor and Treasurer as a special revenue fund and not as part of the general revenues of the state.

(b) All moneys, properties, and assets acquired by the State of West Virginia in the Flood Fund shall be held by it in trust for the purposes of carrying out its powers and duties and shall be used and reused in accordance with the purposes and provisions of this article. Such moneys, properties, and assets shall at no time be commingled with other public funds except as authorized for investment under §29-31-12 of this code. Disbursements from the Flood Fund shall be made only upon the the written requisition of the State Resiliency Officer as set forth in §29-31-11 and §29-31-12 of this code. If no need exists for immediate use or disbursement, moneys, properties, and assets in the Flood Fund shall be invested or reinvested by the State Resiliency Officer as provided in this article.

§29-31-11. West Virginia Flood Resiliency Trust Fund disbursement.

Upon the development of a new state Flood Resiliency Plan, the State Resiliency Officer shall have the power to disburse funds from the Flood Fund for the purposes of implementing the Flood Resiliency Plan to any person, political subdivision, or local organization in such amounts and in such manner, and to take such other actions, as the State Resiliency Officer may determine is necessary or appropriate and is outlined within the Flood Resiliency Plan. All assistance to any person, political subdivision, or local organization shall be for the purposes of building flood resiliency in the face of current and projected future flood disaster events: *Provided*, That except as provided hereafter in this section, requisitions for payment shall not be made or authorized for payment by the Auditor without the express approval of the State Resiliency Officer: *Provided, however*, That all disbursements shall require the express approval of the State Resiliency Officer, which approval shall be contingent on the proposed activity appearing as a valid proposed flood resiliency activity and prioritized for implementation within the most recent Flood Resiliency Plan as reviewed and approved by the State Resiliency Office Board.

Following the development and approval of a new state Flood Resiliency Plan, the State Resiliency Officer is granted the power to disburse funds from the Flood Resiliency Trust Fund. In accordance with these powers, the following provisions and conditions shall be adhered to:

(1) Disbursements from the Flood Fund shall be used solely for the purposes of enhancing flood prevention or protection as required by this article. The State Resiliency Office shall manage the Flood Fund and may disburse from the Flood Fund its reasonable costs and expenses incurred in the management of the Flood Fund;

(2) Disbursements shall be prioritized to the benefit of low-income geographic areas, and not less than 50 percent of all funds disbursed through the Flood Resiliency Trust Fund shall be disbursed to the benefit of low-income geographic areas and low-income households;

(3) Disbursements shall be prioritized toward the implementation of nature-based solutions, and not less than 50 percent of all funds disbursed through the Flood Resiliency Trust Fund shall be disbursed to implement nature-based solutions. Of disbursements made to implement nature-based solutions, not less than 25 percent of these disbursements shall be utilized for the acquisition of single-family primary residences and multifamily residences in areas currently or projected to be subjected to significant flood impacts, assistance to residents relocating outside of the floodplain, and floodplain restoration activities on properties acquired through the Flood Fund;

(4) Disbursements to the benefit of a political subdivision may only be allowed upon the verification to the State Resiliency Officer that the recipient political subdivision has adopted, or will adopt within 24 months, the following programs or measures:

(A) Town road and bridge standards consistent with or exceeding those listed under the most current version of standards published by the West Virginia Department of Transportation;

(B) A flood hazard bylaw, or an adopted interim flood hazard bylaw as an intermediary step to secure enrollment and participation in the National Flood Insurance Program (NFIP), if applicable;

(C) A local Hazard Mitigation Plan that meets the provisions of 44 CFR § 201.6 that has been approved by the local community, and is approved or in the process of securing final approval by FEMA. The local mitigation plan may be part of a larger multijurisdictional or regional mitigation plan;

(D) Adoption of a local Emergency Operations Plan (EOP) in accordance with state standards; and

(E) Attainment of an active rate classification (class #1 through #9) under FEMA's Community Rating System (CRS) that includes activities that prohibit new structures in mapped flood hazard zones; and

(5) Prioritization and conditions for disbursements at the discretion of the State Resiliency Officer and upon approval of the State Resiliency Office Board.

§29-31-12. Powers and duties related to the West Virginia Flood Resiliency Trust Fund.

The State Resiliency Officer is hereby granted, has, and may exercise all powers necessary or appropriate to carry out and effectuate the purposes set forth in §29-31-11 of this code. The State Resiliency Officer has the power:

(1) To accept appropriations, gifts, grants, bequests, and devises from any source, public or private, for deposit into the Flood Fund, and to use or dispose of the same to provide assistance to any person, political subdivision, or local organization for flood resiliency, flood prevention, and flood protection activities;

(2) To make and execute contracts, leases, releases, and other instruments necessary or convenient for the exercise of its power;

(3) To make, and from time to time, amend, and repeal bylaws for the governance of its activities not inconsistent with the provisions of this article;

(4) To sue and be sued;

(5) To acquire, hold, and dispose of real and personal property;

(6) To enter into agreements or other transactions with any federal or state agency, political subdivision, or person;

(7) To provide for the deposit of any funds or assets of the West Virginia Flood Resiliency Trust Fund with the state Treasurer for investment pursuant to §12-6C-6 of this code;

(8) To procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(9) To procure services related to the development and updating of the state Flood Resiliency Plan;

(10) To provide loans or grants to political subdivisions and individual beneficiaries for the purpose of implementing activities proposed and outlined within the Flood Resiliency Plan;

(11) To provide loans or grants to governmental entities and organizations exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code for the purpose of implementing activities proposed and outlined within the Flood Resiliency Plan;

(12) To provide loans or grants to political subdivisions for the purpose of conducting flood prevention and protection studies in areas that are subject to recurrent flooding as confirmed by a locality-certified floodplain manager; and

(13) Do all acts necessary and proper to carry out the powers granted to the State Resiliency Office for flood resiliency activities.

§29-31-13. Capitalization of the West Virginia Flood Resiliency Trust Fund.

(a) The West Virginia Flood Resiliency Trust Fund may be granted an initial one-time allocation of \$40 million in state general funds for the purposes outlined in this article.

(b) The State Resiliency Officer shall, with the concurrence of the State Auditor, present an expenditure report to the State Resiliency Office Board by no later than December 1 annually.

(c) Upon review and verification by the State Resiliency Office Board that all expenditures within the West Virginia Flood Resiliency Trust Fund expenditure report are valid and justified uses of Flood Fund resources, the State Resiliency Office Board shall submit to the Governor by

no later than December 31 annually a budget and may request to replenish the Flood Fund up to its initial \$40 million capitalization.

§29-31-14. Tax exemption.

The State Resiliency Officer shall not be required to pay any taxes and assessments to the state or any political subdivision of the state upon any of its moneys, properties, or assets or upon its obligations or other evidences of indebtedness pursuant to the provisions of this article, or upon any moneys, funds, revenues, or other income held or received into the West Virginia Disaster Recovery Trust Fund or the West Virginia Flood Resiliency Trust Fund.”

On motion of Delegates Riley and Criss, the amendment was amended, on page twenty-four, section thirteen, following line nine, by inserting a new subsection (d) to read as follows:

“(d) Upon state receipt of Community Development Block Grant-Disaster Recovery funds in relation to a flood disaster event, and in order to provide the state with the flexibility required to provide assistance to any person, political subdivision, or local organization recovering from the flood disaster event, a minimum of six percent of those funds shall be dedicated for the purposes of Flood Resiliency Plan development and implementation activities to the extent that those purposes are in compliance with applicable federal laws and regulations governing such funds and compatible with the state’s long-term recovery goals.”

The Committee on Finance amendment, as amended, was then adopted.

The bill was then ordered to third reading.

S. B. 678, Adding appropriations to DHHR, Division of Human Services; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 733, Relating to wildlife licenses and stamps; on second reading, coming up in regular order, was read a second time.

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

"ARTICLE 2. WILDLIFE RESOURCES.

§20-2-42l. Class A-1 small arms hunting stamp.

~~Notwithstanding the provisions of section two, article seven, chapter sixty one of this code, a~~ A Class A-1 stamp is a small arms hunting stamp. To be eligible to get a Class A-1 stamp, a person must be legally able to possess a firearm. If a person is otherwise qualified, Except for any person prohibited from possessing a firearm by state or federal law, to a Class A-1 stamp may be issued to a person twenty-one 18 years of age or older who is otherwise qualified and holds a valid resident or nonresident hunting license, or to a person who is a resident sixty-five 65 years of age or older, but a Class A-1 stamp shall never be issued to a person who has been convicted of a misdemeanor associated with the use of firearms or dangerous weapons or who has been convicted of a felony. A Class A-1 stamp entitles the licensee to hunt, as otherwise permitted by the provisions of this chapter, but only during small game and big game seasons as established annually by the Director, with either a revolver or pistol which has a barrel at least four inches in length. Unless otherwise permitted by the Code of West Virginia, a Class A-1 stamp

~~entitles the licensee to carry or have in his or her possession only one revolver or pistol when going to and from his or her home or residence and a place of hunting and while hunting: *Provided*, That the Class A-1 stamp may not be valid unless the licensee has in his or her possession a valid resident or nonresident hunting license or is a resident ~~sixty-five~~ 65 years of age or older: *Provided, however*, ~~That at all times, when not actually hunting, the revolver or pistol shall be unloaded. While~~ while hunting, the licensee shall carry the revolver or pistol in an unconcealed and easily visible place. Nothing in this section shall be construed to prohibit a person from carrying a firearm for self-defense who is not prohibited from possessing a firearm by state or federal law. The fee for the stamp is \$8. A lifetime Class A-1 stamp may be issued to anyone otherwise qualified and holding a valid Class A-L or, AB-L, E-L or EE-L license or to a resident ~~sixty-five~~ 65 years of age or older. The lifetime Class A-1 stamp will be issued in a form prescribed by the Director. The fee for a lifetime Class A-1 stamp is \$75. All fees collected for the issuance of the Class A-1 and lifetime Class A-1 stamps shall be deposited in the State Treasury and credited to the law-enforcement section of the Division of Natural Resources. The fees collected shall be paid out of the State Treasury on order of the Director and used solely for law-enforcement purposes. Any person ~~convicted of a misdemeanor associated with the use of firearms or dangerous weapons or convicted of a felony, or any person~~ who becomes legally unable to possess a firearm shall immediately surrender the stamp to the Division of Natural Resources. A holder of a Class A-1 or lifetime Class A-1 stamp is required to purchase the appropriate base license before participating in the activities specified in this section, except as noted.~~

ARTICLE 2B. WILDLIFE ENDOWMENT FUND.

20-2B-7. Lifetime hunting, fishing, and trapping licenses created.

(a) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting, fishing, and trapping licenses and for the lifetime of the licensee, the lifetime licenses serve in lieu of the equivalent annual license: Lifetime resident statewide hunting and trapping license; lifetime resident combination statewide hunting, fishing, and trapping license; lifetime resident statewide fishing license; and lifetime resident trout fishing license.

(b) The director shall propose a rule for legislative approval in accordance with §29A-3-1 *et seq.* of this code, setting fees for lifetime licenses ~~and shall have authority to promulgate emergency legislative rules necessary to make effective the provisions of this section by July 1, 2024.~~ The fees for adult lifetime licenses shall be 23 times the fee for the equivalent annual licenses or stamps. The rule shall provide that the fee for any resident who has not reached his or her 15th birthday shall be:

(1) Forty percent of the adult fee set under rule for any resident who has not reached his or her first birthday;

(2) Fifty-five percent of the adult fee set under rule for any resident who is over one year old but has not reached his or her fifth birthday;

(3) Seventy-five percent of the adult fee set under rule for any resident who is over five years old but has not reached his or her 10th birthday; and

(4) Ninety percent of the adult fee set under rule for any resident who is over 10 years old but has not reached his or her 15th birthday.

The rule shall also provide that any resident who has not reached his or her 15th birthday and has been legally adopted shall be provided the same fee schedule, except the division shall use the date of entry of the order or decree of adoption as the licensee's date of birth for purposes of calculating the appropriate fee: *Provided*, That in addition to the provisions of this subsection for adopted children, foster parents may also purchase a lifetime license for their respective foster children under the same guidelines, except the division shall use the date of entry of the order placing the child in foster care as the licensee's date of birth for purposes of calculating the appropriate fee.

(c) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting, fishing, and trapping licenses and for the lifetime of the licensee, the lifetime licenses serve in lieu of the equivalent annual license: Lifetime nonresident statewide hunting and trapping license; lifetime; lifetime nonresident statewide fishing license; and lifetime nonresident bear hunting license.

(d) Pursuant to §20-2B-3 of this code, the director may issue the following lifetime hunting, fishing, and trapping stamps and for the lifetime of the licensee, the lifetime stamps serve in lieu of the equivalent annual stamp: Lifetime nonresident trout fishing stamp; lifetime nonresident archery deer hunting stamp; lifetime nonresident muzzleloading deer hunting stamp; lifetime nonresident turkey hunting stamp; and lifetime nonresident national forest hunting, fishing, and trapping stamp.

(e) The director shall propose a rule for legislative approval in accordance with §29A-3-1 et seq. of this code, setting fees for nonresident lifetime licenses and stamps and shall have authority to promulgate emergency legislative rules necessary to make effective the provisions of this section by July 1, 2023. The fees for adult nonresident lifetime licenses and stamps shall be 23 times the fee for the equivalent annual licenses or stamps. The rule shall provide that the fee for any nonresident who has not reached his or her 15th birthday shall be:

(1) Forty percent of the adult fee set under rule for any nonresident who has not reached his or her first birthday;

(2) Fifty-five percent of the adult fee set under rule for any nonresident who is over one year old but has not reached his or her fifth birthday;

(3) Seventy-five percent of the adult fee set under rule for any nonresident who is over five years old but has not reached his or her 10th birthday; and

(4) Ninety percent of the adult fee set under rule for any nonresident who is over 10 years old but has not reached his or her 15th birthday.

§20-2B-8. Privileges of lifetime licensees.

(a) Pursuant to ~~section seven of this article~~ §20-2B-7 of this code, resident lifetime licensees shall be entitled to the same privileges and subject to the same restrictions as resident licensees possessing the equivalent annual license with the following exceptions:

(1) Class A-L, AB-L, B-L and O-L licenses shall be valid for the lifetime of the licensee;

(2) A Class O-L lifetime resident trout fishing license shall be issued only to residents of the state and shall be valid only when accompanied by a Class AB-L, B, B-L, X or XJ license; and

(3) No additional fee shall be required of Class A-L, AB-L or B-L licensees for the conservation stamp required by ~~section nine of this article~~ §20-2B-9 of this code. No additional fee shall be required of Class A-L or AB-L licensees for the Class BG stamp required by ~~section forty-two-v, article two of this chapter~~ §20-2-42v of this code.

(b) Pursuant to §20-2B-7 of this code, nonresident lifetime licensees shall be entitled to the same privileges and subject to the same restrictions as nonresident licensees possessing the equivalent annual license with the following exceptions:

(1) Class E-L, EE-L, F-L and OO-L licenses shall be valid for the lifetime of the licensee; and

(2) No additional fee shall be required of Class E-L, EE-L, or F-L licensees for the nonresident conservation law-enforcement and sports education stamp required by §20-2B-10 of this code.

(3) A Class OO-L lifetime nonresident trout fishing license shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class F or F-L license; and

(4) A Class UU-L lifetime resident archery deer hunting stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L license; and

(5) A Class VV-L lifetime nonresident muzzleloading deer hunting stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L license; and

(6) A Class WW-L lifetime nonresident turkey hunting stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L license; and

(7) A Class I-L lifetime nonresident national forest hunting, trapping, and fishing stamp shall be issued only to nonresidents of the state and shall be valid only when accompanied by a Class E-L, EE-L, or F-L license.”

The bill was then ordered to third reading.

S. B. 734, Requiring adoption of cloud computing services by state agencies; on second reading, coming up in regular order, was read a second time and ordered to third reading.

S. B. 735, Clarifying department responsible for administration of certain programs; on second reading, coming up in regular order, was read a second time.

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

S. B. 737, Emergency Medical Services Act; on second reading, coming up in regular order, was read a second time.

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

“ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-25. Emergency Medical Services Salary Enhancement Fund.

(a) There is hereby created in the State Treasury a special revenue fund designated and known as the Emergency Medical Services Salary Enhancement Fund which is an interest- and earnings-accumulating account. The fund is established to support supplementing the salaries of, and providing crisis response for, county emergency medical service personnel as that term is defined in §16-4C-3(g) of this code or a county designated or contracted emergency medical service provider and all moneys must be spent to support increasing salaries of emergency medical service workers and providing crisis response to encourage retention. The fund consists of moneys appropriated by the Legislature, grants, gifts, devises, and donations from any public or private source. All interest and other returns derived from the deposit and investment of moneys in the Emergency Medical Services Salary Enhancement 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 in this section. The Director of the West Virginia Office of Emergency Medical Services shall administer the fund.

(b) The Director of the Office of Emergency Medical Services shall propose legislative rules for promulgation and promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code. These rules shall include a means of distributing any available funds to counties to accomplish the purpose of this section with an emphasis on the following factors:

(1) Counties who may demonstrate the most need;

(2) Counties that have a special levy for emergency medical services;

(3) Counties that have reached the maximum allowable rate on regular levies; and/or

(4) Counties that have a challenge recruiting and retaining emergency medical services personnel due to interstate competition.

(c) The Office of Emergency Medical Services shall prepare an annual report to the Legislative Oversight Commission on Health and Human Resources Accountability. The report shall provide:

(1) A county-by-county accounting of how the funds were distributed;

(2) An accounting by county of the number of emergency medical service workers receiving a salary enhancement; and

(3) Recommendations for continued funding.

The first report is due by July 1, 2024, and annually thereafter.”.

The bill was then ordered to third reading.

S. B. 739, Relating to moratorium on carbon capture agreements; on second reading, coming up in regular order, was read a second time.

An amendment was recommended by the Committee on Energy, and adopted, on page 1, after the enacting clause, by striking out the remainder of the bill and inserting in lieu thereof the following:

“CHAPTER 11. TAXATION.**ARTICLE 12. BUSINESS REGISTRATION TAX.****§11-12-4b. Parties to carbon offset agreements required to register.****(a) Definitions.—**

(1) ‘Carbon offset agreement’ means any agreement, whether designated as a carbon capture agreement, carbon sequestration agreement, or otherwise, entered into between an owner of an interest in real estate in West Virginia including any type of minerals or growing timber, and any other person, entity or company, with the intent of providing payment, compensation, or remuneration for nondevelopment of a real estate interest in West Virginia to prevent the release of carbon dioxide or other greenhouse gases into the atmosphere or to absorb, suppress, or contain carbon dioxide or other greenhouse gases. A carbon offset agreement may be in the form of a contract, lease, easement, covenant, option, or otherwise, with the form of the agreement not being determinative of its status as a carbon offset agreement; *Provided*, That such agreements or restrictions for the injection and containment of carbon dioxide or other greenhouse gases into underground pore or container spaces and methane capture and flaring operations are not carbon offset agreements.

(2) ‘Greenhouse gases’ means any of various gaseous or vaporous compounds such as carbon dioxide or methane that absorb infrared radiation and may trap heat in Earth’s atmosphere.

(b) *Registration.*— Any party or parties that enter into a carbon offset agreement, as that term is defined in this section, with a West Virginia landowner, and their assignees of rights, shall apply to the Tax Commissioner for an initial business registration certificate within 60 days of entering into such agreement or within 60 days of the effective date of this section, whichever is later, on forms created through rulemaking authority by the State Tax Department. This requirement applies to carbon offset agreements entered on or before the effective date of this section and currently in effect, and new carbon offset agreements entered after the effective date of this section. The application for the business registration certificate for carbon offset agreements shall provide the following information:

(1) Legal names, addresses, and other contact information of all parties to the carbon offset agreement;

(2) Location and description of the real estate in West Virginia covered by the carbon offset agreement, including the postal address of the property, if available, and tax parcel or other tax map identifier of the property;

(3) Term of the agreement in years;

(4) Identification of the carbon offset program or programs, if any, with which the agreement is intended to comply;

(5) Identification and description of any and all restrictions placed on the West Virginia real estate or other property by the carbon offset agreement;

(6) Estimated yearly consideration to be paid; and

(7) Any other information required by the Tax Commissioner.

(c) The party or parties that enter into a carbon offset agreement with a West Virginia landowner and their assignees of rights shall inform the Tax Commissioner of any changes to the agreement or assignments of rights under the agreement within 60 days of the change or assignment taking effect.

(d) Registration.— Notwithstanding any other provision of this code, the party or parties that enter into a carbon offset agreement with a West Virginia landowner and their assignees of rights to a carbon offset agreement shall apply to the Tax Commissioner for a new registration certificate within five years of the effective date of the agreement, and at five-year intervals thereafter, unless the agreement is terminated before that time.

(e) Reporting.— Beginning on July 1, 2024, and on or before July 1 of every year thereafter, the Tax Commissioner shall submit a report to the Governor and the Joint Committee on Government and Finance setting forth at a minimum the following information:

(1) The number and type of carbon offset agreements in effect burdening real estate in West Virginia during the preceding calendar year,

(2) The number of acres of real estate burdened by carbon offset agreements during the preceding calendar year and the counties in West Virginia in which they are found, and

(3) The amount of consideration paid to West Virginia landowners under carbon offset agreements during the preceding calendar year.

(f) The provisions of this article are subject to the West Virginia Tax Procedure and Administration Act, set forth in §11-10-1 *et seq.* of this code, and the West Virginia Tax Crimes and Penalties Act, set forth in §11-9-1 *et seq.* of this code, as if the provisions thereof were set forth *in extenso* in this article.

(g) Information disclosure.— Notwithstanding the provisions of §11-10-5d of this code and notwithstanding any other provision of this code, the Tax Commissioner is authorized to disclose such generalized registration information and other information as may be necessary to administer these provisions and compile the report required under this section.”

The bill was then ordered to third reading.

S. B. 740, Relating to compensation and expense reimbursement for members of Legislature; on second reading, coming up in regular order, was read a second time.

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

Com. Sub. for H. B. 2883, Making a supplemental appropriation from the Coronavirus State Fiscal Recovery Fund; on second reading, coming up in regular order, was read a second time.

An amendment sponsored by Delegate Foster, was reported by the Clerk, on page 2, section 6, line 20, by striking the number “\$482,000,000” and inserting in lieu thereof the following:

“\$282,000,000”;

And,

On page 2, section 6, line 22, by striking the number “\$177,000,000” and inserting in lieu thereof the following:

“\$377,000,000”.

Delegate Foster asked unanimous consent for an amendment sponsored by Delegate Kirby to be considered first, and it was reported by the Clerk on page 2, section 6, line 20, by striking the following text:

“\$482,000,000 shall be transferred to the Economic Development Authority (fund 9069)”, and inserting in lieu thereof the following:

“\$100,000,000 shall be transferred to the Public Employee Insurance Agency (fund 0200), \$142,000,000 shall be transferred to the Division of Corrections and Rehabilitation (fund 0450), \$240,000,000 shall be transferred to the Local Economic Development Assistance (fund 0105)”.

Delegate Pushkin was then recognized to explain an amendment he sponsored.

Whereupon,

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

Debate was permitted on the amendments offered by Delegates Kirby and Foster before the vote on the amendment by Delegate Kirby, adoption of which would preclude adoption of the amendment by Delegate Foster.

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

On this question, the yeas and nays were taken (**Roll No. 620**), and there were—yeas 61, nays 31, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Anderson, Burkhammer, Butler, Dean, Dillon, Espinosa, Fluharty, Foggin, Foster, Garcia, A. Hall, Hanna, Hansen, Hardy, Hornbuckle, Horst, Kirby, Longanacre, E. Pritt, Pushkin, Ridenour, Rowe, Skaff, Statler, Storch, Vance, Walker, Warner, Williams, Willis and Worrell.

Absent and Not Voting: Bridges, Capito, Cooper, Mallow, McGeehan, Nestor, Ross and Young.

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

Delegate Foster arose to a point of order regarding the sponsor being allowed to close debate, which point the Speaker sustained.

Delegates Adkins, Barnhart, Dillon, A. Hall, Hardy, Hornby, Linville, Maynor and Riley requested to be excused from voting under the provisions of House Rule 49.

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

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

The yeas and nays having been ordered, they were taken (**Roll No. 621**), and there were—yeas 27, nays 66, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Brooks, Burkhammer, Coop-Gonzalez, Dean, Dillon, Fluharty, Foggin, Garcia, Griffith, Hanna, Hansen, Hornbuckle, Keaton, Kirby, Longanacre, Marple, E. Pritt, Pushkin, Ridenour, Rowe, Skaff, Steele, Vance, Walker, Williams and Worrell.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, Ross and Young.

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

The question now being on the adoption of the amendment sponsored by Delegate Foster, the yeas and nays were taken (**Roll No. 622**), and there were—yeas 20, nays 73, absent and not voting 7, with the yeas and the absent and not voting being as follows:

Yeas: Adkins, Brooks, Burkhammer, Coop-Gonzalez, Dean, Dillon, Foster, Garcia, A. Hall, Kimble, Kirby, Linville, Longanacre, Marple, Martin, E. Pritt, Ridenour, Steele, Vance and Walker.

Absent and Not Voting: Bridges, Cooper, Mallow, McGeehan, Nestor, Ross and Young.

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

Delegate Pushkin moved to amend the bill on page 2, line 23 by striking out the period, inserting a colon and the following proviso:

“Provided, That all funds allocated and distributed may only be expended in compliance with ARPA Enumerated Use Expenditure Categories as set forth in Appendix 1 of U.S. Department of Treasury “Coronavirus State and Local Fiscal Recovery Funds: Compliance and Reporting Guidance.”

The question being on the adoption of the amendment, the same was put and did not prevail.

On motion of Delegate Criss, the bill was amended on page two, line twenty-three, following the word “Authority”, by striking out the words “(fund 3384)” and inserting in lieu thereof the “(fund 3382)”.

The bill was then ordered to engrossment and third reading.

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

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

Com. Sub. for S. B. 552, Relating to abortion,

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.

On motion of Delegate Householder, the bill (Com. Sub. for S. B. 552) was taken up for immediate consideration, read a first time, and ordered to second reading.

At 6:30 p.m., the House of Delegates adjourned until 9:30 a.m., Friday, March 10, 2023.

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

SPECIAL CALENDAR

Friday, March 10, 2023

59th Day

9:30 A. M.

THIRD READING

- Com. Sub. for S. B. 47 - Creating Charter Schools Stimulus Fund (CRISS) (REGULAR)
- Com. Sub. for S. B. 121 - Creating Student Journalist Press Freedom Protection Act (CAPITO) (REGULAR)
- S. B. 147 - Creating pilot program for recovery residences in Cabell County (CAPITO) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 187 - Making it felony offense for school employee or volunteer to engage in sexual contact with students (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 200 - Allowing leashed dogs to track wounded elk, turkey, and wild boar when hunting (CAPITO) (REGULAR)
- Com. Sub. for S. B. 220 - Industrial Hemp Development Act (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 232 - Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system (CAPITO) (EFFECTIVE FROM PASSAGE)
- S. B. 240 - Requiring state board of examination or registration proceedings to be open to public inspection (PHILLIPS) (REGULAR)
- Com. Sub. for S. B. 247 - Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures Act (CAPITO) (REGULAR)
- Com. Sub. for S. B. 258 - Eliminating ceiling on fair market value of consumer goods and permitting dealer to require security deposit (CAPITO) (REGULAR) [RIGHT TO AMEND]
- 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. 302 - Relating to Law Enforcement Safety Act (CAPITO) (REGULAR)

- Com. Sub. for S. B. 361 - Authorizing miscellaneous boards and agencies to promulgate legislative rules (CAPITO) (EFFECTIVE FROM PASSAGE) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 409 - Authorizing Department of Commerce to promulgate legislative rules (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)
- Com. Sub. for S. B. 426 - Banning use of certain products and platforms deemed unsafe or high risk on government systems (CAPITO) (REGULAR)
- S. B. 443 - Directing payment of estate administration fee to State Auditor (CRISS) (JULY 1, 2023)
- S. B. 444 - Transferring moneys in WV Future Fund to General Revenue Fund (CRISS) (JULY 1, 2023)
- S. B. 446 - Removing methanol and methanol fuel from definition of special fuel (CRISS) (JULY 1, 2023)
- Com. Sub. for S. B. 461 - Relating to WV public employees grievance procedure (CAPITO) (REGULAR)
- Com. Sub. for S. B. 469 - Providing funding for CPR instruction to high school students (CRISS) (REGULAR)
- Com. Sub. for S. B. 495 - Providing correctional institutions and juvenile facilities video and audio records be confidential (CAPITO) (EFFECTIVE FROM PASSAGE)
- S. B. 508 - Clarifying reporting and disclosure requirements for grassroots lobbying expenditures (CAPITO) (REGULAR)
- Com. Sub. for S. B. 516 - Relating to requirements for disclosure of donor contributions (CAPITO) (REGULAR)
- Com. Sub. for S. B. 522 - Allocating percentage of county excise taxes for funding improvements to election administration (CRISS) (REGULAR)
- Com. Sub. for S. B. 523 - Clarifying purpose and use of Economic Development Project Fund (CRISS) (REGULAR) [RIGHT TO AMEND]
- Com. Sub. for S. B. 527 - Allowing family members of military personnel access to discharge records (CAPITO) (REGULAR)
- S. B. 533 - Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations (PHILLIPS) (REGULAR)
- Com. Sub. for S. B. 534 - Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- S. B. 544 - Increasing power purchase agreement cap (CAPITO) (REGULAR)

- Com. Sub. for S. B. 546 - Adding and removing certain compounds from controlled substance list (SUMMERS) (REGULAR)
- Com. Sub. for S. B. 548 - Clarifying what parties can redeem delinquent property and limiting those entitled to bid (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 561 - Relating to administration of WV Drinking Water Treatment Revolving Fund Act (CRISS) (JULY 1, 2023)
- Com. Sub. for S. B. 568 - Relating to Dangerousness Assessment Advisory Board (CAPITO) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 573 - Relating to child support guidelines and Support Enforcement Commission (CAPITO) (REGULAR) [JUDICIARY COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for S. B. 579 - Providing payment to vendors who provided services to state (CRISS) (EFFECTIVE FROM PASSAGE)
- S. B. 608 - Correcting list of items which are considered deadly weapons (CAPITO) (REGULAR)
- Com. Sub. for S. B. 617 - Relating to Intellectual and Development Disabilities Waiver Program Workforce Study (SUMMERS) (REGULAR)
- Com. Sub. for S. B. 631 - Updating administration, funding, and requirements for federal elections held in WV (CAPITO) (REGULAR)
- Com. Sub. for S. B. 633 - Requiring prompt appearances for persons detained on capiases (CAPITO) (REGULAR)
- Com. Sub. for S. B. 647 - Relating to substantiation of abuse and neglect allegations (CAPITO) (REGULAR)
- Com. Sub. for S. B. 661 - Clarifying preferential recall rights for employees sustaining compensable injury (PHILLIPS) (REGULAR)
- Com. Sub. for S. B. 665 - Amending licensure requirements for massage therapist (PHILLIPS) (REGULAR)
- S. B. 674 - Providing statutory recognition and appointment of board members for WV First Foundation (CAPITO) (EFFECTIVE FROM PASSAGE)
- Com. Sub. for S. B. 677 - Clarifying role and responsibilities of State Resiliency Officer (CRISS) (EFFECTIVE FROM PASSAGE)
- S. B. 678 - Adding appropriations to DHHR, Division of Human Services (CRISS) (EFFECTIVE FROM PASSAGE)
- 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] [RIGHT TO AMEND]
- S. B. 737 - Emergency Medical Services Act (CRISS) (REGULAR)
- S. B. 739 - Relating to moratorium on carbon capture agreements (ANDERSON) (EFFECTIVE FROM PASSAGE)
- S. B. 740 - Relating to compensation and expense reimbursement for members of Legislature (CRISS) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING] [RIGHT TO AMEND]
- Com. Sub. for H. B. 2883 - Making a supplemental appropriation from the Coronavirus State Fiscal Recovery Fund (CRISS) (EFFECTIVE FROM PASSAGE)

SECOND READING

- Com. Sub. for S. B. 552 - Relating to abortion (SUMMERS) (REGULAR)

HOUSE CALENDAR

Friday, March 10, 2023

59th Day

9:30 A. M.

THIRD READING

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

SECOND READING

- Com. Sub. for S. B. 160 - WV Rail Trails Program (HOWELL) (REGULAR) [ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE AMENDMENT PENDING]
- Com. Sub. for S. B. 293 - Increasing fees charged by sheriff (CRISS) (REGULAR) [FINANCE 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 S. B. 593 - Mandating cost of living salary adjustment policy for state employees (CRISS) (REGULAR) [FINANCE COMMITTEE AMENDMENT PENDING]
- 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

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

FRIDAY, MARCH 10, 2023

HOUSE CONVENES AT 9:30 A.M.

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

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