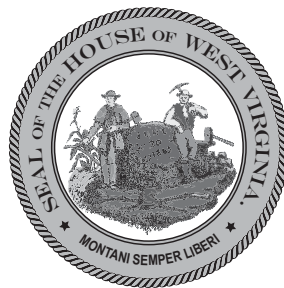


West Virginia Legislature

JOURNAL  
of the  
HOUSE of DELEGATES

Eighty-Sixth Legislature  
First Regular Session

Held at Charleston  
Published by the Clerk of the House



March 11, 2023  
SIXTIETH DAY



Saturday, March 11, 2023

**SIXTIETH DAY**

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

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

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

The Clerk proceeded to read the Journal of Friday, March 10, 2023, being the first order of business, when the further reading thereof was dispensed with and the same approved.

**Committee Reports**

Mr. Speaker (Mr. Hanshaw), Chair of the Committee on Rules, submitted the following report, which was received:

Your Committee on Rules has had under consideration:

**H. C. R. 70**, Requesting a study to assess on selective regulation of short-term rental properties,

**H. C. R. 71**, November 7th to be designated as "Pastor Appreciation Day" in West Virginia,

**H. C. R. 72**, To study the effect of the establishment Whole-Homes Repair Act of 2023,

**H. C. R. 73**, Requesting a study to assess whether amending the tax code to provide tax incentives upon manufacturing,

**H. C. R. 74**, Requesting a study to assess whether the code contains outdated excessive or unnecessary provisions,

**H. C. R. 75**, Requesting a study concerning the construction of welcome centers,

**H. C. R. 76**, Requesting a study of creating regional intra-state tourism districts,

**H. C. R. 77**, Requesting a study concerning tourism related infrastructure issues post covid-19,

**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 agriculture of tourism interest to locate or relocate to West Virginia,

**H. C. R. 80**, To study pediatric cancer in Appalachia and to provide directive language asking for a report on this issue in the Appalachian region,

**H. C. R. 81**, Requesting Joint Committee on Government and Finance study on the problem of tire disposal and finding solutions to rid our landscape of waste tires,

**H. C. R. 82**, February to be designated annually as West Virginia Cancer Prevention Month,

**Com. Sub. for S. C. R. 11**, US Army SGT Brian Christopher Karim Memorial Road,

**S. C. R. 14**, Supporting Medal of Valor nominees recommended by First Responders Honor Board,

And,

**S. C. R. 24**, Renaming Mount Olive Correctional Complex and Jail as Mike V. Coleman Maximum Security Complex,

And reports the same back with the recommendation that they each be adopted.

Delegate Householder asked unanimous consent that all the resolutions in the committee report be taken up for immediate consideration, and put upon their adoption.

Delegate Fast objected and obtained unanimous consent that S. C. R. 24 be taken up for separate consideration.

In the absence of objection H. C. R. 70, H. C. R. 71, H. C. R. 72, H. C. R. 73, H. C. R. 74, H. C. R. 75, H. C. R. 76, H. C. R. 77, H. C. R. 78, H. C. R. 79, H. C. R. 80, H. C. R. 81, H. C. R. 82 and S. C. R. 14 were taken up for immediate consideration and adopted in one voice vote.

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request concurrence on those requiring the same.

The House then proceeded to consideration of S. C. R. 24 and it was read by the Clerk.

On motion of Delegate Summers, action on S. C. R. 24 was then postponed until 2:00 p.m.

### **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. 2218**, Distracted Driving Act.

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

By striking out everything after the enacting clause and inserting in lieu thereof the following:

#### **“ARTICLE 14. MISCELLANEOUS RULES.**

**§17C-14-15. ~~Prohibited use of an electronic communications device driving without handheld features; definitions; exceptions; penalties~~ Electronically Distracted Driving Act.**

~~(a) Except as provided in subsection (c) of this section, a person may not drive or operate a motor vehicle on a public street or highway while:~~

~~(1) Texting; or~~

~~(2) Using a cell phone or other electronic communications device, unless the use is accomplished by hands-free equipment.~~

~~(b) For purposes of this section, the following terms shall mean:~~

~~(1) 'Cell phone' shall mean a cellular, analog, wireless or digital telephone.~~

~~(2) 'Driving' or 'operating a motor vehicle' means operating a motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a motor vehicle after the driver has moved the vehicle to the side of, or off, a highway and halted in a location where the vehicle can safely remain stationary.~~

~~(3) 'Electronic communication device' means a cell telephone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device. For the purposes of this section, an 'electronic communication device' does not include:~~

~~(A) Voice radios, mobile radios, land mobile radios, commercial mobile radios or two way radios with the capability to transmit and receive voice transmissions utilizing a push-to-talk or press-to-transmit function; or~~

~~(B) Other voice radios used by a law enforcement officer, an emergency services provider, an employee or agent of public safety organizations, first responders, Amateur Radio Operators (HAM) licensed by the Federal Communications Commission and school bus operators.~~

~~(4) 'Engaging in a call' means when a person talks into or listens on an electronic communication device, but shall not include when a person dials or enters a phone number on a pushpad or screen to initiate the call.~~

~~(5) 'Hands-free electronic communication device' means an electronic communication device that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such electronic communication device, by which a user engages in a call without the use of either hand or both hands.~~

~~(6) 'Hands-free equipment' means the internal feature or function of a hands-free electronic communication device or the attachment or addition to a hands-free electronic communication device by which a user may engage in a call or text without the use of either hand or both hands.~~

~~(7) 'Texting' means manually entering alphanumeric text into, or reading text from, an electronic communication device, and includes, but is not limited to, short message service, e-mailing, instant messaging, a command or request to access a World Wide Web page or engaging in any other form of electronic text retrieval or entry, for present or future communication. For purposes of this section, 'texting' does not include the following actions:~~

~~(A) Reading, selecting or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device by the pressing the device in order to initiate or receive a phone call or using voice commands to initiate or receive a telephone call;~~

~~(B) Inputting, selecting or reading information on a global positioning system or navigation system; or~~

~~(C) Using a device capable of performing multiple functions, including fleet management systems, dispatching devices, smart phones, citizens band radios or music players, for a purpose that is not otherwise prohibited in this section.~~

~~(8) 'Using a cell phone or other electronic communication device' means holding in a person's hand or hands an electronic communication device while:~~

~~(A) Viewing or transmitting images or data;~~

~~(B) Playing games;~~

~~(C) Composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages or other electronic data; or~~

~~(D) Engaging in a call.~~

~~(c) Subsection (a) of this section shall not apply to:~~

~~(1) A law enforcement officer, a firefighter, an emergency medical technician, a paramedic or the operator of an authorized emergency vehicle in the performance of their official duties;~~

~~(2) A person using an electronic communication device to report to appropriate authorities a fire, a traffic accident, a serious road hazard, or a medical or hazardous materials emergencies.~~

~~(3) The activation or deactivation of hands-free equipment or a function of hands-free equipment.~~

~~(d) This section does not supersede the provisions of section three a, article two, chapter seventeen b of this code or any more restrictive provisions for drivers of commercial motor vehicles prescribed by the provisions of chapter seventeen e of this code or federal law or rule.~~

~~(e) Any person who violates the provisions of subsection (a) of this section is guilty of a traffic offense and, upon conviction thereof, shall for a first offense be fined \$100; for a second offense be fined \$200; and for a third or subsequent offense be fined \$300. No court costs or other fees shall be assessed for a violation of subsection (a) of this section.~~

~~(f) Notwithstanding any other provision of this code to the contrary, points may not be entered on any driver's record maintained by the Division of Motor Vehicles as a result of a violation of this section, except for the third and subsequent convictions of the offense, for which three points shall be entered on any driver's record maintained by the Division of Motor Vehicles.~~

~~(g) Driving or operating a motor vehicle on a public street or highway while texting shall be enforced as a primary offense. Driving or operating a motor vehicle on a public street or highway while using a cell phone or other electronic communication device without hands-free equipment shall be enforced as a secondary offense until July 1, 2013, when it shall be enforced as a primary offense for purposes of citation~~

(a) Definitions — As used in this section:

(1) 'Smartwatch' means a wearable computer that provides a local touchscreen for daily use, associated with applications, and connected to a cellular or Wi-Fi network;

(2) 'Stand-alone electronic device' means a portable device other than a wireless telecommunications device which stores audio or video data files to be retrieved on demand by a user;

(3) 'Utility services' means and includes electric, natural gas, water, wastewater, cable, telephone, or telecommunications services, or the repair, location, relocation, improvement, or maintenance of utility poles, transmission structures, pipes, wires, fibers, cables, easements, rights-of-way, or associated infrastructure;

(4) 'Wireless telecommunications device' means one of the following portable devices:

(A) A cellular telephone;

(B) A portable telephone;

(C) A text-messaging device;

(D) A personal digital assistant;

(E) A stand-alone computer including, but not limited to, a tablet, laptop, or notebook computer;

(F) A handheld global positioning system receiver;

(G) A device capable of displaying a video, movie, broadcast television image, or visual image;

(H) Any substantially similar portable wireless device that is used to initiate or receive communication, information, or data;

(I) 'Wireless telecommunications device' does not include a smartwatch, any type of radio including but not limited to, radios used by first responders or school bus operators; citizens band radio or radio hybrid; commercial two-way radio communication device or its functional equivalent; subscription-based emergency communication device; prescribed medical device; amateur or ham radio device, or any built-in vehicle equipment for security, navigation, communications, or remote diagnostics; and

(5) 'Voice-operated or hands-free feature or function' means a feature or function that allows a person to use a wireless telecommunications device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.

(b) The driver of a school bus shall not use or operate a wireless telecommunications device or two-way radio while loading or unloading passengers.

(c) The driver of a school bus shall not use or operate a wireless telecommunications device while the bus is in motion nor while stationary in traffic nor at a traffic control signal, unless that device is being used in a similar manner as a two-way radio to allow live communication between the driver and school officials or public safety officials.

(d) A driver shall exercise due care in operating a motor vehicle on the highways of this state and shall not engage in any actions involving any stand-alone electronic device or wireless telecommunications device that distracts such driver from the safe operation of the vehicle.

(e) While operating a motor vehicle on any street, highway, or property open to the public for vehicular traffic in this state, no driver may:

(1) Physically hold or support, with any part of his or her body, a wireless communication device or stand-alone electronic device: *Provided*, That such prohibition shall not apply to the wearing of a smartwatch;

(2) Write, send, or read any text-based communication including, but not limited to, a text message, instant message, e-mail, or social media interaction on a wireless telecommunications device or stand-alone electronic device: *Provided*, That such prohibition shall not apply to a voice-operated or hands-free communication feature which is automatically converted by such device to be sent as a message in a written form;

(3) Make any communication involving a wireless telecommunications device, including a phone call, voice message, or one-way voice communication: *Provided*, That such prohibition shall not apply to a voice operated or hands-free communication feature or function;

(4) Engage in any form of electronic data retrieval or electronic data communication on a wireless telecommunications device or stand-alone electronic device;

(5) Manually enter letters, numbers, or symbols into any website, search engine, or application on a wireless telecommunications device or stand-alone electronic device;

(6) Watch a video or movie on a wireless telecommunications device or standalone electronic device other than watching data related to the navigation of such vehicle;

(7) Record, post, send, or broadcast video, including a video conference on a wireless telecommunications device or stand-alone electronic device: *Provided*, That such prohibition does not apply to electronic devices used for the sole purpose of continuously recording or broadcasting video within or outside of the motor vehicle; or

(8) Actively play any game on a wireless telecommunications device or stand-alone electronic device.

(f) While operating a commercial motor vehicle on any highway of this state, no driver may:

(1) Use more than a single button on a wireless telecommunications device to initiate or terminate a voice communication; or

(2) Reach for a wireless telecommunications device or stand-alone electronic device in such a manner that requires the driver to:

(A) No longer be in a seated driving position; or

(B) No longer be properly restrained by a safety belt.

(g) Each violation of this section shall constitute a separate offense.

(h) It is a misdemeanor for any driver to violate any of the provisions of this section. Every driver convicted of a misdemeanor for a violation of any of the provisions of this section shall be punished as follows:



(1) For a first conviction with no prior conviction of and no plea of no contest accepted to a charge of violating this section within the previous 24-month period, as measured from the date of any prior conviction or plea, a fine of not more than \$100;

(2) For a second conviction within a 24-month period, as measured from the date of any prior conviction or plea, a fine of not more than \$200;

(3) For a third or subsequent conviction within a 24-month period, as measured from the date of any prior conviction or plea:

(A) A fine of not more than \$350;

(B) Three points on the driver's record maintained by the Division of Motor Vehicles; and

(C) At the court's discretion, suspension of the driver's license for a period of 90 days;

(4) Any driver who causes physical harm to property as the proximate result of committing a violation of this section is guilty of a misdemeanor punishable up to 30 days in jail or a fine not less than \$100 and not more than \$500;

(5) Any driver who causes serious physical harm to another person as the proximate result of committing a violation of this section is guilty of a misdemeanor and shall be fined not less than \$500 nor more than \$1,000, or confined in jail up to 120 days, or both fined and confined, and such driver 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; and

(6) Any driver who causes the death of another as the proximate result of committing a violation of this section is guilty of negligent homicide and shall be punished in accordance with §17C-5-1 of this code.

~~(h)(i) Within ninety days of the effective date of this section, the~~ The Department of Transportation shall cause to be erected signs upon any highway entering the state of West Virginia on which a welcome to West Virginia sign is posted, and any other highway where the Division of Highways deems appropriate, posted at a distance of not more than one mile from each border crossing, each sign to bear an inscription clearly communicating to motorists entering the state that texting, or the use of a wireless communication device without hands-free equipment, is illegal within this state.

~~(j)~~ (i) Nothing contained in this section shall be construed to authorize seizure of a cell phone or electronic device by any law-enforcement agency.

~~(k)~~ (k) No policy providing liability coverage for personal lines insurance shall contain a provision which may be used to deny coverage or exclude payment of any legal damages recoverable by law for injuries proximately caused by a violation of this section, as long as such amounts are within the coverage limits of the insured.

(l) This section shall not apply to:

(1) Drivers reporting to state, county, or local authorities a traffic accident, medical emergency, fire, an actual or potential criminal or delinquent act, or a road condition that causes an immediate and serious traffic or safety hazard;

(2) An employee or contractor of a utility services provider acting within the scope of his or her employment while responding to a utility emergency;

(3) A driver operating a commercial vehicle while using a mobile data terminal that transmits and receives data;

(4) A law-enforcement officer, firefighter, emergency medical services personnel, ambulance driver, or other similarly employed public safety first responder during the performance of his or her official duties; or

(5) While in a motor vehicle that is lawfully parked.

(m) This section does not supersede the provisions of §17B-2-3a of this code, or any more restrictive provisions for drivers of commercial motor vehicles prescribed either by the provisions of §17E-1-1 *et seq.* of this code or by federal law or rule.

(n) The amendments to this section adopted during the regular session of the Legislature in 2023, shall be known as the Robin W. Ames Memorial Act.”

And,

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

**Com. Sub. for H. B. 2218** – “A Bill to amend and reenact §17C-14-15 of the Code of West Virginia, 1931, as amended, relating to distracted driving; modifying the scope of prohibitions on distracted driving by establishing the Electronically Distracted Driving Act; defining terms; providing limitations for the use of wireless telecommunications devices and stand-alone electronic devices; prohibiting certain actions by all drivers; prohibiting certain actions by school bus drivers and commercial motor vehicle drivers; providing that each violation constitutes a separate offense; providing for penalties for violations, including criminal penalties, fines, driver’s license suspension and revocation, and points on the driver’s record maintained by the Division of Motor Vehicles; providing exceptions; and providing a name for certain amendments.”

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. 718**), and there were—yeas 89, nays 8, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Butler, Crouse, Dean, Dillon, Foster, Gearheart, A. Hall and Maynor.

Absent and Not Voting: Mallow, 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 (Com. Sub. for H. B. 2218) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, without amendment, and changed the effective date to take effect July 1, 2023, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 2346**, Declaring a shortage of qualified bus operators and allowing retired bus operators to accept employment.

Delegate Householder moved that the House concur in the changed effective date by the Senate.

The motion was then reformed, for the bill to take effect July 1, 2023.

On this question, the yeas and nays were taken (**Roll No. 719**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow 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 H. B. 2346) takes effect July 1, 2023.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2865**, To clarify that the PSC may enter an order requiring corrective measures up to and including an acquisition of a distressed or failing utility.

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 2H. POWER OF COMMISSION TO ORDER MEASURES UP TO AND INCLUDING THE ACQUISITION OF DISTRESSED AND FAILING WATER AND WASTEWATER UTILITIES.**

**§24-2H-4. Preparation of list of potentially unstable water and wastewater utilities.**

Annually, at least by November 1, the commission shall prepare a list of water and wastewater utilities that appear to be financially unstable by reviewing annual reports, rate case filings and other financial data available to it. Commission staff shall contact each utility placed on the list and provide advice and assistance in resolving any financial instability or managerial or operational issues that are contributing to the utility’s financial instability. The commission shall provide the list of potentially unstable water and wastewater utilities to the West Virginia Rural Water Association. Commission staff shall publish annually, by hyperlink, the list of potentially unstable water and wastewater utilities on the commission’s homepage no later than November 1.

**§24-2H-5. Determination of whether a utility qualifies as a ‘distressed utility’, ‘failing utility’, or a ‘capable proximate utility’.**

(a) In determining whether a utility is distressed or failing, the commission shall consider the following factors:

(1) The financial, managerial, and technical ability of the utility;

(2) The level of expenditures necessary to make improvements to the water or wastewater utility to assure compliance with applicable statutory and regulatory standards concerning the adequacy, efficiency, safety, or reasonableness of utility service and the impact of those expenditures on customer rates;

(3) The opinion and advice, if any, of the Department of Environmental Protection and the Bureau for Public Health as to steps that may be necessary to assure compliance with applicable statutory or regulatory standards concerning the adequacy, efficiency, safety, or reasonableness of utility service;

(4) The status of the utility’s bond payments and other financial obligations;

(5) The status and result of any corrective measures previously put into place under §24-2H-7 of this code; and

(6) Any other relevant matter.

(b) In determining whether a utility is a capable proximate utility, the commission shall consider the following factors:

(1) The financial, managerial, and technical ability of all proximate public utilities providing the same type of service;

(2) Expansion of the franchise or operating area of the acquiring utility to include the service area of the distressed utility;

(3) The financial, managerial, operational, and rate demands that may result from the current proceeding and the cumulative impact of other demands where the utility has been identified as a capable proximate utility; and

(4) Eligibility of the capable proximate utility to receive state grant funding and federal grant funding in a similar manner as the distressed utility; and

~~(4)~~(5) Any other relevant matter.

**§24-2H-6. Notice to distressed or failing utility and formal proceeding.**

(a) A proceeding under this article may be initiated by the commission on its own motion, or by the staff of the commission, or any other person or entity having a legal interest in the financial, managerial, or operational condition of the utility, by filing a petition with the commission that includes all of the factual data supporting the justification for the utility to be considered as a distressed or failing utility that the petitioner has available to them at the time of filing: *Provided*, That high water loss or unaccounted for water shall not be considered the sole evidence of a

distressed or failing utility. In any such petition, the utility shall be named as the respondent. The commission shall include, as additional parties, any capable proximate public and private utilities that may be able to acquire the utility.

(b) The commission shall hold an evidentiary and public hearing(s) in a location in or within 25 miles of the utility's service area. The commission shall give reasonable notice of the time, place, and subject matter of the hearing as follows:

(1) Issuance of a press release;

(2) Written notice by certified mail or registered mail to:

(A) The utility;

(B) The Consumer Advocate Division;

(C) Capable proximate public or private ~~utility(s)~~ utility or utilities that were made parties to the proceeding; and

(D) The county commission if the utility is a public service district; or

(E) The municipality if the utility is owned and operated by the municipality.

(3) The utility shall give notice to its customers of the time, place, and subject matter of the hearing either as a bill insert or printed on its monthly bill statement as ordered by the commission.

(c) The public hearing shall be conducted to receive public comments, including, but not limited to, comments regarding possible options available to bring the distressed or failing utility into compliance with appropriate statutory and regulatory standards concerning actual or imminent public health problems or unreasonable quality and reliability service standards. At the evidentiary hearing, the commission shall receive evidence to determine if the utility is a distressed or failing utility and whether a capable proximate utility should acquire the utility. If there is more than one capable proximate utility, then sufficient evidence should be presented to allow the commission to determine the appropriate capable proximate utility to acquire the distressed or failing utility.

**§24-2H-8. Commission approval of operating agreement, acquisition price; rates for distressed and failing utilities; improvement plan; debt obligations; cost recovery.**

(a) After an order has been entered pursuant to §24-2H-7 of this code, the distressed utility and ~~acquiring another acquiring public~~ utility shall file a petition with the commission under §24-2-12 of this code to approve the necessary operating agreement if such alternative is directed by the commission. After an order has been entered pursuant to §24-2H-7 of this code, the failing utility and acquiring utility shall file a petition with the commission under §24-2-12 of this code, to approve the purchase price of the acquisition. Where the parties are unable to agree on an acquisition price, the filing may request that an evidentiary hearing be held so that the commission may determine the acquisition price and any other issues related to the acquisition. The acquisition price must, at a minimum, satisfy all outstanding loans, tax obligations, required grant repayment, liens, and indebtedness owed by the failing utility or the acquiring utility must agree to assume the indebtednesses if legally permitted. The acquiring utility shall consult with the

lenders or lienholders regarding payment in full or the assumption, to the extent legally permissible, of any outstanding obligations of the failing utility.

(b) The parties to an acquisition may propose to the commission other methods of determining the acquisition price.

(c) As part of the proceeding, the acquiring utility may propose to the commission that it be permitted for a reasonable period of time after the date of acquisition, to charge and collect rates from the customers of the failing utility pursuant to a separate tariff, which may be higher or lower than the existing tariff of the distressed or failing utility, or may allow a surcharge on both the acquired and existing customers. A separate tariff or rate filing must be made by the acquiring utility before the commission will consider any increase in rates or allow a surcharge to be placed on the acquiring utility's acquired or existing ratepayers.

(d) As part of this proceeding, the acquiring utility shall submit to the commission for approval a plan, including a timetable for bringing the failing utility into compliance with applicable statutory and regulatory standards, including, but not limited to, plans for regionalization. The acquiring utility shall have previously obtained the approval of the plan from the Department of Environmental Protection and the Bureau for Public Health, as applicable, and those agencies are directed to use their full discretion in working towards long-term solutions that will support compliance. The failing utility shall cooperate with the acquiring utility in negotiating agreements with state and federal agencies, including, but not limited to, negotiation of hold harmless agreements, consent orders or enforcement moratoria during any period of remediation. In addition, the failing utility shall cooperate with the acquiring utility in obtaining the consent of the failing utility's and the acquiring utility's bondholder(s) to the acquisition. The acquiring utility must present to the commission as part of its financing plan, documentation on how the failing utility's indebtedness will be paid or assumed.

(e) A nonprofit acquiring public utility may seek grant funding from the Distressed Utilities Account established pursuant to §31-15A-9(i) of this code to repair, maintain, and replace the distressed water and wastewater utilities facilities as needed. The reasonably and prudently incurred costs of the acquiring utility shall be recoverable in rates as provided in §24-2H-9 of this code.

(f) If the distressed or failing utility is a public service district, then the commission shall make a recommendation to the respective county commission(s) with regard to the acquisition of distressed or failing utilities as provided in §16-13A-2(a)(2) of this code. If the distressed or failing utility is a municipal corporation, then the commission shall make a recommendation to the respective municipal council with regard to the acquisition of distressed or failing utilities as provided in §8-12-17 of this code.

(g) The capable proximate utility may propose one or more of the cost recovery methods or incentives set forth in §24-2H-9 of this code as part of its petition for approval from the commission."

And,

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

**Com. Sub. for H. B. 2865** – "A Bill to amend and reenact §24-2H-4, §24-2H-5, §24-2H-6, and §24-2H-8 of the Code of West Virginia, 1931, as amended, all relating to clarifying that the Public

Service Commission may enter an order in a distressed or failing utility case requiring corrective measures up to and including an acquisition by an acquiring utility; providing the Commission shall provide the list of potentially unstable water and wastewater utilities to the West Virginia Rural Water Association; providing the Commission staff shall publish annually, by hyperlink, the list of potentially unstable water and wastewater utilities on the commission's homepage; providing that eligibility of a utility to receive state grant funding and federal grant funding in a similar manner as the distressed utility is a factor in determining whether a utility is a capable proximate utility; providing that petitions filed with the commission include factual data supporting the justification for the utility to be considered as a distressed or failing utility; providing that high water loss or unaccounted for water cannot be the sole evidence of a distressed or failing utility; and clarifying that an acquiring utility becomes such only after approval of the necessary operating agreement.”

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. 720**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

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. 2865) 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. 2890**, Modifying student discipline.

On motion of Delegate Gearheart, 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 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

**§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.**

(a) The teacher shall stand in the place of the parent(s), guardian(s), or custodian(s) in exercising authority over the school and has control of all students enrolled in the school from the time they reach the school until they have returned to their respective homes, except that where transportation of students is provided, the driver in charge of the school bus or other mode of transportation shall exercise such authority and control over the students while they are in transit to and from the school.

(b) Subject to the rules of the state Board of Education, the teacher shall exclude from the school any student known to have, or who is suspected of having, any infectious disease, or any student who has been exposed to any infectious disease and shall immediately notify the proper health officer or medical inspector of the exclusion. Any student so excluded may not be readmitted to the school until he or she has complied with all the requirements of the rules governing those cases or has presented a certificate of health signed by the medical inspector or other proper health officer.

(c) ~~The~~ Any grade six through 12 teacher, excluding an elementary school teacher, may exclude from his or her classroom ~~or school bus~~ any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who behaves in a manner that obstructs the teaching or learning process of others in the classroom; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom ~~or school bus~~ only when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When a student is excluded from a classroom ~~or a school bus~~ two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom ~~or the school bus~~ only after the principal, teacher and, if possible, the parent(s), guardian(s), or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. The county board shall create more alternative learning centers or expand its capacity for alternative placements, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior.

(d) When a grade six through 12 teacher, excluding an elementary school teacher, determines that the behavior of the student is disorderly conduct, is interfering with an orderly educational process, or obstructs the teaching or learning process of others in the classroom:

(1) The student may be excluded from that teacher's classroom and if excluded may not re-enter that teacher's classroom for at least the remainder of the instructional day;

(2) If the student is excluded pursuant to subdivision (1) of this subsection:

(A) The principal shall communicate with the teacher within 24 hours of the student being excluded from the teacher's classroom about the exclusion;

(B) The teacher has 24 hours to create an electronic record and place the report of this action into the West Virginia Education Information System (WVEIS), without any repercussion to the teacher; and



(C) If the student is removed from a classroom a total of three times in one month for one or more of the behaviors set forth in this subsection, the student shall receive as determined by the principal an in-school suspension, an out-of-school suspension, or may be considered for placement in an alternative learning center if one is available within the school district.

~~(d)~~ (e) The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time, or alternative class settings.

~~(e)~~ (f) Corporal punishment of any student by a school employee is prohibited.

~~(f)~~ (g) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to ~~corporal punishment~~ discipline practices, ~~providing~~ provide for the training of school personnel in alternatives to ~~corporal punishment~~ discipline practices, and provide for encouraging the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. To promote a teaching and learning environment free from substantial classroom disturbances, each county board shall ensure that each school implements a tier system policy, with teacher input, to provide a framework for student behaviors and punishments. The policy shall be clear and concise with specific guidelines and examples. The principal shall support the teacher in the discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy. The teacher may not be reprimanded if their actions are legal and within the structure of the county board's policy for student behavior and punishment. The county board policies shall also include an appeal procedure whereby a teacher may appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom. The county boards shall provide for the immediate incorporation and implementation in the schools of a preventive discipline program which may include the responsible student program and a student involvement program, which may include the peer mediation program, devised by the West Virginia Board of Education. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs, which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students, and any other program related to preventive discipline.

~~(g)~~ (h) For the purpose of this section:

(1) 'Student' includes any child, youth or adult who is enrolled in any instructional program or activity conducted under board authorization and within the facilities of, or in connection with, any program under public school direction: *Provided*, That, in the case of adults, the student-teacher relationship shall terminate when the student leaves the school or other place of instruction or activity;

(2) 'Teacher' means all professional educators as defined in section one, article one of this chapter; and ~~includes the driver of a school bus or other mode of transportation and~~

(3) 'Principal' means the principal, assistant principal, vice principal or the administrative head of the school, or a professional personnel designee of the principal or the administrative head of the school.

~~(h)~~ (i) Teachers shall exercise other authority and perform other duties prescribed for them by law or by the rules of the state board not inconsistent with the provisions of this chapter and chapter 18 of this code."

On page 1, section 1, line 14, by striking out the words "Any grade six through 12" and inserting in lieu thereof the word "The";

On page 1, section 1, line 14, by striking out the words "excluding an elementary school teacher,";

On page 1, section 1, line 15, after the word "classroom" by inserting the words "or school bus";

On page 2, section 1, line 21, after the word "classroom" by inserting the words "or school bus";

On page 2, section 1, line 26, after the word "classroom" by inserting the words "or a school bus";

On page 2, section 1, line 28, after the word "classroom" by inserting the words "or the school bus";

And,

On page 4, section 1, lines 91 and 92, by striking out all of subdivision (2) and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) "Teacher" means all professional educators as defined in §18A-1-1 of this code and includes the driver of a school bus or other mode of transportation; and.

And,

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

**Com. Sub. for H. B. 2890** – "A Bill to amend and reenact §18A-5-1 of the Code of West Virginia, 1931, as amended, relating to authority of teachers and other school personnel for discipline of students; allowing student that behaves in a manner that obstructs the teaching or learning process of others in the classroom to be excluded; limiting application of certain discipline provisions to grades six through 12 and excluding application to elementary schools; mandating minimum duration of exclusion for certain behaviors; requiring principal to communicate with teacher within 24 hours about exclusion for certain behaviors; establishing time limit for teacher to report exclusion for certain behaviors to the West Virginia Education Information System; providing consequences for student removed for certain behaviors three times in one month; requiring county board policies to encourage the use of alternatives to discipline practices; requiring each county school board to ensure that each school implements a tier system policy to provide a framework for student behaviors and punishments; requiring principal to support the teacher in discipline of the students under certain conditions; prohibiting teacher from being

reprimanded under certain conditions; and requiring procedure for teachers to appeal certain exclusion related actions of principal.”

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. 721**), and there were—yeas 87, nays 10, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Hansen, Hornbuckle, Nestor, Pushkin, Skaff, Vance, Walker and Williams.

Absent and Not Voting: Mallow, Westfall and Young.

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. 2890) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2023, a bill of the House of Delegates, as follows:

**Com. Sub. for H. B. 3084**, Relating to revising provisions related to public charter schools.

On motion of Delegate Kimble, the House of Delegates concurred in the following amendment of the bill by the Senate, with further amendment.

On page 13, section 3, line 92, after the word “assessment” by inserting a comma and the words “if available,”;

And,

On page 23, section 12, lines 5 through 7 by striking out the words “and may not initiate or execute the sale or otherwise transfer of the facility to another entity after the request for usage has been made by a public charter school: *Provided*, That the title is clear and there is no restrictive covenant”.

And,

On page 6, section 1, line 29, by striking out all of subsection (f) and relettering the remaining subsections.

And,

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

**Com. Sub. for H. B. 3084** – “A Bill to amend and reenact §18-5-48 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-7, §18-5G-12 and §18-5G-15 of said code; and to amend and reenact §18-

9A-15 of said code; all relating to revising provisions related to public charter schools; providing public charter school access to funding from School Safety Fund; modifying priorities for funds use; requiring rule on process for needs-based funding requests and requiring rules; removing prohibition on elected public official profiting from or receiving monetary consideration from public charter school; expressing legislative intent on comparable levels of funding for public charter school students; authorizing state institution of higher education as applicant; prohibiting imposition of requirements on public charter schools choosing to incorporate post-secondary, industry and workforce program that are not required of noncharter public schools; authorizing public charter schools to include before and after school programs in their education program; excluding public charter school programs from regulation as child care facility; authorizing public charter school students to participate on the same basis as other public school students in extracurricular athletic and academic interscholastic activities sponsored by noncharter public school serving attendance area if not sponsored by charter school; emphasizing that charter school determines certification and licensure for teachers and instructional staff employed by it; clarifying public charter schools are exempt from state board policies unless otherwise specifically provided; excluding requirement that charter school employees be certified or licensed as condition of employment and providing that charter school may require employees be certified or licensed as condition of employment but is not required to; requiring professional charter school board to consult with nationally recognized organizations along with the state board; providing for administering required state assessments in virtual setting; requiring state board to establish framework and procedures for interaction between public charter schools, public noncharter schools and county boards to facilitate cooperation and ensure prompt transfer of records; providing for invoicing of certain funding when student transfers from and to certain entities after the beginning of the school year; allowing member of charter school governing board to be employee of education service provider if services are provided by state institution of higher education; providing conditions for charter school governing board to be administrative unit of state institution of higher education and authorizing contract; authorizing professional charter school board to receive and expend gifts, grants and donations to carry out purposes of act, to apply for federal funds to implement programs, and to make start-up grants to public charter schools; and requiring for state board rule on method for providing increased enrollment funding for public charter schools.”

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 722**), and there were—yeas 72, nays 26, absent and not voting 2, with the nays and the absent and not voting being as follows:

Nays: Adkins, Bridges, Dean, Dillon, Fluharty, Garcia, A. Hall, Hansen, Hornbuckle, Kirby, E. Pritt, Pushkin, Reynolds, Riley, Rohrbach, Shamblin, Skaff, Storch, Street, Toney, Tully, Vance, Walker, Williams, Worrell and Young.

Absent and Not Voting: Mallow and Westfall.

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

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

On this question, the yeas and nays were taken (**Roll No. 723**), and there were—yeas 78, nays 19, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Bridges, Dean, Dillon, Fluharty, A. Hall, Hansen, Hornbuckle, Kirby, E. Pritt, Pushkin, Shamblin, Skaff, Storch, Toney, Vance, Walker, Williams, Worrell and Young.

Absent and Not Voting: Garcia, Mallow 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 H. B. 3084) takes effect July 1, 2023.

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

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. 3110**, Relating to funding the Office of Oil and Gas in the Department of Environmental Protection.

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

On page 2, section 5a, line 9, after the word “code” by inserting a comma and the following: “not to exceed \$1,200,000,”.

And,

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

**Com. Sub. for H. B. 3110** – “A Bill to amend and reenact §11-13A-5a of the Code of West Virginia, 1931, as amended; and to amend and reenact §22-6-2, §22-6-29, and §22-6A-7 of said code, all relating to funding the Office of Oil and Gas in the Department of Environmental Protection; providing for the apportionment of three fourths of one percent of oil and gas severance taxes not to exceed \$1,200,000 to Office of Oil and Gas; establishing two tiers of annual oversight fees for wells producing more than 60,000 cubic feet of gas per day; increasing the expedited permit modification fee by \$2500 over the current level; eliminating the one million dollar cap on deposits to the Oil and Gas Operating Permit and Processing Fund from collections of fees for expedited permits and expedited permit modifications; providing that those fees, if not used for other purposes, may be moved to the Oil and Gas Reclamation Fund; and making technical corrections.”

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. 724**), 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: Fluharty, Garcia, Mallow and Westfall.

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. 3110) 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. 3147**, To create the Upper Ohio Valley Trail Network.

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

On page 2, section 2, lines 16 and 17, after the words “connecting to the” by inserting the word “Upper”;

On page 3, section 2, after line 18 by striking out the section caption and substituting thereafter a new section caption to read as follows:

**“§20-17B-2. Creation of Upper Ohio Valley Trail Network Recreation Authority and establishment of recreation area.;**

On page 3, section 2, line 1, by striking out the word “continued” and inserting in lieu thereof the word “created”;

And,

On page 4, section 2, line 19, after the word “two” by inserting the word “trail”.

And,

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

**Com. Sub. for H. B. 3147** – “A Bill to amend and reenact §20-17A-1 and §20-17A-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §20-17B-1, §20-17B-2, §20-17B-3, §20-17B-4, and §20-17B-5, all relating to the expansion of the Mountaineer Trail Network Recreation Authority and the creation of the Upper Ohio Valley Trail Network Recreation Authority; providing for legislative findings and purposes; providing for interconnection of recreational trail networks; providing for the creation of the Upper Ohio Valley Trail Network Recreation Authority and the establishment of the recreation area; providing recreational purposes; providing for a governing body and expenses; and providing for protection for private landowners.”

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. 725**), and there were—yeas 94, nays 3, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Dillon, Kirby and Vance.

Absent and Not Voting: Garcia, Mallow and Westfall.

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. 3147) 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. 3156**, Raising the compensation rates of panel attorneys.

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

On page 6, section 13a, line 134, by striking out the word “\$40” and inserting in lieu thereof the word “\$30”.

And,

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

**H. B. 3156** – “A Bill to amend and reenact §29-21-13a of the Code of West Virginia, 1931, as amended, by raising the compensation rates of panel attorneys; and for dismissed or not guilty charge expungement only, providing the panel attorney to continue providing representation after the dismissal to achieve the expungement.”

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. 726**), and there were—yeas 86, nays 10, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Burkhammer, Chiarelli, Dillon, Foster, Gearheart, A. Hall, Hornby, Ridenour, Ross and Thorne.

Absent and Not Voting: Hornbuckle, Mallow, C. Pritt 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. 3156) passed.

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

A message from the Senate, by

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

**H. B. 3166**, To permit a hospital to hold a patient experiencing a psychiatric emergency for up to 72 hours.

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

**H. B. 3166** – “A Bill to amend and reenact §27-5-2a of the Code of West Virginia, 1931, as amended, relating to clarifying that an authorized hospital staff physician may order the involuntary hospitalization of an emergency room patient or in-hospital patient for up to 72 hours if judicial officers are unavailable.”

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. 727**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Hornbuckle, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (H. B. 3166) 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. 3370**, Creating loan program for certain properties and developments on U. S. Army Corps of Engineers land, state parks and resorts.

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:

**“CHAPTER 20. NATURAL RESOURCES.**

**ARTICLE 5A. STATE PARKS AND RECREATION ENDOWMENT FUND.**

**§20-5A-1. Establishment of fund; deposits; expenditures; investments; use of fund for the State Parks Enhancement Loan Insurance Program.**

(a) There is created in the office of the State Treasurer a special revenue account fund to be known as the West Virginia State Parks and Recreation Endowment Fund.

(b) The following shall be deposited into the fund:

(1) The royalties received from the leasing of state-owned gas, oil, and other mineral rights beneath the Ohio River and its tributaries; and

(2) The proceeds of any gifts, grants, contributions, or other moneys accruing to the state which are specifically designated for inclusion in the fund.



(c) Expenditures from the fund shall be for the purposes set forth in this section and are to be made in accordance with appropriation of the Legislature under the provisions of §12-3-1 *et seq.* of this code, and in compliance with the provisions of §11B-2-1 *et seq.* of this code: *Provided*, That income accruing from investments of the fund pursuant to this article shall be distributed or expended for either of the following purposes:

(1) Maintenance, repair, and improvement of any existing recreational facilities, including any supporting or related infrastructure and associated recreational features, all to provide uninterrupted enjoyment and public use of state parks, state forests, and state rail trails.

(2) Maintenance, repair, and procurement of any fixture, furnishing, and equipment necessary to provide uninterrupted enjoyment and public use of state parks, state forests, and state rail trails.

(d) The board of trustees established pursuant to this article shall invest the assets of the fund consistent with the provisions of §12-6-1 of this code. The board may accumulate investment income of the fund within the fund until the income, in the sole judgment of the board, can provide a significant supplement to the budget of the Division of Natural Resources. After that time, the board may direct expenditures from the income for the purposes set forth in this section.

(e) Notwithstanding any other provision of this article to the contrary, the assets of the fund may be used by the board of trustees to facilitate or provide collateral for the State Parks Enhancement Loan Insurance Program established in §20-5A-3 of this code: *Provided*, That no amount of the fund's income from investments may be used to provide loan insurance.

### **§20-5A-3. State Parks Enhancement Loan Insurance Program.**

#### (a) Legislative findings and purpose.

(1) The Legislature finds that certain areas of the state currently have existing developments or attractions, including, but not limited to, developments in West Virginia State Parks and resorts that are constructed on U.S. Army Corps of Engineers property, wherein such attractions and developments are unable to serve as collateral for loans. Because of this, the expansion of tourism and development projects in these areas is severely restricted or significantly impeded.

(2) The purpose of this section is to establish the State Parks Enhancement Loan Insurance Program, which may provide for the guarantee of a loan made to an eligible entity to be used exclusively for further development on these properties to encourage economic development and tourism.

#### (b) Terms defined. – As used in this section, unless the context clearly indicates otherwise:

(1) Board of trustees means the board provided for in §20-5A-2 of this code.

(2) Development project means any new project, or any project at any existing development or attraction, being pursued by a private entity, which has established a partnership or agreement with the division to operate on U.S. Army Corps of Engineers property, State Parks and resorts property, any other property under the jurisdiction of the division, or on a hybrid tourism destination, for the purpose of increasing recreational opportunities, tourism, and economic development.

(3) Director means the director of the Division of Natural Resources.

(4) Division means the Division of Natural Resources.

(5) Eligible entity means any corporation, limited liability company, partnership, limited liability partnership, sole proprietorship, business trust, joint venture, or any other entity operating or intending to operate a development project, whether owned or leased, that receives the approval pursuant to this section to apply for an insurance agreement under the State Parks Enhancement Loan Insurance Program.

(6) Program means the State Parks Enhancement Loan Insurance Program.

(c) The State Parks Enhancement Loan Insurance Program is established. The program may insure the payment or repayment of all or any part of the principal of, prepayment premiums or penalties on, and interest on any form of debt instrument entered into by an eligible entity with a financial institution, including, but not limited to, banks, insurance companies and other institutions in the business of lending money. Eligible entities shall submit applications for loan insurance to the board of trustees. By a majority vote, the board of trustees may approve or deny any application. If approved, the board of trustees shall enter into an insurance agreement with the eligible entity and any necessary financial institution.

(d) In order to effectuate the purposes of this section, the board of trustees shall cooperate with the West Virginia Economic Development Authority pursuant to §31-15-8b of this code. The board of trustees may utilize the staff and resources of the authority for guidance and assistance in administering the program.

(e) The board of trustees may, subject to a recommendation by the director, establish additional requirements and procedures for the issuance of loan insurance; including, but not limited to, setting the premiums and fees to be paid to it for providing financial assistance under this section. The premiums and fees set by the board of trustees shall be payable in the amounts, at the time, and in the manner that the board of trustees, in its sole and absolute discretion, requires. The premiums and fees need not be uniform among transactions and may vary in amount: (1) Among transactions; and (2) at different stages during the terms of transactions.

(f) The board of trustees may, in its sole and absolute discretion, require the security it believes sufficient in connection with its insuring of the payment or repayment of any bonds, notes, debt, or other instruments: *Provided*, That the board of trustees may not require a security interest in the real property or permanent improvements which are part of the development project when the eligible entity will not hold ownership on the real or personal property of the development project.

(g) The obligations of the board of trustees under any insurance agreement entered into pursuant to this article shall not constitute a debt or a pledge of the faith and credit or taxing powers of this state, the division, or of any county, municipality, or any political subdivision of this state for the payment of any amount due thereunder or pursuant thereto, but the obligations evidenced by such insurance agreement shall be payable solely from the funds pledged for their payment.

(h) The board of trustees may not authorize any amount of loan insurance through the program that exceeds \$10 million in the aggregate of the assets existing in the West Virginia State Parks and Recreation Endowment Fund: *Provided*, That no more than \$5 million may be authorized for any project: *Provided, however*, That no amount of the fund's income from investments may be used to provide loan insurance. However, any amount of loan insurance

issued by the board of trustees shall not require the encumbrance or otherwise segregation of funds within the West Virginia State Parks and Recreation Endowment Fund.

(i) The board of trustees may establish an application and additional procedures or guidelines for the program. Prior to submission of an application to the board of trustees, an eligible entity must receive approval in writing from the Secretary of the Department of Commerce, the Secretary of the Department of Economic Development, and the Secretary of the Department of Tourism.

(j) The West Virginia Department of Commerce shall maintain a list of approved projects using this loan insurance program and shall submit this list to the Joint Committee on Government and Finance in the form of an annual report for legislative review.

## CHAPTER 31. CORPORATIONS.

### ARTICLE 15. WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY.

#### **§31-15-8b. Facilitation of the State Parks Enhancement Loan Insurance Program.**

The authority shall cooperate with the Division of Natural Resources and the Board of Trustees of the West Virginia State Parks and Recreation Endowment Fund to facilitate the administration of the State Parks Enhancement Loan Insurance Program established by §20-5A-3 of this code. The executive director shall make the authority's staff available to provide guidance and assistance for the administration of the program. Any requirement or restriction on the authority's loan insurance programs and other operations established by this article shall not be applicable to the administration of the State Parks Enhancement Loan Insurance Program."

And,

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

**Com. Sub. for H. B. 3370** - "A Bill to amend and reenact §20-5A-1 of the code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §20-5A-3; and to amend said code by adding thereto a new section, designated §31-15-8b, all relating to establishing the State Parks Enhancement Loan Insurance Program; authorizing the board of trustees of the West Virginia State Parks and Recreation Endowment Fund to use the fund to facilitate or provide collateral for the program; providing that the program will provide for the guarantee of a loan made to an eligible private entity to be used exclusively for new or existing projects, developments, or attractions on properties of West Virginia State Parks and resorts that are constructed on U.S. Army Corps of Engineers property, wherein such properties and developments have no collateral for loans, and on any other property under the jurisdiction of the Division of Natural Resources, or on a hybrid tourism destination, to encourage economic development and tourism and increasing recreational opportunities; providing legislative findings and purpose; defining terms; establishing the State Parks Enhancement Loan Insurance Program; providing for the establishment of requirements and procedures for the issuance of loan insurance; limiting the amount of loan insurance through the program to \$10 million in the aggregate of the assets existing in the fund; providing that no more than \$5 million may be authorized for any project; providing that no amount of the fund's income from investments may be used to provide loan insurance; providing for application and additional procedures or guidelines for the program; requiring approval in writing from secretary of the Department of Commerce, the secretary of the Department of Economic Development, and the secretary of the

Department of Tourism to apply for loan insurance; requiring the board of trustees to cooperate with the West Virginia Economic Development Authority and authorizing the board of trustees to utilize the staff and resources of the authority for guidance and assistance in administering the program; providing additional powers and duties to the board of trustees; requiring reporting; and requiring that the West Virginia Economic Development Authority to facilitate the administration of the program and that its executive director make the authority's staff available to provide guidance and assistance for the administration of the program."

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. 728**), and there were—yeas 91, nays 6, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Foster, Gearheart, A. Hall, Longanacre and Vance.

Absent and Not Voting: Mallow, McGeehan and Westfall.

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. 3370) 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. 3398**, Relating to the establishment of the West Virginia Memorial to Fallen Heroes of the Global War on Terrorism.

On motion of Delegate Ridenour, 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 3B. THE WEST VIRGINIA MEMORIAL TO FALLEN HEROES OF THE GLOBAL WAR ON TERRORISM.**

**§10-3B-1. Legislative findings, purposes, intent, and short title.**

(a) In order to preserve the memory of West Virginia servicemembers killed in action in the conflicts in Iraq, Afghanistan, and other locations during the United States War on Terror a monument shall be constructed on the State Capitol grounds to recognize and honor those West Virginians who made the ultimate sacrifice while serving in these conflicts.

(b) This article may be cited as the "West Virginia Memorial to Fallen Heroes of the Global War on Terrorism."

**§10-3B-2. Monument construction commission.**

(a) A commission shall be established on or before July 1, 2023, to oversee construction of the monument. The commission shall be comprised of:

(1) The Curator of the Department of Arts, Culture, and History, who shall serve as chairperson ex officio;

(2) The Secretary of the Department of Administration;

(3) The Secretary of the Department of Veterans Assistance;

(4) A member of the West Virginia House of Delegates, who shall be appointed by the Speaker of the House of Delegates, with preference given to a member who is a veteran of the Armed Forces; and

(5) A member of the West Virginia Senate, who shall be appointed by the President of the Senate, with preference given to a member who is a veteran of the Armed Forces.

(b) A majority of the members of the commission must be present at a meeting in order to constitute a quorum, and a majority of those members present at a meeting must vote in the affirmative in order to pass a motion. A meeting called by the chair requires at least five days' written notice of the meeting be provided to the members. Additionally, the chair shall call a meeting upon written demand of at least three members.

#### **§10-3B-3. Design, construction, and administration of the monument.**

(a) The commission shall choose a design for the monument, to the greatest extent practicable, by December 31, 2023, that:

(1) Is in line with classical themes of veterans memorials throughout the nation while taking into account appropriate historical, religious, and philosophical themes as well as public comments submitted to the commission;

(2) Adheres to the principles described in §10-3B-1 of this code and is reflective of those West Virginians killed during the United State War on Terror;

(3) Is found to be aesthetically pleasing by the commission; and

(4) Is placed on the grounds of the West Virginia State Capitol.

(b) The commission shall solicit bids for construction of the monument and shall adhere to all state purchasing and payment processing laws and regulations in paying its vendors.

(c) The commission shall have a target date for the completion and dedication of the monument, to the greatest extent practicable, of December 31, 2024.

#### **§10-3B-4. Funding for the monument; authority for obtaining additional funds to complete or enhance the monument.**

The Division of Labor shall allocate funds in the amount up to \$750,000 toward the completion of the monument from any available funds that are managed or utilized by the Division of Labor. The commission shall have the authority to obtain funding through grants, charitable donations, or other appropriate means for the completion or enhancement of the monument.

**§10-3B-5. Memorial inscription or plaque.**

There shall be inscribed or engraved upon the monument, or otherwise permanently affixed by means of a plaque the following text:

(1) The names of all West Virginia servicemembers killed in action during the United States War on Terror as described in §10-3B-1 of this code; and

(2) Any other text the commission deems appropriate in accordance with §10-3B-3(a)(1) of this code.

**§10-3B-6. Conclusion of the commission's work.**

(a) The commission shall be disbanded at such time that the monument has been completed and has been appropriately dedicated in accordance with the provisions of this article; *Provided, however,* if the monument is not completed or dedicated by December 31, 2024, the commission shall be continued until such time that the monument is completed and dedicated.

(b) Upon the commission's termination, ownership of the monument shall be transferred to the Department of Arts, Culture, and History, and any funds remaining in the commission's control at that time shall be granted to the Department of Arts, Culture, and History for the monument's enhancement and perpetual maintenance."

And,

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

**Com. Sub. for H. B. 3398** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §10-3B-1, §10-3B-2, §10-3B-3, §10-3B-4, §10-3B-5, and §10-3B-6, all relating to the establishment of the West Virginia Memorial to Fallen Heroes of the Global War on Terrorism; providing for legislative findings, purposes, intent, and short title; establishing a monument construction commission; defining membership and procedural rules of the monument construction commission; charging commission with construction of a monument to Fallen Heroes of the Global War on Terrorism; detailing guidelines for the commission; directing Division of Labor allocate funds for the monument; detailing guidelines for the affixation of an inscription or plaque to the monument; and terminating commission upon completion of the monument.”

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. 729**), 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: Heckert, Mallow, McGeehan and Westfall.

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. 3398) passed.

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

### Resolutions Introduced

Delegate Hanshaw (Mr. Speaker) on behalf of the entire membership offered the following resolution, which was reported by the Clerk:

**H. R. 19**, Medal of Valor nominee Firefighter John Dean Forbush, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, reference of the resolution (H. R. 19) to a committee was dispensed with, and it was taken up for immediate consideration.

The resolution was read by the Clerk.

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

The yeas and nays having been ordered, they were taken (**Roll No. 730**), and there were— yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

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

Delegate Hanshaw (Mr. Speaker) on behalf of the entire membership offered the following resolution, which was reported by the Clerk:

**H. R. 20**, Medal of Valor nomination of Deputy Thomas E. Baker, III, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, reference of the resolution (H. R. 20) to a committee was dispensed with, and it was taken up for immediate consideration.

The resolution was read by the Clerk.

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

The yeas and nays having been ordered, they were taken (**Roll No. 731**), and there were— yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

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

Delegate Hanshaw (Mr. Speaker) on behalf of the entire membership offered the following resolution, which was reported by the Clerk:

**H. R. 21**, Medal of Valor nominee, WV State Police Trooper Eric Michael Workman, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, reference of the resolution (H. R. 21) to a committee was dispensed with, and it was taken up for immediate consideration.

The resolution was read by the Clerk.

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

The yeas and nays having been ordered, they were taken (**Roll No. 732**), and there were— yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

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

Delegate Hanshaw (Mr. Speaker) on behalf of the entire membership offered the following resolution, which was reported by the Clerk:

**H. R. 22**, Medal of Valor nomination of WV State Police Corporal Marshall Lee Bailey, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, reference of the resolution (H. R. 22) to a committee was dispensed with, and it was taken up for immediate consideration.

The resolution was read by the Clerk.

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

The yeas and nays having been ordered, they were taken (**Roll No. 733**), and there were— yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

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

Delegate Hanshaw (Mr. Speaker) on behalf of the entire membership offered the following resolution, which was reported by the Clerk:

**H. R. 23**, Medal of Valor nomination of retired Roane County Sheriff's Deputy John Westfall, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, reference of the resolution (H. R. 23) to a committee was dispensed with, and it was taken up for immediate consideration.

The resolution was read by the Clerk.



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

The yeas and nays having been ordered, they were taken (**Roll No. 734**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

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

Delegate Hanshaw (Mr. Speaker) on behalf of the entire membership offered the following resolution, which was reported by the Clerk:

**H. R. 24**, Medal of Valor nominee, James W. Spencer of the Charleston Fire Department.

At the request of Delegate Householder, and by unanimous consent, reference of the resolution (H. R. 24) to a committee was dispensed with, and it was taken up for immediate consideration.

The resolution was read by the Clerk.

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

The yeas and nays having been ordered, they were taken (**Roll No. 735**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

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

Delegate Hanshaw (Mr. Speaker) on behalf of the entire membership offered the following resolution, which was reported by the Clerk:

**H. R. 25**, Medal of Valor nomination of Patrolman Cassie Marie Johnson, was reported by the Clerk.

At the request of Delegate Householder, and by unanimous consent, reference of the resolution (H. R. 25) to a committee was dispensed with, and it was taken up for immediate consideration.

The resolution was read by the Clerk.

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

The yeas and nays having been ordered, they were taken (**Roll No. 736**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

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

**By Delegates Howell and Clark:**

**H. C. R. 83** – “Requesting that the Joint Committee on Government and Finance engage in a study concerning debt collection practices by nonprofit hospitals and/or health clinics who are funded, in whole or in part, by state funding appropriation in West Virginia and assess the propriety of such debt collection practices; to the Committee on Rules.

**By Delegates Rohrbach and Ferrell:**

**H. C. R. 84** – “Requesting the Joint Committee on Government and Finance study state aid for students of veterinary medicine with relation to §18C-1-1 and §18-11-9a of the West Virginia Code; to the Committee on Rules.

### **Messages from the Senate**

A message from the Senate, by

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

**H. B. 3432**, Relating to statutory construction.

On motion of Delegate Householder, the House concurred in the following amendment of

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

**“CHAPTER 2. COMMON LAW, STATUTES, LEGAL HOLIDAYS, DEFINITIONS AND LEGAL CAPACITY.**

**ARTICLE 2. LEGAL HOLIDAYS; SPECIAL MEMORIAL DAYS; CONSTRUCTION OF STATUTES; DEFINITIONS.**

**§2-2-10. Rules for construction of statutes.**

~~(a) The following terms are defined for this code: rules shall be observed in the construction of statutes, unless a different intent on the part of the Legislature is apparent from the context:~~

~~(a) A word importing the singular number only may be applied to several persons or things, as well as to one person or thing; a word importing the plural number only may be applied to one person or thing as well as to several; and a word importing the masculine gender only may be applied to females as well as males;~~

~~(b) Words purporting to give a joint authority to three or more persons confer the authority upon a majority of them, and not upon any less number;~~

~~(c) The words ‘written’ or ‘in writing’ include any representation of words, letters or figures, whether by printing, engraving, writing or otherwise. But when the signature of any person is required, it must be in his or her own proper handwriting, or his or her mark, attested, proved or acknowledged. *Provided*, That Unless a provision of this code specifically provides otherwise, an~~

~~electronic signature satisfies this signature requirement if the electronic signature meets the requirements of §39A-1-2 of this code;~~

~~(d) The words 'preceding', 'succeeding' or 'following' used in reference to any section or sections of a chapter or statute, mean next preceding, next succeeding or next following that in which the reference is made, unless a different interpretation be required by the context;~~

~~(e) An officer has qualified when he or she has done all that is required by law to be done before proceeding to exercise the authority and discharge the duties of his or her office;~~

~~(f) The words 'the Governor' are equivalent to 'the executive of the state' or 'the person having the executive power';~~

~~(g) 'Justice' or 'justices' as used in article one, chapter fifty one of this code and in other references to a member or members of the Supreme Court of Appeals means and applies to a judge or the judges of that court as provided in the Constitution of West Virginia. The word 'justice' in most any other context is equivalent to the word 'magistrate', except when used as an historical reference to the words 'justice of the peace'. The word 'notary' is equivalent to 'notary public';~~

~~(h) The word 'state', when applied to a part of the United States and not restricted by the context, includes the District of Columbia and the several territories, and the words 'United States' also include the said district and territories;~~

~~(i) The word 'person' or 'whoever' includes corporations, societies, associations and partnerships, and other similar legal business organizations; authorized by the Legislature, if not restricted by the context;~~

~~(j) The words 'personal representative' include the executor of a will, the administrator of the estate of a deceased person, the administrator of such estate with the will annexed, the administrator de bonis non of such estate, whether there be a will or not, the sheriff or other officer lawfully charged with the administration of the estate of a deceased person, and every other curator or committee of a decedent's estate for or against whom suits may be brought for causes of action which accrued to or against such decedent;~~

~~(k) The word 'will' embraces a testament, a codicil, an appointment by will or writing in the nature of a will in exercise of a power, also any other testamentary disposition;~~

~~(l) The word 'judgment' includes decrees and orders for the payment of money or the conveyance or delivery of land or personal property, or some interest therein, or any undertaking, bond or recognizance which has the legal effect of a judgment;~~

~~(m) The words 'under disability' include persons under the age of eighteen years, insane persons and convicts while confined in a correctional facility;~~

~~(n) The words 'insane person' include everyone who has mental illness as defined in section two, article one, chapter twenty seven of this code;~~

~~(o) The word 'convict' means a person confined in a penitentiary or correctional facility of this or any other state, or of the United States;~~

~~(p) The word 'land' or 'lands' and the words 'real estate' or 'real property' include lands, tenements and hereditaments, all rights thereto and interests therein except chattel interests;~~

~~(q) The words 'personal estate' or 'personal property' include goods, chattels, real and personal, money, credits, investments and the evidences thereof;~~

~~(r) The word 'property' or 'estate' embraces both real and personal estate;~~

~~(s) The word 'offense' includes every act or omission for which a fine, forfeiture or punishment is imposed by law;~~

~~(t) The expression 'laws of the state' includes the Constitution of West Virginia and the Constitution of the United States, and treaties and laws made in pursuance thereof;~~

~~(u) The word 'town' includes a city, village or town, and the word 'council', any body or board, whether composed of one or more branches, who are authorized to make ordinances for the government of a city, town or village;~~

~~(v) When a council of a town, city or village, or any board, number of persons or corporations, are authorized to make ordinances, bylaws, rules, regulations or orders, the same must be consistent with the laws of this state;~~

~~(w) The words 'county court' include any existing tribunal created in lieu of a county commission; the words 'commissioner of the county court' and 'county commissioner' mean, and have reference to, the commissioners, or one of them, composing a county commission in pursuance of section nine, article IX of the Constitution, as amended, or any existing tribunal created in lieu of a county commission;~~

~~(x) The word 'horse' embraces a stallion, a mare and a gelding;~~

~~(y) The words 'railroad' and 'railway' mean the same thing in law; and, in any proceeding in which a railroad company or a railway company is a party, it is not an error to call a railroad company a railway company or vice versa; nor may any demurrer, plea or any other defense be set up to a motion, pleading or indictment in consequence of the misdescription;~~

~~(z) The sectional headings or headlines of the several sections of this code printed in black-faced type are intended as mere catchwords to indicate the contents of the section and are not titles of the sections, or any part of the statute, and, unless expressly so provided, they are not part of the statute when the sections, including the headlines, are amended or reenacted;~~

~~(aa) The words 'infant' and 'minor' mean persons under the age of eighteen years as used in this code or in rules promulgated by the Supreme Court of Appeals~~

(1) 'Convict' means a person confined in a penitentiary or correctional facility of this or any other state, or of the United States;

(2) 'County court' includes any existing tribunal created in lieu of a county commission; the words 'commissioner of the county court' and 'county commissioner' mean, and have reference to, the commissioners, or one of them, composing a county commission in pursuance of section nine, article IX of the Constitution, as amended, or any existing tribunal created in lieu of a county commission;

(3) 'The Governor' is equivalent to 'the executive of the state' or 'the person having the executive power';

(4) 'Judgment' includes decrees and orders for the payment of money, or the conveyance or delivery of land or personal property, or some interest therein, or any undertaking, bond or recognizance which has the legal effect of a judgment;

(5) 'Land' or 'lands' and the words 'real estate' or 'real property' include lands, tenements and hereditaments, all rights thereto and interests therein, except chattel interests;

(6) 'Laws of the state' includes the Constitution of the State of West Virginia and the Constitution of the United States, and treaties and laws made in pursuance thereof;

(7) 'Minor' mean persons under the age of 18 years;

(8) 'Offense' includes every act or omission for which a fine, forfeiture, or punishment is imposed by law;

(9) 'Person' or 'whoever' includes corporations, societies, associations and partnerships, and other similar legal business organizations;

(10) 'Personal estate' or 'personal property' includes goods, chattels, real and personal, money, credits, investments, and the evidences thereof;

(11) 'Property' or 'estate' embraces both real and personal estate;

(12) 'Railroad' and 'railway' mean the same thing in law; and, in any proceeding in which a railroad company or a railway company is a party, it is not an error to call a railroad company a railway company or vice versa; nor may any demurrer, plea or any other defense be set up to a motion, pleading, or indictment in consequence of the misdescription;

(13) 'State', when applied to a part of the United States and not restricted by the context, includes the District of Columbia and the several territories, and the words 'United States' also include the said district and territories;

(14) 'Town' includes a city, village or town, and the word 'council', any body or board, whether composed of one or more branches, which is authorized to make ordinances for the government of a city, town, or village;

(15) 'Written' or 'in writing' includes any representation of words, letters, or figures, whether by printing, engraving, writing, or otherwise. But when the signature of any person is required, it must be in his or her own proper handwriting, or his or her mark, attested, proved, or acknowledged. Unless a provision of this code specifically provides otherwise, an electronic signature satisfies this signature requirement if the electronic signature meets the requirements of §39A-1-2 of this code;

(b) The following rules shall be observed in the construction of statutes unless a different intent on the part of the Legislature is expressed:

(1) A word importing the singular number only may be applied to several persons or things, as well as to one person or thing; a word importing the plural number only may be applied to one

person or thing as well as to several; and a word importing the masculine gender only may be applied to females as well as males;

(2) Words purporting to give joint authority to three or more persons confers authority upon a majority of them, and not upon any less number;

(3) The sectional headings or headlines of the several sections of this code printed in black-faced type are intended as mere catchwords to indicate the contents of the section and are not titles of the sections, or any part of the statute, and, unless expressly so provided, they are not part of the statute when the sections, including the headlines, are amended or reenacted;

(4) When a council of a town, city, or village, or any board, number of persons, or corporations, are authorized to make ordinances, bylaws, rules, regulations, or orders, the same must be consistent with the laws of this state;

(5) An officer has qualified when he or she has done all that is required by law to be done before proceeding to exercise the authority and discharge the duties of his or her office;

~~(bb)~~ (6) A statute is presumed to be prospective in its operation unless expressly made retrospective;

~~(cc)~~ (7) Unless there is a provision in a section, article, or chapter of this code specifying that its provisions are not severable, the provisions of every section, article, or chapter of this code, whether enacted before or subsequent to the effective date of this subdivision, are severable so that if any provision of any section, article, or chapter is held to be unconstitutional or void, the remaining provisions of the section, article, or chapter remain valid, unless the court finds the valid provisions are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that the court cannot presume the Legislature would have enacted the remaining valid provisions without the unconstitutional or void one, or unless the court finds the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent. *Provided*, That if any section, article or chapter of this code has its own severability clause, then that severability clause governs and controls with respect to that section, article or chapter in lieu of the provisions of this subdivision. The provisions of this subdivision are fully applicable to all future amendments or additions to this code, with like effect as if the provisions of this subdivision were set forth in extenso in every amendment or addition and were reenacted as a part thereof; unless the amendment or addition contains its own severability clause

~~(dd)~~ (8) A reference to any section, article, or chapter of this code applies to all reenactments, revisions, or amendments thereof;

~~(ee)~~ (9) If a statute refers to a series of numbers or letters, the first and the last numbers or letters in the series are considered to be included;

~~(ff) The words 'board of regents', wherever they appear in the code, mean the Higher Education Policy Commission created in article one b, chapter eighteen b of this code or the West Virginia Council for Community and Technical College Education created in article two b of said chapter unless the term is used in relation to activities conducted solely by an institution or institutions governed by article two a of said chapter in which case it only means the board of governors of the specific institution or institutions; and~~

~~(gg)~~ (10) No legislative enactment of a regulatory, noncriminal nature may be construed to prohibit a lawful business or business structure in existence and operating in this state prior to the effective date of the enactment of legislation prohibiting the operation of such business or business structure absent an express legislative declaration in the enactment that the existing business or business structure is prohibited from continuing after the effective date of the enactment.

(11) Statutes are construed to avoid absurd results;

(12) Statutes are to be read as a whole, in context, and, if possible, the court is to give effect to every word of the statute; and

(13) When two or more bills amending the same statute are passed during the same session of the Legislature, the form of the statute in the enrolled bill passed latest in time shall control.

**§2-2-12. Headlines, etc., not part of act; notes, etc., attached to bills not to be construed as expressing legislative intent.**

Chapter, article, or section headings, headlines or headnotes of any act of the Legislature, whether in the act at the time of passage or inserted by the Clerk of the House of Delegates in editing, compiling and publishing the acts of the Legislature, are ~~hereby declared to be~~ mere catchwords and shall not be deemed or construed to be titles of such chapters, articles, or sections, or as any part thereof, or as indicating or expressing legislative intent or purpose.

Abstracts of bills or of changes proposed in existing statutes, explanatory notes, and declarations of purpose accompanying bills at the time of introduction in the Legislature or appended or attached thereto after introduction, and included with copies of such bills printed or otherwise reproduced by the Legislature or either house thereof, are ~~hereby declared~~ not to be a part of such bills or of reports of committees thereon, and shall not be construed or interpreted as indicating or expressing legislative intent.

**CHAPTER 4. THE LEGISLATURE.**

**ARTICLE 1. OFFICERS, MEMBERS, AND EMPLOYEES; APPROPRIATIONS; INVESTIGATIONS; DISPLAY OF FLAGS; RECORDS; USE OF CAPITOL BUILDING; PREFILING OF BILLS AND RESOLUTIONS; STANDING COMMITTEES; INTERIM MEETINGS; NEXT MEETING OF THE SENATE.**

**§4-1-13. Clerk of house to be keeper of rolls; compensation; duties as to acts; copies; fees; printing.**

(a) The Clerk of the House of Delegates shall be the keeper of the rolls, and for his or her duties as such, ~~he~~ the clerk shall receive \$300 in addition to his salary as clerk. After a bill or joint resolution has passed both houses, ~~he~~ the clerk shall cause the same to be correctly recorded, in a legible manner, in a well-bound book, to be kept for that purpose exclusively, which recording shall be equivalent to enrollment. ~~He~~ The clerk shall have custody of the acts and joint resolutions of the Legislature and shall make a certified copy of them for any person requiring the same. For a copy of an act or joint resolution, ~~he~~ the clerk may demand of the person at whose request it was made, 50 cents, or, at ~~his~~ the clerk's option, 3 cents for every 30 words contained therein. As soon as possible after the close of each session, ~~he~~ the clerk shall prepare a well-arranged index to the acts and joint resolutions passed at such session, and shall furnish to the printer who has

the contract for such printing the manuscript of such acts, resolutions, and index and all matter directed by law to be printed therewith, properly prepared and arranged for publication, and shall superintend the printing thereof.

(b) When two or more bills amending the same statute are passed during the same session of the Legislature, the form of the statute in the enrolled bill passed latest in time shall control.”

And,

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

**H. B. 3432** – “A Bill to amend and reenact §2-2-10 and §2-2-12 of the Code of West Virginia, 1931, as amended; and to amend and reenact §4-1-13 of said code, all relating to statutory construction generally; defining terms; clarifying that where two bills affecting the same section of code pass the Legislature in the same session, the later passed version controls; and clarifying the authority of the legislative clerks.”

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. 737**), 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: Ferrell, Fluharty, W. Hall, Linville, Longanacre, Mallow 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. 3432) passed.

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

On this question, the yeas and nays were taken (**Roll No. 738**), and there were—yeas 93, nays 1, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Rowe.

Absent and Not Voting: Clark, W. Hall, Linville, Longanacre, Mallow 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. 3432) takes effect from its passage.

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

A message from the Senate, by

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

**H. B. 3555**, Relating to student purchase and refunds of course material.

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



On page 8, section 14, line 179, by striking out “(n)” and inserting in lieu thereof “(m)”;

And,

By relettering the remaining subsections.

And,

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

**H. B. 3555** – “A Bill to amend and reenact §18B-10-14 of the Code of West Virginia, 1931, as amended, relating to allowing higher education institutions to offer a courseware and book fee at a lump sum or per credit hour amount if an opt out option is offered for students in advance of the start of each academic term; amending provisions pertaining to requirements imposed on institutions when there are new or increased charges for course materials or digital courseware for certain reasons; adding to exclusions from the requirement that the agreement between an institution and an entity under which the institution assesses on the entity’s behalf or allows the entity to assess a charge to students enrolled at the institution include a prohibition against the entity engaging in, or authorizing third parties to engage in, the sale, disclosure, licensing, use, retention, or other exploitation of any data collected under the agreement; and removing prohibition against denial of a student access to educational materials for which the student has been, or would otherwise be, automatically charged on the student’s refusal or failure to agree to the sale, disclosure, licensing, use, retention, or other exploitation of any data pertaining to the student that would be obtained through the use of the student’s educational materials.”

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. 739**), 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: Clark, Longanacre, Mallow 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. 3555) 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. 3559**, Relating to defining a newborn safety device.

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 4. COURT ACTIONS.****§49-4-201. Accepting possession of certain relinquished children.**

(a) A hospital or health care facility operating in this state, or a fire department that has been designated a safe-surrender site under §49-4-206 of this code, shall, without a court order, take possession of a child if the child is voluntarily delivered to the hospital, health care facility, or fire department by the child's parent within 30 days of the child's birth, and the parent did not express an intent to return for the child.

(b) A hospital, health care facility, or fire department that takes possession of a child under this article shall perform any act necessary to protect the physical health or safety of the child. In accepting possession of the child, the hospital, health care facility, or fire department may not require the person to identify himself or herself and shall otherwise respect the person's desire to remain anonymous.

(c) Hospitals, health care facilities, and fire departments designated as safe-surrender sites under §49-4-206, of this code may install and operate newborn safety devices as defined in this section.

(d) 'Newborn safety device' means a device:

(1) Designed to permit a person to anonymously place a child under 30 days of age in the device with the intent to leave the child, and for a licensed emergency medical services provider to remove the child from the device and take custody of him or her;

(2) Equipped with an adequate dual alarm system connected to the physical location where the device is physically installed. The dual alarm system shall:

(A) Be tested at least one time per week to ensure the alarm system is in working order; and

(B) Be visually checked at least two times per day to ensure the alarm system is in working order;

(C) Notify a centralized location in the facility within 30 seconds of a child being placed in the device;

(D) Trigger a 911 call if staff at the facility do not respond within 15 minutes after a child is placed in the device.

(3) Be approved by and physically located, with outside access, at a participating hospital or medical facility, or a fire department that has been designated a safe-surrender site under §49-4-206 of this code, that:

(A) Is licensed or otherwise legally operating in this state; and

(B) Is staffed continuously on a 24-hour basis every day by a licensed emergency medical services provider; and

(4) Is located in an area that is conspicuous and visible to a hospital, a medical facility, or a fire department.

(d) A person who relinquishes a child in a newborn safety device may remain anonymous and shall not be pursued, and the relinquishment of a child pursuant to the provisions of this section shall not, in and of itself, be considered child abuse and neglect as that term is defined in §49-1-201 of this code.

(e) Any emergency medical services provider who physically retrieves a child from a newborn safety device shall immediately arrange for the child to be taken to the nearest hospital emergency room and shall have implied consent to any and all appropriate medical treatment.

(f) By placing a child in a newborn safety device, the person:

(1) Waives the right to notification required by subsequent court proceedings; and

(2) Waives legal standing to make a claim of action against any person who accepts physical custody of the child.

(g) An emergency medical services provider with the duty granted in this article whose actions are taken in good faith is immune from criminal or civil liability, unless his or her actions were the result of gross negligence or willful misconduct. The grant of immunity in this section extends to all employees and administrators of the emergency medical services provider.

(h) The provisions of subsection (d) of this section shall not apply when indicators of child physical abuse or child neglect are present.”

And,

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

**H. B. 3559** – “A Bill to amend and reenact §49-4-201 of the Code of West Virginia, 1931, as amended, relating to newborn safety devices; authorizing the use of newborn safety devices; describing the installation and location of a newborn safety device; granting anonymity to the person placing a child in a newborn safety device; outlining the monitoring of a newborn safety device; requiring the transportation of a child found in a newborn safety device to a hospital or medical facility; waiving rights of notification and standing by the person placing a child in a newborn safety device; granting immunity to the emergency service medical provider who removes the child from the newborn safety device; and removing the anonymity provision if child abuse or neglect are evident.”

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. 740**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Mallow 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. 3559) passed.

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

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates, with further title amendment, and the passage, as amended, of

**Com. Sub. for S. B. 191**, Relating to liability for payment of court costs as condition of pretrial diversion agreement.

On motion of Delegate Kimble, the House concurred in the following Senate title amendment:

**Com. Sub. for S. B. 191** - "A Bill to amend and reenact §62-11C-9 of the Code of West Virginia, 1931, as amended, relating to community corrections generally; making participation in a community corrections program a possible condition of deferred adjudication; clarifying conditions of deferred adjudication; clarifying terms of pretrial diversion agreements; clarifying that no contest pleas may be a part of a pretrial diversion or deferred adjudication agreement; setting forth offenses which require a defendant's actual appearance before a court in deferred adjudication matters; clarifying judicial options where a defendant does not successfully complete his or her program; and providing that inability to pay court costs or and restitution is not a basis for denying a person deferred adjudication."

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. 741**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 191) passed.

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

At 12:11 p.m., on motion of Delegate Householder, the House of Delegates recessed until 2:00 p.m.

\* \* \* \* \*

### Afternoon Session

\* \* \* \* \*

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

**S. C. R. 24**, Renaming Mount Olive Correctional Complex and Jail as Mike V. Coleman Maximum Security Complex; having been postponed in earlier proceedings, was reported by the Clerk.

Delegate Fast moved to amend the resolution on page 1, line 1, after the word, Jail, by striking, "the Mike V. Coleman Maximum Security Complex."; and inserting in lieu thereof the following: "the Mike V. Coleman Mount Olive Maximum Security Complex.";

And,

On page 3, line 13 by striking, “the Mike V. Coleman Maximum Security Complex;” and inserting in lieu thereof the following: “the Mike V. Coleman Mount Olive Maximum Security Complex.”

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. 742**), and there were— yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Dillon, Foster, Mallow, Skaff and Westfall.

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

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

The yeas and nays having been ordered, they were taken (**Roll No. 743**), 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: Bridges, Dillon, Foster, Mallow, Skaff, Steele and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the resolution (S. C. R. 24) adopted.

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

### **Messages from the Senate**

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

**Com. Sub. for H. B. 2436**, Relating to the implementation of an acuity-based patient classification system.

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:

#### **“CHAPTER 16. PUBLIC HEALTH.**

#### **ARTICLE 5B. HOSPITALS AND SIMILAR INSTITUTIONS.**

#### **§16-5B-20. Patient safety and transparency.**

(a) As used in this section:

'Acuity-based patient classification system' means a set of criteria based on scientific data that acts as a measurement instrument which predicts registered nursing care requirements for individual patients based on severity of patient illness, need for specialized equipment and technology, intensity of nursing interventions required, and the complexity of clinical nursing judgment needed to design, implement and evaluate the patient's nursing care plan consistent with professional standards of care. The acuity system criteria shall take into consideration the patient care services provided by registered nurses, licensed practical nurses and other health care personnel.

'Competency' means those observable and measurable knowledge, skills, abilities and personal attributes, as determined by the facility, that demonstrate a nurse's ability to safely perform expected nursing duties of a unit.

'Direct-care registered nurse' means a registered nurse, who is a member of the facility's staff, has no management role or responsibility, and accepts direct responsibility and accountability to carry out medical regimens, nursing or other bedside care for patients.

'Facility' means a hospital, licensed pursuant to the provisions of this article, a licensed private or state-owned and operated general acute-care hospital, an acute psychiatric hospital, or any acute-care unit within a state operated facility.

'Nursing care' means care which falls within the scope of practice, as provided §30-7-1 et seq. of this code.

'Orientation' means the process that the facility develops to provide initial training and information to clinical staff relative to job responsibilities and the organization's mission and goals.

'Unit' means those areas of the hospital organization not considered departments which provide specialized patient care.

'Unit Nurse Staffing Committee' means a committee made up of facility employees which includes a minimum of 51 percent of direct-care registered nurses who regularly provide direct nursing care to patients on the unit of the facility for which the nurse staffing plan is developed.

(b) The Legislature finds that to better improve the quality and efficiency of health care and to better facilitate planning for future states of emergency in West Virginia, a comprehensive system for nurses should be established to create staffing plans to ensure facilities are adequately staffed to handle the daily workload that may accompany a state of emergency. Further, the Legislature finds that nurses in West Virginia fall under the definition of 'critical infrastructure,' and by establishing a comprehensive staffing plan, West Virginia will be better equipped to deal with employment and staffing issues associated with higher acuity treatment in facilities. Additionally, the Legislature finds that based upon the nature of the acuity-based patient classification system it relies upon confidential patient information to generate a staffing plan model and therefore both the classification system and the staffing plan are considered confidential records as defined in §30-3C-3 of this code and are therefore not subject to discovery in any civil action or administrative proceeding.

(c) A facility shall:

(1) Develop, by July 1, 2024, an acuity-based patient classification system to be used to establish the staffing plan to be used for each unit;

(2) Direct each unit nurse staffing committee to annually review the facility's current acuity-based patient classification system and submit recommendations to the facility for changes based on current standards of practice; and

(3) Provide orientation, competency validation, education, and training programs in accordance with a nationally recognized accrediting body recognized by the Centers for Medicare and Medicaid Services or in accordance with the Office of Health Facility Licensure and Certification. The orientation shall include providing for orientation of registered nursing staff to assigned clinical practice areas.

## **CHAPTER 33. INSURANCE.**

### **ARTICLE 15. ACCIDENT AND SICKNESS INSURANCE.**

#### **§33-15-23. Copayments for certain services.**

(a) A policy, provision, contract, plan, or agreement subject to this article may not impose a copayment, coinsurance, or office visit deductible amount charged to the insured for services rendered for each date of service by a licensed occupational therapist, licensed occupational therapist assistant, licensed speech-language pathologist, licensed speech-language pathologist assistant, licensed physical therapist, or a licensed physical therapist assistant that is greater than the copayment, coinsurance, or office visit deductible amount charged to the insured for the services of a primary care physician or an osteopathic physician.

(b) The policy, provision, contract, plan, or agreement shall clearly state the availability of occupational therapy, speech-language therapy, and physical therapy coverage and all related limitations, conditions, and exclusions.

### **ARTICLE 16. GROUP ACCIDENT AND SICKNESS INSURANCE.**

#### **§33-16-19. Copayments for certain services.**

(a) A group health plan, health benefit plan or network plan subject to this article may not impose a copayment, coinsurance, or office visit deductible amount charged to the insured for services rendered for each date of service by a licensed occupational therapist, licensed occupational therapist assistant, licensed speech-language pathologist, licensed speech-language pathologist assistant, licensed physical therapist, or a licensed physical therapist assistant that is greater than the copayment, coinsurance, or office visit deductible amount charged to the insured for the services of a primary care physician or an osteopathic physician.

(b) The group health plan, health benefit plan or network plan shall clearly state the availability of occupational therapy, speech-language therapy, and physical therapy coverage and all related limitations, conditions, and exclusions.

### **ARTICLE 24. HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND HEALTH SERVICE CORPORATIONS.**

#### **§33-24-7x. Copayments for certain services.**

(a) A policy, provision, contract, plan, or agreement subject to this article may not impose a copayment, coinsurance, or office visit deductible amount charged to a subscriber for services rendered for each date of service by a licensed occupational therapist, licensed occupational therapist assistant, licensed speech-language pathologist, licensed speech-language pathologist assistant, licensed physical therapist, or a licensed physical therapist assistant that is greater than the copayment, coinsurance, or office visit deductible amount charged to the subscriber for the services of a primary care physician or an osteopathic physician.

(b) The policy, provision, contract, plan, or agreement shall clearly state the availability of occupational therapy, speech-language therapy, and physical therapy coverage and all related limitations, conditions, and exclusions.

## **ARTICLE 25. HEALTH CARE CORPORATIONS.**

### **§33-25-8u. Copayments for certain services.**

(a) A policy, provision, contract, plan, or agreement subject to this article may not impose a copayment, coinsurance, or office visit deductible amount charged to a subscriber or member for services rendered for each date of service by a licensed occupational therapist, licensed occupational therapist assistant, licensed speech-language pathologist, licensed speech-language pathologist assistant, licensed physical therapist, or a licensed physical therapist assistant that is greater than the copayment, coinsurance, or office visit deductible amount charged to the subscriber or member for the services of a primary care physician or an osteopathic physician.

(b) The policy, provision, contract, plan, or agreement shall clearly state the availability of occupational therapy, speech-language therapy, and physical therapy coverage and all related limitations, conditions, and exclusions.

## **ARTICLE 25A. HEALTH MAINTENANCE ORGANIZATION ACT.**

### **§33-25A-8x. Copayments for certain services.**

(a) A health maintenance organization issuing coverage in this state pursuant to the provisions of this article may not impose a copayment, coinsurance, or office visit deductible amount charged to a subscriber or member for services rendered for each date of service by a licensed occupational therapist, licensed occupational therapist assistant, licensed speech-language pathologist, licensed speech-pathologist assistant, licensed physical therapist, or a licensed physical therapist assistant that is greater than the copayment, coinsurance, or office visit deductible amount charged to the subscriber or member for the services of a primary care physician or an osteopathic physician.

(b) The policy, provision, contract, plan, or agreement subject to this article shall clearly state the availability of occupational therapy, speech-language therapy, and physical therapy coverage and all related limitations, conditions, and exclusions.”

And,

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



**Com. Sub. for H. B. 2436** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §16-5B-20; by adding thereto a new section, designated §33-15-23; by adding thereto a new section, designated §33-16-19; by adding thereto a new section, designated §33-24-7x; by adding thereto a new section, designated §33-25-8u; and by adding thereto a new section, designated §33-25A-8x, all relating to healthcare; defining terms; providing for legislative findings; providing certain information is not subject to discovery; establishing a process to develop a plan; providing for training; and prohibiting an insurer from imposing a copayment, for services rendered by a licensed occupational therapist, licensed occupational therapist assistant, licensed speech-language pathologist, licensed speech-language pathologist assistant, licensed physical therapist or a licensed physical therapist assistant, that is more than a copayment imposed for the services of a primary care physician or an osteopathic physician.

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. 744**), and there were—yeas 94, nays 2, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Dillon and Keaton.

Absent and Not Voting: Bridges, Mallow, Skaff and Westfall.

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. 2436) 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. 2967**, Expediting License Applications for active military members and veterans, and their spouses.

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

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

**“ARTICLE 1B. PROVISIONS APPLICABLE TO MILITARY MEMBERS AND THEIR SPOUSES.**

**§30-1B-1. Legislative findings and declarations.**

The Legislature finds that:

(1) In recognition of the enormous sacrifices made by members of the Armed Forces of the United States of America and their families in voluntary service to this state and our nation, the

citizens of West Virginia must endeavor to find new and innovative ways to improve the lives of military families and support their personal and professional growth;

(2) Many current and former members of the United States Armed Forces have acquired extensive academic, professional and occupational training and experience in various professions and occupations while serving in the Armed Forces, comparable to or exceeding that required in this state to register for examination or qualify for licensure, certification, or registration for similar or related occupations and professions;

~~(3) Military families are ten times more likely to move from one state to another than their civilian counterparts, and 35% of military spouses work in professions that require state licenses, certifications or registrations~~

~~(4) (3) Veterans of the Armed armed forces and the spouses of current members who return or relocate to this state after being called to active duty service, and spouses accompanying armed forces members outside of this state or to this state for active duty are frequently delayed in beginning employment as professionals because of issues with obtaining licenses, certifications or registrations upon arrival or return to West Virginia;~~

~~(5) The boards in this chapter have the particular expertise necessary to evaluate and determine the adequacy of military education, training and experience for licensure, certification or registration and to adopt procedures that ease the burden of transition for military families through waivers, temporary licensing, or otherwise, while ensuring competency of professionals and protecting the citizens of the state from harm.~~

(4) Because of the training and experiences these individuals have and the challenges they may face when seeking licensure, certification, or registration, it is in the best interests of this state to ease these burdens and ensure the boards in this chapter use the relevant experiences of these men and women to ensure they are able to find employment as quickly as possible.

**§30-1B-2. Consideration of military education, training and experience for licensure or registration, generally Licensure for individuals with military training and experience.**

(a) Except as provided in section eight of this article, and notwithstanding any law to the contrary, all boards referred to in this chapter shall, upon presentation of satisfactory evidence by an applicant for licensure, certification or registration, consider the individual's education, training or experience as a member of the Armed Forces or Reserves of the United States, the National Guard of any state, or the military reserves of any state, as part of the evaluation process toward the qualifications to receive, or take examination for, that respective professional license, certification or registration. subsection (c) of this section, and notwithstanding any other provision of this Code to the contrary, all boards referred to in this chapter shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this state if, upon application to a board, the military-trained applicant satisfies the following conditions:

(1) Has been awarded a military occupational specialty and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure, certification, or registration of the board from which the applicant is seeking licensure, certification, or registration in this state:

(A) Completed a military program of training;

(B) Completed testing or equivalent training and experience; and

(C) Performed in the occupational specialty;

(2) Has engaged in the active practice of the occupation for which the person is seeking a license, certification, or permit from the board in this state for at least two of the five years preceding the date of the application under this section; and

(3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this state at the time the act was committed and has no pending complaints.

(b) No later than 15 days following receipt of an application from a military-trained applicant, the board shall either issue a license, certification, registration, or notify an applicant when the applicant's military training or experience does not satisfy the requirements for licensure, certification, or registration and specify the criteria or requirements that the board determined that the applicant failed to meet and the basis for that determination. If a military-trained applicant has a pending complaint under §30-1B-3(a)(3), the board shall notify the applicant no later than 15 days following the board receiving written notice of the disposition of the pending complaint.

(c) A board shall issue a license, certification, or registration to a military-trained applicant to allow the applicant to lawfully practice the applicant's occupation in this state if the military-trained applicant, upon application to the board, satisfies the following conditions:

(1) Presents official, notarized documentation, such as a U.S. Department of Defense Form 214 (DD-214), or similar substantiation, attesting to the applicant's military occupational specialty certification and experience in an occupational field within the board's purview; and

(2) Passes a proficiency examination offered by the board to military-trained applicants in lieu of satisfying the conditions set forth in subsection (a) of this section; However, if an applicant fails the proficiency examination, then the applicant may be required by the board to satisfy those conditions.

(d) In any case where a proficiency examination is not offered routinely by a board, the board shall design a fair proficiency examination for military-trained applicants to obtain licensure, certification, or registration under this section. If a proficiency examination is offered routinely by a board, that examination shall satisfy the requirements of this section.

(e) All relevant experience of a military service member in the discharge of official shall be credited in the calculation of years of practice in an occupation as required under subsection (a) of this section.

(f) A nonresident licensed, certified, or registered under this section shall be entitled to the same rights and subject to the same obligations as required of a resident licensed, certified, or registered by all boards referred to in this chapter.

(g) Nothing in this section may be construed to apply to the practice of law under §30-2-1 *et seq.* of this code, the practice of medicine under article § 30-3-1 *et seq.* of this code, or the practice of osteopathic medicine under article § 30-14-1 *et seq.* of this code.

(h) Nothing in this section may be construed to prohibit a military-trained applicant from proceeding under the existing licensure, certification, or registration requirements established by a board referred to in this chapter.

(i) A board may not charge a military-trained applicant an initial application fee for a license, certification, registration, or temporary practice permit issued pursuant to this section: *Provided*, That nothing in this subsection may be construed to prohibit a board from charging its ordinary fee for a renewal application or prohibit a third party from charging actual costs for a service such as a background check.

**§30-1B-3. Licensure certification or registration of persons on military active duty outside this state; extension of licenses or registration; waiver of certain license, certification or registration requirements for military spouses.**

~~(a) During periods when the licensee, certificate holder or registrant is on active duty as a member of the Armed Forces of the United States and deployed outside of this state, and for six months after discharge from active duty, his or her license, certification or registration shall continue in good standing and shall be renewed, upon receipt of a waiver request pursuant to subsection (b) of this section:~~

~~(1) Without meeting continuing education requirements for the license, certification or registration when:~~

~~(A) Circumstances associated with the military duty prevent the obtaining of continuing education, or~~

~~(B) The licensee, certificate holder or registrant performs the profession or occupation as part of his or her military duties, as may be evidenced by annotation on Defense Department Form 214 (DD214), National Guard Bureau Form 22 (NGB22) or other official record; and~~

~~(2) Without payment of fees for the renewal of the license, certification or registration~~

~~(b) (a) The licensee, certificate holder or registrant shall submit a waiver request to the appropriate board, informing the board of circumstances which include, but are not limited to, being deployed outside of this state Notwithstanding any other provision of this code to the contrary, all boards referred to in this chapter shall issue a license, certification, or registration to a military spouse to allow the spouse of an active duty military member who is a resident of this state who is assigned to state, or federal active duty in this state to lawfully practice the spouse's occupation in this state if, upon application to a board, the spouse satisfies the following conditions:~~

~~(1) Holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure, certification, or registration of the board for which the applicant is seeking licensure, certification, or registration in this state;~~

~~(2) Can demonstrate competency in the occupation through methods as determined by the board, such as having completed continuing education units or having had recent experience for at least two of the five years preceding the date of the application under this section;~~

(3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this state at the time the act was committed; and

(4) Is in good standing; has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit; and has no pending complaints.

(b) No later than 15 days following receipt of an application from a spouse the board shall either issue a license, certification, registration, or notify an applicant when the applicant's training or experience does not satisfy the requirements for licensure, certification, or registration and specify the criteria or requirements that the board determined that the applicant failed to meet and the basis for that determination. If an applicant who is a military spouse has a pending complaint under §30-1B-(a)(4), the board shall notify the applicant no later than 15 days following the board receiving written notice of the disposition of the pending complaint.

(c) All relevant experience of a military spouse, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under subsection (a) of this section.

(d) A nonresident licensed, certified, or registered under this section is entitled to the same rights and subject to the same obligations as required of a resident licensed, certified, or registered by all boards referred to in this chapter.

(e) Nothing in this section may be construed to apply to the practice of law under article §30-2-1 *et seq.* of this code, the practice of medicine under article § 30-3-1 *et seq.* of this code, or the practice of osteopathic medicine under article § 30-14-1 *et seq.* of this code.

(f) Nothing in this section may be construed to prohibit a spouse from proceeding under the existing licensure, certification, or registration requirements established by a board referred to in this chapter.

(g) A board may not charge a military spouse an initial application fee for a license, certification, registration, or temporary practice permit issued pursuant to this section: *Provided*, That nothing in this subsection may be construed to prohibit a board from charging its ordinary fee for a renewal application or prohibit a third party from charging actual costs for a service such as a background check.

**§30-1B-4. Temporary licensure certification or registration of spouses of persons on military active duty outside this state; extension of licenses or registration; waiver of certain license, certification or registration requirements.**

~~(a) During periods when the licensee, certificate holder or registrant is accompanying his or her spouse who is on active duty as a member of the Armed Forces of the United States and deployed outside of this state, and for six months after his or her spouse is discharged from active duty, his or her license, certification or registration shall continue in good standing and shall be renewed, upon receipt of a waiver request pursuant to subsection (b) of this section:~~

~~(1) Without meeting continuing education requirements for the license, certification or registration when:~~

~~(A) Circumstances associated with accompanying his or her spouse who is on active duty prevent the obtaining of continuing education, or~~

~~(B) The licensee, certificate holder or registrant presents evidence that he or she performs or performed the profession or occupation while accompanying his or her spouse on active duty; and~~

~~(2) Without payment of fees for the maintenance or renewal of the license, certification or registration.~~

~~(b) The licensee, certificate holder or registrant shall submit a waiver request to the appropriate board informing the board of circumstances which include, but are not limited to, accompanying a spouse who is deployed outside of this state~~

All boards referred to in this chapter shall issue a temporary practice permit to a military-trained applicant or military spouse licensed, certified, or registered in another jurisdiction while the military-trained applicant or military spouse is satisfying the requirements for licensure under sections three and four of this section no later than 15 days following receipt of an application; if that jurisdiction has licensure, certification, or registration standards substantially equivalent to the standards for licensure, certification, or registration of a board in this state. The temporary practice permit shall be issued using the same information as provided by the applicant in the licensure application and remain valid for the later of one year or the required renewal date for the occupation the temporary practice permit was issued for or until a license, certification, or registration is granted by the board. A temporary practice permit may be denied or revoked for a pending complaint after notice is provided to the military-trained applicant or military spouse as set forth under §30-1B-3(a)(3) and §30-1B-(a)(4), or §30-1B-4(a) of this article.

**§30-1B-5. Temporary licensure, certification or registration of spouses of persons on military active duty; waiver of certain license, certification or registration fees.**

[Repealed.]

**§30-1B-7. Data Collection.**

[Repealed.]”

And,

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

**H. B. 2967** – “A Bill to amend and reenact §30-1-23 of the Code of West Virginia, 1931, as amended; and to repeal §30-1B-5 and §30-1B-7 of said code, all relating to professions and occupations; licensure provisions for individuals with military training and experience applicable to military members and their spouses; and providing for the expedited processing of professional or trade license applications for service members, veterans, and their spouses, when the applicant is licensed and in good standing in another jurisdiction.”

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

On page 4, section 30-1B-2, line 77, by inserting the word “duties” immediately following the word “official”;

And,

On page 8, section 30-1B-4, line 177, by striking the words “three and four” and inserting in lieu thereof “two and three”;

And,

On page 8, section 30-1B-4, line 185, by striking “§30-1B-3(a)(3) and §30-1B-(a)(4), or §30-1B-4(a)” and inserting in lieu thereof “§30-1B-2(a)(3), §30-1B-3(a)(3), or §30-1B-3(a)(4)”;

And,

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

**H. B. 2967** - “A Bill to amend and reenact §30-1B-1, §30-1B-2, §30-1B-3, and §30-1B-4 of the Code of West Virginia, 1931, as amended; and to repeal §30-1B-5 and §30-1B-7 of said code, all relating to licensure to practice professions and occupations; stating findings; establishing standards for licensure of military-trained applicants; creating an exception for the practices of law, medicine, and osteopathic medicine; mandating boards act on applications from military-trained applicants not later than 15 days after receipt; providing for conditions for issuance of authorization to practice occupation or trade to military-trained applicants; prohibiting board from charging fee for initial authorization to practice; establishing standards for licensing spouses of current military members; creating an exception for the practices of law, medicine, and osteopathic medicine; mandating boards act on applications from spouses not later than 15 days after receipt; prohibiting boards from charging fee to spouse of military member for initial authorization to practice; and providing for temporary authorization to practice while application is pending.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 745**), and there were— yeas 96, nays 1, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Forsht.

Absent and Not Voting: Mallow, Skaff 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. 2967) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 3035**, Relating generally to high-quality education programs and school operations.

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

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

**“§18-2E-10. Third Grade Success Act; transformative multi-tiered system of support for early literacy and numeracy in kindergarten through grade three; pre-service and in-service teacher training; notice to parent or guardian; third grade retention policy with exceptions; interventions continuing in fourth grade for students below proficient.**

(a) This section shall be known and may be cited as the Third Grade Success Act.

~~(a)~~ (b) The Legislature finds that:

(1) In the early learning years, ensuring that each student masters the content and skills needed for mastery at the next grade level is critically important for student success;

(2) Students who do not demonstrate grade-level proficiency in reading by the end of third grade become increasingly less likely to succeed at each successive grade level and often drop out of school prior to graduation;

(3) State board policy requires every school to establish a process for ensuring the developmental and academic progress of all students. This process is to be coordinated by a school student assistance team that reviews student developmental and academic needs that have persisted despite being addressed through instruction, multi-tiered system of support for intervention, and as applicable, supports for personalized learning. Ensuring the developmental and academic success of all students requires every school to implement, in an equitable manner, programs during and after the instructional day at the appropriate instructional levels that contribute to the success of students; and

(4) To ensure that all students read and perform mathematics proficiently by the end of third grade, a statewide comprehensive approach to early literacy and numeracy is required. This approach shall focus on intensive supports during the early learning years which include schools and engaged communities mobilized to remove barriers, expand opportunities, and assist parents in fulfilling their roles and responsibilities to serve as full partners in the success of their children.

(c) ‘Science of reading’ means evidence-based reading instruction practices that address the acquisition of language, phonological and phonemic awareness, phonics and spelling, fluency, vocabulary, oral language, comprehension, and writing that can be differentiated to meet the needs of individual students.

~~(b)~~ (d) The state board shall, in accordance with ~~the provisions of article three-b, chapter twenty-nine-a §29A-3B-1 et seq.~~ of this code, promulgate legislative rules as necessary to effectuate the provisions of this section. The rules shall provide for at least the following:

(1) Development of a statewide comprehensive, systemic approach to close the reading and mathematics achievement ~~gap~~ gaps by third grade, which targets school readiness, the



attendance gap, science of reading instruction (phonics, phonemic awareness, vocabulary, fluency, comprehension, and writing), summer learning loss, the use of screeners and/or benchmark assessments in English language arts and mathematics for students in grades kindergarten through three, and a multi-tiered system of support for students exhibiting a substantial reading or mathematics deficiency; transformative intervention framework for student and learning supports;

(2) Ensuring all West Virginia children have access to high-quality early learning experiences that focus on healthy learners as part of the school readiness model, resulting in increased populations of children on target for healthy development prior to entering first grade;

(3) Closing the attendance gap to certify West Virginia children attend school regularly and limit chronic absenteeism in the early grades;

(4) Providing assistance to county boards with the training and implementation of the science of reading training for all kindergarten through grade three educators, early childhood classroom assistant teachers, aides, and any interventionists that a county board may choose to employ instead of an early childhood classroom assistant teacher or aide pursuant to §18-5-18a(b) of this code;

(5) (4) Assisting county boards in establishing and operating targeted, sustained extended day and extended year reading and mathematics programs to ensure grade level proficiency and battle summer learning loss;

(6) Establishing an approved list of screeners and/or benchmark assessments in English language arts and mathematics for students in grades kindergarten through three for the purpose of identifying students with a significant reading and/or mathematics deficiency. The screener and/or benchmark assessments shall be given in the first 30 days of the school year and repeated at mid-year and at the end of the school year to determine student progression in reading and mathematics in kindergarten through third grade;

(7) Establishing an approved list of dyslexia screeners to be administered to students no less than twice per year in kindergarten through third grade and any time students with identified deficiencies are not responding to interventions;

(8) Any student in kindergarten or grades one through three who exhibits a deficiency in reading at any time, based upon the screeners and/or benchmark assessments, and/or the comprehensive statewide student assessment, and any fourth-grade student promoted for good cause shall receive an individual reading improvement plan no later than 30 days after the identification of the reading deficiency. The reading improvement plan shall be created by the teacher, principal, other pertinent school personnel, and the parent(s), and shall describe the research-based reading intervention services the student will receive to remedy the reading deficit. Each student shall receive intensive reading intervention until the student no longer has a deficiency in reading. Reading interventions may include evidence-based strategies frequently used to remediate reading deficiencies and includes, but is not limited to, individual instruction, small-group instruction, tutoring, mentoring, or the use of technology that targets specific reading skills and abilities;

(5) (9) Maximizing family engagement to result in the development of a culture of literacy and numeracy, from birth through third grade which shall at least include;

(A) Providing parents or guardians with regular updates to inform them of their child's progress toward proficiency in reading and mathematics;

(B) Ensuring parents or guardians are informed of and have access to resources which they may utilize to improve their child's literacy and numeracy skills;

(C) Ensuring the parent or guardian is informed of the importance of their child being able to demonstrate grade level reading and mathematics skills by the end of the third grade and the measures that will be employed pursuant to this section to improve the reading and mathematics skills of children who are not meeting the standards; and

(D) The parent or guardian of any student in kindergarten through grade three who exhibits a deficiency in reading or mathematics at any time during the school year must be notified in writing no later than 15 days after the identification of the deficiency, and the written notification must include the following:

(i) That the student has been identified as having a deficiency in reading and/or mathematics;

(ii) A description of the proposed research-based reading and/or mathematics interventions and/or supplemental instructional services and supports that will be provided to the child to address the identified area(s) of deficiency;

(iii) Strategies for the parent or guardian to use at home to help their child succeed in reading and/or mathematics; and

(iv) That if the child's reading deficiency is not corrected by the end of grade three, the child may not be promoted to grade four unless an exemption is met;

~~(6)~~ (10) Supporting high-quality schools and a workforce prepared to address early literacy and numeracy by the provision of professional development for administrators, kindergarten, first, second, and third grade teachers including, but not limited to, the following: identification of interventions, and implementation of a system of intervention for children not reaching grade level proficiency

(A) The approved benchmark assessment and/or screener tools to ensure teachers have the knowledge and skill to administer the assessment and/or screener, analyze the data to inform instruction, and identify students exhibiting substantial deficiencies in reading or mathematics;

(B) Comprehensive training on the science of reading and numeracy instruction to ensure all kindergarten through grade three teachers, early childhood classroom assistant teachers, and aides, have the knowledge and skill to teach and/or support all students to read and perform mathematics at grade level. The rules also shall provide that any interventionist a county chooses to employ instead of an early childhood classroom assistant teacher or aid pursuant to §18-5-18a(b) receives this comprehensive training;

(C) Training and materials to inform classroom teachers of the characteristics of dyslexia and dyscalculia in students, components of benchmarks and screeners that may indicate dyslexia or dyscalculia, and strategies for instruction; and

(D) Job-embedded, on-site teacher training on evidence-based reading and mathematics instruction and data-driven decision-making that provides kindergarten through grade three teachers with immediate feedback for improving instruction;

~~(7) (11) Ensuring the employment of qualified teachers and service personnel in accordance with the provisions of section thirty nine, article five of this chapter and section seven c, article four, chapter eighteen a §18-5-39 and §18A-4-7c of this code to provide instruction to students enrolled in early literacy and numeracy support programs including, but not limited to, ensuring that educator preparation programs prepare candidates seeking licensure for elementary education with training and instruction to:~~

(A) Include instruction in state-adopted grade-level content standards, foundational reading and mathematics skills, and how to implement reading instruction using high-quality instructional materials;

(B) Provide effective instruction and intervention for students with reading and math deficiencies, including students with characteristics of dyslexia or dyscalculia; and

(C) Understand and use student data to make instructional decisions;

~~(8) (12) Creating a formula or grant-based program for the distribution of funds appropriated specifically for the purposes of this section or otherwise available for the support of a targeted, multi-tiered system of support intervention comprehensive system of support for early literacy and numeracy;~~

~~(9) (13) Providing support for transportation and healthy foods for students required to attend after-school and extended year early literacy and numeracy instructional support programs and supervision at the school that accommodates the typical work schedules of parents; and~~

~~(10) (14) Receiving from county boards any applications and annual reports required by rule of the state board.~~

~~(e) (e) A student in grades kindergarten through grade three who is recommended by the student assistance team or the student's classroom teacher for additional assistance in one or more of the key standards of English Language Arts including reading, speaking and listening, writing or language may shall be required to attend an extended year early literacy and numeracy instructional support program as a condition for promotion if:~~

~~(1) The student has been provided additional academic assistance help through interventions offered during the school day in school or after-school in early literacy and numeracy instructional support program and, prior to the end of the school year, the student assistance team or the student's classroom teacher recommends that further additional academic help is needed for the student to be successful at the next grade level; and~~

~~(2) The county board has established an early a literacy and numeracy instructional support program during the extended year for the student's grade level.~~

~~(d) (f) County boards shall provide high-quality educational facilities, equipment, and services to support early literacy and numeracy instructional support programs established pursuant to this section. Extended year programs may be provided at a central location for kindergarten through third graders who qualify for the program.~~

(g) Each county board shall adopt high-quality instructional materials grounded in scientifically-based reading research and aligned to state standards to be used as the core curriculum. The instructional materials shall not include practices that are aligned with the Three-Cueing Systems Model of teaching reading.

~~(e)~~ (h) This section may not be construed to prohibit a classroom teacher from recommending the grade level retention of a student in any of the grades kindergarten through grade three based upon the student's lack of mastery of the subject matter and preparation for the subject matter at the next grade level. Benchmark and/or screener data shall be used to inform the classroom teacher's recommendation.

~~(f)~~ (i) This section may not be construed to affect the individualized education plans of exceptional students.

~~(g)~~ (j) This section may not be construed to limit the authority of the county board to establish an extended year program in accordance with ~~section thirty-nine, article five of this chapter~~ §18-5-39 of this code. County boards may not charge tuition for enrollment in early literacy and numeracy instructional support programs established pursuant to this section.

~~(h)~~ (k) Each county board shall ~~prepare to~~ implement the provisions of this section and the provisions of the state board rule required by subsection (b) of this section. ~~The preparations shall at least include planning, ensuring~~ The county board shall establish a process for ensuring the developmental and academic progress of all students through the auspices of student assistance teams as currently required by state board policy and ~~performing~~ perform a needs assessment to determine the potential capacity requirements for the multi-tiered system of support for early learners. Each county board also shall provide in-service training:

(1) For kindergarten through grade three early childhood classroom assistant teachers, and aides, specifically related to literacy, numeracy, and their responsibilities and appropriate measures for exercising authority and control over students. The county board shall also provide this training to any interventionists it chooses to employ instead of an early childhood classroom assistant teacher or aide pursuant to §18-5-18a(b) of this code; and

(2) For classroom teachers in grades kindergarten through three to help the classroom teachers gain a strong understanding of how to best utilize the early childhood classroom assistant teachers, aides, or interventionists during classroom instruction and during other periods of the day.

~~(i)~~ (l) The state board shall provide a report describing the proposed implementation of the ~~transformative~~ multi-tiered system of support for early literacy and numeracy to the Legislative Oversight Commission on Education Accountability on or before ~~July 1, 2014~~ July 1, 2023.

~~(j)~~ (m) The state board shall provide a comprehensive report regarding the status of the ~~transformative~~ multi-tiered system of support for literacy and numeracy to the Legislative Oversight Commission on Education Accountability, the Joint Committee on Government and Finance, and the Governor on ~~or before November 1, 2014~~ November 1, 2023, and annually on ~~or before November 1 on~~ or before November 1 ~~on~~ of each year thereafter. The report shall address, at a minimum, the progress of the program throughout the state, its effect on student achievement, and the sources of the funding both available to and used by the program.

~~(k) (n) The provisions of this section are subject to the availability of funds from legislative appropriation or other sources specifically designated for the purposes of this section. If a county board determines that adequate funds are not available for full implementation of a transformative system of support for early literacy in the county, the county board may implement its program in phases by first establishing early literacy instructional support programs in the early readiness grades (Kindergarten), then the primary grades (Grades 1-2), and then establishing an early literacy instructional support program for the third grade once Legislative appropriations to the State Board of Education – State Department of Education Elementary Literacy and Numeracy Program shall be used for the implementation of the provisions of this section along with other funds available for providing a high-quality education.~~

~~(l) (o) Effective for the school year beginning July 1, 2026, and thereafter, a public school student who generally demonstrates a minimal understanding of, and ability to apply, grade level English language arts knowledge, skills, and abilities, or both, as indicated on the West Virginia General Summative Assessment relative to the West Virginia College and Career Readiness Standards at the end of third grade, shall upon the recommendation of the teacher and the student assistance team, be retained in the third grade for the ensuing school year subject to the following exceptions:~~

~~(1) A student with disabilities whose Individual Education Plan indicates participation in the statewide alternate summative assessment;~~

~~(2) A student identified as an English language learner who has had less than three years instruction in English as a second language;~~

~~(3) A student with disabilities who participates in the statewide summative assessment, has an Individual Education Plan or Section 504 plan that reflects that the student has received intensive intervention for more than two years and still demonstrates a deficiency or who was previously retained in any of the grades kindergarten through grade three;~~

~~(4) A student who is in the process of a special education referral or evaluation for placement in special education, has been diagnosed as having a significant impairment, including dyslexia or dyscalculia, or is a child with a disability if the student's individualized education program team and the student's parent or guardian agree that promotion is appropriate based on the student's Individualized Education Plan;~~

~~(5) A student who has received intensive intervention for two or more years, still demonstrates a deficiency, and who was previously retained in any of the grades kindergarten through grade three for a total of two years: *Provided*, That the student shall continue to receive intensive intervention in grade four;~~

~~(6) A student who demonstrates an acceptable level of performance on an alternative standardized assessment approved by the state board;~~

~~(7) A student who attends an extended year learning program following the third grade and has attained proficiency; and~~

~~(8) A student whose parent or guardian has requested a good cause exemption within the time period established by the county board and the superintendent, or his or her designee, determines that the good cause exemption is in the best interests of the child: *Provided*, That a good cause exemption may not prohibit the grade level retention of a student by a classroom~~

teacher based upon the student's lack of mastery of the subject matter and preparation for the subject matter at the next grade level.

## **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

### **§18-5-18a. Maximum teacher-pupil ratio.**

(a) County boards of education shall provide sufficient personnel, equipment, and facilities as will ensure that each ~~first through sixth grade~~ classroom, or classrooms having two or more grades that include one or more of the first kindergarten through sixth grades shall not have more than 25 pupils for each teacher ~~of the grade or grades and shall not have more than 20 pupils for each kindergarten teacher per session~~ as follows, unless the state superintendent has excepted a specific classroom upon application therefor by a county board as provided in this section:

(1) For kindergarten, not more than 20 pupils for each teacher and one early childhood classroom assistant teacher or aide in classrooms with more than 10 pupils;

(2) For first, second, and third grades, not more than 25 pupils for each teacher and one early childhood classroom assistant teacher or aide in classrooms with more than 12 pupils: *Provided*, That the early childhood classroom assistant teacher/aide requirement for classrooms with more than 12 pupils shall not be effective until July 1, 2023, for first grade classrooms; July 1, 2024, for second grade classrooms; and July 1, 2025, for third grade classrooms; and

(3) For grades four, five, and six, not more than 25 pupils for each teacher.

(b) County boards may satisfy the requirements of subsection (a) of this section by employing a full-time interventionist instead of an early childhood assistant teacher or aide, subject to the following:

(1) If no full-time interventionist is available, a county board may satisfy the requirements of subsection (a) of this section by employing a part-time interventionist; and

(2) County boards are not required to employ an interventionist even if there are an insufficient number of early childhood assistant teachers and aides available to fill all the positions required by subsection (a) of this section.

~~(b)~~ (c) County school boards may not maintain a greater number of classrooms having two or more grades that include one or more of the grade levels referred to in this section than were in existence in said county as of January 1, 1983.

~~(c)~~ (d) The state superintendent is authorized, consistent with sound educational policy, to:

(1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher in a classroom for the purposes of instruction in physical education; and

(2) Permit more than 20 pupils per teacher in a specific kindergarten classroom and 25 pupils per teacher in a specific classroom in grades four through six during a school year in the event of extraordinary circumstances as determined by the state superintendent after application by a county board of education.

~~(d)~~ (e) The state board shall establish guidelines for the exceptions authorized in this section, but in no event shall the superintendent except classrooms having more than three pupils above the pupil-teacher ratio as set forth in this section.

~~(e)~~ (f) The requirement for approval of an exception to exceed the 20 pupils per kindergarten teacher per session limit or the 25 pupils per teacher limit in grades ~~one~~ four through six is waived in schools where the schoolwide pupil-teacher ratio is 25 or less in grades ~~one~~ four through six: *Provided*, That a teacher shall not have more than three pupils above the teacher/pupil ratio as set forth in this section. Any kindergarten teacher who has more than 20 pupils per session and any classroom teacher of grades ~~one~~ four through six who has more than 25 pupils, shall be paid additional compensation based on the affected classroom teacher's average daily salary divided by 20 for kindergarten teachers, or 25 for teachers of grades ~~one~~ four through six, for every day times the number of additional pupils enrolled up to the maximum pupils permitted in the teacher's classroom. All such additional compensation shall be paid from county funds exclusively.

Notwithstanding any other provision of this section to the contrary, commencing with the school year beginning on ~~July 1, 1994~~ July 1, 1996, a teacher in grades one, two, or three, or classrooms having two or more such grade levels, ~~shall not have more than two pupils above the teacher/pupil ratio as set forth in this section: *Provided*, That commencing with the school year beginning on July 1, 1995, such teacher shall not have more than one pupil above the teacher/pupil ratio as set forth in this section: *Provided, however*, That commencing with the school year beginning on July 1, 1996, such teacher shall not have any pupils above the teacher/pupil ratio as set forth in this section.~~

~~(f)~~ (g) No provision of this section is intended to limit the number of pupils per teacher in a classroom for the purpose of instruction in choral, band, or orchestra music.

~~(g)~~ (h) Each school principal shall assign students equitably among the classroom teachers, taking into consideration reasonable differences due to subject areas and/or grade levels.

~~(h)~~ (i) The state board shall collect from each county board of education information on class size and the number of pupils per teacher for all classes in grades seven through 12. The state board shall report such information to the Legislative Oversight Commission on Education Accountability before January 1, of each year.

~~(i) The West Virginia Department of Education shall survey districts to determine those grade levels, content areas, and geographic locations where class overcrowding is impeding student achievement and report to the Legislature by July 1, 2020 a tailored plan for reducing class overcrowding in such areas.~~

~~The study shall include, but is not limited to, an examination of the following issues:~~

~~(1) The effect on student learning of limits on the number of pupils per teacher in a classroom in elementary classes and in a middle and high school format in which students have different teachers for different subject matter instruction;~~

~~(2) The effect on the equity among teachers in a middle school in which the number of pupils per teacher in a classroom is limited for some teachers and not for others, including the additional pay for certain teachers in whose classrooms the limits are exceeded; and~~

~~(3) The effect limits on the number of pupils per teacher in a classroom have on the ability of school systems to offer elective courses in secondary school~~

## ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

### §18-9A-5. Foundation allowance for service personnel.

(a) The basic foundation allowance to the county for service personnel shall be the amount of money required to pay the annual state minimum salaries in accordance with the provisions of article four, chapter eighteen ~~a §18A-4-1 et seq.~~ of this code to such service personnel employed, subject to the following:

(1) A county shall receive an allowance for state aid eligible service personnel positions per 1,000 students in net enrollment, as follows:

(A) For each high-density county, ~~forty three and ninety seven one hundredths~~ 43.97 service personnel per 1,000 students in net enrollment: Provided, That this ratio of service personnel per 1,000 students in net enrollment shall increase to 47.39 beginning July 1, 2023; 50.65 beginning July 1, 2024; and 53.79 beginning July 1, 2025;

(B) For each medium-density county, ~~forty four and fifty three one hundredths~~ 44.53 service personnel per 1,000 students in net enrollment: Provided, That this ratio of service personnel per 1,000 students in net enrollment shall increase to 47.95 beginning July 1, 2023; 51.21 beginning July 1, 2024; and 54.35 beginning July 1, 2025;

(C) For each low-density county, ~~forty five and one tenth~~ 45.10 service personnel per 1,000 students in net enrollment: Provided, That this ratio of service personnel per 1,000 students in net enrollment shall increase to 48.52 beginning July 1, 2023; 51.78 beginning July 1, 2024; and 54.92 beginning July 1, 2025;

(D) For each sparse-density county, ~~forty five and sixty eight one hundredths~~ 45.68 service personnel per 1,000 students in net enrollment: Provided, That this ratio of service personnel per 1,000 students in net enrollment shall increase to 49.10 beginning July 1, 2023; 52.36 beginning July 1, 2024; and 55.50 beginning July 1, 2025; and

(E) For any service personnel positions, or fraction thereof, determined for a county pursuant to subdivision (1) of this subsection that exceed the number employed, the county's allowance for these positions shall be determined using the average state funded minimum salary of service personnel for the county;

(2) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

(3) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the service personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that the personnel shall be considered within the above-stated limit.

## ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

### §18-20-10. Dyslexia and dyscalculia defined.



(a) The Legislature finds as follows:

(1) Reading difficulties are the most common cause of academic failure and underachievement;

(2) There are many students who demonstrate significant weaknesses with reading, writing and mathematics that are ~~the root causes of~~ influenced by specific learning disabilities, including dyslexia, dyscalculia, and related learning difficulties. Of those who are referred to special education services in public schools, the majority are referred because of problems with language, reading, writing, or a combination of each;

(3) Teaching reading effectively, especially to students experiencing difficulty, requires considerable knowledge and skill. Informed and effective classroom instruction, especially in the early grades, can prevent and relieve the severity of language difficulties, and significantly improve literacy development;

(4) For those students with specific learning disabilities, including dyslexia and dyscalculia, who need specialized instruction, competent intervention can lessen the impact of the disorder and help the student overcome the most debilitating symptoms;

(5) While programs for specific learning disabilities, including dyslexia and dyscalculia, that certify or support teachers, clinicians or specialists differ in their preparation methodologies, teaching approaches and organizational purposes, they should ascribe to a common set of professional standards for the benefit of the students they serve. Compliance with such standards can assure the public that individuals who serve students with specific learning disabilities in public schools are prepared to implement scientifically based and clinically proven practices;

(6) ~~The American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), and the federal Individuals with Disabilities Education and Improvement Act of 2004 (IDEA) offer~~ The International Dyslexia Association (IDA) offers widely-adopted and consistent standards to guide the preparation, certification, and professional development for teachers of reading and related literacy skills in classroom, remedial and clinical settings; and

(7) The basis of ascribing to common standards to benefit students with specific learning disabilities, including dyslexia and dyscalculia, requires recognizing common characteristics of the disabilities. The Legislature finds that the definitions of dyslexia and dyscalculia prescribed by ~~IDEA and DSM-5~~ the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) are the appropriate ~~measure~~ measures for recognizing characteristics of dyslexia and dyscalculia in students.

(b) The Legislature recognizes the following regarding dyslexia and dyscalculia:

(1) Dyslexia and dyscalculia are conditions that may be considered under the specific learning disability category, and their definitions are consistent with IDEA and state board policy. State board policy provides that "specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia;

(2) Dyslexia is an alternative term used to refer to a pattern of learning difficulties characterized by problems with accurate or fluent word recognition, poor decoding, and poor spelling abilities. If dyslexia is used to specify this particular pattern of difficulties, it is important also to specify any additional difficulties that are present, such as difficulties with reading comprehension or math reasoning; and

(3) Dyscalculia is an alternative term used to refer to a pattern of learning difficulties characterized by problems processing numerical information, learning arithmetic facts, and performing accurate or fluent calculations. If dyscalculia is used to specify this particular pattern of mathematic difficulties, it is important also to specify any additional difficulties that are present, such as difficulties with math reasoning or word reasoning accuracy.

~~(c) the state board is responsible for the following:~~

~~(1) Ensuring that all students receive the necessary and appropriate screenings, evaluations and early assessments for specific learning disabilities, including dyslexia and dyscalculia;~~

~~(2) Ensuring that any Individualized Education Program regarding specific learning disabilities, including dyslexia or dyscalculia, which is developed or implemented, is consistent with the provisions of this section; and~~

~~(3) Providing ongoing information and education to parents regarding specific learning disabilities, including dyslexia and dyscalculia, and the services available to students with such disabilities.~~

(c) The state board shall:

(1) Develop a list of appropriate screeners, early assessments, and professional development that address and ensure that all students receive the necessary and appropriate screenings, evaluations, and early assessments for specific learning disabilities, including dyslexia and dyscalculia which contain information related to the following:

(A) Appropriate literacy and numeracy screening tools for identifying students who are at risk for academic difficulty in reading and/or math, including dyslexia and dyscalculia, and who require tiered intervention;

(B) Appropriate diagnostic assessment components that can be used to help identify and diagnose;

(C) Appropriate evidence-based instruction and intervention strategies for students who are at risk for academic difficulty in reading and/or mathematics, including students who exhibit possible indicators of risk for dyslexia and/or dyscalculia;

(D) Appropriate accommodations for students who exhibit possible indicators of risk for, or who have been diagnosed with, dyslexia, dyscalculia, and/or other specific learning disabilities;

(E) Connecting a multi-tiered system of support framework to specific learning disability identification; and

(F) The use of the terms “dyslexia” and “dyscalculia” in Individualized Education Programs, and in evaluation reports by professionals qualified to render these diagnoses; and

(2) Explore options to assist any LEA with acquiring approved literacy and/or numeracy screening tools: *Provided*, That the local educational agency is unable to acquire its own literacy and/or numeracy screening tools that are consistent with state educational agency recommendations;

(3) Adopt and make publicly available guidelines for including dyslexia diagnostic evaluation components in comprehensive assessments for special education and related services. These guidelines shall:

(A) Recommend at least one person on each multidisciplinary evaluation team be knowledgeable about dyslexia and be able to recognize when a dyslexia diagnostic component should be requested in the evaluation process;

(B) Recommend that a diagnosis of dyslexia be given when the data from the comprehensive evaluation components indicate such a diagnosis is appropriate;

(C) Include recommendations for how to document a dyslexia diagnosis in an IEP; and

(D) Include that a Section 504 Plan be considered if a student has a dyslexia diagnosis but does not qualify for special education services;

(4) Adopt and make publicly available a list of approved diagnostic assessment components that can be used to help identify and diagnose dyslexia during comprehensive multidisciplinary evaluations;

(5) Adopt and make publicly available guidelines and a list of resources for dyslexia intervention practices that are evidence-based, including practices consistent with the Science of Reading and Structured Literacy, that are explicit, direct, sequential, systematic, and multisensory;

(6) Adopt and make publicly available a list of recommended accommodations and instructional practices to be used with students who exhibit signs of dyslexia or have been diagnosed with dyslexia. These shall reflect contemporary research and guidelines of the Science of Reading related to dyslexia. These recommendations shall include, but are not limited to, structured literacy approaches that are explicit, direct, sequential, systematic, and multisensory;

(7) Adopt and make publicly available a list of available professional development resources that support evidence-based intervention for struggling readers, including the Science of Reading and Structured Literacy. This list shall be made publicly available and include resources endorsed or espoused by technical assistance centers, research organizations, and professional associations that support the Science of Reading and Structured Literacy regarding dyslexia, including the International Dyslexia Association; and

(8) Develop and make publicly available informational materials related to dyslexia for parents and guardians that include information about the multidisciplinary evaluation process, updated regularly.

(d) The local education agency shall:

(1) Develop a system for parents and guardians to annually receive digital and print informational materials related to dyslexia;

(2) Ensure at least one educator at each school is trained to administer, score, and interpret the data from the literacy screening instrument or instruments, and to recognize signs of dyslexia;

(3) Notify parents of the results of these literacy screeners while emphasizing that not all students who perform poorly on these screening instruments have dyslexia. Also, not all students with dyslexia will perform poorly on the screeners;

(4) Provide evidence-based reading intervention to students who exhibit academic risk in future reading performance, including indicators of dyslexia;

(5) Conduct comprehensive assessments to determine eligibility for special education services when a child does not respond or only minimally responds to intervention strategies and/or when there is a suspected disability of dyslexia. If a determination is made through the evaluation process that a student needs assessed for dyslexia, provide assessment and diagnosis as necessary per West Virginia Department of Education guidelines;

(6) Employ appropriate accommodations and instructional practices recommended by the West Virginia Department of Education based upon the students' needs. When those needs are related to dyslexia, these accommodations and instructional techniques or strategies shall also meet the West Virginia Department of Education-approved guidelines for dyslexia accommodations and instructional practices;

(7) Require all elementary educators, special educators, reading interventionists or specialists, and other personnel determined appropriate by the local education agency to receive professional development on the possible signs of dyslexia and the related classroom accommodations and instructional practices approved by the West Virginia Department of Education;

(8) Administer a literacy screening instrument or instruments to students in grades 3-5 who transfer from a local education agency where literacy screening instruments were not administered. If the literacy screening instrument indicates a deficit in reading, the school will provide intervention according to current policy. If a student does not respond or only minimally responds to intervention, a referral for multidisciplinary evaluation shall be made; and

(9) Require all appropriate personnel, as determined by the local education agency, to annually receive professional development relating to the possible indicators for dyslexia and dyscalculia, accommodations and modifications in the classroom environment, proper instructional practices for educating students who exhibit possible indicators of risk for, or who have been, diagnosed with dyslexia, dyscalculia, and/or other specific learning disabilities. Local education agencies may create more than one module to satisfy the requirements of this subdivision.

(e) The state board shall promulgate a rule pursuant to §29A-3B-1 *et seq.* of this code to implement this section. In addition to other provisions to implement this section, the rule shall at least include the following:

(1) If a student is reading substantially below grade level according to formal and/or informal assessments, including benchmark assessments, and has never been evaluated for special education, a request may be made by a school, parent, or teacher for the administration of an age- or grade-appropriate West Virginia Department of Education-approved literacy screening instrument or instruments. These points of data may be used to either start intervention and

progress monitoring per West Virginia Department of Education guidance, or make a referral for a special education evaluation;

(2) Acknowledgement that each local education agency may have one certified Literacy and Numeracy Specialist in each local education agency, or another appropriate professional designated by relevant local education agency leadership, to be appropriately trained, or be seeking appropriate training, in intervention, accommodations, and instructional strategies for students with dyslexia or a related disorder. The trained individual(s) shall serve as an advisor and trainer for dyslexia and related disorders for the local education agency. The reading specialist(s) or other designated professional(s) shall have an understanding of the definition of dyslexia and a working knowledge of:

(A) Techniques to help a student on the continuum of skills with dyslexia;

(B) Dyslexia characteristics that may manifest at different ages and levels;

(C) The basic foundation of the keys to reading, including multisensory, explicit, systematic, and structured literacy instruction; and

(D) Appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

(f) *Legislative Oversight Commission on Education Accountability (LOCEA):*

(1) The final draft of the state board's literacy and numeracy rule shall be submitted to the Legislative Oversight Commission on Education Accountability (LOCEA) by August 1, 2023.

(2) The following shall be submitted to the Legislative Oversight Commission on Education Accountability (LOCEA) annually:

(A) Disaggregated data concerning literacy and numeracy patterns statewide;

(B) Statewide interventions implemented; and

(C) The statewide professional development plan.

(3) Progress monitoring regarding K-2 screening and 3-8 formative assessments shall be presented to the Legislative Oversight Commission on Education Accountability (LOCEA) after data is collected for the beginning, middle, and end of the school year."

And,

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

**Com. Sub. for H. B. 3035** - "A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code; and to amend and reenact §18-20-10 of said code, all relating to enhancing academic achievement of students including those with learning disabilities; establishing the Third Grade Success Act; replacing transformative system of support for early literacy with multi-tiered system of support for early literacy and numeracy in kindergarten through grade three; revising findings; defining 'science of reading'; revising inclusions in West Virginia Board of Education

rules required to effectuate Third Grade Success Act section; requiring each county board to adopt high-quality instructional materials; specifying data to be used to inform the classroom teacher's recommendation on grade level retention; requiring county boards of education to provide in-service training for early childhood classroom assistant teachers, aides, classroom teachers, and in certain instances, interventionists in grades kindergarten through three; updating deadlines for West Virginia Board of Education multi-tiered system of support for early literacy and numeracy reports; modifying provisions pertaining to funding for Third Grade Success Act section; requiring retention in the third grade in certain circumstances; specifying exceptions to third grade retention requirement; adding maximum teacher-pupil ratio for pre-kindergarten; adding maximum early childhood classroom assistant teacher or aide-pupil ratio for kindergarten through grade three; phasing in early childhood classroom assistant teacher/aide requirement for grades one through three; allowing county boards to employ an interventionist instead of an early childhood assistant teacher or aide; removing requirement for survey of districts on class overcrowding and report to the Legislative Oversight Commission on Education Accountability a tailored plan for reducing class overcrowding; phasing in increased ratios of service personnel per 1,000 students for the purpose of determining the basic foundation allowance for service personnel; revising findings pertaining to standards to guide the preparation, certification, and professional development for teachers of reading and related literacy skills and appropriate measures for recognizing characteristics of dyslexia and dyscalculia; replacing responsibilities of the West Virginia Board of Education pertaining to specific learning disabilities, including dyslexia and dyscalculia, with duties of the state board and the local education agencies; requiring state board rule to implement section pertaining to dyslexia and dyscalculia; stating minimum inclusions for rule; and requiring report of certain information to the Legislative Oversight Commission on Education Accountability.”

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

HB3035 HFA Ellington 3-10 (Bill status has 3-11)

Mohr/White 3334/3336

On page 1, section 10, line 5, after the word “reading” by inserting the word “and mathematics”;

On page 2, section 10, line 43, after the word, “aides”, by inserting the word “paraprofessionals”;

On page 2, section 10, line 44, after the word, “teacher”, by striking out the words “or aides” and inserting a comma and the words “aides, or paraprofessionals”;

On page 2, section 10, line 63, after the word “parent(s)” by inserting the word “or guardians”;

On page 3, section 10, line 91, after the word “reading” by inserting the word “or mathematics”;

On page 4, section, 10, lines 102-103, after the words “assistant teachers” by striking out the words “and aides” and inserting a comma and the words “aides and paraprofessionals”;

On page 4, section 10, line 105, after the word “teacher” by striking out the words “or aid” and inserting a comma and the words “aides or paraprofessionals”;

On page 7, section 10, line 173, by striking out the words “and aides” and inserting in lieu thereof “aides and paraprofessionals”;

On page 7, section 10, line 176, after the word “teacher”, by striking out the words “or aide” and inserting a comma and the words “aide or professional”;

On page 7, section 10, line 179, after the word “aides” by inserting the word “paraprofessionals”;

On page 8, section 10, line 203, after the word “arts” by inserting the word “or mathematics”;

And

On pages 9-10, section 18a, lines 9-13, by striking out subdivision (2) in its entirety, and inserting in lieu thereof the following:

(2) For first, second and third grades, not more than 25 pupils for each teacher and, in classrooms with more than 12 pupils, one early childhood classroom assistant teacher, aide, or paraprofessional employee. When implementing these limits from funding allocated through the Public School Support Program in accordance with §18-9A-1 et seq. of this code, county boards have the discretion to add the assistant teachers, aides or paraprofessionals in schools or classrooms of the greatest need beginning July 1, 2023 and completing full implementation by July 1, 2026; and;

On page 10, section 18a, line 16, after the word “teacher” by striking out the words “or aide” and inserting a comma and the words “aide or paraprofessional”;

On page 10, section 18a, line 21, after the word “teachers” by striking out the words “and aides” and inserting a comma and the words “aides and paraprofessionals”;

And

On page 21, after section 10, line 189, by inserting the following section:

#### **“CHAPTER 18A. SCHOOL PERSONNEL.**

#### **ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

#### **§18A-5-9. Authority of early childhood classroom assistant teachers to exercise control over students; limitations.**

(a) Within the limitations provided in this section, an early childhood classroom assistant teacher shall stand in the place of the parent or guardian and shall exercise such authority and control over students as is required of a teacher as provided in section one of this article. The principal shall enumerate the instances in which the authority shall be exercised by an early childhood classroom assistant teacher when requested by the principal, assistant principal or professional employee to whom the assistant teacher is assigned.

(b) The authority provided for in subsection (a) of this section does not extend to suspending or expelling any student, participating in the administration of corporal punishment, or performing instructional duties as a teacher or substitute teacher.

(c) An early childhood classroom assistant teacher may not be required by the operation of this section to perform noninstructional duties for an amount of time which exceeds that required under the assistant teacher's contract of employment or that required of other early childhood classroom assistant teachers in the same school unless the assignment of the duties is mutually agreed upon by the assistant teacher and the county superintendent, or the superintendent's designated representative, subject to county board approval.

(1) The terms and conditions of the agreement shall be in writing, signed by both parties, and may include additional benefits.

(2) The agreement shall be uniform as to early childhood classroom assistant teachers assigned similar duties for similar amounts of time within the same school."

And,

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

**Com. Sub. for H. B. 3035** – “A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code; to amend and reenact §18-20-10 of said code, and to amend said code by adding thereto a new section, designated §18A-5-9; all relating to enhancing academic achievement of students including those with learning disabilities; establishing the Third Grade Success Act; replacing transformative system of support for early literacy with multi-tiered system of support for early literacy and numeracy in kindergarten through grade three; revising findings; defining ‘science of reading’; revising inclusions in West Virginia Board of Education rules required to effectuate Third Grade Success Act section; requiring each county board to adopt high-quality instructional materials; specifying data to be used to inform the classroom teacher’s recommendation on grade level retention; requiring county boards of education to provide in-service training for early childhood classroom assistant teachers, aides, paraprofessionals, classroom teachers, and in certain instances, interventionists in grades kindergarten through three; updating deadlines for West Virginia Board of Education multi-tiered system of support for early literacy and numeracy reports; modifying provisions pertaining to funding for Third Grade Success Act section; requiring retention in the third grade in certain circumstances; specifying exceptions to third grade retention requirement; adding maximum early childhood classroom assistant teacher or aide-pupil ratio for kindergarten; adding maximum early childhood classroom assistant teacher, paraprofessional, or aide-pupil ratio for grades one through three; requiring ratios to be met by 2026; allowing county boards to employ an interventionist instead of an early childhood assistant teacher, paraprofessional or aide; removing requirement for survey of districts on class overcrowding and report to the Legislative Oversight Commission on Education Accountability a tailored plan for reducing class overcrowding; phasing in increased ratios of service personnel per 1,000 students for the purpose of determining the basic foundation allowance for service personnel; revising findings pertaining to standards to guide the preparation, certification, and professional development for teachers of reading and related literacy skills and appropriate measures for recognizing characteristics of dyslexia and dyscalculia; replacing responsibilities of the West Virginia Board of Education pertaining to specific learning disabilities, including dyslexia and dyscalculia, with duties of the state board and the local education agencies; requiring state board rule to implement section pertaining to dyslexia and dyscalculia; stating minimum inclusions for rule; requiring report of certain information to the Legislative Oversight Commission on Education Accountability; requiring early childhood classroom assistant teachers exercise authority and control over students in certain instances and within certain limits; and



prohibiting assignment of noninstructional duties to early childhood classroom assistant teacher in excess of contractual requirements unless mutually agreed upon.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 746**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Bridges, Dean, Dillon, Nestor and Vance.

Absent and Not Voting: Foster, Mallow and Westfall.

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. 3035) passed.

A message from the Senate, by

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

**H. B. 3443**, Relating to a development or improvement on land subject to review by the State Historic Preservation Office.

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

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

**“ARTICLE 1. DIVISION OF CULTURE AND HISTORY.**

**§29-1-15. Development or improvement on land; State Historic Preservation Office; rules and regulations.**

(a) Any review by the State Historical Preservation Office or by any other agency, office, or component of the Department of Arts, Culture, and History that is conducted pursuant to §29-1-8(a) of this code to preserve the prehistorical, historical, archaeological, architectural, or cultural value of a development, improvement on land, disturbance in a right-of-way, construction project, or infrastructure project shall be conducted in the most expedient manner possible. The department shall not add any additional impediment to any such review conducted pursuant to this subsection and to §29-1-8(a) of this code beyond those impediments that are required by applicable Federal laws, rules, and regulations.

(b) The curator shall have the authority to make and promulgate rules and regulations in conformity with this section. Upon the effective date of this legislation, the curator shall modify any active rule that conflicts with the provisions of this section.”

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

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

**H. B. 3203**, Relating generally to West Virginia Real Estate License Act.

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 40. WEST VIRGINIA REAL ESTATE LICENSE ACT.**

**§30-40-3. License required.**

It ~~shall be~~ is unlawful for any person to engage in ~~or carry on~~, directly or indirectly, or to advertise or hold himself or herself out as engaging in or carrying on the business or act in the capacity of a real estate broker, associate broker, or salesperson within this state without first obtaining a license as provided for in this article. Prior to practicing real estate brokerage in this state, a license shall be obtained from the commission even if the person or entity is licensed in another state and is affiliated or otherwise associated with a licensed real estate broker in this state.

**§30-40-4. Definitions.**

Unless the context used clearly requires a different meaning, as used in this article:

‘Applicant’ means any person who is making application to the commission for a license.

‘Associate broker’ means any person who qualifies for a broker’s license, but who is employed or engaged by a licensed broker to engage in any activity regulated by this article, in the name of and under the direct supervision of the licensed broker.

‘Broker’ means any person who for compensation or with the intention or expectation of receiving or collecting compensation:

(1) Lists, sells, purchases, exchanges, options, rents, manages, leases, or auctions any interest in real estate; or

(2) Directs or assists in the procuring of a prospect calculated or intended to result in a real estate transaction; or

(3) Advertises or holds himself or herself out as engaged in, negotiates, or attempts to negotiate, or offers to engage in any activity enumerated in subdivision (1) of this subsection.

‘Cancelled’ means a license that was not renewed by December 31 of the year in which license expired;

‘Commission’ means the West Virginia Real Estate Commission as established §30-40-6 of this code.

'Compensation' means fee, commission, salary, or other valuable consideration, in the form of money or otherwise.

'Designated broker' means a person holding a broker's license who has been appointed by a partnership, association, corporation, or other form of business organization engaged in the real estate brokerage business, to be responsible for the acts of the business and to whom the partners, members, or board of directors have delegated full authority to conduct the real estate brokerage activities of the business organization.

'Distance education' means courses of asynchronous instruction in which instruction takes place through media where the teacher and student are separated by ~~distance and sometimes~~ by time.

'Entity' means a business, company, corporation, limited liability company, association, or partnership.

'Expired' means a license that was not renewed by July 1.

'Inactive' means a licensee who is not authorized to conduct any real estate business and is not required to comply with any continuing education requirements.

'License' means a license to act as a broker, associate broker, or salesperson.

'Licensee' means a person holding a license.

'Member' means a commissioner of the Real Estate Commission.

'Principal' means a person or entity that authorizes a licensee to act on his, her, or its behalf.

'Real estate' means any interest or estate in land, and anything permanently affixed to land.

'Salesperson' means a person employed or engaged by or on behalf of a broker to do or deal in any activity included in this article, in the name of and under the direct supervision of a broker, other than an associate broker: *Provided*, That for the purposes of receiving compensation, a salesperson may designate an entity to receive any compensation payable to the salesperson, including, but not limited to, a limited liability corporation or an S-corporation.

'Team' means any group of two or more associate brokers and/or salespersons, and other non-licensed professionals, affiliated with the same broker or company acting as one agent representative for the principal.

### **§30-40-5. Scope of practice; exceptions.**

(a) The practice of real estate brokerage includes acting in the capacity of a broker, associate broker, or salesperson as defined in §30-40-4 of this code.

(b) The practice of real estate brokerage does not include the activities normally performed by an appraiser, mortgage company, lawyer, engineer, contractor, surveyor, home inspector, or other professional who may perform an ancillary service in conjunction with a real estate transaction.

(c) The provisions of this article do not apply to:

- (1) Any person acting on his or her own behalf as owner or lessor of real estate.
- (2) The regular employees of an owner of real estate, who perform any acts regulated by this article, where the acts are incidental to the management of the real estate: *Provided*, That the employee does not receive additional compensation for the act and does not perform the act as a vocation.
- (3) Attorneys-at-law: *Provided*, That attorneys-at-law shall be required to submit to the written examination required under §30-40-12 of this code in order to qualify for a broker's license: *Provided, however*, That an attorney-at-law who is licensed as a real estate broker prior to July 1, 1980, is exempt from the written examination required under §30-40-12 of this code.
- (4) Any person holding, in good faith, a valid power of attorney from the owner or lessor of the real estate.
- (5) Any person acting as a receiver, trustee, administrator, executor, guardian, conservator, or under the order of any court or under the authority of a deed of trust or will.
- (6) A public officer while performing his or her official duties.
- (7) Any person acquiring or disposing of any interest in timber or minerals, or acquiring or disposing of properties for easements and ~~rights-of-ways~~ rights of way, ~~for pipelines, electric power lines and stations, public utilities, railroads, or roads~~
- (8) Any person employed exclusively to act as the management or rental agent for the real estate of one person, ~~partnership, or corporation~~ or entity.
- (9) Any person properly licensed pursuant to the provisions of §19-2C-1 *et seq.* of this code when conducting an auction, any portion of which contains any leasehold or estate in real estate, only when the person so licensed is retained to conduct an auction by:
  - (A) A receiver or trustee in bankruptcy;
  - (B) A fiduciary acting under the authority of a deed of trust or will; or
  - (C) A fiduciary of a decedent's estate.
- (10) Any person employed by a broker in a noncommissioned secretarial or clerical capacity who may in the normal course of employment, be required to:
  - (A) Disseminate brokerage preprinted and predetermined real estate sales and rental information;
  - (B) Accept and process rental reservations or bookings for a period not to exceed 30 consecutive days in a manner and procedure predetermined by the broker;
  - (C) Collect predetermined rental fees for the rentals which are to be promptly tendered to the broker;
  - (D) Make appointments on behalf of the broker or licensed salesperson with buyers and sellers of real estate and potential buyers and sellers of real estate; or

(E) Any combination thereof.

**§30-40-9. Fees; special revenue account; administrative fines.**

(a) All fees and other moneys, except administrative fines, received by the commission shall be deposited into the treasury of the state, ~~at least once each month~~ daily, into a special revenue fund known as the 'real estate license fund' which is continued.

(b) Except as may be provided in §30-40-10 of this code, the commission shall retain the amounts in the special revenue fund from year to year and no funds collected under this article may be used by the commission for any purpose other than the administration and enforcement of this article. No compensation or expense incurred under this article is a charge against the General Revenue Fund.

(c) Any amounts received as administrative fines imposed pursuant to this article shall be deposited into the General Revenue Fund of the State Treasury.

**§30-40-11. Application for license.**

The commission shall only issue an original license to an applicant if he or she:

(a) Submits an application, in writing, ~~in~~ on a form prescribed by the commission which ~~must~~ shall contain, but is not limited to:

(1) The applicant's Social Security number;

~~(2) The recommendation of at least two persons who:~~

~~(A) Are property owners at the time of signing the application;~~

~~(B) Have been property owners for at least twelve months preceding the signing of the application;~~

~~(C) Have known the applicant for at least two years;~~

~~(D) Are not related to the applicant;~~

~~(E) Are not affiliated with the applicant as an employer, partner or associate or with the broker that will employ the applicant;~~

~~(F) Believe the applicant bears a good reputation for honesty, trustworthiness and fair dealing;~~  
and

~~(G) Believe the applicant is competent to transact the business of a real estate broker, associate broker or salesperson, as the case may be, in a manner that would protect the interest of the public~~

~~(3)~~ (2) A clear record indicating all jurisdictions where the applicant holds or has held any professional license;

(4) (3) A clear record indicating if the applicant has been convicted of any criminal offense or if there is any criminal charge pending against the applicant, or a member or officer of the brokerage business, at the time of application;

(b) Is at least 18 years of age;

(c) Is a high school graduate or the holder of an equivalency diploma;

(d) Is trustworthy, of good moral character, and competent to transact the business of a broker, associate broker, or salesperson;

(e) Has paid the appropriate fee, if any, which ~~must~~ shall accompany all applications for original license or renewal;

(f) Has submitted to a state and national criminal history record check, as set forth in this subsection: *Provided*, That an applicant for a license who is an attorney at law may submit a letter of good standing from the ~~Clerk of the Supreme Court of Appeals of West Virginia~~ State Bar in lieu of submitting to a state and national criminal history record check;

(1) This requirement is found not to be against public policy.

(2) The criminal history record check shall be based on fingerprints submitted to the West Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

(3) The applicant shall meet all requirements necessary to ~~accomplish~~ complete the state and national criminal history record check, including:

(A) Submitting fingerprints for the purposes set forth in this subsection; and

(B) Authorizing the commission, the West Virginia State Police, and the Federal Bureau of Investigation to use all records submitted and produced for the purpose of screening the applicant for a license.

(4) The results of the state and national criminal history record check may not be released to or by a private entity except:

(A) To the individual who is the subject of the criminal history record check;

(B) With the written authorization of the individual who is the subject of the criminal history record check; or

(C) Pursuant to a court order.

(5) The criminal history record check and related records are not public records for the purposes of chapter 29B of this code.

(6) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.

(7) Before implementing the provisions of this subsection, the commission shall propose rules for legislative approval in accordance with §29A-3-1 *et seq.* of this code. The rules shall set forth the requirements and procedures for the criminal history record check and must be consistent

with standards established by the Federal Bureau of Investigation and the National Crime Prevention and Privacy Compact as authorized by 42 U. S. C. A. §14611, *et seq.*

**§30-40-12. Qualifications for broker's license.**

(a) An applicant for a broker's license shall:

(1) ~~Have served an apprenticeship as a licensed salesperson for two years or shall produce evidence satisfactory to the commission, in its sole discretion, of real estate experience equivalent to two years full-time experience as a licensed salesperson~~ Submit evidence satisfactory to the commission of either: (i) Real estate experience as a licensed real estate salesperson during the two years prior to the date of application showing the applicant's representation of a buyer or seller in a minimum of 10 closed transactions; if the applicant is engaged solely in the leasing or renting of real estate, representation of the landlord or tenant in a minimum of 10 closed transactions of at least one year in duration; or if the applicant is engaged solely in the management of a real estate brokerage company, active involvement in a minimum of 20 closed transactions; or (ii) regardless of the number of years as a licensed salesperson: a minimum of 20 closed transactions; if the applicant is engaged solely in the leasing or renting of real estate, representation of the landlord or tenant in a minimum of 20 closed transactions of at least one year duration; or if the applicant is engaged solely in the management of a real estate brokerage company, active involvement in a minimum of 30 closed transactions. For the purposes of this section, a 'closed transaction' means a transaction that resulted in the real estate being conveyed from seller to buyer in which the applicant represented the seller, buyer, or both, or a transaction that resulted in the consummation of a lease of no less than one year in duration in which the applicant represented either the landlord or tenant of the real estate;

(2) Submit satisfactory evidence of having completed the required education course as provided for in §30-40-14 of this code; and

(3) Successfully pass the examination or examinations provided by the commission.

(b) No broker's license shall be issued in the name of ~~a corporation, association or partnership~~ an entity except through one of its members or officers.

(c) No broker's license ~~shall~~ may be issued in the name of ~~a corporation, association or partnership~~ an entity unless each member or officer who will engage in the real estate business, obtains a license as a real estate salesperson or associate broker.

**§30-40-13. Qualifications for salesperson's license.**

(a) An applicant for a salesperson's license shall:

(1) Submit satisfactory evidence of having completed the required education course as provided in §30-40-14 of this code; and

(2) Successfully pass the examination or examinations provided by the commission.

(b) No salesperson's license may be issued in the name of an entity except through one of its members or officers.

(c) No salesperson's license may be issued in the name of an entity unless each member or officer, who will engage in the real estate business, obtains a license as a real estate salesperson or associate broker.

**§30-40-14. Prelicense education.**

(a) Applicants for a broker's license shall provide evidence satisfactory to the commission that he or she has completed at least 180 clock-hours, equivalent to 12 college semester credit hours, in a course or courses approved by the commission: *Provided*, That an applicant for a broker's license who holds a salesperson's license in this state shall ~~only~~ be required to provide evidence that he or she has completed an additional 90 clock-hours, equivalent to six college semester hours, in a course or courses approved by the commission.

(b) Applicants for a salesperson's license shall provide evidence satisfactory to the commission that he or she has completed 90 clock-hours, equivalent to six college semester credit hours, in a course or courses approved by the commission.

(c) Any course required by subsection (a) or (b) of this section ~~must~~ shall have been completed during the ~~five-year~~ three-year period preceding the date of application in order to be accepted by the commission.

**§30-40-15. Licensing nonresidents based on licensure in another jurisdiction.**

(a) The commission may recognize a valid license issued by another jurisdiction as satisfactorily qualifying ~~a nonresident person~~ an applicant who is licensed to practice real estate brokerage in another jurisdiction to obtain a comparable license in this state: *Provided*, That the ~~nonresident applicant~~ applicant has qualified for ~~original license in his or her jurisdiction of residence in another jurisdiction~~ by examination and by complying with all the provisions for obtaining an ~~original~~ a license in that jurisdiction and the jurisdiction affords the same privilege to licensees of this state.

(b) In order to obtain a license in this state, ~~a nonresident~~ an applicant under this section ~~must~~ shall:

(1) Submit the ~~appropriate~~ application on a form prescribed by the commission and fee, if any;

(2) ~~Sign a statement that the applicant has read the real estate license law and rules of this state and agrees to abide by those provisions in all brokerage activity conducted in this state~~ Pass the West Virginia state law portion of the licensure examination approved by the commission;

(3) ~~Cause the real estate licensing body of the applicant's resident jurisdiction to furnish a certification of licensure which shall contain a clear record of any disciplinary actions~~ Submit a certification of licensure showing that the applicant possesses an active license to practice real estate brokerage in another jurisdiction;

(4) ~~Cause the real estate licensing body of any other jurisdiction where the applicant currently holds or has held a real estate license to furnish a certification of licensure which shall contain a clear record of any disciplinary actions~~ Submit record(s) showing all disciplinary actions imposed against the applicant by any jurisdiction in which the applicant holds or held a license, if any; and



(5) ~~File with the commission~~ For non-resident applicants, submit an irrevocable written designation that appoints the executive director of the commission to act as the non-resident licensee's agent, upon whom all judicial and other process or legal notices directed to the licensee may be served. The designation ~~must~~ shall stipulate and agree that service upon the executive director is equivalent to personal service upon the licensee. A copy of the designation of appointment, certified by the seal of the commission, may be admitted into evidence with the same force and affect as the original. The executive director shall mail a copy of any process or legal notice immediately upon receipt, by certified mail, to the last known business address of the licensee. No judgment by default may be taken in any action or proceeding until after 30 days of mailing and then only upon certification by the executive director that a copy of the judicial, other process or legal notice was mailed as required. ~~and~~

(6) ~~File with the commission, a bond in the penalty of \$2,000 if the applicant wishes to maintain an active license in this state. The bond must be issued by a recognized surety and must be for the benefit of and to indemnify any person in this state who may have a cause of action against the principal~~

### **§30-40-16. Continuing professional education.**

(a) Every licensee shall complete seven hours of continuing professional education for each fiscal year, with each hour equaling 50 minutes of instruction. For brokers and associate brokers, three of the required seven hours shall be from the broker-level education curriculum approved by the commission.

(b) Upon application for the renewal of a real estate license on active status, each licensee ~~must~~ shall furnish satisfactory evidence, as established by the commission, that he or she has completed seven hours of approved continuing professional education during the term of the previous license. ~~Provided, That if the commission issues a license certificate for a period of more than one fiscal year, each licensee must furnish satisfactory evidence that he or she has completed the equivalent of seven hours of continuing professional education for each year covered by the term of the previous license~~

(c) When a licensee in an inactive status makes application to revert to an active status, he or she ~~must~~ shall furnish satisfactory evidence to the commission that he or she has completed the approved continuing professional education that would have been required for active status at the time the license was renewed.

(d) Approval from the commission shall be obtained by each provider and instructor and for any course prior to any advertising or offering of the course.

(e) Real estate-related continuing education courses provided by or approved by the real estate appraiser licensing and certification board, the ~~department of highways~~ Division of Highways, the West Virginia State Bar, or other agency of this state shall be recognized as approved by the commission.

(f) If approved in advance by the commission, distance education courses may be used to satisfy the continuing education requirement.

(g) Any licensee holding a license on July 1, 1969, and continuously thereafter, shall be exempt from the continuing professional education requirement.

**§30-40-17. Place of business; branch offices; display of certificates; custody of license certificates; change of address; change of employer by a salesperson or associate broker; license certificates; term of license.**

(a) Every person holding a broker's license under the provisions of this article shall:

(1) Have and maintain a definite place of business within this state, which shall be a room or rooms used for the transaction of real estate business and any allied business. The definite place of business shall be designated in the license certificate issued by the commission and the broker may not transact business at any other location, unless such other location is properly licensed by the commission as a branch office; ~~Provided, That a nonresident broker who maintains a definite place of business in his or her jurisdiction of residence may not be required to maintain an office in this state if said jurisdiction offers the same privilege to licensed brokers of this state;~~

~~(2) Conspicuously display his or her broker's license in the main office and the license of each associate broker and salesperson employed by the broker who is primarily working from the main office;~~

~~(3) (2) Conspicuously display his or her branch office license in each branch office; and the license of each associate broker and salesperson employed by the broker who is primarily working from each branch office~~

~~(4) (3) Make application to the commission before changing the address of any office or within 10 days after any change;~~

~~(5) (4) Maintain in his or her custody and control the license of each associate broker and salesperson employed by affiliated with him or her; and~~

~~(6) (5) Promptly return the license of any associate broker or salesperson whose employment affiliation with the broker is terminated.~~

(b) Every person holding an associate broker's or salesperson's license under the provisions of this article shall:

(1) Conduct real estate brokerage activities only under the direct supervision and control of his or her ~~employing~~ affiliated broker, which shall be designated in the license certificate; and

(2) Promptly make application to the commission of any change of employing broker: *Provided*, That it shall be unlawful to perform any act contained in this article, either directly or indirectly, after employment affiliation has been terminated until the associate broker or salesperson has made application to the commission for a change of ~~employing~~ affiliated broker and the application is approved.

(c) The commission shall issue a license certificate which shall:

(1) Be in such form and size as shall be prescribed by the commission;

(2) ~~Be imprinted with~~ Display the seal of the commission and shall contain such other information as the commission may prescribe: *Provided*, That a salesperson's and an associate broker's license shall show the name of the broker by whom he or she is ~~employed~~ affiliated;

(3) ~~In the case of~~ If an active licensee, be mailed or delivered to the broker's main office address;

(4) ~~In the case of~~ If an inactive licensee, be held in the commission office; and

(5) Be valid for a period that coincides with the fiscal year beginning on July 1 and ending on June 30. ~~and may be issued for a period covering more than one fiscal year at the discretion of the commission: *Provided*, That nothing contained herein shall authorize any person to transact real estate business prior to becoming properly licensed~~

### **§30-40-18. Trust fund accounts.**

(a) Every person licensed as a broker under the provisions of this article who does not immediately deliver all funds received, in relation to a real estate transaction, to his or her principal or to a neutral escrow depository shall maintain and reconcile one or more trust fund accounts in a recognized financial institution and shall place all funds therein: *Provided*, That nothing contained herein shall require a broker to maintain a trust fund account if the broker does not hold any money in trust for another party.

(b) Funds that ~~must~~ shall be deposited into a trust fund account include, but are not limited to, earnest money deposits, security deposits, rental receipts, auction proceeds, and money held in escrow at closing.

(c) Each trust fund account ~~must~~ shall be established at a financial institution which is insured against loss by an agency of the federal government and the amount deposited therein cannot exceed the amount that is insured against loss.

(d) Each trust fund account ~~must~~ shall provide for the withdrawal of funds without notice.

(e) No trust fund account may earn interest or any other form of income, unless specifically authorized by commission rule.

(f) The broker may not commingle his or her own funds with trust funds and the account may not be pledged as collateral for a loan or otherwise utilized by the broker in a manner that would violate his or her fiduciary obligations in relation to the trust funds: *Provided*, That nothing contained herein prevents the broker from depositing a maximum of \$100 of his or her own money in the trust fund account to maintain a minimum balance in the account.

~~(g) No financial institution, in which a trust fund account is established under the provisions of this article, shall require a minimum balance in excess of the amount authorized in subsection (f) of this section~~

~~(h)~~ (g) The broker shall be the designated trustee of the account and shall maintain complete authority and control over all aspects of each trust fund account, including signature authority: *Provided*, That only one other member or officer of a corporation, association, or partnership, who is licensed under the provisions of this article, may be authorized to disburse funds from the account: *Provided, however*, That if disbursements from a trust fund account require two signatures, one additional member or officer may be a signatory as provided in this section.

~~(i)~~ (h) The broker shall, at a minimum, maintain records of all funds deposited into the trust fund account, which shall clearly indicate the date and from whom the money was received, date

deposited, date of withdrawal, to whom the money belongs, for whose account the money was received, and other pertinent information concerning the transaction. All records shall be open to inspection by the commission or its duly authorized representative at all times during regular business hours at the broker's place of business.

(f) (i) The broker shall cause the financial institution wherein a trust fund account is maintained to execute a statement, prepared by the commission, which shall include, but is not limited to:

- (1) Exact title of the account as registered by the financial institution;
- (2) The account number of the trust fund account;
- (3) Identification of all persons authorized to make withdrawals from the account;
- (4) Name and address of the financial institution;
- (5) Title of the person executing the statement on behalf of the financial institution;
- (6) Date the statement was executed; and

(7) Certification that the financial institution will notify the Real Estate Commission if any checks drawn against the account are returned for insufficient funds and that the financial institution does not require a minimum balance in excess of the amount authorized in subsection (f) of this section.

(k) (j) The broker shall execute a statement authorizing the commission, or its duly authorized representative, to make periodic inspections of the trust fund account and to obtain copies of records from any financial institution wherein a trust fund account is maintained. A copy of any authorization shall be accepted by any financial institution with the same force and effect as the original.

(k) (k) The broker shall notify the commission, within 10 days of the establishment of or any change to a trust fund account.

### **§30-40-19. Refusal, suspension, or revocation of a license.**

(a) The commission ~~shall have full power to~~ may refuse a license for reasonable cause or to revoke, suspend, or impose any other sanction against a licensee if the licensee:

(1) Obtains, renews, or attempts to obtain or renew a license, for himself, herself, or another, through the submission of any application or other writing that contains false, fraudulent, or misleading information;

(2) Makes any substantial misrepresentation;

(3) Makes any false promises or representations of a character likely to influence, persuade, or induce a person involved in a real estate transaction;

(4) Pursues a course of misrepresentation or makes false promises or representations through agents or any medium of advertising or otherwise;

(5) Uses misleading or false advertising;

(6) Uses any trade name or insignia of membership in any organization in which the licensee is not a member;

(7) Acts for more than one party in a transaction without the knowledge and written consent of all parties for whom he or she acts;

(8) Fails, within a reasonable time, to account for or to remit moneys or other assets coming into his or her possession, which belong to others;

(9) Commingles moneys belonging to others with his or her own funds;

(10) Advertises or displays a 'for sale', 'for rent', or other such sign on any property without an agency relationship being established or without the owner's knowledge and written consent;

(11) Advertises any property on terms other than those authorized by the owner;

(12) Fails to disclose, on the notice of agency relationship form promulgated by the commission, whether the licensee represents the seller, buyer, or both;

(13) Fails to voluntarily furnish copies of the notice of agency relationship, listing contract, sale contract, lease contract, or any other contract to each party executing the same;

(14) Pays or receives any rebate, profit, compensation, commission, or other valuable consideration, resulting from a real estate transaction, to or from any person other than the licensee's principal: *Provided*, That this subsection may not be construed to prevent the sharing of compensation or other valuable consideration between licensed brokers;

(15) Induces any person to a contract to break the contract for the purpose of substituting a new contract with a third party;

(16) Accepts compensation as a salesperson or associate broker for any act specified in this article from any person other than his or her ~~employer who must be a broker~~;

(17) Pays compensation to any person for acts or services performed either in violation of this article or the real estate licensure laws of any other jurisdiction;

(18) Pays a compensation to any person knowing that they will pay a portion or all of that which is received, in a manner that would constitute a violation of this article if it were paid directly by a licensee of this state;

(19) Violates any ~~of the provisions~~ provision of this article, any rule, or any order or final decision issued by the commission;

(20) Procures an attorney for any client or customer, or solicits legal business for any attorney-at-law;

(21) Engages in the unlawful or unauthorized practice of law as defined by the Supreme Court of Appeals of West Virginia;

(22) Commits or is a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or other device whereby any other person relies upon the word, representation, or conduct of the licensee;

(23) Continues in the capacity of, or accepts the services of, any broker, associate broker, or salesperson who is not properly licensed;

(24) Fails to disclose any information within his or her knowledge or to produce any document, book, or record in his or her possession for inspection of and copying by the commission or its duly authorized representatives;

(25) Accepts payment other than cash or its equivalent as earnest money or other deposit unless this fact is disclosed in the contract to which the deposit relates;

(26) Accepts, takes, or charges any undisclosed compensation on expenditures made by or on behalf of the licensee's principal;

(27) Discriminates against any person involved in a real estate transaction which is in violation of any federal or state ~~antidiscrimination~~ anti-discrimination law, including any fair housing law;

(28) Fails to preserve for five years following its consummation, records relating to any real estate transaction;

(29) Fails to maintain ~~adequate~~ accurate records on the broker's trust fund account;

(30) ~~In the case of~~ If a broker, fails to ~~adequately~~ supervise all associate brokers and salespersons ~~employed by~~ affiliated with him or her;

(31) Breaches a fiduciary duty owed by a licensee to his or her principal in a real estate transaction;

(32) Directs any party to a real estate transaction in which the licensee is involved, to any lending institution for financing or to any affiliated business with the expectation of receiving a financial incentive, rebate, or other compensation, without first obtaining from his or her principal the signed acknowledgment of and consent to the receipt of the financial incentive, rebate, or other compensation: Provided, That this subsection may not be construed to prevent the sharing of compensation or other valuable consideration between licensed brokers;

(33) Represents to any lending institution, or other interested party either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(34) Fails to disclose to an owner the licensee's true position if he or she directly or indirectly through a third party, purchases for himself or herself or acquires or intends to acquire any interest in or any option to purchase the property;

(35) Lends a broker's license to any person, including a salesperson, or permits a salesperson to operate as a broker;

(36) Has been convicted in a court of competent jurisdiction in this or any other jurisdiction of forgery, embezzlement, obtaining money under false pretense, bribery, larceny, extortion, conspiracy to defraud, any other similar offense, a crime involving moral turpitude, or a felony;

(37) Engages in any act or conduct which constitutes or demonstrates bad faith, incompetency, ~~or~~ untrustworthiness, or dishonest, fraudulent, or improper dealing;

(38) Induces any person to alter, modify, or change another licensee's fee or commission for brokerage services, without that licensee's prior written consent;

(39) Negotiates a real estate transaction directly with any person that is represented exclusively by another broker, unless the conduct is specifically authorized by the other broker;

(40) Obtains, negotiates, or attempts to obtain or negotiate a contract whereby the broker is entitled to a commission only to the extent that the sales price exceeds a given amount, commonly referred to as a net listing;

(41) Fails or refuses, on demand, to furnish copies of a document to a person whose signature is affixed to the document;

(42) In the case of an associate broker or salesperson, represents or attempts to represent a broker other than his or her employing broker;

(43) Fails to reduce a bona fide offer to writing;

(44) Guarantees, or authorizes or permits another licensee to guarantee, future profits which may result from a real estate transaction;

(45) Is disciplined by another jurisdiction if at least one of the grounds for that discipline is the same as or equivalent to one of the grounds for discipline in this article; or

(46) Engages in any other act or omission in violation of professional conduct requirements of licensees established by legislative rule of the commission.

(b) The provisions of this section shall be liberally construed in order to carry out the objectives and purposes of this article.

(c) As used in this section:

(1) The words 'convicted in a court of competent jurisdiction' mean a plea of guilty or nolo contendere entered by a person or a verdict of guilt returned against a person at the conclusion of a trial;

(2) A certified copy of a conviction order entered in a court is sufficient evidence to demonstrate a person has been convicted in a court of competent jurisdiction.

(d) Every person licensed by the commission has an affirmative duty to report, in a timely manner, any known or observed violation of this article or the rules, orders, or final decisions of the commission.

(e) The revocation of a broker's license shall automatically suspend the license of every associate broker and salesperson ~~employed by~~ affiliated with the broker: *Provided*, That the commission shall issue a replacement license for any licensee so affected to a new ~~employing~~ broker, without charge, if a proper application is submitted to the commission during the same license term.

**§30-40-20. Complaints; investigation.**

(a) Upon the initiation of a complaint by the commission or the filing of a complaint by another person, The the commission may upon its own motion and shall upon the filing of a complaint setting forth a cause of action under this article, or the rules promulgated thereunder ascertain the facts and if warranted hold a hearing for the suspension or revocation of a license, or the imposition of sanctions against a licensee: *Provided*, That no disciplinary action may be brought against a licensee upon any complaint that is filed more than two years after the acts or omissions alleged in the complaint or, where the licensee is alleged to have engaged in fraud, deceit, or misrepresentation, more than two years after the date at which the complainant discovered, or through reasonable diligence should have discovered, the alleged unprofessional conduct. Time limits for the filing of a complaint shall be tolled during any period in which material evidence necessary for the commission's evaluation or use is unavailable to the commission due to an ongoing criminal investigation or prosecution.

(b) All complaints ~~must~~ shall be submitted in writing on a form prescribed by the commission, and must shall fully describe the acts or omissions constituting the alleged ~~unprofessional conduct violation(s)~~ of this article or rules promulgated thereunder.

(c) Upon initiation or receipt of the complaint, the commission shall provide a copy of the complaint to the licensee for his or her response to the allegations contained in the complaint. The accused party shall file an answer within 20 days of the date of service. Failure of the licensee to file a timely response may be considered an admission of the allegations in the complaint: *Provided*, That nothing contained herein ~~shall~~ may prohibit the accused party from obtaining an extension of time to file a response, if the commission, its executive director, or other authorized representative permits the extension.

(d) The commission may cause an investigation to be made into the facts and circumstances giving rise to the complaint and any person licensed by the commission has an affirmative duty to assist the commission, or its authorized representative, in the conduct of its investigation.

(e) After receiving the licensee's response and reviewing any information obtained through investigation, the commission shall determine if probable cause exists that the licensee has violated any provision of this article or the rules.

(f) If a determination that probable cause exists for disciplinary action, the commission may hold a hearing in compliance with §30-40-21 of this code or may dispose of the matter informally through a consent agreement or otherwise.

### **§30-40-21. Hearings; judicial review; cost of proceedings.**

(a) Hearings shall be conducted in accordance with the provisions of §29A-5-1 *et seq.* of this code and the commission's rules.

(b) Hearings shall be held at a time and place determined by the commission, but in no event less than 30 days after the notice of hearing is given.

(c) Any member has the authority to administer oaths and to examine any person under oath.

(d) If, after hearing, the commission determines the licensee has violated any provision of this article, or the commission's rules, a formal decision shall be prepared which contains findings of fact, conclusions of law, and specifically lists the disciplinary actions imposed.



(e) The commission may elect to have an administrative law judge or hearing examiner conduct the hearing. If the commission makes this election, the administrative law judge or hearing examiner, at the conclusion of a hearing, shall prepare a proposed order which shall contain findings of fact and conclusions of law. The commission may request that disciplinary actions imposed be a part of the proposed order, or the commission may reserve this obligation for its consideration. The commission may accept, reject, or modify the decision of the administrative law judge or hearing examiner.

(f) Any person adversely affected by any decision or final order made by the commission, after a hearing, is entitled to judicial review ~~by the circuit court of the county where the hearing was held pursuant to the provisions of §29A-5-4 of this code.~~

(g) In addition to any other sanction imposed, the commission may require a licensee to pay the costs of the proceeding.

### **§30-40-22. Criminal Penalties penalties for violations.**

(a) ~~Any~~ In addition to the sanctions imposed by the commission pursuant to this article, any person violating a provision of this article or the commission's rules is guilty of a misdemeanor. Any person convicted of a first violation shall be fined not less than \$1,000 nor more than \$2,000, or confined in ~~the county or regional~~ jail not more than 90 days, or both fined and confined;

(b) Any person convicted of a second or subsequent violation shall be fined not less than \$2,000 nor more than \$5,000, or confined in ~~the county or regional~~ jail for a term not to exceed one year, or both fined and confined;

(c) Any corporation, association, or partnership convicted of a first violation of this article or the commission's rules, shall be fined not less than \$2,000 nor more than \$5,000;

(d) Any corporation, association, or partnership convicted of a second or subsequent violation, shall be fined not less than \$5,000 nor more than \$10,000;

(e) Any officer, member, employee, or agent of a corporation, association, or partnership, shall be subject to the penalties herein prescribed for individuals;

(f) Each ~~and every~~ day a violation of this article continues ~~shall constitute~~ constitutes a separate offense;

(g) In addition to the penalties herein provided, if any person receives compensation for acts or services performed in violation of this article, he or she shall also be subject to a penalty of not less than the value of the compensation received nor more than three times the value of the compensation received, as may be determined by a court of competent jurisdiction. Any penalty may be recovered by a person aggrieved as a result of a violation of this article;

(h) The penalties provided in this section do not apply to a violation of the duties or obligations of a financial institution under the certification required by §30-40-18(j)(7) of this code by a financial institution providing trust fund account services to a broker.

### **§30-40-25. Collection of compensation.**

No person may bring or maintain any action in any court of this state for the recovery of compensation for the performance of any act or service for which a broker's license is required, without alleging and proving that he or she was the holder of a valid broker's license at all times during the performance or rendering of any act or service: *Provided*, That an associate broker or salesperson ~~shall have the right to~~ may institute suit in his or her own name for the recovery of compensation from his or her ~~employing~~ affiliated broker for acts or services performed while ~~in the employ of said employing~~ affiliated with the broker.

### **§30-40-26. Duties of licensees.**

Every broker, associate broker, and salesperson owes certain inherent duties to the consumer which are required by virtue of the commission granting a license under this article. The duties include, but are not limited to:

(a) At the time of securing any contract whereby the broker is obligated to represent a principal to a real estate transaction, every licensee shall supply a true legible copy of the contract to each person signing the contract.

(b) Any contract in which a broker is obligated to represent a principal to a real estate transaction shall contain a definite expiration date, and no provision may be included in any contract whereby the principal is required to notify the broker of his or her intention to cancel the contract after the definite expiration date.

(c) No provision may be inserted in any contract for representation that would obligate the person signing the contract to pay a fee, commission, or other valuable consideration to the broker, after the contract's expiration date, if the person subsequently enters into a contract for representation with a different broker.

(d) Every licensee shall disclose in writing, on the notice of agency relationship form promulgated by the commission, whether the licensee represents the seller, the buyer, ~~or both the seller and the buyer, the landlord, the tenant, or the landlord and the tenant.~~ The disclosure shall be made prior to any person signing any contract for representation by a licensee or a contract for the sale or purchase of real estate.

(e) Every licensee shall promptly deliver to his or her principal, every written offer received.

(f) Every licensee shall make certain that all the terms and conditions of a real estate transaction are contained in any contract prepared by the licensee.

(g) At the time of securing the signature of any party to a contract, the licensee shall deliver a true copy of the contract to the person whose signature was obtained.

(h) Upon the final acceptance or ratification of any contract, the licensee shall promptly deliver a true copy to each party that has signed the contract.

### **§30-40-27. Duration of existing licenses.**

[Repealed.]”

And,

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

**H. B. 3203** – “A Bill to amend and reenact §30-40-3, §30-40-4, §30-40-5, §30-40-9, §30-40-11, §30-40-12, §30-40-13, §30-40-14, §30-40-15, §30-40-16, §30-40-17, §30-40-18, §30-40-19, §30-40-20, §30-40-21, §30-40-22, §30-40-25, and §30-40-26 of the Code of West Virginia, 1931, as amended; and to repeal §30-40-27 of said code, all relating to the West Virginia Real Estate License Act; amending definitions; modifying the applicability of the article; requiring certain fees to be deposited into the Treasury of the state daily; eliminating requirements for certain information to be included on applications for licensure; modifying qualifications for obtaining broker’s license; providing restrictions on the entities that may be issued a salesperson’s license; clarifying and amending requirements for prelicense education; modifying requirements for licensing based on licensure in another jurisdiction; modifying continuing education requirements; eliminating certain requirements for persons holding a broker’s license; modifying requirements for license certificates issued by the Real Estate Commission; requiring a licensed broker to reconcile trust accounts; eliminating a prohibition on financial institutions that maintain trust accounts from requiring a certain minimum balance; clarifying language related to when commission may refuse a license or revoke, suspend, or impose any other sanction against a licensee; modifying the procedure for commission to administer complaints; modifying procedure for judicial review of decisions or final orders of the commission; clarifying language regarding criminal penalties; clarifying language related to suits for collection of compensation; requiring licensees to disclose in writing whether the licensee represents the seller, the buyer, the seller and the buyer, the landlord, the tenant, or the landlord and the tenant; and repealing an outdated section of code governing the duration of existing licenses.”

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. 747**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Dillon and Vance.

Absent and Not Voting: Foster, Garcia, Mallow 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. 3203) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had passed, with amendment, to take effect July 1, 2023, a bill of the House of Delegates, as follows:

**H. B. 3473**, Creating a workgroup relating to Dig Once Policy.

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 2E. DIG ONCE POLICY.****§17-2E-10.Taskforce on infrastructure deployment clearinghouse; reporting; sunset date.**

(a) There is hereby created a taskforce under the leadership of the Commissioner of the Division of Highways, or his or her designee, for the purpose of studying best practices for the creation of a clearinghouse with information on public rights-of-way, including environmental and historic preservation content, that may reduce regulatory hurdles, lower costs, and increase the speed of infrastructure deployment. The purpose of the clearinghouse is to provide information relevant to infrastructure deployment, such as identifying public rights-of-way that may be readily accessed. For purposes of this section, ‘infrastructure deployment’ means the deployment of underground infrastructure in public rights-of-way in West Virginia.

(b) The taskforce shall consist of the following:

(1) The Commissioner of the Division of Highways, or his or her designee;

(2) The Director of the Division of Environmental Protection, or his or her designee;

(3) The director of the historic preservation section of the Department of Arts, Culture, and History, or his or her designee;

(4) Any designee as may be selected by Miss Utility of West Virginia; and

(5) Any designees as may be selected by the Legislative Oversight Commission on Department of Transportation Accountability.

(c) The infrastructure deployment clearinghouse taskforce shall examine and report on the following:

(1) Regulatory hurdles affecting infrastructure deployment;

(2) The availability of information that may reduce regulatory hurdles;

(3) Information available, including environmental factors, historically-significant sites, and previously-disturbed ground as relevant to infrastructure deployment;

(4) Recommendations on ways to create a clearinghouse that contains information relevant to reduce regulatory hurdles, lower costs, and accelerate infrastructure deployment;

(5) Recommendations on restrictions that may be needed concerning access to clearinghouse information; and

(6) Other information and recommendations the taskforce deems important to create the clearinghouse and improve infrastructure deployment.

(d) The taskforce shall report and make recommendations to the Legislative Oversight Commission on Department of Transportation Accountability, including:

(1) Status updates upon request; and

(2) Written recommendations, including any proposed legislation, by December 31, 2023.

(e) The provisions of this section sunset and cease to have effect after March 31, 2024.”

And,

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

**H. B. 3473** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §17-2E-10, relating to creating a taskforce on infrastructure deployment; setting forth purpose; defining a term; specifying membership of the taskforce and topics of study; requiring reporting; and providing sunset date.”

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. 748**), and there were—yeas 85, nays 11, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Coop-Gonzalez, Dillon, Gearheart, A. Hall, Kirby, Longanacre, C. Pritt, Ridenour, Street, Vance and Ward.

Absent and Not Voting: Garcia, Mallow, Walker 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. 3473) passed.

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

On this question, the yeas and nays were taken (**Roll No. 749**), and there were—yeas 92, nays 5, absent and not voting 3, with the nays and the absent and not voting being as follows:

Nays: Dillon, A. Hall, Kirby, Street and Vance.

Absent and Not Voting: Mallow, Pushkin 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. 3473) takes effect July 1, 2023.

*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. 3451**, Updating the veteran preference ratings in state code for state employment.

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 13. PREFERENCE RATING OF VETERANS ON WRITTEN EXAMINATION ON NONPARTISAN MERIT BASIS.**

**ARTICLE 13. PREFERENCE RATING OF VETERANS ON WRITTEN EXAMINATION ON NONPARTISAN MERIT BASIS.**

**§6-13-1. ~~Preference rating of veterans on written examinations for positions in state departments filled under nonpartisan merit system~~ Definitions.**

~~For positions in any agency as defined in section four, article one, chapter five f of this code or any other political subdivision of this state in which positions are filled under civil service or any job classification system, a preference of five points in addition to the regular numerical score received on examination shall be awarded to all veterans having qualified for appointment by making a minimum passing grade; and to all veterans awarded the purple heart, or having a compensable service-connected disability, as established by any proper veterans' bureau or department of the federal government, an additional five points shall be allowed.~~

~~For the purpose of this article, a person is defined as a 'veteran' if he or she fulfills the requirements of one of the following subsections:~~

~~(a) Served on active duty anytime between December 7, 1941, and July 1, 1955. However, any person who was a reservist called to active duty between February 1, 1955, and October 14, 1976, must meet condition (b) stated below;~~

~~(b) Served on active duty anytime between July 2, 1955, and October 14, 1976, or a reservist called to active duty between February 1, 1955, and October 14, 1976, and who served for more than one hundred eighty days;~~

~~(c) Entered on active duty between October 15, 1976, and September 7, 1980, or a reservist who entered on active duty between October 15, 1976, and October 13, 1982, and received a campaign badge or expeditionary medal or is a disabled veteran; or~~

~~(d) Enlisted in the Armed Forces after September 7, 1980, or entered active duty other than by enlistment on or after October 14, 1982; and~~

~~(1) Completed twenty-four months of continuous active duty or the full period called or ordered to active duty, or was discharged under 10 U.S.C. 1171, or for hardship under 10 U.S.C. 1173, and received or was entitled to receive a campaign badge or expeditionary medal; or~~

~~(2) Is a disabled veteran.~~

~~To receive veteran preference, separation from active duty must have been under honorable conditions. This includes honorable and general discharges. A clemency discharge does not meet the requirements of the Veteran Preference Act. Active duty for training in the military reserve and National Guard programs is not considered active duty for purposes of veteran preference.~~

~~These awards shall be made for the benefit and preference in appointment of all veterans who have heretofore or who shall hereafter take examinations, but shall not operate to the detriment of any person heretofore appointed to a position in a department or agency.~~

(a) 'Active duty' or 'active-duty service' means full-time duty in the armed forces of the United States, as defined in 10 USC §101(d) or 32 USC §502, §503, or §904.

(b) 'Active duty for training' means full-time duty in the armed forces of the United States for a period of more than 90 consecutive days for training purposes performed by members of the National Guard or Military Reserves.

(c) 'Armed forces' shall have the same definition as provided in 5 U.S.C. §2101(2) and means the Army, Navy, Air Force, Marine Corps, Coast Guard, and Space Force.

(d) 'Certification' means any written document from the armed forces that certifies that a service member is expected to be discharged or released from active-duty service in the armed forces under honorable conditions not later than 120 days after the date the certification is submitted for consideration in the hiring process, at the time and in the manner prescribed by the applicable job opportunity announcement. Prior to appointment, the service member's character of service and qualifying discharge release must be verified through a DD Form 214 or equivalent documentation.

(e) 'Disabled veteran' means a person who has been discharged or released from active-duty service under honorable conditions performed at any time, or who has a certification as defined in subsection (c) of this section, and who has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or a pension because of a statute administered by the Department of Veterans Affairs or by a military department.

(f) 'Rule of 3' refers to the rule under which managers are required to select new employees from among the top three available candidates rated and referred to them by an examining office.

(g) 'Veteran' means a person who has been discharged or released from active-duty service in the armed forces under honorable conditions, or who has completed active duty for training for a period of more than 90 consecutive days as a member of the National Guard or Military Reserves.

**§6-13-2. Preference rating categories for veterans; benefits to be granted on written examinations for positions in state departments filed under nonpartisan merit system; other benefits.**

(a) For positions in any agency as defined in §5F-1-4 of this code or any other political subdivision of this state in which positions are filled under civil service or any job classification system, a 5-Point Preference category or a 10-Point Compensable Disability Preference category shall be applied to qualifying veterans. A veteran who qualifies for either the 5-Point Preference category or the 10-Point Compensable Disability Preference category shall have the corresponding preference points added to his or her regular numerical score on employment examinations or category ratings: *Provided, however;* That the preference points may only be added to a passing score.

(b) If a veteran who qualifies for either the 5-Point Preference category or the 10-Point Compensable Disability Preference category also qualifies for another preference category, the veteran shall only be qualified to receive the benefits that correspond with the highest numerical preference category.

(c) To receive preference under this article, the veteran's separation from active duty must have been under honorable conditions.

(d) The benefits conferred pursuant to this article shall be made for the benefit and preference in appointment of all veterans who have heretofore, or who shall hereafter, take examinations, but shall not operate to the detriment of any person previously appointed to a position in any agency defined in §5F-1-4 of this code or any other political subdivision of this state.

(e) 5-Point Preference category applicability. — A 5-Point Preference shall be used for veterans who participated in active duty service as set forth in §6-13-1(a) and §6-13-1(b) of this code.

(f) 5-Point Preference benefits. — Under the 5-Point Preference, a qualifying veteran:

(1) Shall receive an additional five points that shall be added to the regular numerical score or rating of an employment examination: *Provided, however;* These preference points may only be added to a passing score or rating prior;

(2) Shall receive preference points as other eligibles do when the Rule of 3 is applied;

(3) Shall be entitled to be listed ahead of non-preference eligibles with the same score on an examination, or listed ahead of non-preference eligibles in the same quality category when agencies are using category rating;

(4) Shall be entitled to receive the same pass-over rights as other preference eligibles; and

(5) Shall be entitled to credit experience in the armed forces to meet the qualification requirements for employment.

(g) 10-Point Compensable Disability Preference category applicability. — A 10-Point Compensable Disability Preference shall be used for veterans who:

(1) Served on active duty for any period of time and meet the definitional requirement of 'disabled veteran' as set forth in §6-13-1(e) of this code; or

(2) Received a Purple Heart medal.

(h) 10-Point Compensable Disability Preference benefits. — Under the 10-Point Compensable Disability Preference, a qualifying veteran:

(1) Shall receive an additional 10 points that shall be added to the regular numerical score or rating of an employment examination: *Provided, however;* These preference points may only be added to a passing score or rating;

(2) Shall receive preference points as other eligibles do when the Rule of 3 is applied;

(3) Shall be entitled to be listed ahead of non-preference eligibles with the same score on an examination, or listed ahead of non-preference eligibles in the same quality category when agencies are using category rating;

(4) Shall be entitled to receive the same pass-over rights as other preference eligibles; and



(5) Shall be entitled to credit experience in the armed forces to meet the qualification requirements for employment.”

And,

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

**H. B. 3451** – “A Bill to amend and reenact §6-13-1 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §6-13-2, all relating to updating the veteran preference ratings in state code for state employment.”

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. 750**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow 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. 3451) 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. 3190**, Amending the definition of “minor”.

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

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

**“ARTICLE 3C. WEST VIRGINIA COMPUTER CRIME AND ABUSE ACT.**

**§61-3C-14b. Soliciting, etc. a minor via computer; soliciting a minor and traveling to engage the minor in prohibited sexual activity; definition of minor; penalties.**

(a) Any person over the age of 18, who knowingly uses a computer to solicit, entice, seduce, or lure, or attempt to solicit, entice, seduce or lure, a minor known or believed to be at least four years younger than the person using the computer ~~or a person he or she believes to be such a minor~~, in order to engage in any illegal act proscribed by the provisions of ~~article eight, eight b, eight c or eight d of this chapter~~ §61-8-1 et seq., §61-8B-1 et seq., §61-8C-1 et seq., or §61-8D-1 et seq. of this code, or any felony offense under ~~section four hundred one, article four, chapter sixty-a~~ §60A-4-401 of this code, is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in a state correctional facility not less than two nor more than ten years, or both fined and imprisoned.

~~(b) Any person over the age of eighteen who, uses a computer in the manner proscribed by violating the provisions of subsection (a) of this section and who additionally engages in any overt act designed to bring himself or herself into the minor's, of the or a person believed to be a minor's physical presence with the intent to engage in any sexual activity or conduct with such a minor that is prohibited by law, is guilty of a felony and shall be fined not more than \$25,000 or imprisoned in a state correctional facility for a determinate sentence of not less than five nor more than thirty years, or both fined and imprisoned : *Provided*, That subsection (a) of this section shall be deemed a lesser included offense to that created by this subsection.~~

~~(c) For purposes of this section, 'minor' means a person younger than 18 years of age, or a person representing himself or herself to be a minor. Any prosecution, pursuant to this article, relating to a person representing himself or herself to be a minor shall be limited to investigations being conducted or overseen by law enforcement officers.~~

## ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

### **§61-8-32. Soliciting, etc. a minor by means other than via computer; soliciting a minor and traveling to engage the minor in prohibited sexual activity; definition of minor; penalties.**

~~(a) Any person over the age of 18, who by means other than those prohibited by §61-3C-14b of this code, who knowingly solicits, entices, seduces, or lures, or attempts to solicit, entice, seduce or lure, a minor known or believed to be at least four years younger than the person, or a person he or she believes to be such a minor in order to engage in any illegal act proscribed by the provisions of §61-8-1 *et seq.*, §61-8B-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.* of this code, or any felony offense under §60A-4-401 of this code is guilty of a felony and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned in a state correctional facility not less than two nor more than ten years, or both fined and imprisoned.~~

~~(b) Any person who violates the provisions of subsection (a) of this section while outside the physical presence of the minor or person he or she knows or has reason to believe is a minor, who engages in any overt act designed to bring himself or herself into the minor's physical presence with the intent to engage in any sexual activity or conduct with the minor that is prohibited by law, is guilty of a felony and shall be fined not more than \$25,000 or imprisoned in a state correctional facility for a determinate sentence of not less than five nor more than thirty years, or both fined and imprisoned: *Provided*, That subsection (a) of this section shall be deemed a lesser included offense to that created by this subsection.~~

~~(c) For purposes of this section, "minor" means a person younger than 18 years of age or a person representing himself or herself to be a minor. Any prosecution, pursuant to this section, relating to a victim that is a person representing himself or herself to be a minor shall be limited to investigations being conducted or overseen by law enforcement officers.~~

## ARTICLE 14. HUMAN TRAFFICKING.

### **§61-14-1. Definitions.**

When used in this article, the following words and terms shall have the meaning specified unless the context clearly indicates a different meaning:

- (1) 'Adult' means an individual 18 years of age or older.

(2) 'Coercion' means:

(A) The use or threat of force against, abduction of, serious harm to, or physical restraint of an individual;

(B) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, physical restraint of, or deportation of an individual;

(C) The abuse or threatened abuse of law or legal process;

(D) The destruction or taking of, or the threatened destruction or taking of, an individual's identification document or other property; or

(E) The use of an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function.

As used in this article, "coercion" does not include statements or actions made by a duly authorized state or federal law-enforcement officer as part of a lawful law enforcement investigation or undercover action.

(3) 'Commercial sexual activity' means sexual activity for which anything of value is given to, promised to, or received by a person.

(4) 'Debt bondage' means inducing an individual to provide:

(A) Commercial sexual activity in payment toward or satisfaction of a real or purported debt;  
or

(B) Labor or services in payment toward or satisfaction of a real or purported debt if:

(i) The reasonable value of the labor or services is not applied toward the liquidation of the debt; or

(ii) The length of the labor or services is not limited, and the nature of the labor or services is not defined.

(5) 'Forced labor' means labor or services that are performed or provided by another person and are obtained or maintained through the following:

(A) Threat, either implicit or explicit, deception or fraud, scheme, plan, or pattern or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services, that person or another person would suffer serious bodily harm, physical restraint, or deportation;

(B) Physically restraining or threatening to physically restrain a person;

(C) Abuse or threatened abuse of the legal process; or

(D) Destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of another person: *Provided*, That "forced labor" does not mean labor or

services required to be performed by a person in compliance with a court order or as a required condition of probation, parole, or imprisonment.

As applied in this article, forced labor shall not include labor, work, or services provided by a minor to the minor's parent, legal custodian, or legal guardian, so long as the legal guardianship or custody of the minor was not obtained for the purpose of compelling the minor to participate in commercial sex acts or sexually explicit performance, or perform forced labor or services; nor shall it include physical restraint of a minor, or the threat of physical restraint to a minor, by his or her parents, legal custodian or legal guardian if conducted in an otherwise lawful manner and for the purpose of discipline, supervision, or teaching.

(6) 'Human trafficking', 'trafficking', or 'traffics' means knowingly recruiting, transporting, transferring, harboring, receiving, providing, obtaining, isolating, maintaining, or enticing an individual to engage in debt bondage, forced labor, or sexual servitude.

(7) 'Identification document' means a passport, driver's license, immigration document, travel document or other government-issued identification document, including a document issued by a foreign government.

(8) 'Labor or services' means activity having economic value.

(9) 'Minor' means ~~an individual less~~ a person younger than 18 years of age or a person representing himself or herself to be a minor. Any prosecution, pursuant to this article, relating to a person that is representing himself or herself to be a minor shall be limited to investigations being conducted or overseen by law enforcement officers.

(10) 'Patronize' means giving, agreeing to give, or offering to give anything of value to another person in exchange for commercial sexual activity.

(11) 'Person' means an individual, estate, business or nonprofit entity, or other legal entity. The term does not include a public corporation or government or governmental subdivision, agency, or instrumentality.

(12) 'Serious harm' means harm, whether physical or nonphysical, including psychological, economic or reputational, to an individual which would compel a reasonable individual of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm.

(13) 'Sexual activity' means sexual contact, sexual intercourse, or sexual intrusion, as defined in ~~section one, article eight b of this chapter, §61-8b-1 of this code~~, or sexually explicit conduct, as defined in ~~section one, article eight c of this chapter §61-8-1 of this code~~.

(14) 'Sexual servitude' means:

(A) Maintaining or making available a minor for the purpose of engaging the minor in commercial sexual activity; or

(B) Using coercion to compel an adult to engage in commercial sexual activity.

(15) 'Victim' means an individual who is subjected to human trafficking, regardless of whether a perpetrator is prosecuted or convicted.

And,

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

**Com. Sub. for H. B. 3190** – “A Bill to amend and reenact § 61-3C-14b of the Code of West Virginia, 1931, as amended, to further amend said code by adding thereto a new section, designated §61-8-32; and to amend and reenact §61-14-1 of said code, all relating to criminal law generally; updating certain criminal code definitions; extending criminal liability to certain adults that use computers to solicit, entice, seduce, lure, or attempt to solicit, entice, seduce, or lure a minor, or a person representing himself or herself to be a minor, as a means to engage in specific enumerated illegal acts contained in the West Virginia Code; defining the term “minor”; expanding criminal liability to include adults who contact minors by means other than by computer and additionally engage in an overt act which is designed to put the adult in the physical presence of the minor, or a person representing himself or herself to be a minor; and establishing criminal penalties.”

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

On page 3, after section 32, after line 20, by inserting the following section relating to Chapter 61, article 8A:

**“ARTICLE 8A. PREPARATION, DISTRIBUTION OR EXHIBITION OF OBSCENE MATTER TO MINORS**

**§61-8A-1. Definitions.**

When used in this article, the following words, and any variations thereof required by the context, shall have the meaning ascribed to them in this section:

(a) ‘Adult’ means a person eighteen years of age or older.

(b) ‘Computer’ means an electronic, magnetic, optical, electrochemical or other high-speed data processing device performing logical, arithmetic or storage functions and includes any data storage facility or communication facility directly related to or operating in conjunction with such device. As used in this article, computer includes file servers, mainframe systems, desktop personal computers, laptop personal computers, tablet personal computers, cellular telephones, game consoles and any electronic data storage device or equipment. The term ‘computer’ includes any connected or directly related device, equipment or facility which enables the computer to store, retrieve or communicate computer programs, computer data or the results of computer operations to or from a person, another computer or another device, but such term does not include an automated typewriter or typesetter, a portable hand-held calculator or other similar device.

(c) ‘Computer network’ means the interconnection of hardware or wireless communication lines with a computer through remote terminals, or a complex consisting of two or more interconnected computers.

(d) ‘Display’ means to show, exhibit or expose matter, in a manner visible to general or invited public, including minors. As used in this article, display shall include the placing or exhibiting of matter on or in a billboard, viewing screen, theater, marquee, newsstand, display rack, window, showcase, display case or similar public place.

(e) 'Distribute' means to transfer possession, transport, transmit, sell or rent, whether with or without consideration.

(f) 'Employee' means any individual who renders personal services in the course of a business, who receives compensation and who has no financial interest in the ownership or operation of the business other than his or her salary or wages.

(g) 'Internet' means the international computer network of both federal and nonfederal interoperable packet switched data networks.

(h) 'Knowledge of the character of the matter' means having awareness of or notice of the overall sexual content and character of matter as depicting, representing or describing obscene matter.

(i) 'Matter' means any visual, audio, or physical item, article, production transmission, publication, exhibition, or live performance, or reproduction thereof, including any two- or three-dimensional visual or written material, film, picture, drawing, video, graphic, or computer generated or reproduced image; or any book, magazine, newspaper or other visual or written material; or any motion picture or other pictorial representation; or any statue or other figure; or any recording, transcription, or mechanical, chemical, or electrical reproduction; or any other articles, video laser disc, computer hardware and software, or computer generated images or message recording, transcription, or object, or any public or commercial live exhibition performed for consideration or before an audience of one or more.

(j) 'Minor' means an ~~unemancipated~~ person under eighteen years of age or a person representing himself or herself to be a minor. Any prosecution under this article relating to a victim who is representing himself or herself to be a minor shall be limited to investigations being conducted or overseen by law enforcement.

(k) 'Obscene matter' means matter that:

(1) An average person, applying contemporary adult community standards, would find, taken as a whole, appeals to the prurient interest, is intended to appeal to the prurient interest, or is pandered to a prurient interest;

(2) An average person, applying community standards, would find depicts or describes, in a patently offensive way, sexually explicit conduct; and

(3) A reasonable person would find, taken as a whole, lacks serious literary, artistic, political or scientific value.

(l) 'Parent' includes a biological or adoptive parent, legal guardian or legal custodian.

(m) 'Person' means any adult, partnership, firm, association, corporation or other legal entity.

(n) 'Sexually explicit conduct' means an ultimate sexual act, normal or perverted, actual or simulated, including sexual intercourse, sodomy, oral copulation, sexual bestiality, sexual sadism and masochism, masturbation, excretory functions and lewd exhibition of the genitals."

And,

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

**Com. Sub. for H. B. 3190** – “A Bill to amend and reenact § 61-3C-14b of the Code of West Virginia, 1931, as amended, to further amend said code by adding thereto a new section, designated §61-8-32; to amend and reenact §61-8A-1; and to amend and reenact §61-14-1 of said code, all relating to criminal law generally; updating certain criminal code definitions; extending criminal liability to certain adults that use computers to solicit, entice, seduce, lure, or attempt to solicit, entice, seduce, or lure a minor, or a person representing himself or herself to be a minor, as a means to engage in specific enumerated illegal acts contained in the West Virginia Code; defining the term ‘minor’; expanding criminal liability to include adults who contact minors by means other than by computer and additionally engage in an overt act which is designed to put the adult in the physical presence of the minor, or a person representing himself or herself to be a minor and creating criminal penalties and fines therein.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 751**), and there were—yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

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. 3190) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2007**, Prohibiting certain medical practices.

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

On page 3, section 20, after line 43, by adding thereto a new subdivision, designated subdivision (5), to read as follows:

“(5 ) Pubertal modulating and hormonal therapy for severe gender dysphoria if:

(A) The minor has been diagnosed as suffering from severe gender dysphoria by no fewer than two medical or mental health providers with at least one being a mental health provider or adolescent medicine specialist, and both having relevant training in the diagnosis and treatment of severe gender dysphoria in adolescents;

(B) The diagnosing medical professionals express in written opinions that treatment with pubertal modulating and hormonal therapy is medically necessary to treat the minor’s psychiatric symptoms and limit self-harm, or the possibility of self-harm, by the minor;

(C) The minor, the minor's parents, legal guardians, or person or other persons charged with medical decision-making for the minor, and the minor's primary physician agree in writing with the treatment with pubertal modulating and hormonal therapy for the minor;

(D) Any use of gender altering medication is for purposes of pubertal modulating and hormonal therapy limited to the lowest titratable dosage necessary to treat the psychiatric condition and not for purposes of gender alteration; and

(E) Notwithstanding the provisions of paragraphs (A) through (D) of this subdivision where the minor is prepubescent, hormonal treatment may not be provided;

(d) The provisions of this section are effective on January 1, 2024.:

And,

On page 4, section 14, after line 43, by adding thereto a new subdivision, designated (5), to read as follows:

(5) Pubertal modulating and hormonal therapy for severe gender dysphoria if:

(A) The minor has been diagnosed as suffering from severe gender dysphoria by no fewer than two medical or mental health providers with at least one being a mental health provider or adolescent medicine specialist and both having relevant training in the diagnosis and treatment of severe gender dysphoria in adolescents;

(B) The diagnosing medical professionals express in written opinions that treatment with pubertal modulating and hormonal therapy is medically necessary to treat the minor's psychiatric symptoms and limit self-harm, or the possibility of self-harm, by the minor;

(C) The minor, the minor's parents, legal guardians, or person or persons charged with medical decision-making for the minor and the minor's primary physician agree in writing with the treatment with gender altering medication for the minor;

(D) Any use of gender altering medication is for purposes of pubertal modulating and hormonal therapy and is limited to the lowest titratable dosage necessary to treat the psychiatric condition and not for purposes of gender alteration; and

(E) Notwithstanding the provisions of paragraphs (A) through (D) of this subdivision where the minor is prepubescent, hormonal treatment may not be provided.

(d) The provisions of this section are effective on January 1, 2024."

And,

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

**Com. Sub. for H. B. 2007** – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-20; and to amend said code by adding thereto a new section, designated §30-14-17, all relating to prohibiting certain medical practices; providing definitions; providing that allopathic and osteopathic physicians may not provide irreversible gender reassignment surgery or gender altering medication as defined herein to a



person who is under eighteen years of age; providing criteria for certain limited exceptions to this rule; exempting from the prohibition physicians treating persons who began sex reassignment prior to the effective date of the legislation; and establishing an internal effective date of January 1, 2024.”

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

On page 1, line 14, by striking the word, “alteration” and inserting the word, “transition”;

And,

On page 2, line 33, by striking the word, “alteration” and inserting the word, “transition”.

And,

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

**Com. Sub. for H. B. 2007-** “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §30-3-20; and to amend said code by adding thereto a new section, designated §30-14-17, all relating to prohibiting certain medical practices; defining terms; prohibiting irreversible gender reassignment surgery to a minor; prohibiting the providing of gender altering medication to a minor; providing exceptions; establishing an internal effective date.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 752**), and there were— yeas 88, nays 10, absent and not voting 2, with the nays and the absent and not voting being as follows:

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

Absent and Not Voting: Mallow and Westfall.

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. 2007) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 3313**, Restraining county commissions from imposing rules and regulations on farmers beyond what is already prescribed through state statute.

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

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

**“CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

**ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

**§7-1-3ff. Authority of county commission to regulate unsafe or unsanitary structures and refuse on private land; authority to establish an enforcement agency; county litter control officers; procedure for complaints; lien and sale of land to recover costs; entry on land to perform repairs and alterations or to satisfy lien; receipt of grants and subsidies.**

(a) Plenary power and authority are hereby conferred upon every county commission to adopt ordinances regulating the repair, alteration, or improvement, or the vacating and closing or removal or demolition, or any combination thereof, of any dwellings or other buildings, except for buildings used for farm agricultural production operations purposes on land ~~actually being used for farming~~ agricultural production as defined in §19-19-2 of this code, unfit for human habitation due to dilapidation, defects increasing the hazard of fire, accidents, or other calamities, lack of ventilation, light or sanitary facilities, or any other conditions prevailing in any dwelling or building, whether used for human habitation or not, which would cause the dwellings or other buildings to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect.

(b) Plenary power and authority are hereby conferred upon every county commission to adopt ordinances regulating the removal and clean up of any accumulation of refuse or debris, overgrown vegetation or toxic spillage or toxic seepage located on private lands which is determined to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect.

(c) The county commission, in formally adopting ordinances, shall designate an enforcement agency which shall consist of the county engineer (or other technically qualified county employee or consulting engineer), county health officer or his or her designee, a fire chief from a county fire company, the county litter control officer, if the commission chooses to hire one, and two members-at-large selected by the county commission to serve two-year terms. The county sheriff shall serve as an ex officio member of the enforcement agency and the county officer charged with enforcing the orders of the county commission under this section.

(d) In addition to the powers and duties imposed by this section, county litter control officers shall have authority to issue citations for open dumps, as prohibited by §22-15-10(a) of this code, unlawful disposal of litter, as prohibited by §22-15A-4 of this code, and failure to provide proof of proper disposal of solid waste, as prohibited by §22C-4-10(a) of this code, after completing a training course offered by the West Virginia Department of Environmental Protection: *Provided*, That any litter control officer who is trained and certified as a law-enforcement officer and whose certification is active has the same authority as any other law-enforcement officer to enforce all litter laws in this code. Nothing in this subsection supersedes the authority or duty of the Department of Environmental Protection or other law-enforcement officers to preserve law and order and enforce the litter control program.

(e) Any ordinance adopted pursuant to the provisions of this section shall provide fair and equitable rules of procedure and any other standards considered necessary to guide the

enforcement agency, or its agents, in the investigation of dwelling or building conditions, accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage and shall provide for fair and equitable rules of procedure for instituting and conducting hearings in the matters before the county commission. Any entrance upon premises for the purpose of making examinations shall be made in a manner that causes the least possible inconvenience to the persons in possession.

(f) (1) Complaints authorized by this section shall be brought before the county commission. Complaints shall be initiated by citation issued by the county litter control officer or petition of the county engineer (or other technically qualified county employee or consulting engineer) on behalf of and at the direction of the enforcement agency, but only after that agency has investigated and determined that any dwelling, building, accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage is unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare and should be repaired, altered, improved, vacated, removed, closed, cleaned, or demolished.

(2) The county commission shall cause the owner or owners of the private land in question to be served with a copy of the complaint. Service shall be accomplished in the manner provided in rule four of the West Virginia Rules of Civil Procedure.

(3) The complaint shall state the findings and recommendations of the enforcement agency and that unless the owner or owners of the property file with the clerk of the county commission a written request for a hearing within 10 days of receipt of the complaint, an order will be issued by the county commission implementing the recommendations of the enforcement agency.

(4) If the owner or owners of the property file a request for a hearing, the county commission shall issue an order setting this matter down for hearing within 20 days. Hearings shall be recorded by electronic device or by court reporter. The West Virginia Rules of Evidence do not apply to the proceedings, but each party has the right to present evidence and examine and cross-examine all witnesses.

(5) The enforcement agency has the burden of proving its allegation by a preponderance of the evidence and has the duty to go forward with the evidence.

(6) At the conclusion of the hearing, the county commission shall make findings of fact, determinations, and conclusions of law as to whether the dwelling or building: Is unfit for human habitation due to dilapidation; has defects that increase the hazard of fire, accidents, or other calamities; lacks ventilation, light, or sanitary facilities; or any other conditions prevailing in the dwelling or building, whether used for human habitation or not and whether the result of natural or manmade force or effect, which would cause the dwelling or other building to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare; or whether there is an accumulation of refuse or debris, overgrown vegetation, toxic spillage or toxic seepage on private lands which is determined to be unsafe, unsanitary, dangerous, or detrimental to the public safety or welfare, whether the result of natural or manmade force or effect.

(7) The county commission has authority to order the owner or owners thereof to repair, alter, improve, vacate, remove, close, clean up, or demolish the dwelling or building in question or to remove or clean up any accumulation of refuse or debris, overgrown vegetation, or toxic spillage or toxic seepage within a reasonable time and to impose daily civil monetary penalties on the owner or owners who fail to obey an order.

(8) Appeals from the county commission to the circuit court shall be in accordance with the provisions of §58-3-1 *et seq.* of this code.

(g) Upon the failure of the owner or owners of the private land to perform the ordered duties and obligations as set forth in the order of the county commission, the county commission may advertise for and seek contractors to make the ordered repairs, alterations, or improvements or the ordered demolition, removal, or clean up. The county commission may enter into any contract with any contractor to accomplish the ordered repairs, alterations, or improvements or the ordered demolition, removal, or clean up.

(h) A civil proceeding may be brought in circuit court by the county commission against the owner or owners of the private land or other responsible party that the subject matter of the order of the county commission to subject the private land in question: (1) To a lien for the amount of the contractor's costs in making these ordered repairs, alterations, or improvements or ordered demolition, removal, or clean up, together with any daily civil monetary penalty imposed; (2) to order and decree the sale of the private land in question to satisfy the lien; (3) to order and decree that the contractor may enter upon the private land in question at any and all times necessary to make ordered repairs, alterations, or improvements, or ordered demolition, removal, or clean up; and (4) to order the payment of all costs incurred by the county with respect to the property and for reasonable attorney fees and court costs incurred in the prosecution of the action.

(i) County commissions may receive and accept grants, subsidies, donations, and services in kind consistent with the objectives of this section.

**§7-1-3kk. Authority to provide for the elimination of hazards to public health and safety; penalty.**

In addition to all other powers and duties now conferred by law upon county commissions, commissions are hereby authorized to enact ordinances, issue orders and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the commission determines to be a public nuisance. The ordinances may provide for a misdemeanor penalty for its violation. The ordinances may further be applicable to the county in its entirety or to any portion of the county as considered appropriate by the county commission: Provided, That county commissions may not establish or approve ordinances, rules, regulations, or take other actions that cancel or alter the purchase, use, or application of any federal or state registered pesticides, herbicides, or insecticide products.

**§7-1-3zz. Limit of authority for county commission to regulate agricultural production.**

Notwithstanding §7-1-3 of this code, the county commission may not establish or approve ordinances, rules, regulations, license requirements or any other authorization of agricultural production operations as defined in §19-19-2 of this code that duplicate or exceed contravene or are stricter than any state law or regulations for the purpose of the establishment, expansion, or continuation of agricultural businesses. Furthermore, all existing ordinances, rules, regulations, licensing, or any other county authority enacted by county commissions regarding agricultural production operations as defined in §19-19-2 of this code are hereby declared invalid and unenforceable to the extent that they contravene or are stricter than any state law or regulation for the purpose of the establishment, expansion, or continuation of agricultural businesses.

Nothing in this section applies to federal law.

**§7-1-14. Custody and care of animals abandoned, neglected, or cruelly treated; animals causing public nuisance, health risk, or safety hazard; authority of county commission.**

(a) Notwithstanding any provision of this code to the contrary, any county commission may adopt ordinances, rules and regulations providing for the custody and care of animals that have been abandoned, neglected or cruelly treated for the protection of any such animal and to prevent it from becoming a public nuisance or risk to public health or safety or the environment: Provided, That the county commission may not establish or approve ordinances, rules, or regulations that duplicate or exceed chapter 19 of this code.

(b) Any such ordinance, rule, or regulation may require each owner to provide for each of his or her animals:

(1) Adequate food which provides sufficient quantity and nutritive value to maintain each animal in good health;

(2) Adequate water which provides easy access to clean, fresh, potable water of a drinkable temperature in sufficient volume and suitable intervals to maintain normal hydration for each animal;

(3) Adequate shelter to protect the animal from the elements and other animals;

(4) Adequate space in the primary enclosure for the particular animal depending upon its age, size, species and weight which is regularly cleaned to prevent an unsanitary accumulation of urine and feces;

(5) Adequate exercise to assure that the animal maintains normal muscle tone and mass for the age, species, size, and condition of the animal; and

(6) Veterinary care when needed or to prevent suffering or disease transmission.

(c) Any such ordinance, rule, or regulation may limit the number of animals owned, kept, or maintained by an individual, group or organization, whether public or private, based on the person's ability to provide for the animals as set forth in subsection (b) of this section.

(d) Any such ordinance, rule, or regulation shall provide appropriate penalties for violations and shall authorize humane officers to take possession of any animal that is not properly cared for as required by such ordinance, rule, or regulation.

**CHAPTER 19. AGRICULTURE.**

**ARTICLE 1. DEPARTMENT OF AGRICULTURE.**

**§19-19-2. Definitions.**

For the purposes of this article:

(a) 'Agriculture' shall mean the production of food, fiber, and woodland products, by means of cultivation, tillage of the soil, and by the conduct of animal, livestock, dairy, apiary, equine or poultry husbandry, and the practice of forestry, silviculture, horticulture, harvesting of silviculture products, packing, shipping, milling, and marketing, which for purposes of this definition would

include storage, preparation, presentation, auctioning, and transport of agricultural products conducted by the proprietor of the agricultural operation of agricultural products, or any other legal plant or animal production and all farm practices.

(b) 'Agricultural land' shall mean any amount of land and the improvements thereupon, used or usable in the production of food, fiber, or woodland products of an annual value of \$1,000 or more, by the conduct of the business of agriculture, as defined in subsection (a) of this section.

(c) 'Agricultural operation' shall mean any facility or equipment as defined in §19-39-2 of this code utilized for agriculture.

## **ARTICLE 39. EQUIPMENT RIGHT TO REPAIR ACT.**

### **§19-39-1. Short title.**

This article shall be known and cited as the Equipment Right to Repair Act.

### **§19-39-2. Definitions.**

As used in this article:

(a) 'Authorized repair provider' means a person or entity that has an arrangement for a definite or indefinite period in which a manufacturer grants, to a separate person or entity, a license to use a tradename, service mark, or related characteristic for purposes of offering the services of diagnosis, maintenance, or repair of equipment under the name of the original equipment manufacturer. An original equipment manufacturer who offers the services of diagnosis, maintenance, or repair of its own equipment, and who does not have an arrangement described in this subsection with an unaffiliated individual or business, shall be considered an authorized repair provider with respect to such equipment.

(b) 'Commissioner' means the Commissioner of the Department of Agriculture.

(c) 'Documentation' means any manual, diagram, reporting output, service code description, schematic diagram, security codes, passwords, or other guidance or information used in effecting the services of diagnosis, maintenance, or repair of equipment.

(d) 'Embedded software' means any programmable instructions provided on firmware, and all relevant patches and fixes made by the manufacturer, delivered with equipment and used for its operation. 'Embedded software' includes a basic internal operating system, an internal operating system, a machine code, an assembly code, a root code, a microcode, and other similar components.

(e) 'Equipment' means:

(1) For farm equipment: Equipment that is used or intended for use in a farm or ranch operation, including, but not limited to, a combine, farm tractor, trailer, sprayer, tillage implement, baler, engine, motor, other equipment used to plant, cultivate, irrigate, or harvest agricultural products or to ranch, and attachments and repair parts for farm equipment, but excluding a motor vehicle designed primarily for transporting persons or property on public roadways.

(2) For forestry equipment: Equipment that includes, but is not limited to, sawmill operations, heavy forestry vehicles used in logging operations for felling, delimiting, skidding, and processing logs, and includes attachments and repair parts for forestry equipment.

(3) For lawn and garden equipment: equipment that includes, but is not limited to, lawn mowers and tractors, yard power equipment, lawn and garden care equipment, and any tool or equipment used for landscaping or working in gardens or yards.

(f) 'Fair and reasonable terms' means, with respect to a part, tool, software, or documentation offered by an original equipment manufacturer:

(1) For parts:

(A) Costs that are fair to both parties, considering the agreed-upon conditions, promised quality, and timeliness of delivery. 'Fair and reasonable' costs are subject to statutory and regulatory limitations; and

(B) On terms that:

(i) Do not impose on an owner or an independent repair provider any substantial obligation to use or any restriction on the use of the part to diagnose, maintain, or repair equipment sold, leased, or otherwise supplied by the original equipment manufacturer, including a condition that the owner or independent repair provider become an authorized repair provider of the original equipment manufacturer, or a requirement that a part be registered, paired with, or approved by the original equipment manufacturer or an authorized repair provider before such part is operational; and

(ii) Prohibit an original equipment manufacturer from imposing any additional cost or burden that is not reasonably necessary or is designed to be an impediment on the owner or independent repair provider.

(2) For tools and documentation:

(A) Costs that are equivalent to the lowest actual cost for which the original equipment manufacturer offers the tool, software, or documentation to an authorized repair provider, including any discount, rebate, or other financial incentive offered to an authorized repair provider; and

(B) On terms that:

(i) Are equivalent to the most favorable terms under which an original equipment manufacturer offers the part, tool, software, or documentation to an authorized repair provider, including the methods and timeliness of delivery of the part, tool, software, or documentation;

(ii) Do not impose on an owner or an independent repair provider any substantial obligation to use or any restriction on the use of the tool, software, or documentation to diagnose, maintain, or repair equipment sold, leased, or otherwise supplied by the original equipment manufacturer, including a condition that the owner or independent repair provider become an authorized repair provider of the original equipment manufacturer, or a requirement that a tool be registered, paired with, or approved by the original equipment manufacturer or an authorized repair provider before such part or tool is operational; and

(iii) Prohibit an original equipment manufacturer from imposing any additional cost or burden that is not reasonably necessary or is designed to be an impediment on the owner or independent repair provider.

(3) For documentation: 'Fair and reasonable terms' also means that the documentation is made available by the original equipment manufacturer at no charge, except that, when the documentation is requested in physical printed form, a charge may be included for the reasonable actual costs of preparing and sending the copy.

(g) 'Firmware' means a software program or set of instructions programmed on a hardware device to allow the device to communicate with other computer hardware.

(h) 'Independent repair provider' means a person or business operating in the state that is not affiliated with an original equipment manufacturer, or its authorized repair provider, other than through an arrangement with the manufacturer, whether for a definite or indefinite period, which is engaged in the services of diagnosis, maintenance, or repair of equipment, and related attachments and repair parts.

(i) 'Original equipment manufacturer' or 'manufacturer' means a business engaged in the business of selling, leasing, or otherwise supplying new equipment manufactured by or on behalf of itself, to any individual or business.

(j) 'Owner' means an individual or business who owns or leases equipment purchased or used in this state.

(k) 'Part' means any replacement part, whether new or used, made available by an original equipment manufacturer to an authorized repair provider for purposes of effecting the services of maintenance or repair of equipment manufactured by or on behalf of, sold, or otherwise supplied by the original equipment manufacturer.

(l) 'Tools' means any software program, hardware implement, or other apparatus used for diagnosis, maintenance, or repair of equipment, including software or other mechanisms that provision, program, or pair a new part, calibrate functionality, or perform any other function required to bring the product back to fully functional condition, including any updates.

(m) 'Trade Secret' means the same as defined in 18 U.S.C. § 1839(3).

### **§19-39-3. Jurisdiction of the commissioner.**

The commissioner is vested with jurisdiction over all aspects of this article and has exclusive authority to perform all acts necessary to implement this article.

### **§19-39-4. Requirements.**

(a) A manufacturer of equipment sold or leased, offered for sale or lease, or used in this state, shall make available to any independent repair provider and owner of equipment, on fair and reasonable terms, any documentation, parts, and tools, required for the diagnosis, maintenance, or repair of the equipment, inclusive of any technical updates and corrections to embedded software or information. This requirement also applies to any attachments or parts for the equipment. The documentation, parts, and tools shall be made available to any independent repair provider and owner of equipment on the same conditions, and in the same timeframe, as



the manufacturer makes diagnostic, service, or repair documentation available to an authorized repair provider.

(b) For equipment, attachments, or parts that contain an electronic security lock or other security-related function, the original equipment manufacturer shall make available to any owner and independent repair provider, on fair and reasonable terms, any special documentation, tools, and parts needed to access and reset the lock or function when disabled in the course of diagnosis, maintenance, or repair of such equipment, attachments, or parts. Such documentation, tools, and parts may be made available through appropriate secure release systems.

#### **§19-39-5. Limitations.**

(a) Nothing in this article shall require a manufacturer to divulge any trade secret to any owner or independent repair provider.

(b) Nothing in this article shall abrogate, interfere with, contradict, or alter the terms of any authorized repair agreement executed and in force between an authorized repair provider and manufacturer, including, but not limited to, the performance or provision of warranty or recall repair work by an authorized repair provider on behalf of a manufacturer pursuant to the agreement, except that any provision in the agreement purporting to waive, avoid, restrict, or limit the manufacturer's or authorized repair provider's compliance with this article shall be void.

(c) A manufacturer or authorized repair provider shall not be required to provide an owner or independent repair provider access to non-diagnostic and repair documentation provided by the manufacturer to an authorized repair provider pursuant to the terms of an authorizing agreement.

(d) No original equipment manufacturer or authorized repair provider shall be liable for any damage or injury caused to any equipment, attachments, or parts by an independent repair provider or owner which occurs during the course of repair, diagnosis, or maintenance.

#### **§19-39-6. Prohibitions.**

Independent repair providers and owners may not modify or disable any:

(1) Software for horsepower or emission control systems installed on any new equipment, attachments, or parts sold, leased, or used in this state; or

(b) Safety features installed on any new equipment, attachments, or parts sold, leased, or used in this state.

#### **§19-39-7. Rulemaking.**

The commissioner shall propose rules for legislative approval and promulgate emergency rules in accordance with the provisions of §29A-3-1 *et seq.* of this code to implement this article, including establishing a mechanism for the administrative resolution of violations of this article and the assessment and collection of civil penalties by consent order or agreement as an alternative to instituting a civil action. Furthermore, all existing ordinances, rules, regulations, licensing, or any other county authority enacted by county commissions regarding agricultural production operations as defined in §19-19-2 of this code are hereby declared invalid and unenforceable to the extent that they contravene or are stricter than any rule which implements this article.

**§19-39-8. Violations; civil penalties; injunctive relief.**

(a) Any manufacturer, authorized repair provider, independent repair provider, or owner that violates any provision of this article or rule promulgated hereunder, is liable for a civil penalty of not less than \$1,000 for each violation. Each day a violation continues after notice by the commissioner constitutes a separate violation. The penalty may be recovered by a civil action brought by the commissioner, in the name of the state, in the circuit court of Kanawha County or in the circuit court of the county in which the violation occurred or is occurring.

(b) Upon application by the commissioner, the circuit courts of the state or the judges thereof in vacation may by injunction, compel compliance with, and enjoin any violation of this article or rule promulgated hereunder or the terms and conditions of any consent order or agreement. The court or the judge thereof in vacation may issue a temporary or preliminary injunction in any case pending a decision on the merits of any injunction application filed. Notwithstanding any other provision of this code to the contrary, the state is not required to furnish bond as a prerequisite to obtaining injunctive relief under this article. An application for an injunction under the provisions of this section may be filed and injunctive relief granted notwithstanding that all the administrative remedies provided for in this article or rule have not been pursued or invoked against the person or persons against whom such relief is sought.

(c) Legal counsel and services for the commissioner in all civil penalty and injunction proceedings in the circuit court and in the Supreme Court of Appeals of this state shall be provided by the Attorney General or his or her assistants and by the prosecuting attorneys of the several counties as well, all without additional compensation, or the commissioner, with the written approval of the Attorney General, may employ counsel to represent him or her in a particular proceeding.

**§19-39-9. Applicability.**

This bill applies to equipment, attachments, and parts sold, leased, or in use in this state on and after the effective date of this article.

**§19-39-10. Effective date.**

This article shall take effect on July 1, 2023.”

And,

By amending the title to read as follows:

**Com. Sub. for H. B. 3313** – “A Bill to amend and reenact §7-1-3ff, §7-1-3kk, and §7-1-14 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §7-1-3zz; to amend and reenact §19-19-2 of said code; and to amend said code by adding thereto a new article, designated §19-39-1, §19-39-2, §19-39-3, §19-39-4, §19-39-5, §19-39-6, §19-39-7, §19-39-8, §19-39-9, and §19-39-10, all relating to clarifying the limit of authority of county commissions as it relates to regulation of agricultural production operations; clarifying that authority of county commissions over buildings does not include those used for agricultural production operations; providing that county commissions may not adopt ordinances or rules that prohibit sale or authorized use of federal or state registered pesticides, herbicides, or insecticides; prohibiting county commissions from adopting ordinances or rules that contravene or are stricter than state law or rules regarding agricultural operations; declaring invalid existing

county ordinances or rules that contravene or are stricter than state law or rules regarding agricultural operations; barring county commissions from adopting ordinances or rules that duplicate or exceed provisions of chapter 19 of said code concerning custody and care of abandoned, neglected, or cruelly treated animals; clarifying definition of agriculture; creating the Right to Repair Act; creating a short title; defining terms; establishing jurisdiction of the Commissioner of Agriculture; establishing requirements; establishing limitations; establishing prohibitions; providing for rulemaking; establishing violations; imposing civil penalties; authorizing civil actions, penalties, and injunctive relief; and providing for applicability and effective date of article.”

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a resolution of the House of Delegates as follows:

**H. C. R. 10**, Shelby “Cubby” Foster and Robert “Robbie” Collins Memorial Road.

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

On page 2, in the Resolved clause, lines 34 through 35, by striking out the words “Shelby ‘Cubby’ Foster and Robert ‘Robbie’” and inserting in lieu thereof the words “U.S. Army PFC Shelby “Cubby” Foster and U.S. Army Sgt. Robert “Robbie””;

On page 2, in the first Further Resolved clause, line 37, by striking out the words “Shelby ‘Cubby’ Foster and Robert ‘Robbie’” and inserting in lieu thereof the words “U.S. Army PFC Shelby “Cubby” Foster and U.S. Army Sgt. Robert “Robbie””;

And,

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

**H. C. R. 10** – “Requesting the Division of Highways name a portion of Cabin Creek Road, County Route 79/3, beginning immediately east of the intersection of Cabin Creek Road and Nevada Street at Ohley and ending immediately north of the intersection of Cabin Creek Road and Eskdale Avenue at Eskdale in Kanawha County as the ‘U.S. Army PFC Shelby “Cubby” Foster and U.S. Army Sgt. Robert “Robbie” Collins Memorial Road’.”

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a concurrent resolution of the House of Delegates as follows:

**H. C. R. 23**, U.S. Army SGT Theron Turner Memorial Bridge.

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

On page 1, in the third Whereas clause, lines 12 through 13, by striking out the words “when he became disabled. He suffered from blindness, diabetes, and kidney failure due to Agent Orange exposure while in Vietnam”;

And,

On page 1, in the fifth Whereas clause, line 17, by striking out the words “lost his battle with diabetes” and inserting in lieu thereof the words “passed away”.

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a resolution of the House of Delegates as follows:

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

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

On page 3, in the Resolved clause, line 68, by striking out the words “Lt. Col.” and inserting in lieu thereof the words “USAF Lt. Col.”;

On page 4, in the first Further Resolved clause, line 71, by striking out the words “Lt. Col.” And inserting in lieu thereof the words “USAF Lt. Col.”;

And,

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

**H. C. R. 33** - “Requesting the Division of Highways name a bridge bearing bridge number 20-N14/80-000.1 (20A928), (38.36406, -81.69170), locally known as CENTRAL AVENUE OVERPASS, carrying City N14/80 over CSX RR & FIRST AVENUE in Kanawha County, as the “USAF Lt. Col. Mitchell M. Mickel Memorial Bridge”.

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a resolution of the House of Delegates as follows:

**H. C. R. 42**, U. S. Army SSG William Joseph “Will” Thompson Memorial Bridge.

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

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

Whereas, William Joseph Thompson was born March 12, 1971, in Baltimore; Maryland, the son of Marvin Thompson and Violet Thompson (both now deceased); he was the baby of eight siblings: Lisa Abernethy, Phillip Thompson, Samantha Blankenship, Steve Thompson, Jeff Thompson, Glynn Thompson, Cassie Wilkinson, and step sister Carol McGinn; he grew up in Princeton, West Virginia, since the age of two; and

Whereas, William Joseph Thompson attended Princeton Senior High School and graduated in 1989; he loved playing Tiger football and running track; and

Whereas, U.S. Army SSG William Joseph enlisted in the West Virginia Army National Guard and decided he liked military life, following in the footsteps of many in his family, and joined the army as an active duty soldier in 1989, where he became a combat medic; and

Whereas, U.S. Army SSG William Joseph Thompson was stationed many places throughout the country, was deployed two years in Germany, and had two deployments to Iraq; he served eight years active duty then returned to Princeton and again joined the West Virginia Army National Guard with the 1/150 ARS HHT in Brushfork; he began working at Princeton Community Hospital as a nursing assistant and later became an LPN, working in the telemetry unit; and

Whereas, U.S. Army SSG William Joseph Thompson met Suzanne Thompson at PCH, in 1998; they married in 2001 and had a son, Ethan Thompson, in 2003 and a daughter, Ava Thompson, in 2007; and

Whereas, U.S. Army SSG William Joseph Thompson was deployed to Iraq to serve in Operation Iraqi Freedom in 2003; he returned home to Princeton in 2005 and began pursuing his RN degree at Bluefield State College; after completing one year, he was deployed to Iraq again in 2009; and

Whereas, During this second deployment to Iraq, U.S. Army SSG William Joseph Thompson was stationed at Camp Stryker, near the Baghdad airport. He returned to Fort Stewart, Georgia, in 2010, with respiratory problems;

Whereas, U.S. Army SSG William Joseph Thompson was medically retired from the military on October 27, 2012, with 23 years of service; and

Whereas, U.S. Army SSG William Joseph Thompson advocated for other soldiers who had been exposed to burn pits during their deployment to Iraq and Afghanistan and testified in front of the United States Congress and United States Committee on Veterans Affairs; he shared his story with CBS Evening news and NBC Nightly news, helping to get the word out about toxic exposures; he played a pivotal role in fighting for federal legislation in what is now called the PACT Act that was passed August 10,2022; and

Whereas, U.S. Army SSG William Joseph Thompson passed away December 15,2021; and

Whereas, U.S. Army SSG William Joseph "Will" Thompson was a bright light in this world he was a man of God and praised Him through the good times and the bad. His continued faith was

an inspiration to many; he loved to make people laugh, he loved to dance, sing and have fun; he was selfless, always thinking of those in need; he was a patriot and loved serving his country and loved the American flag, saluting the one in his yard every day; he was grateful for each day that was given to him as he knew how short and precious life could be; he was thankful for his two organ donors that gave him the gift of life; he was a wonderful husband, father, brother, son, combat medic, nurse and a true hero; and

Whereas, U.S. Army SSG William Joseph Thompson was awarded many military awards including the Expert Field Medical Badge from Germany, several Army Achievement medals, the Meritorious Service Medal, the Army Commendation Medal, National Defense Service Medal, Global War on Terrorism, Expeditionary medal, the Good Conduct Medal, and the German Armed Forces Badge of Marksmanship; and

Whereas, It is fitting that an enduring memorial be established to commemorate U.S. Army SSG William Joseph Thompson and his contributions to our state and country; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways is hereby requested to name Bridge Numbers: 28-077/00-010.89 (NB & SB) (28A200, 28A201), (37.38675, -81.05430) locally known as I-77 NB & SB OVER WV 20, carrying I-77 over County Route 20 in Mercer County, the "U. S. Army SSG William Joseph "Will" Thompson Memorial Bridge"; and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the "U. S. Army SSG William Joseph "Will" Thompson Memorial Bridge"; and, be it

*Further Resolved*, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.;

And,

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

**H. C. R. 42** - "Requesting the Division of Highways name Bridge Numbers: 28-077/00-010.89 (NB & SB) (28A200, 28A201), (37.38675, -81.05430) locally known as I-77 NB & SB WV 20, carrying I-77 over County Route 20 in Mercer County, the 'U. S. Army SSG William Joseph "Will" Thompson Memorial Bridge".

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption by the Senate, with amendment, of a resolution of the House of Delegates as follows:

**H. C. R. 61**, U.S. Army Sgt. John Edsel Edens Memorial Road.

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

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

“Whereas, John Edsel Edens was born to parents John and Josie Canterbury Edens; and

Whereas, John Edsel Edens was a graduate of Elkview High School; and

Whereas, John Edsel Edens enlisted in the United States Army during World War II at Camp Atterbury, Indiana, where he trained at Camp Lee, Virginia; and

Whereas, U.S. Army SGT John Edsel Edens deployed from Camp Kilmer, New Jersey to France, Schwabach, and Nuremberg, Germany; and

Whereas, U.S. Army SGT John Edsel Edens served as a Supply Sergeant in the 53rd Constabulary Squadron, and he served from November 1945 to September 1948; and

Whereas, U.S. Army SGT John Edsel Edens was instrumental in starting the Frame Volunteer Fire Department, where he served 21 years as a firefighter and chief; and

Whereas, U.S. Army SGT John Edsel Edens retired from the U.S. Postal Service after 40 years of service, where he was recognized to have driven a million miles without accident; and

Whereas, Sadly, U.S. Army SGT John Edsel Edens passed away on May 30, 2016, after a long illness; and

Whereas, It is fitting that an enduring memorial be established to commemorate the life of U.S. Army SGT John Edsel Edens and his contributions to his community and the nation; therefore, be it

*Resolved by the Legislature of West Virginia:*

That the Division of Highways name bridge number 020-37-0.02 (5251) (20A324), (38.51292, -81.47953) locally known as Poca Fork Box Beam Bridge, carrying County Route 37 over Poca Fork in Kanawha County, West Virginia, as the ‘U.S. Army SGT John Edsel Edens Memorial Bridge’, and, be it

*Further Resolved*, That the Division of Highways is hereby requested to have made and be placed signs identifying the bridge as the ‘U.S. Army SGT John Edsel Edens Memorial Bridge’; and, be it

*Further Resolved*, That the Clerk of the House forward a copy of this resolution to the Commissioner of the Division of Highways.”

And,

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

**H. C. R. 61** – “Requesting the Division of Highways name bridge number 020-37-0.02 (5251) (20A324), (38.51292, -81.47953) locally known as Poca Fork Box Beam Bridge, carrying County

Route 37 over Poca Fork in Kanawha County, West Virginia, as the 'U.S. Army SGT John Edsel Edens Memorial Bridge'."

The resolution, as amended by the Senate, was then adopted.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 3306**, Relating to the organizational structure of the Office of Drug Control Policy.

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

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

**"ARTICLE 1. STATE PUBLIC HEALTH SYSTEM.**

**§16-1-13. Hospital services revenue account.**

(a) Subject to the provisions set forth in §12-2-2 of this code, there is continued in the State Treasury a separate account which shall be designated the 'hospital services revenue account.' The secretary shall deposit promptly into the account any fees received by a facility owned and operated by the department from whatever source including the federal government, state government, or other third-party payer or personal payment.

(b) The secretary may spend the moneys deposited in the hospital services revenue account in accordance with federal laws and regulations and with the laws of this state. The secretary may spend the moneys deposited in the hospital services revenue account in the amounts the secretary determines necessary for the purpose of improving the delivery of health and mental health services or for the purpose of maintaining or obtaining certification at a state health or mental health facility: *Provided*, That all disproportionate share hospital funds received into the account shall be transferred by intergovernmental transfer to the medical services trust fund created in §9-4A-2a of this code, except for funds appropriated by the Legislature for other purposes within the annual budget bill: *Provided, however*, That during any fiscal year in which the secretary anticipates spending any money from the account, he or she shall submit to the executive department during the budget preparation period prior to the Legislature convening, before that fiscal year for inclusion in the executive budget document and budget bill, his or her recommended capital investments, recommended priorities and estimated costs, as well as requests of appropriations for the purpose of improving the delivery of health and mental health services or for the purpose of maintaining or obtaining certification at a state health facility in the amounts the secretary determines to be necessary.

(c) The secretary shall make an annual report to the Legislature on the status of the health services revenue account, including the previous year's expenditures and projected expenditures for the next year.



**ARTICLE 5T. OFFICE OF DRUG CONTROL POLICY.****§16-5T-2. Office of Drug Control Policy.**

(a) The Office of Drug Control Policy is continued within the department. ~~of Health and Human Resources~~ The Director of the Office of Drug Control Policy shall be appointed by the Governor, by and with the advice and consent of the Senate. The director of the office is under the direction and supervision of the secretary administratively housed in the Department of Human Services and directly reports to the Office of the Governor, and with the assistance of and works in cooperation with the State Health Officer, the Bureau of Public Health, and the Bureau for Behavioral Health.

(b) The Office of Drug Control Policy shall create a state drug control policy in coordination with the bureaus of the department and other state agencies. This policy shall include all programs which are related to the prevention, treatment, and reduction of substance abuse use disorder.

(c) The Office of Drug Control Policy shall:

(1) Develop a strategic plan to reduce the prevalence of drug and alcohol abuse and smoking by at least 10 percent; ~~percent by July 1, 2018~~

(2) Monitor, coordinate, and oversee the collection of data and issues related to drug, alcohol, and tobacco access, substance use disorder policies, and smoking cessation and prevention, and their impact on state and local programs;

(3) Make policy recommendations to executive branch agencies that work with alcohol and substance use disorder issues, and smoking cessation and prevention, to ensure the greatest efficiency and consistency in practices will be applied to all efforts undertaken by the administration;

(4) Identify existing resources and prevention activities in each community that advocate or implement emerging best practice and evidence-based programs for the full substance use disorder continuum of drug and alcohol abuse education and prevention, including smoking cessation or prevention, early intervention, treatment, and recovery;

(5) Encourage coordination among public and private, state and local agencies, organizations, and service providers, and monitor related programs;

(6) Act as the referral source of information, using existing information clearinghouse resources within the Department of Health and Human Resources, relating to emerging best practice and evidence-based substance use disorder prevention, cessation, treatment and recovery programs, and youth tobacco access, smoking cessation and prevention. The Office of Drug Control Policy will identify gaps in information referral sources;

(7) Apply for grant opportunities for existing programs;

(8) Observe programs in other states;

(9) Make recommendations and provide training, technical assistance, and consultation to local service providers;

(10) Review existing research on programs related to substance use disorder prevention and treatment and smoking cessation and prevention, and provide for an examination of the prescribing and treatment history, including court-ordered treatment, or treatment within the criminal justice system, of persons in the state who suffered fatal or nonfatal opiate overdoses;

(11) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;

(12) Establish a mechanism to coordinate the distribution of funds to support a local program based on the strategic plan that could encourage substance use prevention, early intervention, treatment, and recovery through efficient, effective and research-based strategies;

(13) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement school-based anti-drug and anti-tobacco programs;

(14) Coordinate media campaigns designed to demonstrate the negative impact of substance use disorder, smoking and the increased risk of tobacco addiction and the development of other diseases;

(15) Review Drug Enforcement Agency and the West Virginia scheduling of controlled substances and recommend changes that should be made based on data analysis;

(16) Develop recommendations to improve communication between health care providers and their patients about the risks and benefits of opioid therapy for acute pain, improve the safety and effectiveness of pain treatment, and reduce the risks associated with long-term opioid therapy, including opioid use disorder and overdose;

(17) Develop and implement a program, in accordance with the provisions of §16-5T-3 of this code, to collect data on fatal and nonfatal drug overdoses caused by abuse and misuse of prescription and illicit drugs, from law enforcement agencies, emergency medical services, health care facilities and the Office of the Chief Medical Examiner;

(18) Develop and implement a program that requires the collection of data on the dispensing and use of an opioid antagonist from law enforcement agencies, emergency medical services, health care facilities, the Office of the Chief Medical Examiner and other entities as required by the office;

(19) Develop a program that provides assessment of persons who have been administered an opioid antagonist; and

(20) Create a Sober Living Home/Recovery Residence Taskforce comprised of the following stakeholders:

(A) The Executive Director of the West Virginia Prosecuting Attorney Institute, or designee;

(B) The Secretary of Department of Homeland Security, or designee;

(C) The West Virginia Attorney General, or designee;

(D) The Director of the West Virginia Alliance of Recovery Residences, or designee;

(E) The State Health Officer, or designee;

(F) The Commissioner for the Bureau for Behavioral Health, or designee; and

(G) The West Virginia Inspector General, or designee.

(i) The purpose of the taskforce is to review existing West Virginia law, the laws of other states, and any developed case law regarding sober living homes/recovery residences and make recommendations to the Legislature regarding any revisions needed to West Virginia law regarding sober living homes/recovery residences. At a minimum the following areas shall be examined: insurance fraud, human trafficking, success of programs, and any other relevant issues. The taskforce will also examine the situation of a resident who was transported from any location within or without the state of West Virginia and is discharged, evicted, or otherwise removed from a recovery residence, and whether or not a recovery residence should provide transportation to the location from which the resident was initially transported, at the expense of the recovery residence. The taskforce will additionally examine, the situation of a resident who may be 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, in the context of requiring the recovery residence to promptly report relevant information regarding the circumstances for each early discharge, eviction, or removal of a resident to the Department of Health and Human Resources' Bureau for Behavioral Health. The taskforce will further examine whether or not residents of a recovery residence should be granted any minimal tenancy rights or otherwise be considered a worthy recipient for relief from a magistrate court arising from their discharge, eviction, or removal from a recovery residence

(ii) These recommendations shall be presented to the Legislative Oversight Commission on Health and Human Resources Accountability no later than December 15, 2023. A representative of the Taskforce shall provide the Commission with an update regarding the status of the taskforce, including any preliminary findings by October 1, 2023.

(21) Report semi-annually to the Joint Committee on Health on the status of the Office of Drug Control Policy.

(d) Notwithstanding any other provision of this code to the contrary, and to facilitate the collection of data and issues, the Office of Drug Control Policy may exchange necessary data and information with the bureaus within the department, the Department of Military Affairs and Public Safety, the Department of Administration, the Administrator of Courts, the Poison Control Center, Office of National Drug Control Policy and the Board of Pharmacy. The data and information may include, but is not limited to: data from the Controlled Substance Monitoring Program; ~~the all-payer claims database~~ the criminal offender record information database; and the court activity record information;

~~(e) Prior to July 1, 2018, The office shall develop a plan to expand the number of treatment beds in locations throughout the state which the office determines to be the highest priority for serving the needs of the citizens of the state.~~

**§16-5T-4. Entities required to report; required information; Continuation of data dashboard.**

(a) To fulfill the purposes of this article, the following information shall be reported, within ~~72~~ 24 hours after the provider responds to the incident and via an appropriate information technology platform, to the Office of Drug Control Policy:

(1) The date and time of the overdose;

(2) The approximate address of where the person was picked up or where the overdose took place;

(3) Whether an opioid antagonist was administered;

(4) Whether the overdose was fatal or nonfatal;

(5) The gender and approximate age of the person receiving attention or treatment; ~~and~~

(6) The suspected controlled substance involved in the overdose;

(7) Whether the individual has a history of a prior overdose, if known; and

(8) The type of drug used in the overdose.

(b) The following entities shall be required to report information contained in §16-5T-4(a) of this code:

(1) Health care providers;

(2) Medical examiners;

(3) Law-enforcement agencies, including, state, county, and local police departments;

(4) Emergency response providers; and

(5) Hospital emergency rooms.

(c) The data collected by the office pursuant to this subsection shall be made available to law enforcement, local health departments, and emergency medical service agencies in each county.

(d) Entities who are required to report information to or from the office pursuant to this section in good faith are not subject to civil or criminal liability for making the report.

(e) For the purposes of this section:

'Information technology platform' means the Washington/Baltimore High Intensity Drug Trafficking Overdose Detection Mapping Application Program or other program identified by the department in rule means a dashboard constructed for or by the state to allow input, collection, data analysis, and display of the required data within 24 hours. The dashboard shall be scalable for additional future requirements with minimum engineering and development time. There is a preference that the dashboard be compatible with artificial intelligence to maintain monitoring.

'Overdose' means an acute condition, including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death believed to be caused

by abuse and misuse of prescription or illicit drugs or by substances that a layperson would reasonably believe to be a drug.

'Opioid antagonist' means a federal Food and Drug Administration-approved drug for the treatment of an opiate-related overdose, such as naloxone hydrochloride or other substance that, when administered, negates or neutralizes, in whole or in part, the pharmacological effects of an opioid in the body.

(f) Office of Drug Control Policy shall continue to compile the data that is reported, or that it otherwise has access to, in a public facing data dashboard. This dashboard shall also include the following:

(1) Every project that receives state funding, federal funding, opioid settlement funds, and other relevant funding sources for substance use disorder beginning in fiscal year 2024;

(2) Data on the outcomes of funded community-based outreach programs, harm reduction programs, criminal justice substance use disorder programs, harm prevention programs, and other funded program, to evaluate program effectiveness and inform program improvement;

(3) A comparison of program effectiveness by county, region, rural or urban, and demographics to identify best practices and areas for improvement and share these findings with stakeholders to support evidence-based decision making;

(4) Alerts to a rise in fatal and non-fatal overdoses in a given area or region to enable resources to be deployed to the area;

(5) Track and interact with medication assisted treatment providers, including the number of patients in and out of treatment, to support the coordination of care and effective care for individuals with substance use disorder;

(6) Public facing information, including maps, charts, and other visualizations, to increase transparency and engagement with stakeholders

(7) The location of every substance use disorder provider on a statewide basis to provide individuals linkage to care;

(8) Non-fatal overdoses within 24 hours of the incident, with data collected from multiple sources, including hospitals, first responders, and law enforcement agencies;

(9) Fatal overdoses with data collected from multiple sources including hospitals, first responders, and law enforcement agencies;

(10) Identification of trends from the data that has been collected, including but not limited to fatal and non-fatal overdoses, use of opioid antagonist, trends in illicit drugs causing overdoses, and other relevant data that can be used to inform the allocation of resources in an area;

(11) Emergency department visits and first responder calls for fatal and non-fatal overdoses, and use this data to identify trends and hotspots and inform resource allocation;

(12) Data regarding program effectiveness in both the short-term and long-term with both immediate and long-term outcomes for individuals receiving services and support for ongoing program improvement and refinement; and

(13) The dashboard shall be updated daily to reflect current data, changes in provider location, and any other updates as needed.

**§16-5T-7. Enforcement.**

(a) The Office of Drug Control Policy may assess a civil penalty for violation of the reporting requirements set forth in §16-5T-4 of this code. If the Office of Drug Control Policy determines that an entity is in violation of the reporting requirements, then a civil penalty of not less than \$500 no more than \$1000 per occurrence may be assessed.”

And,

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

**Com. Sub. for H. B. 3306** – “A Bill to amend and reenact §16-1-13 of the Code of West Virginia, as amended; to amend and reenact §16-5T-2 and §16-5T-4 of said code; and to amend said code by adding thereto a new section, designated §16-5T-7 of said code; all relating to the department; creating a special revenue account; providing for the appointing of the director of the Office of Drug Control Policy; requiring the creation of a task force; setting forth composition of the taskforce; setting forth areas to be examined by taskforce; requiring reporting; establishing deadlines for reports; continuing data dashboard; adding variables to items that must be collected; amending information technology platform; setting forth items that must be displayed on dashboard; providing for enforcement; providing for imposition of civil monetary penalties for violation of reporting requirements.”

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

On page 5, section 2, line 76, subparagraph (i), after the word “issues,” by inserting a period and striking the words:

“The taskforce will also examine the situation of a resident who was transported from any location within or without the state of West Virginia and is discharged, evicted, or otherwise removed from a recovery residence, and whether or not a recovery residence should provide transportation to the location from which the resident was initially transported, at the expense of the recovery residence. The taskforce will additionally examine, the situation of a resident who may be 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, in the context of requiring the recovery residence to promptly report relevant information regarding the circumstances for each early discharge, eviction, or removal of a resident to the Department of Health and Human Resources’ Bureau for Behavioral Health. The taskforce will further examine whether or not residents of a recovery residence should be granted any minimal tenancy rights or otherwise be considered a worthy recipient for relief from a magistrate court arising from their discharge, eviction, or removal from a recovery residence.”

And,

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

**Com. Sub. for H. B. 3306** – “A Bill to amend and reenact §16-1-13 of the Code of West Virginia, 1931, as amended; to amend and reenact §16-5T-2 and §16-5T-4 of said code; and to amend said code by adding thereto a new section, designated §16-5T-7 of said code; all relating to the department; creating a special revenue account; providing for the appointing of the director of the Office of Drug Control Policy; requiring the creation of a task force; setting forth composition of the taskforce; setting forth areas to be examined by taskforce; requiring reporting; establishing deadlines for reports; continuing data dashboard; adding variables to items that must be collected; amending information technology platform; setting forth items that must be displayed on dashboard; providing for enforcement; providing for imposition of civil monetary penalties for violation of reporting requirements.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 753**), and there were—yeas 93, nays 3, absent and not voting 4, with the nays and the absent and not voting being as follows:

Nays: Dillon, A. Hall and Vance.

Absent and Not Voting: Longanacre, Mallow, Westfall and Young.

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. 3306) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2026**, Authorizing municipalities with police or firefighter employees in PERS to elect to become participating employer in Municipal Police Officer and Firefighter Retirement System for a limited time.

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

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

**“ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.**

**§8-22A-33a. Second special authorization for municipal police or firefighters hired after July 1, 2015.**

(a) Notwithstanding any provision of this code to the contrary, any municipality or municipal subdivision that employs individuals as members of paid police departments or paid fire departments and whose current police officers or firefighters are participating in the Public Employees Retirement System may elect, as provided in same manner as provided in §8-22A-28 of this code, to become a participating public employer in the plan and thereby include its police officers and firefighters in the membership of the plan subject to the restrictions provided in this section.

(b) The municipality or municipal subdivision may elect to include only police officers or firefighters who have been hired on or after July 1, 2015, to become members of the plan. Police officers or firefighters hired before July 1, 2015, will remain members of the Public Employees Retirement System.

(c) The municipality or municipal subdivision must make its election on or prior to July 1, 2025.

(d) Once a municipality or municipal subdivision makes its election to become a participating public employer pursuant to this section, all police officers or firefighters hired by the municipality or municipal subdivision after the date of election shall be members of the plan: *Provided*, That police officers or firefighters hired by the municipality or municipal subdivision on or after July 1, 2015, who are members of the Public Employees Retirement System, may choose to become a member of the plan by notifying the municipality or municipal subdivision on a form provided by the Consolidated Public Retirement Board: *Provided, however*, That he or she make this decision within ninety days of the municipality or municipal subdivision's decision to participate in the plan. A municipality or municipal subdivision making an election to become a participating public employer pursuant to this section that has hired any police officer or firefighter on or after July 1, 2015, shall notify each police officer or firefighter hired on or after July 1, 2015, of its election to become a participating public employer within thirty days of making the election. This notice shall include instructions as to how a police officer or firefighter may make notification to the municipality or municipal subdivision of his or her decision to become a member in the plan. The municipality or municipal subdivision shall notify the Consolidated Public Retirement Board in writing of any police officer or firefighter hired after July 1, 2015, who has decided to become a member of the plan and terminate his or her membership in the Public Employees Retirement System within thirty days of notification by the police officer or firefighter on forms provided by the Consolidated Public Retirement System.

(e) Notwithstanding any other provision of the code to the contrary, any police officer or firefighter hired by a participating public employer on or after July 1, 2015, who chooses pursuant to this section to be a member of the plan, shall be a member of the plan upon acceptance by the Consolidated Public Retirement Board of the notification by the municipality required by this section.

(1) The Consolidated Public Retirement Board shall transfer assets and service credit earned on or after July 1, 2015, from the Public Employees Retirement System Trust Fund into the West Virginia Municipal Police Officers and Firefighters Retirement Fund for those police officers or firefighters who elect to be a member of the plan and were members in the Public Employees Retirement System no later than sixty days from receipt of notification by the municipality or municipal subdivision of the police officer or firefighter's election to become a member. The amount of service credit recognized by the plan for the transferring employees shall be the service credit transferred and recognized by the Public Employees Retirement System.



(2) The amount of assets to be transferred for each police officer or firefighter shall be computed as of the actuarial valuation date preceding the notification to the Consolidated Public Retirement Board by the municipality or municipal subdivision of the police officer or firefighter's election to become a member and updated with seven and one-half percent annual interest to the date of the actual asset transfer. For purposes of this section, the actuarial valuation date is the most recent actuarial valuation of the Public Employees Retirement System approved by the Consolidated Public Retirement Board. The market value of the assets of the transferring employees in the Public Employees Retirement System shall be determined as of the end of the month preceding the actual transfer. To determine the computation of the asset share to be transferred, the Consolidated Public Retirement Board shall:

(A) Compute the market value of the Public Employees Retirement System assets using the actuarial valuation date;

(B) Compute the actuarial accrued liabilities for all Public Employees Retirement System retirees, beneficiaries, disabled retirees and terminated inactive members using the actuarial valuation date;

(C) Compute the market value of active member assets in the Public Retirement System as of the actuarial valuation date by reducing the assets value under paragraph (A) of this subdivision by the inactive liabilities under paragraph (B) of this subdivision;

(D) Compute the actuarial accrued liability for all active Public Employees Retirement System members using the actuarial valuation date immediately preceding the computation date;

(E) Compute the funded percentage of the active members' actuarial accrued liabilities under the Public Employees Retirement System as of the actuarial valuation date by dividing the active members' market value of assets under paragraph (C) of this subdivision by the active members' actuarial accrued liabilities under paragraph (D) of this subsection;

(F) Compute the actuarial accrued liabilities under the Public Employees Retirement System as of the actuarial valuation date for active employees transferring to the plan;

(G) Determine the assets to be transferred from the Public Employees Retirement System to the plan by multiplying the active members' funded percentage determined under paragraph (E) of this subdivision by the transferring active members' actuarial accrued liabilities under the Public Employees Retirement System under paragraph (F) of this subdivision and adjusting the asset transfer amount by interest at seven and five-tenths percent for the period from the calculation date of July 1 through the first day of the month in which the asset transfer is to be completed.

(3) Any police officer or firefighter who elects to become a member of the plan must also pay to the plan a four percent contribution no later than June 30, 2027. The contribution shall be calculated as four percent of the member's total earnings for which assets are transferred, plus interest of seven and one-half percent accumulated from the date of the police officer's or firefighter's initial participation in the Public Employees Retirement System through the calculation date. Installment payments may be made over no more than a twenty-four month period plus seven and one-half percent interest shall accrue on the outstanding balance due from the calculation date until paid in full.

(4) Once an employee transfers from the Public Employees Retirement System to the plan, the Public Employees Retirement System shall bar any further liability and said transfer will

constitute an agreement whereby the transferring employee forever indemnifies and holds harmless the Public Employees Retirement System from providing him or her any form of retirement benefit whatsoever until that employee obtains other employment which would make him or her eligible to reenter the Public Employees Retirement System with no credit whatsoever for the amounts transferred to the plan.

#### **ARTICLE 4. DISABILITY AND DEATH BENEFITS.**

##### **§23-4-1. To whom compensation fund disbursed; occupational pneumoconiosis and other occupational diseases included in "injury" and "personal injury"; definition of occupational pneumoconiosis and other occupational diseases; rebuttable presumption for cardiovascular injury and disease or pulmonary disease for firefighters.**

(a) Subject to the provisions and limitations elsewhere in this chapter, workers' compensation benefits shall be paid from the Workers' Compensation Fund, to the employees of employers subject to this chapter who have received personal injuries in the course of and resulting from their covered employment or to the dependents, if any, of the employees in case death has ensued, according to the provisions hereinafter made: *Provided*, That in the case of any employees of the state and its political subdivisions, including: Counties; municipalities; cities; towns; any separate corporation or instrumentality established by one or more counties, cities or towns as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns; any agency or organization established by the Department of Mental Health, or its successor agencies, for the provision of community health or intellectual and developmental disability services and which is supported, in whole or in part, by state, county, or municipal funds; board, agency, commission, department, or spending unit, including any agency created by rule of the Supreme Court of Appeals, who have received personal injuries in the course of and resulting from their covered employment, the employees are ineligible to receive compensation while the employees are at the same time and for the same reason drawing sick leave benefits. The state employees may only use sick leave for nonjob-related absences consistent with sick leave use and may draw workers' compensation benefits only where there is a job-related injury. This proviso does not apply to permanent benefits: *Provided, however*, That the employees may collect sick leave benefits until receiving temporary total disability benefits. The Division of Personnel shall propose rules for legislative approval pursuant to §29A-3-1 *et seq.* of this code relating to use of sick leave benefits by employees receiving personal injuries in the course of and resulting from covered employment: *Provided further*, That if an employee is injured in the course of and resulting from covered employment and the injury results in lost time from work and the employee for whatever reason uses or obtains sick leave benefits and subsequently receives temporary total disability benefits for the same time period, the employee may be restored sick leave time taken by him or her as a result of the compensable injury by paying to his or her employer the temporary total disability benefits received or an amount equal to the temporary total disability benefits received. The employee shall be restored sick leave time on a day-for-day basis which corresponds to temporary total disability benefits paid to the employer: *And provided further*, That since the intent of this subsection is to prevent an employee of the state or any of its political subdivisions from collecting both temporary total disability benefits and sick leave benefits for the same time period, nothing in this subsection prevents an employee of the state or any of its political subdivisions from electing to receive either sick leave benefits or temporary total disability benefits, but not both.

(b) For the purposes of this chapter, the terms "injury" and "personal injury" include occupational pneumoconiosis and any other occupational disease, as hereinafter defined, and workers' compensation benefits shall be paid to the employees of the employers in whose employment the employees have been exposed to the hazards of occupational pneumoconiosis or other occupational disease and have contracted occupational pneumoconiosis or other occupational disease, or have suffered a perceptible aggravation of an existing pneumoconiosis or other occupational disease, or to the dependents, if any, of the employees, in case death has ensued, according to the provisions hereinafter made: *Provided*, That compensation is not payable for the disease of occupational pneumoconiosis, or death resulting from the disease, unless the employee has been exposed to the hazards of occupational pneumoconiosis in the State of West Virginia over a continuous period of not less than two years during the 10 years immediately preceding the date of his or her last exposure to such hazards, or for any five of the 15 years immediately preceding the date of his or her last exposure. An application for benefits on account of occupational pneumoconiosis shall set forth the name of the employer or employers and the time worked for each. The commission may allocate to and divide any charges resulting from such claim among the employers by whom the claimant was employed for as much as 60 days during the period of three years immediately preceding the date of last exposure to the hazards of occupational pneumoconiosis. The allocation shall be based upon the time and degree of exposure with each employer.

(c) For the purposes of this chapter, disability or death resulting from occupational pneumoconiosis, as defined in subsection (d) of this section, shall be treated and compensated as an injury by accident.

(d) Occupational pneumoconiosis is a disease of the lungs caused by the inhalation of minute particles of dust over a period of time due to causes and conditions arising out of and in the course of the employment. The term "occupational pneumoconiosis" includes, but is not limited to, such diseases as silicosis, anthracosilicosis, coal worker's pneumoconiosis, commonly known as black lung or miner's asthma, silicotuberculosis (silicosis accompanied by active tuberculosis of the lungs), coal worker's pneumoconiosis accompanied by active tuberculosis of the lungs, asbestosis, siderosis, anthrax, and any and all other dust diseases of the lungs and conditions and diseases caused by occupational pneumoconiosis which are not specifically designated in this section meeting the definition of occupational pneumoconiosis set forth in this subsection.

(e) In determining the presence of occupational pneumoconiosis, x-ray evidence may be considered, but may not be accorded greater weight than any other type of evidence demonstrating occupational pneumoconiosis.

(f) For the purposes of this chapter, occupational disease means a disease incurred in the course of and resulting from employment. No ordinary disease of life to which the general public is exposed outside of the employment is compensable except when it follows as an incident of occupational disease as defined in this chapter. Except in the case of occupational pneumoconiosis, a disease is considered to have been incurred in the course of or to have resulted from the employment only if it is apparent to the rational mind, upon consideration of all the circumstances: (1) That there is a direct causal connection between the conditions under which work is performed and the occupational disease; (2) that it can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment; (3) that it can be fairly traced to the employment as the proximate cause; (4) that it does not come from a hazard to which workmen would have been equally exposed outside of the employment; (5) that it is incidental to the character of the business and not independent of the relation of employer and employee; and (6) that it appears to have had its origin in a risk

connected with the employment and to have flowed from that source as a natural consequence, though it need not have been foreseen or expected before its contraction: *Provided*, That compensation is not payable for an occupational disease or death resulting from the disease unless the employee has been exposed to the hazards of the disease in the State of West Virginia over a continuous period that is determined to be sufficient, by rule of the board of managers, for the disease to have occurred in the course of and resulting from the employee's employment. An application for benefits on account of an occupational disease shall set forth the name of the employer or employers and the time worked for each. The commission may allocate to and divide any charges resulting from the claim among the employers by whom the claimant was employed. The allocation shall be based upon the time and degree of exposure with each employer.

(g) No award may be made under the provisions of this chapter for any occupational disease contracted prior to July 1, 1949. An employee has contracted an occupational disease within the meaning of this subsection if the disease or condition has developed to such an extent that it can be diagnosed as an occupational disease.

(h) For purposes of this chapter, a rebuttable presumption that a professional firefighter who has developed a cardiovascular or pulmonary disease or sustained a cardiovascular injury or who has developed leukemia, lymphoma, ~~or~~ multiple myeloma, bladder cancer, mesothelioma, or testicular cancer arising out of and in the course of employment as a firefighter has received an injury or contracted a disease arising out of and in the course of his or her employment exists if: (A) The person has been actively employed by a fire department as a professional firefighter for a minimum of two years prior to the cardiovascular injury or onset of a cardiovascular or pulmonary disease or death; (B) the injury or onset of the disease or death occurred within six months of having participated in ~~fire fighting~~ firefighting or a training or drill exercise which actually involved ~~fire fighting~~ firefighting; and (C) in the case of the development of leukemia, lymphoma, ~~or~~ multiple myeloma, bladder cancer, mesothelioma, or testicular cancer, the person has been actively employed by a fire department as a professional firefighter for a minimum of five years in the state prior to the development of leukemia, lymphoma, ~~or~~ multiple myeloma, bladder cancer, mesothelioma, or testicular cancer, ~~has not used tobacco products for at least 10 years~~ has not used tobacco products more than six times in a calendar for at least 10 years, and is not over the age of 65 years. When the above conditions are met, it shall be presumed that sufficient notice of the injury, disease, or death has been given and that the injury, disease, or death was not ~~self inflicted~~ self-inflicted. The amendments made to this section during the regular session of the Legislature, 2023, to include bladder cancer, mesothelioma or testicular cancer arising out of and in the course of employment as a firefighter as a rebuttable presumption expire on July 1, 2027, unless extended by the Legislature.

(i) Claims for occupational disease as defined in §23-4-1(f) of this code, except occupational pneumoconiosis for all workers and pulmonary disease and cardiovascular injury and disease for professional firefighters, shall be processed in like manner as claims for all other personal injuries."

And,

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

**Com. Sub. for H. B. 2026** – "A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-22A-33a; and to amend and reenact §23-4-1 of said code, all relating to benefits for municipal police officers or firefighters; providing for transfer of assets pertaining to municipal police officers or firefighters; requiring certain computations to

be made by the Consolidated Public Retirement Board; requiring certain payments; terminating liability of the Public Employees Retirement System; to compensable diseases of certain firefighters covered by workers' compensation; establishing rebuttable presumption of injury arising out of and in the course of employment for certain covered firefighters that develop bladder cancer, mesothelioma, and testicular cancer; providing for conditions of the presumption; and providing that the rebuttable presumption expires on July 1, 2027, unless extended by the Legislature.”

With the further amendment, sponsored by Delegates Criss and Householder, being as

On page 1, section 33a, line 4, by striking “§8-22A-8(a) and inserting in lieu thereof “§8-22A-28(a)”;

And,

On page 4, following section 33a, by striking the remainder of the bill.

And,

The further title amendment, sponsored by Delegates Criss and Householder, amending the title of the bill to read as follows:

**Com. Sub. for H. B. 2026** - “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §8-22A-33a, relating to additional opportunity for municipal police officers or firefighters to transfer into the Municipal Police Officers and Firefighters Retirement System; providing conditions upon which municipal police officers or firefighters may transfer into Municipal Police Officers and Firefighters Retirement System; providing for transfer of assets pertaining to municipal police officers or firefighters; requiring certain computations to be made by the Consolidated Public Retirement Board; requiring certain payments; and terminating liability of the Public Employees Retirement System.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 754**), and there were— yeas 98, nays none, absent and not voting 2, with the absent and not voting being as follows:

Absent and Not Voting: Mallow and Westfall.

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. 2026) passed.

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

At 3:03 p.m., on motion of Delegate Householder, the House of Delegates recessed until 4:30 p.m.

\* \* \* \* \*

**Afternoon Session**

\* \* \* \* \*

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

### Messages from the Senate

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

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

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Deeds, Hamilton and Woelful.

On motion of Delegate Householder, the House of Delegates authorized the Speaker to appoint conferees on the part of the House on the disagreeing votes of the houses.

Whereupon,

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

Delegates Kelly, Garcia and Ward.

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

A message from the Senate, by

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

**Com. Sub. for S. B. 617**, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

On motion of Delegate Householder, the House of Delegates refused to recede and agreed to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses.

Whereupon,

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

Delegates Summers, Griffith and Hardy.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates, with further amendment, and the passage, as amended, of

**Com. Sub. for S. B. 361**, Authorizing miscellaneous boards and agencies to promulgate legislative rules.

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

On page 7, section 10, subsection (d), line 14 through 16, after “is authorized” by inserting a period, and striking out the remainder of the subsection.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 755**), and there were—yeas 94, nays 1, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Vance.

Absent and Not Voting: Bridges, Burkhammer, Mallow, Skaff and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 361) passed.

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

On this question, the yeas and nays were taken (**Roll No. 756**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Burkhammer, Mallow, Skaff 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. 361) takes effect from its passage.

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

Delegate A. Hall asked and obtained unanimous consent to be removed as a cosponsor of Com. Sub. for H. B. 3018.

### **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. 3315**, Relating generally to readiness enhancement and commission bonuses.

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

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

**“ARTICLE 1B. NATIONAL GUARD.**

**§15-1B-25. Readiness Enhancement and Commissioning Bonus.**

(a) The Adjutant General may establish within the limitations of this section a program to provide enlistment bonuses to eligible prospects who become members of the West Virginia National Guard.

(1) Eligibility for the bonus is limited to a candidate who: (A) Joins the National Guard as an enlisted member; (B) Serves satisfactorily during the period of, and completes, the person's initial entry training, if applicable; and (C) Has expertise, qualifications, or potential for military service deemed by the Adjutant General as sufficiently important to the readiness of the National Guard or a unit of the National Guard. The Adjutant General may, within the limitations of this subsection and other applicable laws, determine additional eligibility criteria for the bonus.

(2) The enlistment bonus payments are to be in an amount to generally encourage the candidate's enlistment in the National Guard, subject to available appropriations, and on a schedule that is determined and published in department regulations by the Adjutant General.

(3) If a member fails to complete a term of enlistment for which a bonus was paid, the Adjutant General may seek to recoup a prorated amount of the bonus as determined by the Adjutant General.

(b) The Adjutant General may establish a program to provide a reenlistment or commissioning bonus to eligible members of the West Virginia National Guard who extend their term of service in the National Guard within the limitations of this subsection. Eligibility for the bonus is limited to a member of the National Guard who: (1) Is serving satisfactorily as determined by the Adjutant General; (2) Has 12 or fewer years of service creditable for retirement; and (3) Has military training and expertise deemed by the Adjutant General as sufficiently important to the readiness of the National Guard or a unit of the National Guard, or has accepted a commission as an officer in the National Guard. The Adjutant General may, within the limitations of this subsection and other applicable laws, determine additional eligibility criteria for the bonus.

(1) The enlistment bonus payments are to be in an amount to generally encourage the member's reenlistment or commissioning in the National Guard, subject to available appropriations, and on a schedule that is determined and published in department regulations by the Adjutant General.

(2) If a member fails to complete a term of reenlistment or an obligated term of commissioned service for which a bonus was paid, the Adjutant General may seek to recoup a prorated amount of the bonus as determined by the Adjutant General.

(c) Upon graduation from the officer candidate school conducted at the regional training institute, Camp Dawson, each member of the West Virginia Army National Guard who accepts a commission shall be entitled to a commissioning bonus of \$2,000.



**CHAPTER 31. CORPORATIONS.****ARTICLE 18F. THE WEST VIRGINIA VETERANS' HOME LOAN MORTGAGE PROGRAM OF 2023.****§31-18F-1. Short title.**

This article shall be known as the West Virginia Veterans' Home Loan Mortgage Program Act of 2023.

**§31-18F-2. Definitions.**

As used in this section, the following definitions apply:

(1) 'Eligible veteran' means an individual who is a West Virginia resident and who:

(a) Is a member of the West Virginia National Guard;

(b) Is a member of the federal reserve forces of the armed forces of the United States, serving pursuant to Title 10 of the United States Code;

(c) Is serving on federal active duty pursuant to Title 10 of the United States Code;

(d) Is an unremarried spouse of an individual who was otherwise an eligible veteran and was killed in the line of duty;

(e) Is a child of an individual who was otherwise an eligible veteran and was killed in the line of duty;

(f) Is an eligible veteran as defined by rule promulgated by the West Virginia Housing Development Fund; or

(g) Was previously a member of the armed forces pursuant to subdivisions (a), (b), or (c) and was discharged under honorable conditions.

(h) An individual who meets the requirements of paragraph (a), (b), (c), (f), or (g) of this subdivision 2 of this article, and who is establishing their primary residence in West Virginia, and is purchasing a home in this state for the first time.

(2) 'First-time home buyer' means an individual determined by the fund to be a first-time home buyer pursuant to rules adopted by the fund.

(3) 'Fund' means the West Virginia Veterans' Home Loan Mortgage Fund.

(4) 'Mortgage loan' means a loan for the purchase of real property with any improvements located within this state that is to be used for primary residential purposes by the eligible veteran and that is based upon a written instrument approved by a federal agency, and that is secured by a deed of trust.

(5) 'Participating financial institution' means a corporate lender or other loan originator approved by the West Virginia Housing Development Fund for originating loans pursuant to this article.

(6) 'Resident' means an individual who maintains, or will maintain after receiving a mortgage loan, a primary residence within West Virginia, and who has not established a residence elsewhere even though the individual may be temporarily absent from the state.

(7) 'Under honorable conditions' means a discharge or separation from military duty characterized by the armed forces as under honorable conditions. The term includes honorable discharge and general discharge. The term does not include a dishonorable discharge, or another administrative discharge characterized by military regulation as other than honorable.

(8) 'Veterans' home loan mortgage program' or 'program' means the program created in §31-18F-1 et seq. of this code.

### **§31-18F-3. Veterans' Home Loan Mortgage Program created.**

(a) There is hereby created by this article, the West Virginia Veterans' Home Loan Mortgage Program of 2023 under the direction and management of the West Virginia Housing Development Fund for eligible veterans who are first-time home buyers.

(b) The West Virginia Housing Development Fund is authorized to purchase mortgage loans from participating financial institutions pursuant to this article or through direct origination.

### **§31-18F-4. Terms of program.**

(a) Interest on a home mortgage loan made pursuant to this section must be charged at 1 percent less than the federal national mortgage association's delivery rate or 1 percent lower than the West Virginia Housing Development Fund's Homeownership Program, whichever is less. If the federal national mortgage association's rate becomes unavailable, the West Virginia Housing Development Fund shall use another similar rate for the purposes of this section.

(b) The maximum amount of a loan made by the West Virginia Housing Development Fund pursuant to this article is 100 percent of the value of the statewide allowable purchase price determined by the West Virginia Housing Development Fund.

(c) The West Virginia Housing Development Fund shall require as a condition for a loan, that an eligible veteran participate in a first-time home buyer education program approved by the West Virginia Housing Development Fund.

(d) A loan made by the West Virginia Housing Development Fund must be secured by a government guaranty unless the West Virginia Housing Development Fund determines to allow the use of conventional mortgage insurance requirements and coverage.

(e) An eligible veteran shall participate in a loan by contributing a minimum amount of \$2,500 unless the West Virginia Housing Development Fund determines otherwise. An eligible veteran may use the minimum contribution toward paying closing costs and may borrow from the Veterans' Home Loan Mortgage Program the maximum loan amount allowed by the mortgage insurer for the loan.

(f) There is no limit on the maximum amount of income that may be earned by an eligible veteran for the purposes of a loan pursuant to this article.

(g) In order to allow small financial institutions to participate equitably in the program along with large financial institutions, the West Virginia Housing Development Fund may adopt rules to specify the maximum amount of mortgage loans that may be made by any one participating financial institution.

(h) The Legislative Auditor shall have access to all documentation used for the purpose of the program.

(i) The West Virginia Housing Development Fund shall annually submit to the Joint Committee on Government and Finance a report describing, at a minimum, the operation and use of this program. This report shall be due no later than December 1 of each year and may be combined with other reports submitted by the West Virginia Housing Development Fund to the Legislature.

#### **§31-18F-5. West Virginia Veterans' Home Loan Mortgage Fund.**

(a) The board of directors of the West Virginia Housing Development Fund may create and establish the West Virginia Veterans' Home Loan Mortgage Fund to make moneys available to the West Virginia Housing Development Fund for loans that qualify pursuant to this article.

(b) The West Virginia Housing Development Fund shall administer the West Virginia Veterans' Home Loan Mortgage Fund and service the mortgage loans under the program.

(c) The West Virginia Housing Development Fund shall receive all moneys transferred to the Fund pursuant to §36-8-13(f) of this code, any other moneys to be deposited into the fund, and any repayments and interest paid to the fund.

(d) As a loan pursuant to this article is repaid, the principal payments on the loan must be redeposited in the fund until all of the principal of the loan is repaid. In the event of foreclosure, the proceeds from the sale of the foreclosed property must be deposited to the fund. The fund may be used to cover the initial purchase of the mortgage loans from participating lenders as well as amounts determined by the West Virginia Housing Development Fund, to pay for the origination and servicing release fees of a loan by a participating financial institution and to cover the holding costs of any foreclosed properties. Interest received on the loans may be used by the West Virginia Housing Development Fund to pay the reasonable costs for the administration of the program and servicing of the loans. Remaining interest received on the loan must be deposited into the fund.

(e) Following the initial origination of loans, loan repayments and any interest earnings of the fund may be used by the West Virginia Housing Development Fund to originate additional program loans or to assist in the development of affordable housing units for the benefit of veterans.

(f) The West Virginia Housing Development Fund may invest and reinvest all moneys in the Veterans' Home Loan Mortgage Fund in any investments authorized under W. Va. Code § 31-18-6, pending the disbursement thereof in connection with the Veterans' Home Loan Mortgage Fund.

(g) The West Virginia Housing Development Fund will operate the Veterans' Home Loan Mortgage Fund in accordance with customary practices of mortgage lending and loan servicing, including originating loans through qualified lending institutions, industry standard underwriting, minimum down payments, house purchase prices, mortgage lien position, loan origination, and

loan servicing fees similar to the West Virginia Housing Development Fund Homeownership Program or similar program.

## CHAPTER 36. ESTATES AND PROPERTY.

### ARTICLE 8. UNIFORM UNCLAIMED PROPERTY ACT.

#### §36-8-13. Deposit of funds.

(a) The administrator shall record the name and last known address of each person appearing from the holders reports to be entitled to the property, and the name and last known address of each insured person or annuitant and beneficiary and with respect to each policy or annuity listed in the report of an insurance company, its number, the name of the company, and the amount due.

(b) The Unclaimed Property Fund is continued. The administrator shall deposit all funds received pursuant to this article in the Unclaimed Property Fund, including the proceeds from the sale of abandoned property under §36-8-12 of this code. The administrator may invest the Unclaimed Property Fund with the West Virginia Board of Treasury Investments, or the Investment Management Board, and all earnings shall accrue to the fund and are available for expenditure in accordance with the article. In addition to paying claims of unclaimed property duly allowed, the administrator may deduct the following expenses from the Unclaimed Property Fund:

- (1) Expenses of the sale of abandoned property;
- (2) Expenses incurred in returning the property to owners, including without limitation the costs of mailing and publication to locate owners;
- (3) Reasonable service charge; and
- (4) Expenses incurred in examining records of holders of property and in collecting the property from those holders.

(c) The Unclaimed Property Trust Fund is continued within the State Treasury. The administrator may invest the Unclaimed Property Trust Fund with the West Virginia Board of Treasury Investments and all earnings shall accrue to the fund and are available for expenditure in accordance with this article. After deducting the expenses specified in subsection (b) of this section and maintaining a sum of money from which to pay claims duly allowed, the administrator shall transfer the remaining moneys in the Unclaimed Property Fund to the Unclaimed Property Trust Fund.

(d) On or before December 15 of each year, notwithstanding any provision of this code to the contrary, the administrator may transfer the sum of \$1 million from the Unclaimed Property Trust Fund to the Jumpstart Savings Trust Fund, until an actuary certifies there are sufficient funds to satisfy all obligations and administrative expenses of the Jumpstart Savings Program.

(e) Subject to a liquidity determination and cash availability, effective July 1, 2022, the unclaimed property administrator may transfer an amount in any fiscal year from the Unclaimed Property Trust Fund to the Military Authority Reimbursable Expenditure Fund: *Provided*, That the aggregate amount that may be transferred under this subsection may not exceed \$10 million.

(f) Subject to cash availability, on or before July 15, 2023, the unclaimed property administrator may transfer up to \$8 million from the Unclaimed Property Trust Fund to the West Virginia Veterans' Home Loan Mortgage Fund, as provided in §31-18F-5 of this code.

(g) After transferring any money required by subsections (d), ~~and~~ (e), and (f) of this section, the administrator shall transfer moneys remaining in the Unclaimed Property Trust Fund to the General Revenue Fund.”

And,

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

**Com. Sub. for H. B. 3315** – “A Bill to amend and reenact §15-1B-25 of the Code of West Virginia, 1931, as amended; to amend and reenact by adding thereto a new article, designated §31-18F-1, §31-18F-2, §31-18F-3, §31-18F-4, §31-18F-5, §31-18F-6; and to amend and reenact §36-8-13 of said code, relating generally to readiness enhancement and commission bonuses; authorizing Adjutant General to establish certain bonus programs; requiring a schedule of bonus amounts; authorizing recoupment of bonus paid under certain circumstances; creating the West Virginia Veterans' Home Loan Mortgage Program of 2023; establishing a fund known as the West Virginia Veterans' Home Loan Mortgage Fund ; declaring the purpose of the fund; providing that the Housing Development Fund shall administer the fund; setting forth terms of the program; authorizing the Housing Development Fund to make certain mortgage loans from the fund; and authorizing the unclaimed property administrator to transfer a certain amount from the Unclaimed Property Trust Fund to the fund.”

*Ordered*, That the Clerk of the House communicate to the Senate the action of the House of Delegates and request the Senate to 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. 3439**, To limit the civil liability of child placing agencies that obtain an insurance policy in an amount not less than \$1 million per incident.

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

On page 1, after line 12 by adding a new subsection, designated subsection (e), to read as follows:

“(e) An act of sexual assault or sexual abuse shall constitute an incident.”

And,

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

**H. B. 3439** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-2-130, relating to child welfare agencies; requiring a policy of insurance; limiting civil liability for damages or injuries; providing exceptions; and requiring proof of insurance be filed annually.”

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. 757**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Mallow, Skaff, Steele, Westfall and Young.

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

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

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. 3360**, Creating an office of the Inspector General within the Department of Homeland Security.

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 13. OFFICE OF THE INSPECTOR GENERAL.**

**§15A-13-1. Office created; appointment of Inspector General.**

(a) There is hereby created the Office of the Inspector General as a separate and independent operating agency within the department.

(b) The Office of the Inspector General shall be headed by the Inspector General.

(c) The Inspector General shall be appointed by the Governor, subject to the advice and consent of the Senate.

(d) The term of the Inspector General is five years.

(e) At the end of a term, an Inspector General shall be eligible for reappointment by the Governor, subject to confirmation as required by the provisions of subsection (c) of this section. The Inspector General may continue to serve until a successor is appointed if he or she is not reappointed.

(f) If a vacancy occurs in the position, an interim Inspector General may be appointed as successor to serve until a successor is appointed.

(g) The Inspector General may be removed by the Governor during his or her term only for:

(1) Malfeasance or gross misfeasance in office;

(2) Persistent failure to perform the duties of the office; or

(3) Conduct prejudicial to the proper administration of justice.

(h) The Inspector General shall be appointed without regard to political affiliation and shall be professionally qualified through experience or education in at least two of the following areas:

(1) The practice of law;

(2) Auditing;

(3) Government operations;

(4) Financial analysis;

(5) Management analysis;

(6) Public administration; or

(7) Fraud investigation.

(i) The Inspector General shall be paid an annual salary not to exceed \$95,000.

(j) The Inspector General:

(1) Shall perform inspections, evaluations, and reviews, and provide quality control for all investigations within the department, and supervise all personnel of the Office of the Inspector General;

(2) Shall investigate fraud, waste, abuse of departmental funds, and behavior in the department that threatens public safety or demonstrates negligence, incompetence, misfeasance, or malfeasance;

(3) Shall cooperate with and coordinate investigative efforts with law enforcement, and where a preliminary investigation establishes a sufficient basis to warrant referral, shall refer such matters to the appropriate prosecuting attorney or the appropriate federal law-enforcement agency; and

(4) May subpoena any person or evidence, administer oaths, take and certify affidavits, and take depositions and other testimony for the purpose of investigating fraud, waste, abuse of departmental funds, or behavior in the department that threatens public safety or demonstrates negligence, incompetence, or malfeasance.

(A) If a person fails to comply with a lawful order or subpoena issued under this subsection, on petition of the Inspector General or a designated Assistant Inspector General, a court of competent jurisdiction may compel:

(i) Compliance with the order or subpoena; or

(ii) Testimony or the production of evidence.

(k) If the Office of the Inspector General is unable to investigate a complaint or allegation because of a conflict of interest, the Office of the Inspector General shall refer the complaint or allegation to the Attorney General for referral to another investigative entity.

(l) Neither the Governor, the secretary, nor any other person, may impede, interfere, or inhibit the Inspector General from initiating, conducting, or completing any investigation, inspection, evaluation, review, or other activity regarding oversight of any investigation conducted by the Office of the Inspector General.

(m) The position of the Inspector General shall be governed by the classified-exempt service provisions in §29-6-4 of this code; *Provided*, That, any employees of the Office of the Inspector General shall be governed by the classified service provisions of §29-6-1 *et seq.* of this code and rules promulgated thereunder.

(n) The Inspector General may employ such professional personnel, investigators, and other personnel, including certified law-enforcement officers, necessary for the proper administration of the office.

(o) The Inspector General may delegate duties to other employees or obtain services through contract, but the Inspector General is responsible for all official tasks so delegated.

(p) The Inspector General shall propose legislative and procedural rules in accordance with the provisions of chapter 29A of this code in order to implement provisions of this section and to carry out the duties prescribed therein. The Inspector General may promulgate emergency rules pursuant to §29A-3-15 of this code to effectuate the purposes of this section.

(q) Reports of investigations are confidential and shall be provided under seal to the Governor, the secretary, and the Joint Committee on Government and Finance on a quarterly basis.

(r) Reports and documents relating to active investigations involving possible criminal conduct are confidential and are not subject to the provisions of 29B-1-1 *et seq.*”

And,

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

**H. B. 3360** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §15-13-1, *et seq.*, relating generally to creating the Office of the Inspector General in the Department of Homeland Security; authorizing the appointment of the Inspector General; setting forth duties and powers of the Inspector General; setting forth provisions for appointment and removal of Inspector General; establishing qualifications for Inspector General; authorizing delegation of duties; authorizing employing persons to perform duties of the office and authorizing and directing rulemaking.”

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. 758**), 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: Kump.



Absent and Not Voting: Mallow, Steele, Westfall and Willis.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3360) 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. 2008**, Requiring local entities to enforce immigration laws.

On motion of Delegate Kimble, the House concurred in the following amendment by the Senate, with further amendment and title amendment:

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

## **“CHAPTER 15. PUBLIC SAFETY.**

### **ARTICLE 15. FEDERAL IMMIGRATION ENFORCEMENT.**

#### **§15-15-1. Definitions**

(1) ‘Federal immigration agency’ means the United States Department of Justice, the United States Department of Homeland Security, any division within either of those departments, specifically including but not limited to United States Immigration and Customs Enforcement, United States Customs and Border Protection, any successor agency or agencies to the aforesaid, and any other federal agency charged with the enforcement or administration of immigration or border control.

(2) ‘Immigration law’ means the laws of this state or federal law relating to immigrants or immigration, including but not limited to the Federal Immigration and Nationality Act, 8 U.S.C. § 1101 et seq.

(3) ‘Immigration detainer’ means a facially sufficient written or electronic request issued by a federal immigration agency using that agency’s official form to request that another law enforcement agency detain a person based on probable cause to believe that the person to be detained is a removable alien under federal immigration law, including detainers issued pursuant to 8 U.S.C. § 1226 et seq. and 8 U.S.C. § 1357 et seq., along with a warrant described in paragraph (C) of this subsection. For purposes of this subsection, an immigration detainer is deemed facially sufficient if:

(A) The federal immigration agency’s official form is complete and indicates on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law; or

(B) The federal immigration agency’s official form is incomplete and fails to indicate on its face that the federal immigration official has probable cause to believe that the person to be detained

is a removable alien under federal immigration law, but is supported by an affidavit, order, or other official documentation that indicates that the federal immigration agency has probable cause to believe that the person to be detained is a removable alien under federal immigration law; and

(C) The federal immigration agency supplies with its detention request a Form I-200 Warrant for Arrest of Alien, or a Form I-205 Warrant of Removal/Deportation, or a successor warrant, or other warrant authorized by federal law.

(4) 'Inmate' means a person in the custody of a law enforcement agency.

(5) 'Law enforcement agency' for purposes of this article means an agency in this state charged with enforcement of federal, state, county, or municipal laws or with managing custody of persons in this state and includes, but is not limited to, municipal police departments, sheriff's offices, county and state police departments, state college and university police departments, county correctional agencies, and the Division of Corrections and Rehabilitation.

(6) 'Local entity' means:

(A) The governing body, and any agents or officers with executive, decision-making, or policymaking authority thereof, of a municipality, county, or other political subdivision of this state, and any subsidiary governmental bodies of those entities;

(B) An officer or employee of or a division, department, or other body that is part of a municipality, county, political subdivision or other authority, including a sheriff, municipal police department, municipal attorney, or county attorney; or

(C) A prosecuting attorney or assistant prosecuting attorney.

(7) 'State entity' means the State of West Virginia or any agency, office, board, bureau, commission, department, branch, division, or institution thereof, including institutions under the authority of the West Virginia Higher Education Policy Commission, the Community and Technical System, and all other public postsecondary educational institutions in the state. The term includes any officer, employee or agent of any of the aforesaid.

#### **§15-15-2. Prohibited policies regarding immigration enforcement.**

A state entity, local entity, or law enforcement agency shall not adopt or maintain a law, ordinance, resolution, rule, regulation, policy, directive, order, practice, or procedure, formal or informal, written or unwritten, which prohibits or materially restricts the state entity, local entity, or law enforcement agency from complying with or assisting in the enforcement of immigration laws, including, but not limited to, prohibiting or materially restricting the state entity, local entity, or law enforcement agency from prohibiting or otherwise materially restricting any state entity, local entity, or law enforcement agency from assisting in the enforcement of immigration law. This includes prohibitions or restrictions on:

(a) Inquiries into the immigration status of any person;

(b) Transmitting, requesting, or receiving information relating to immigration status, lawful

or unlawful, of any person to or from any federal immigration enforcement agency;

(c) Maintaining, archiving, or otherwise storing for subsequent use information relating to an individual's immigration status;

(d) Exchanging information relating to immigration status with another local entity, state entity, or a federal immigration agency;

(e) Complying with an immigration detainer, including, but not limited to, refusing to cooperate or comply with a lawfully issued detainer in the absence of a warrant or other order directing compliance with or enforcement of such a detainer;

(f) Complying with a request from a federal immigration agency to notify the agency before the release of an inmate;

(g) Providing a federal immigration agency with an inmate's incarceration status or release date;

(h) Assisting or cooperating with a federal immigration agency, including by providing enforcement assistance;

(i) Participating in any program or agreement authorized under Section 287 of the federal Immigration and Nationality Act, 8 U.S.C. § 1357 *et seq*;

(j) Permitting a federal immigration officer to enter and conduct enforcement activities at a municipal jail, county jail, or Division of Corrections and Rehabilitation Facility involving or related to the enforcement of federal immigration laws;

**§15-15-3. Mandatory duties of law enforcement agencies regarding immigration detainer**

(a) A law enforcement agency that takes initial custody of a person subject to an immigration detainer shall:

(1) Provide notice to the court authorized to grant or deny the person's release on bail or bond that the person is subject to an immigration detainer;

(2) Record in the person's case file that the person is subject to an immigration detainer; and

(3) Upon determining that the immigration detainer is facially sufficient as defined by §15-15-1 of this code, comply with the requests made in the immigration detainer to the extent required by law.

(b) A law enforcement agency is not required to perform a duty imposed by subsection (a) of this section with respect to a person who has been transferred to the custody of the agency by another law enforcement agency subject to the requirements of this section.

(c) A court of competent jurisdiction which receives notice that a person is subject to an immigration detainer shall cause the fact to be recorded in the court record, regardless of whether the notice is received before or after a judgment in the case.

**§15-15-3. Mandatory agreements for housing persons subject to immigration detainers.**

(a) Each county jail or municipal jail, to the extent the same may exist, and the Division of Corrections and Rehabilitation shall enter into an agreement or agreements with a federal immigration agency for temporarily housing persons who are the subject of immigration detainers and for the payment of the costs of housing and detaining those persons.

(b) A compliant agreement under this section includes any contract with a federal immigration agency for housing or detaining persons subject to immigration detainers, such as basic ordering agreements, intergovernmental service agreements, agreements authorized by Section 287 of the federal Immigration and Nationality Act, 8 U.S.C. § 1357 *et seq.*, successor agreements, or other similar agreements authorized by federal law.

**§15-15-4. Complaint procedure; notice; equitable relief.**

(a) Any person, including a federal agency, may file a complaint with the Attorney General alleging that a state entity, local entity, or law enforcement agency has violated or is violating this article. The person shall include with the complaint any evidence the person has in support of the complaint.

(b) A state entity, local entity, or law enforcement agency for which the Attorney General has received a complaint pursuant to this section shall comply with any document requests, including a request for supporting documents, from the Attorney General relating to the complaint.

(c) If the Attorney General determines there is sufficient evidence that a local entity or law enforcement agency has violated or is violating the provisions of this article, the Attorney General may file a petition for declaratory or injunctive relief, mandamus, or other appropriate relief in Circuit Court for Kanawha County, or in the Circuit Court for a county in which the principal office of the entity or agency is located, against the entity or agency suspected of violating this article.

(d) If a court finds a state entity, local entity, or law enforcement agency has violated or is violating this article, the court shall enjoin the violation. The court shall have continuing jurisdiction over the parties and subject matter and may enforce its orders with contempt proceedings as provided by law.

(e) An order approving a consent decree or granting any relief under this section shall include written findings of fact that describe with specificity the existence and nature of the violation.

(f) In an appeal related to a suit brought under this section, the appellate court shall render its final order or judgment with the least possible delay.

**§15-15-5. Removal from office for malfeasance, neglect of duty, and failure to faithfully discharge duties of office.**

Any elected official who takes official action that results in a law, ordinance, resolution, rule, regulation, policy, directive, order, practice, or procedure to come into or continue in effect that violates the provisions of this article has failed to faithfully execute the duties of his or her office,

has acted with neglect of duty, and has engaged in malfeasance in office, and thus may be removed from the same in accordance with Article IV, §6 of the constitution of this state, §6-6-5 of this code, §6-6-7 of this code, or any other applicable provision of the law of this state.

**§15-15-6. Attorney General to defend good-faith compliance upon request.**

(a) The Attorney General may defend a local entity or law enforcement agency in any action in any court if:

(1) The executive head or governing body, as applicable, of the local entity or law enforcement agency requests the Attorney General 's assistance in the defense; and

(2) The Attorney General determines that the local entity or law enforcement agency that is the subject of the suit has made a good-faith effort to comply with this article.

**§15-15-7. Report of violations; whistle-blower protections.**

(a) A state entity, local entity, or law enforcement agency shall not discharge, threaten, or otherwise discriminate or retaliate against any official, representative, agent, or employee for reporting a known or probable violation of the provisions of this article to the Attorney General.

(b) All provisions of §6C-1-1 et seq. of this code, the Whistle-Blower Law, shall apply to an official, representative, agent, or employee of a state entity, local entity, or law enforcement agency who is discharged, threatened, or otherwise discriminated or retaliated against because he or she reported a known or probable violation of the provisions of this article to the Attorney General.

**§15-15-8. Implementation; discrimination prohibited.**

(a) This article code shall be implemented in a manner consistent with federal laws and regulations governing immigration, protecting the civil rights of all persons, and respecting the privileges and immunities of United States citizens.

(b) A state entity, local entity, or law enforcement agency, or a person employed by or otherwise under the direction or control of a state entity, local entity, or law enforcement agency, shall not base its actions under this article on the gender, race, color, religion, language, national origin, or physical disability of a person except to the extent authorized by the United States Constitution, the constitution and laws of this state, or other applicable federal law”

And,

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

**Com. Sub. for H. B. 2008** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto one new article containing eight new sections, designated §15-15-1, §15-15-2, §15-15-3, §15-15-4, §15-15-5, §15-15-6, §15-15-7, and §15-15-8, all relating to prohibiting subdivisions and local entities from adopting policies that prohibit or materially restrict cooperation with federal entities enforcing immigration law; requiring state entities, local entities and law enforcement agencies to cooperate with the enforcement of immigration laws; providing for definitions; requiring that entities and agencies not prohibit the enforcement of immigration laws or cooperation with other governmental agencies to enforce immigration laws; providing for

complaint procedures; providing for mandatory duties regarding immigration detainees; providing for actions to ensure compliance; providing that the failure to satisfy the duties imposed by this enactment constitutes neglect of duty and malfeasance in office and exposes elected officials to removal from office as provided by law; providing for mandatory agreements regarding the housing of persons subject to immigration detainees; providing for the Attorney General to defend good-faith compliance under certain circumstances; providing Whistle-Blower protections to individuals who report violations; and prohibiting discrimination on the basis of protected classes.”

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

On page 4, by redesignating section number and section heading “§15-15-3. Mandatory agreements for housing persons subject to immigration detainees” as “§15-5-4. Mandatory agreements for housing persons subject to immigration detainees”, and by renumbering the remaining sections accordingly.

And,

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

**Com. Sub. for H. B. 2008** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto one new article containing nine new sections, designated §15-15-1, §15-15-2, §15-15-3, §15-15-4, §15-15-5, §15-15-6, §15-15-7, §15-15-8, and §15-15-9, all relating to prohibiting subdivisions and local entities from adopting policies that prohibit or materially restrict cooperation with federal entities enforcing immigration law; requiring state entities, local entities and law enforcement agencies to cooperate with the enforcement of immigration laws; providing for definitions; requiring that entities and agencies not prohibit the enforcement of immigration laws or cooperation with other governmental agencies to enforce immigration laws; providing for complaint procedures; providing for mandatory duties regarding immigration detainees; providing for actions to ensure compliance; providing that the failure to satisfy the duties imposed by this enactment constitutes neglect of duty and malfeasance in office and exposes elected officials to removal from office as provided by law; providing for mandatory agreements regarding the housing of persons subject to immigration detainees; providing for the Attorney General to defend good-faith compliance under certain circumstances; providing Whistle-Blower protections to individuals who report violations; and prohibiting discrimination on the basis of protected classes.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 759**), and there were—yeas 90, nays 6, absent and not voting 4, with the yeas and the absent and not voting being as follows:

Nays: Garcia, Hansen, Pushkin, Walker, Williams and Young.

Absent and Not Voting: Mallow, Steele, Westfall and Willis.

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. 2008) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2760**, To allow CPR fire fighters to drive ambulances when both attendants are needed to administer patient care.

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 1. WORDS AND PHRASES DEFINED.**

**§17C-1-6. Authorized emergency vehicle.**

‘Authorized emergency vehicle’ means vehicles of a fire department, duly chartered rescue squad, police department, ambulance service, hospital police department, state, county, or municipal agency, and such privately owned ambulances, tow trucks, wreckers, flag car services, vehicles providing road service to disabled vehicles, service vehicles of a public service corporation, postal service vehicles, snow removal equipment, Class A vehicles of firefighters, Class A vehicles of members of ambulance services, Class A vehicles of members of duly chartered rescue squads, emergency management and operations vehicles operated by airports and designated pursuant to §17C-15-26 of this code, and all other emergency vehicles as are designated by the agency responsible for the operation and control of these persons or organizations. Class A vehicles are as defined by §17A-10-1 of this code. Agency authorization and emergency equipment are provided in §17C-15-26 of this code. Agencies responsible for issuing authorization for emergency vehicle permits may promulgate such regulations that are necessary for the issuance of permits for emergency vehicles. In the event that emergency medical technicians (‘EMTs’) or paramedics on the scene of an emergency are unable to drive an ambulance in the course of administering patient care, firefighters on the scene shall be permitted to drive an ambulance: *Provided*, That the fire department with which the firefighters are associated or members and the emergency medical services provider that owns the ambulance have previously entered into a memorandum of understanding or other agreement authorizing such action and the firefighter driving the ambulance has completed an Emergency Vehicle Operations Course (‘EVOC’) otherwise required by this code or legislative rule promulgated thereunder.”

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. 760**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Mallow, Westfall and Willis.

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. 2760) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 3191**, Relating to certain facilities operated by the state government to obtain a license.

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

On page 2, section 1, line 26, by striking out "a3.32ny" and inserting in lieu thereof the word "any".

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. 761**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Mallow, Westfall and Willis.

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. 3191) passed.

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

On this question, the yeas and nays were taken (**Roll No. 762**), and there were—yeas 97, nays none, absent and not voting 3, with the absent and not voting being as follows:

Absent and Not Voting: Mallow, Westfall and Willis.

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3191) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates, with further title amendment, and the passage, as amended, of

**Com. Sub. for S. B. 273**, Relating to allocation of child protective workers in counties based upon population of county.

On motion of Delegate Kimble, the House concurred in the following Senate title amendment:



**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 that the merit-based system is not subject to the grievance process; 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; and updating the child welfare dashboard.”

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. 763**), and there were—yeas 96, nays none, absent and not voting 4, with the absent and not voting being as follows:

Absent and Not Voting: Foggin, Mallow, Westfall and Willis.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2820**, To provide HOPE Scholarship recipients with the ability to play sports.

Delegate Kimble moved that the House of Delegates 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:

**“ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules by state board; incorporation; funds; participation by private and parochial schools and by home-schooled students and participants in the Hope Scholarship Program or in a Microschool or Learning Pod.**

(a) The county boards of education shall exercise the control, supervision, and regulation of all interscholastic athletic events, and other extracurricular activities of the students in public secondary schools, and of those schools of their respective counties. The county board of education may delegate control, supervision, and regulation of interscholastic athletic events and band activities to the West Virginia Secondary School Activities Commission.

(b) The West Virginia Secondary School Activities Commission is composed of the principals, or their representatives, of those secondary schools whose county boards of education have certified in writing to the State Superintendent of Schools that they have elected to delegate the control, supervision, and regulation of their interscholastic athletic events and band activities of the students in the public secondary schools in their respective counties to the commission. The West Virginia Secondary School Activities Commission may exercise the control, supervision, and regulation of interscholastic athletic events and band activities of secondary schools, delegated to it pursuant to this section. The rules of the West Virginia Secondary School Activities Commission shall contain a provision for a proper review procedure and review board and be promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all instances, be subject to the prior approval of the state board. The West Virginia Secondary School Activities Commission, may, with the consent of the State Board of Education, incorporate under the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock corporation under the provisions of chapter 31 of this code. County boards of education may expend moneys for and pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to the commission, as well as moneys derived from any contest or other event sponsored by the commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this code, and the funds of the commission are subject to an annual audit by the State Tax Commissioner.

(c) The West Virginia Secondary School Activities Commission shall promulgate reasonable rules providing for the control, supervision, and regulation of the interscholastic athletic events and other extracurricular activities of private and parochial secondary schools as elect to delegate to the commission control, supervision, and regulation, upon the same terms and conditions, subject to the same rules and requirements and upon the payment of the same fees and charges as those provided for public secondary schools. Any such private or parochial secondary school shall receive any monetary or other benefits in the same manner and in the same proportion as any public secondary school.

(d) Notwithstanding any other provision of this section, or the commission's rules, the commission shall consider eligible for participation in interscholastic athletic events and other extracurricular activities of secondary schools a student who is receiving home instruction pursuant to §18-8-1(c) of this code, is a participant in the Hope Scholarship Program, pursuant to §18-8-1(m) of this code and as provided for in §18-31-1, *et seq.* of this code, or participates in a microscool or learning pod, pursuant to §18-8-1(n) of this code, and who:

(1) Has demonstrated satisfactory evidence of academic progress for ~~one~~ each year in compliance with the provisions of that subsection: *Provided*, That the student's average test results are within or above the fourth stanine in all subject areas;

~~(2) Is enrolled in at least one virtual instructional course per semester, consistent with the applicable virtual instruction policy of the county board in which the home-schooled student lives and the State Board;~~

~~(3)~~ (2) Has not reached the age of 19 by August 1 of the current school year;

~~(4)~~ (3) Is an amateur who receives no compensation but participates solely for the educational, physical, mental and social benefits of the activity;

~~(5)~~ (4) Agrees to comply with all disciplinary rules of the West Virginia Secondary School Activities Commission and the county board in which the ~~home-schooled~~ student lives; and

~~(6)~~ (5) Agrees to obey all rules of the West Virginia Secondary School Activities Commission governing awards, all-star games, parental consents, physical examinations, and vaccinations applicable to all high school athletes.

Eligibility is limited to participation in interscholastic athletic events and other extracurricular activities at the public secondary school serving the attendance zone in which the student lives: *Provided*, That ~~home-schooled~~ students who leave a ~~member~~ school during the school year are subject to the same transfer protocols that apply to member-to-member transfers. Reasonable fees may be charged to the student to cover the costs of participation in interscholastic athletic events and other extracurricular activities.

(e) Students enrolled in a private school shall be eligible to participate in extracurricular activities at the public secondary school serving the attendance zone in which the student lives if the extracurricular activity is not offered at the student's private school: *Provided*, The student meets the requirements of subsection (d)(4) and (d)(5) of this section.

(f) The West Virginia Secondary School Activities Commission shall recognize preparatory athletic programs, whose participants attend a secondary school in West Virginia for academic instruction, as nonparticipating members of the commission solely for the purpose of competing on the national level: *Provided*, That the preparatory athletic program shall pay the same fees as member schools. Such recognition does not entitle the preparatory athletic program to compete against a member school during the regular season or in any commission state championship events. The commission may promulgate an emergency rule pursuant to subsection (b) of this section, if necessary, to carry out the intent of this subsection.

#### **§18-2-25e. Athletic eligibility of transfer students.**

(a) The West Virginia Secondary School Activities Commission shall modify its rule, prior to the 2023-2024 school year, to allow students to transfer schools and retain athletic eligibility at least one time during a student's four years of secondary school, inclusive of grades nine through 12. The West Virginia Secondary School Activities Commission may promulgate an emergency rule, if necessary, to modify its rule prior to the 2023-2024 school year.

(b) Nothing in this section is intended to limit or restrict a student transferring more than one time for the following reasons:

(1) The West Virginia Secondary School Activities Commission's ability to make eligibility determinations on a case-by-case basis when warranted by a student's circumstances in accordance with the West Virginia Secondary School Activities Commission's rules; or

(2) For any other reason permitted under the rules of the West Virginia Secondary School Activities Commission."

And,

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

**Com. Sub. for H. B. 2820** – “A Bill to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18-2-25e, all relating to eligibility for participation in extracurricular activities under control of the West Virginia Secondary Schools Activities Commission; permitting students enrolled in private schools, the Hope Scholarship Program, microschoools and learning pods access to participate in extracurricular activities; modifying eligibility requirements for students enrolled in private schools, home school, the Hope Scholarship Program, microschoools, and learning pods to participate in extracurricular activities; prohibiting private school student from participating in public school sport if sport is offered at private school; clarifying students enrolled in private schools, the Hope Scholarship Program, microschoools and learning pods are subject to same transfer protocols that apply to member-to-member transfers; clarifying when students may transfer schools and retain eligibility to participate in extracurricular activities under control of the West Virginia Secondary Schools Activities Commission; and requiring the West Virginia Secondary Schools Activities Commission to promulgate rules, including emergency rules if necessary.”

### **Deputy Speaker Rohrbach in the Chair**

#### **Conference Committee Report Availability**

At 5:45 p.m., the Clerk announced that the report of the committee of conference on **Com. Sub. for H. B. 3302**, To recognize unborn child as distinct victim in a DUI causing death would be available in the Clerk’s Office.

### **Speaker Hanshaw in the Chair**

#### **Conference Committee Change**

The Speaker announced that Delegate Griffith was unable to serve on the conference committee for Com. Sub. for S. B. 617 and, there being no objections, Delegate Williams was substituted in lieu of Delegate Griffith as a conferee.

On the motion to concur in the Senate amendments to Com. Sub. for H. B. 2820, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 764**), and there were— yeas 63, nays 26, absent and not voting 11, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barnhart, Clark, Dean, DeVault, Dillon, Espinosa, Ferrell, Gearheart, Griffith, W. Hall, Hornbuckle, Howell, Phillips, Reynolds, Riley, Rohrbach, Shamblyn, Sheedy, Statler, Storch, Toney, Tully, Vance, Warner and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Cooper, Hardy, Horst, Mallow, Maynor, McGeehan, Summers, Westfall, Williams and Worrell.

So, a majority of the members present having voted in the affirmative, the motion to concur in the amendment of the bill by the Senate prevailed.

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. 765**), and there were—yeas 64, nays 26, absent and not voting 10, with the nays and the absent and not voting being as follows:

Nays: Anderson, Barnhart, Clark, Dean, DeVault, Dillon, Gearheart, Griffith, W. Hall, Hornbuckle, Horst, Miller, Phillips, E. Pritt, Reynolds, Riley, Rohrbach, Shamblin, Sheedy, Statler, Storch, Toney, Tully, Vance, Warner and Hanshaw (Mr. Speaker).

Absent and Not Voting: Bridges, Cooper, Hardy, Mallow, Maynor, McGeehan, Summers, Westfall, Williams and Worrell.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 2820) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced that the Senate had refused to recede from its amendment and requested the House of Delegates to agree to the appointment of a Committee of Conference of three from each house on the disagreeing votes of the two houses as to

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

The message further announced that the President of the Senate had appointed as conferees on the part of the Senate the following:

Senators Trump, Takubo and Plymale.

On motion of Delegate Householder, the House of Delegates authorized the Speaker to appoint conferees on the part of the House on the disagreeing votes of the two houses.

Whereupon,

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

Delegates Phillips, McGeehan and Young.

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

At the request of Delegate Kimble, and by unanimous consent, the House returned to further consideration of Com. Sub. for S. B. 273.

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

On this question, the yeas and nays were taken (**Roll No. 766**), and there were—yeas 89, nays 2, absent and not voting 9, with the nays and the absent and not voting being as follows:

Nays: Miller and Sheedy.

Absent and Not Voting: Bridges, Cooper, Hardy, Longanacre, Mallow, Skaff, Summers, Westfall and Williams.

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.

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. 3482**, To create the Coal Fired Grid Stabilization and Security Act of 2023.

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:

**“CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.**

**ARTICLE 20. COAL FIRED GRID STABILIZATION AND SECURITY ACT OF 2023.**

**§5B-20-1. Short title.**

This article shall be known and cited as the ‘Coal Fired Grid Stabilization and Security Act.’

**§5B-20-2. Legislative findings; declaration of public policy.**

(a) The Legislature finds that:

(1) The advent and advancement of new and existing technologies and mining/drilling practices have created the opportunity for efficient mining of coal in West Virginia, including opportunities for the production of electricity;

(2) Production of electricity utilizing coal produced in West Virginia is now inadequately developed in comparison to nearby states with which West Virginia competes for economically beneficial projects. Coal electric generation projects have been undermined by existing regulatory requirements and related time delays;

(3) In developing regulatory actions and identifying appropriate approaches to encourage development of coal electric generation projects, agencies should attempt to promote coordination, simplification, and harmonization. Agencies should also seek to identify appropriate means to achieve regulatory goals that are designed to promote innovation and enhance West Virginia’s competitiveness with surrounding states;

(4) Agencies should review their existing legislative and procedural rules to determine whether any such rules should be modified, streamlined, expanded, or repealed so as to make the agency’s regulatory program more effective or less burdensome in achieving the regulatory

objectives related to coal electric generation projects. Agencies should also evaluate the data that they have to determine what information might be useful to prompt permitting and approval of coal generated electricity; and

(5) The West Virginia Department of Economic Development established in §5B-2-1 et seq. of this code is responsible for implementing this Coal Fired Grid Stabilization and Security Act of 2023 and provide as much assistance as possible to grow and sustain the coal electric generation segment of the economy.

(b) The Legislature declares that facilitating the development of business activity directly and indirectly related to coal electric generation development, transportation, storage, and use serves the public interest of the citizens of this state by promoting economic development, by improving economic opportunities for the citizens of this state, and providing additional opportunities to stabilize the price of electricity while increasing its reliability and availability.

### **§5B-20-3. Identification of suitable sites for coal electric generation projects.**

(a) The Department of Economic Development is authorized and directed to identify economically viable sites within the state that are:

(1) Located near a convenient and sufficient supply of coal;

(2) Located near consumers to provide a convenient supply of the generated electricity; and,

(3) Likely to create economically viable coal electric generation projects that provide economic benefits to the local and state governmental units and the citizens of the state.

(b) The Department of Economic Development shall use the following criteria in identifying economically viable sites for coal electric generation projects:

(1) Geographic locations near coal deposits in the state capable of supplying and sustaining one or more coal electric generation facilities for the economic life of the facilities;

(2) Geographic locations near existing electric transmission infrastructure capable of transmitting the generated electricity to wholesale markets of electricity by one or more coal electric generation facilities for the economic life of the facilities;

(3) Geographic locations that fulfill the air quality conditions imposed by the Division of Air Quality of the West Virginia Department of Environmental Protection for one or more coal electric generation facilities; and

(4) Geographic locations that can demonstrate that allowable emission increases from one or more coal electric generation facilities, in conjunction with all other applicable emission increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(A) Any national or West Virginia Ambient Air Quality Standard in any air quality control region;  
or

(B) Any applicable maximum allowable increase over the baseline concentration in any area.

**§5B-20-4. Designation of sites suitable for coal electric generation projects.**

(a) Following identification of economically viable sites that may be suitable for coal electric generation projects, the Department of Economic Development shall identify and designate each site it has determined to be suitable for coal electric generation projects as a 'Designated Site,' and shall communicate the Designated Sites to the West Virginia Department of Environmental Protection's Division of Air Quality and the West Virginia Public Service Commission as sites suitable for the construction and operation of coal electric generation projects.

(b) Any application for a siting certificate pursuant to §24-2-11c of the West Virginia Code filed with the Public Service Commission for development of a coal electric generation project at a Designated Site shall be adjudicated, inclusive of public hearings, and a final order issued by the Public Service Commission, within 270 calendar days after the date of the filing of the application, notwithstanding the requirements of any other provision of this code.

(c) Nothing in this section is intended to preclude, modify, or establish new Public Service Commission jurisdiction over:

(1) Any exercise of powers, duties, and obligations pursuant to the West Virginia Public Energy Authority Act; and

(2) The right of end-user consumers of electricity to develop, invest in, or otherwise contract for on-site electric self-generation or cogeneration facilities, including those utilizing coal as a fuel source.

(3) This section does not alter, modify and/or cancel any existing cogeneration tariffs authorized by the Public Service Commission.

(4) This section does not authorize the sale of electricity to end-users in the state.

(d) Where a designated site has been identified, in accordance with §22-5-11c of this code, as a location where additional data would be helpful for modeling or other evaluation of the potential emission of a coal generation project, the Department of Economic Development shall construct such facilities as are necessary to acquire such data.

**CHAPTER 22. ENVIRONMENTAL RESOURCES.****ARTICLE 5. AIR POLLUTION CONTROL.****§22-5-11c. Construction and operating permits required for coal electric generation facilities as stationary sources of air pollutants.**

(a) This section applies to coal electric generation facilities as identified and communicated to the Secretary by the West Virginia Department of Economic Development as sites that may be suitable for one or more coal electric generation facilities in accordance with §5B-20-1 *et seq.* of this code, or as identified by an applicant for a construction and operating permit for one or more coal electric generation facilities.

(b) The secretary shall take all reasonable steps to expedite consideration of permit applications utilizing sites designated by the Department of Economic Development as a site



suitable for use as a coal electric generation facility and communicated to the secretary in accordance with §5B-2O-1 et seq. of this code. Such steps shall include:

(1) An initial determination of whether the identified site is in compliance with National Ambient Air Quality Standards and the West Virginia State Implementation Plan, whether emissions from a coal electric generation facility would be likely to interfere with compliance with the same and, if interference is likely, the steps necessary to avoid noncompliance with National Ambient Air Quality Standards and the State Implementation Plan; and

(2) Evaluation of whether there is sufficient data, meteorological and otherwise, that would allow acceptable modeling of the impacts of emissions from a coal electric generation facility, and if not, construction of sampling and measuring devices to acquire such data at the site.

(c) Unless otherwise specifically provided in this article, the secretary shall issue a permit for a coal electric generation facility which is determined to be a major stationary source within a reasonable time, not to exceed 270 calendar days, after the secretary determines that the application is complete. The secretary must determine whether an application is complete within 30 days from the date the permit application is filed with the secretary and communicated to the permit applicant.

## **CHAPTER 22B. ENVIRONMENTAL BOARDS.**

### **ARTICLE 1. GENERAL POLICY AND PURPOSE.**

#### **§22B-1-7. Appeals to Boards.**

(a) The provisions of this section are applicable to all appeals to the boards, with the modifications or exceptions set forth in this section.

(b) Any person authorized by statute to seek review of an order, permit, or official action of the chief of air quality, the chief of water resources, the chief of waste management, the chief of mining and reclamation, the chief of oil and gas, or the secretary may appeal to the air quality board, the environmental quality board, or the surface mine board, as appropriate, in accordance with this section. The person so appealing shall be known as the appellant and the appropriate chief or the secretary shall be known as the appellee.

(c) An appeal filed with a board by a person subject to an order, permit, or official action shall be perfected by filing a notice of appeal with the board within 30 days after the date upon which such order, permit, or official action was received by such person as demonstrated by the date of receipt of registered or certified mail or of personal service. For parties entitled to appeal other than the person subject to such order, permit, or official action, an appeal shall be perfected by filing a notice of appeal with the board within 30 days after the date upon which service was complete. For purposes of this subsection, service is complete upon tendering a copy to the designated agent or to the individual who, based upon reasonable inquiry, appears to be in charge of the facility or activity involved, or to the permittee; or by tendering a copy by registered or certified mail, return receipt requested to the last known address of the person on record with the agency. Service is not incomplete by refusal to accept. Notice of appeal must be filed in a form prescribed by the rule of the board for such purpose. Persons entitled to appeal may also file a notice of appeal related to the failure or refusal of the appropriate chief or the secretary to act within a specified time on an application for a permit; such notice of appeal shall be filed within a reasonable time.

(d) The filing of the notice of appeal does not stay or suspend the effectiveness or execution of the order, permit or official action appealed from, except that the filing of a notice of appeal regarding a notice of intent to suspend, modify, or revoke and reissue a permit, issued pursuant to the provisions of §22-5-5 of this code, does stay the notice of intent from the date of issuance pending a final decision of the board. If it appears to the appropriate chief, the secretary, or the board that an unjust hardship to the appellant will result from the execution or implementation of a chief's or secretary's order, permit, or official action pending determination of the appeal, the appropriate chief, the secretary, or the board, as the case may be, may grant a stay or suspension of the order, permit or official action and fix its terms: *Provided*, That unjust hardship shall not be grounds for granting a stay or suspension of an order, permit or official action for an order issued pursuant to §22-3-1 *et seq.* of this code. A decision shall be made on any request for a stay within five days of the date of receipt of the request for stay. The notice of appeal shall set forth the terms and conditions of the order, permit, or official action complained of and the grounds upon which the appeal is based. A copy of the notice of appeal shall be filed by the board with the appropriate chief or secretary within seven days after the notice of appeal is filed with the board.

(e) Within 14 days after receipt of a copy of the notice of appeal, the appropriate chief or the secretary ~~as the case may be~~, shall prepare and certify to the board a complete record of the proceedings out of which the appeal arises including all documents and correspondence in the applicable files relating to the matter in question. With the consent of the board and upon such terms and conditions as the board may prescribe, any person affected by the matter pending before the board may, by petition, intervene as a party appellant or appellee. In any appeal brought by a third party, the permittee or regulated entity shall be granted intervenor status as a matter of right where issuance of a permit or permit status is the subject of the appeal. The board shall hear the appeal *de novo*, and evidence may be offered on behalf of the appellant, appellee, and by any intervenors. The board may visit the site of the activity or proposed activity which is the subject of the hearing and take such additional evidence as it considers necessary: *Provided*, That all parties and intervenors are given notice of the visit and are given an opportunity to accompany the board. The appeal hearing shall be held at such location as may be approved by the board including Kanawha County, the county wherein the source, activity, or facility involved is located or such other location as may be agreed to among the parties.

(f) Any such hearing shall be held within 30 days after the date upon which the board received the timely notice of appeal, unless there is a postponement or continuance. The board may postpone or continue any hearing upon its own motion, or upon application of the appellant, the appellee, or any intervenors for good cause shown: *Provided*, That an appeal of any permit pursuant to §22-5-14 of the code shall be heard by the Air Quality Board within 60 days of the filing of the notice of appeal, unless all parties to the appeal consent to a postponement or continuance, and issue its decision on the appeal as promptly as reasonably possible following the hearing, but in no event later than two months after the completion of the hearing. The chief or the secretary, as appropriate, may be represented by counsel. If so represented, they shall be represented by the Attorney General or with the prior written approval of the Attorney General may employ counsel who shall be a special assistant Attorney General. At any such hearing the appellant and any intervenor may represent themselves or be represented by an attorney-at-law admitted to practice before the Supreme Court of Appeals.

(g) After such hearing and consideration of all the testimony, evidence, and record in the case:

(1) The environmental quality board or the air quality board as the case may be shall make and enter a written order affirming, modifying, or vacating the order, permit, or official action of the chief or secretary, or shall make and enter such order as the chief or secretary should have

entered, or shall make and enter an order approving or modifying the terms and conditions of any permit issued; and

(2) The surface mine board shall make and enter a written order affirming the decision appealed from if the board finds that the decision was lawful and reasonable, or if the board finds that the decision was not supported by substantial evidence in the record considered as a whole, it shall make and enter a written order reversing or modifying the decision of the secretary.

(h) In appeals of an order, permit or official action taken pursuant to §22-6-1 *et seq.*, §22-11-1 *et seq.*, §22-12-1 *et seq.*, §22-13-1 *et seq.*, or §22-15-1 *et seq.* of this code, the environmental quality board established in article three of this chapter, shall take into consideration, in determining its course of action in accordance with subsection (g) of this section, not only the factors which the appropriate chief or the secretary was authorized to consider in issuing an order, in granting or denying a permit, in fixing the terms and conditions of any permit, or in taking other official action, but also the economic feasibility of treating, or controlling, or both, the discharge of solid waste, sewage, industrial wastes, or other wastes involved.

(i) An order of a board shall be accompanied by findings of fact and conclusions of law as specified in §29A-5-3 of this code, and a copy of such order and accompanying findings and conclusions shall be served upon the appellant, and any intervenors, and their attorneys of record, if any, and upon the appellee in person or by registered or certified mail.

(j) The board shall also cause a notice to be served with the copy of such order, which notice shall advise the appellant, the appellee, and any intervenors of their right to judicial review, in accordance with the provisions of this chapter. The order of the board shall be final unless vacated or modified upon judicial review thereof in accordance with the provisions of this chapter.”

And,

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

**Com. Sub. for H. B. 3482** – “A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §5B-20-1, §5B-20-2, §5B-20-3, and §5B-20-4; to amend said code by adding thereto a new section, designated §22-5-11c; and to amend and reenact §22B-1-7 of said code, all relating generally to the Coal Fired Grid Stabilization and Security Act of 2023; providing for a short title; making legislative findings and declarations; requiring designation of suitable sites for coal electric generation and reporting to the Division of Air Quality of the West Virginia Department of Environmental Protection and the West Virginia Public Service Commission; requiring construction and operating permits for coal electric generation facilities, including expedited consideration; and requiring prompt consideration of appeals by the Air Quality Board concerning permit issued or denied.”

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. 767**), and there were—yeas 88, nays 4, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Forsht, Hansen, Walker and Young.

Absent and Not Voting: Bridges, Cooper, Hardy, Mallow, Skaff, Summers, Westfall and Williams.

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. 3482) 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. 3018**, Establishing that 18 is the age of consent and removing the ability of an underage person to obtaining a consent to marry through their parents, legal guardians, or by petition to the circuit court.

On 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 2. MARRIAGES.**

**§48-2-103. Waiting period before issuance of marriage license; issuance of license in case of emergency or extraordinary circumstances.**

[Repealed.]

**§48-2-106. Proof of age.**

~~(a)~~ At the time of the execution of the application, the clerk or the other person administering the oath to the applicants shall require evidence of the age of each of the applicants and shall not issue a license until it has been confirmed that each applicant satisfies the age requirements for marriage set forth by §48-2-301 of this code. Evidence of age may be as follows:

(1) A certified copy of a birth certificate or a duplicate certificate produced by any means that accurately reproduces the original;

(2) A voter's registration certificate;

(3) An operator's or chauffeur's license;

(4) The affidavit of both parents or the legal guardian of the applicant; or

(5) Other good and sufficient evidence.

~~(b) If an affidavit is relied upon as evidence of the age of an applicant, and if one parent is dead, the affidavit of the surviving parent or of the guardian of the applicant is sufficient. If both parents are dead, the affidavit of the guardian of the applicant is sufficient. If the parents of the~~

~~applicant live separate and apart, the affidavit of the parent having custody of the applicant is sufficient.~~

### **PART 3. CAPACITY TO MARRY.**

#### **§48-2-301. Age of consent for marriage; exception.**

~~(a) The age of consent for marriage for both the male and the female is eighteen years of age. A person under the age of eighteen lacks the capacity to contract a marriage without the consent required by this section.~~

~~(b) The clerk of the county commission may issue a marriage license to an applicant who is under the age of eighteen but sixteen years of age or older if the clerk obtains a valid written consent from the applicant's parents or legal guardian.~~

~~(c) Upon order of a circuit judge, the clerk of the county commission may issue a marriage license to an applicant who is under the age of sixteen, if the clerk obtains a valid written consent from the applicant's parents or legal guardian. A circuit judge of the county in which the application for a marriage license is filed may order the clerk of the county commission to issue a license to an applicant under the age of sixteen if, in the court's discretion, the issuance of a license is in the best interest of the applicant and if consent is given by the parents or guardian.~~

~~(d) A consent to marry must be duly acknowledged before an officer authorized to acknowledge a deed. If the parents are living together at the time the application for a marriage license is made and the consent is given, the signatures of both parents or the applicant's legal guardian is required. If one parent is dead, the signature of the surviving parent or the applicant's legal guardian is required. If both parents are dead, the signature of the applicant's legal guardian is required. If the parents of the applicant are living separate and apart, the signature of the parent having custody of the applicant or the applicant's legal guardian is required.~~

~~(e) If a person under the age of consent is married in violation of this section, the marriage is not void for this reason, and such marriage is valid until it is actually annulled.~~

~~(f) A marriage by an underage person without a valid consent as required by this section, though voidable at the time it is entered into, may be ratified and become completely valid and binding when the underage party reaches the age of consent. Validation of a marriage by ratification is established by some unequivocal and voluntary act, statement, or course of conduct after reaching the age of consent. Ratification includes, but is not limited to, continued cohabitation as husband and wife after the age of consent is attained.~~

(a) The age of consent for marriage for all persons, both male and female, is 18 years of age. A person under the age of 18 lacks the capacity to marry without the consents required by this section.

(b) The clerk of the county commission may issue a marriage license to an applicant who is under the age of 18 but at least 16 years of age if the clerk obtains valid written consent from the applicant and from the applicant's parent or parents or the applicant's legal guardian or guardians as outlined in this section: *Provided*, That a marriage license may not be issued to an applicant who is under the age of 18 but who is at least 16 years of age if the person whom the applicant seeks to marry is more than four years older than the applicant.

(c) An applicant who is under the age of 18 but who is at least 16 years of age must give his or her signed and acknowledged affirmation that he or she is freely and voluntarily choosing to enter into a marriage with the person named in the application as part of the written consent required by this section. The applicant must also provide, as part of the same written consent, a signed and acknowledged affirmation that his or her decision to enter into the marriage is not the product of duress or coercion by any person.

(d) A consent to marry must be duly acknowledged before an officer authorized to acknowledge a deed. If the parents of the applicant are living together at the time the application for a marriage license is made and the consent is given, the signatures of both parents or the signature of the applicant's legal guardian or guardians is required. If one parent is dead, the signature of the surviving parent or the applicant's legal guardian or guardians is required. If both parents are dead, the signature of the applicant's legal guardian or guardians is required. If the parents of the applicant are living separate and apart, the signature of the parent or parents having decision-making authority for the applicant, or the applicant's legal guardian or guardians is required: *Provided*, That, if the applicant's parents are separate and apart or divorced but have substantially equal parenting rights over the applicant, the signature of both parents is required.

(e) A person who is under the age of 18 but at least 16 years of age and who is married in accordance with the provisions of this section may petition, without the consent of his or her parents or legal guardian or guardians, for an annulment of that marriage until he or she reaches 18 years of age.

(f) Nothing in this section may serve to annul or void a marriage entered into prior to the re-enactment of this statute during the 2023 Regular Session of the Legislature, nor shall it serve to annul or void an otherwise legal marriage entered into in a jurisdiction outside of the State of West Virginia.

And,

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

**Com. Sub. for H. B. 3018** – “A Bill to repeal §48-2-103 of the Code of West Virginia, 1931, as amended; and to amend and reenact §48-2-106 and §48-2-301 of the same, all related to the age of consent for marriage; setting the age of consent to marriage at 18; providing an exception allowing individuals younger than 18 but who have reached the age of 16 to marry with both their consent and the written, affirmative consent of their parents or legal guardian; establishing the manner by which a parent or guardian provides affirmative consent; further providing that an individual under the age of 18 cannot consent to a marriage with a person who is more than four years older than that individual; providing that a marriage involving an individual under the age of 18 can be annulled by petition of that individual until he or she reaches age 18; and clarifying that a marriage that was entered into legally prior to the re-enactment of this section, or in another jurisdiction outside of the State of West Virginia, although one or both of the parties was under the age of consent, is not nullified or voided.”

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. 768**), and there were—yeas 83, nays 9, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Dillon, Foggin, A. Hall, Heckert, Hite, Horst, Marple, Ridenour and Vance.

Absent and Not Voting: Bridges, Cooper, Hardy, Mallow, Skaff, Summers, Westfall and Williams.

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. 3018) 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. 3552**, Relating to per diem jail costs.

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

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

**“ARTICLE 3. DIVISION OF CORRECTIONS AND REHABILITATION.**

**§15A-3-16. Funds for operations of jails under the jurisdiction of the commissioner.**

(a) Any special revenue funds previously administered by the Regional Jail and Correctional Facility Authority or its executive director are continued, and shall be administered by the commissioner.

(b) Funds that have been transferred by §15A-3-16(a) of this code shall be limited in use to operations of jail functions, and for payment to the Regional Jail and Correctional Facility Authority Board, for payment of indebtedness. In no case shall a fund be utilized to offset or pay operations of nonjail parts of the facility: *Provided*, That funds may be utilized on a pro rata basis for shared staff and for operational expenses of facilities being used as both prisons and jails.

(c) Whenever the commissioner determines that the balance in these funds is more than the immediate requirements of this article, he or she may request that the excess be invested until needed. Any excess funds so requested shall be invested in a manner consistent with the investment of temporary state funds. Interest earned on any moneys invested pursuant to this section shall be credited to these funds.

(d) These funds consist of the following:

(1) Moneys collected and deposited in the State Treasury which are specifically designated by Acts of the Legislature for inclusion in these funds;

(2) Contributions, grants, and gifts from any source, both public and private, specifically directed to the operations of jails under the control of the commissioner;

(3) All sums paid pursuant to §15A-3-16(g) of this code; and

(4) All interest earned on investments made by the state from moneys deposited in these funds.

(e) The amounts deposited in these funds shall be accounted for and expended in the following manner:

(1) Amounts deposited shall be pledged first to the debt service on any bonded indebtedness;

(2) After any requirements of debt service have been satisfied, the commissioner shall requisition from these funds the amounts that are necessary to provide for payment of the administrative expenses of this article, as limited by this section;

(3) The commissioner shall requisition from these funds, after any requirements of debt service have been satisfied, the amounts that are necessary for the maintenance and operation of jails under his or her control. These funds shall make an accounting of all amounts received from each county by virtue of any filing fees, court costs, or fines required by law to be deposited in these funds and amounts from the jail improvement funds of the various counties;

(4) Notwithstanding any other provisions of this article, sums paid into these funds by each county pursuant to §15A-3-16(g) of this code for each inmate shall be placed in a separate account and shall be requisitioned from these funds to pay for costs incurred; and

(5) Any amounts deposited in these funds from other sources permitted by this article shall be expended based on particular needs to be determined by the commissioner.

(f)(1) After a jail facility becomes available pursuant to this article for the incarceration of inmates, each county within the region shall incarcerate all persons whom the county would have incarcerated in any jail prior to the availability of the jail facility in the jail facility, except those whose incarceration in a local jail facility used as a local holding facility is specified as appropriate under the previously promulgated, and hereby transferred standards and procedures developed by the Jail Facilities Standards Commission, and whom the sheriff or the circuit court elects to incarcerate therein.

(2) Notwithstanding the provisions of §15A-3-16(f)(1) of this code, circuit and magistrate courts are authorized to:

(A) Detain persons who have been arrested or charged with a crime in a county or municipal jail specified as appropriate under the standards and procedures referenced in §15A-3-16(f)(1) of this code, for a period not to exceed 96 hours; or

(B) Commit persons convicted of a crime in a county or municipal jail, specified as appropriate under the standards and procedures referenced in §15A-3-16(f)(1) of this code, for a period not to exceed 14 days.

(g) When inmates are placed in a jail facility under the jurisdiction of the commissioner pursuant to §15A-3-16(f) of this code, the county, and municipality if the incarceration is a municipal violation, shall pay into this fund a cost per day for each incarcerated inmate, to be determined by the state Budget Office annually by examining the most recent three fiscal years of costs submitted by the commissioner for the cost of operating the jail facilities and units under his or her jurisdiction, and taking an average per day, per inmate cost of maintaining the operations of the jail facilities or units: *Provided*, That beginning as set forth in subsection (k) of



~~this section. Beginning July 1, 2018, and continuing through July 1, 2023 June 30, 2023, in no case shall any county or municipality be required to pay a rate that exceeds \$48.25 per day, per inmate. Nothing in this section shall be construed to mean that the per diem cannot be decreased or be less than \$48.25 per day per inmate.~~

(h) The per diem costs for incarcerating inmates may not include the cost of construction, acquisition, or renovation of the regional jail facilities: *Provided*, That each jail facility or unit operating in this state shall keep a record of the date and time that an inmate is incarcerated, and a county may not be charged for a second day of incarceration for an individual inmate until that inmate has remained incarcerated for more than 24 hours. After that, in cases of continuous incarceration, subsequent per diem charges shall be made upon a county only as subsequent intervals of 24 hours pass from the original time of incarceration.

(i) The county is responsible for costs incurred by the division for housing and maintaining inmates in its facilities who are pretrial inmates and convicted misdemeanants. The costs of housing shall be borne by the division on a felony conviction on which an inmate is incarcerated beginning the calendar day following the day of sentencing: *Provided*, That beginning July 1, 2019, the costs of housing shall be borne by the division on a felony conviction when an inmate is incarcerated beginning the calendar day following the day of conviction. In no case shall the county be responsible for any costs of housing and maintaining felony convicted inmate populations.

(j) The county is responsible for the costs incurred by the authority for housing and maintaining an inmate who, prior to a felony conviction on which the inmate is incarcerated and is awaiting transportation to a state correctional facility for a 60-day evaluation period as provided in §62-12-7a of this code.

~~(k) On or before July 1, 2020, the commissioner shall prepare a report on the feasibility of phasing out the county and municipal per diem charges required by §15A-3-16(g) of this code. This report shall include information regarding savings realized because of the consolidation of the former Division of Corrections, Division of Juvenile Services, and the operations of the Regional Jail and Correctional Facility Authority, as well as any other recommendations that might ease the burden of paying the per diem inmate costs by the counties or municipalities. On or before January 1, 2019, January 1, 2020, January 1, 2021, and January 1, 2023 the commissioner shall report to the Joint Committee on Government and Finance and the co-chairmen of the Joint Standing Committee on Finance the actual per diem rate as calculated pursuant to §15A-3-16(g) of this code and any amount not assessed to counties if the actual per diem cost is larger than the amount charged to the counties or municipalities pursuant to §15A-3-16(g) between July 1, 2018, and July 1, 2023.~~

(k) (1) Effective July 1, 2023, the cost per day, per inmate for an incarcerated inmate shall be determined as set forth in this subsection. The base rate per day, per inmate rate shall be set at \$54.48. The State Budget Office shall annually examine the most recent three fiscal years of costs submitted by the commissioner for the cost of operating the jail facilities and units under his or her jurisdiction, and taking an average per day, per inmate cost of maintaining the operations of the jail facilities or units shall adjust the per day, per inmate rate annually. Notice of the adjusted per day, per inmate rate shall be provided to each county commission.

(2) Beginning July 1, 2023, the commissioner shall determine the pro rata share of inmate days per county. This figure shall be calculated by multiplying each counties population as contained in the 2020 United States Census by .52.

(3) (3) Each county shall pay as its annual per diem jail cost:

(A) Eighty percent of the current per diem rate for the first 80 percent of its pro rata share of total billed inmate days;

(B) One hundred percent of the current per diem rate for its inmate days that are greater than 80 percent and up to 100 percent of its pro rata share of total billed inmate days; and

(C) One hundred twenty percent of the current per diem rate for its inmate days that exceed 100 percent of its pro rata share of total billed inmate days.

(4) Beginning July 1, 2031, and every 10 years thereafter the pro rata share of inmate days per county shall be calculated by dividing the number of inmate days from the previous calendar year by the state's population according to the most recent United States Census data and then multiplying that number by each counties population.

(5) The commissioner shall post on the Division of Corrections and Rehabilitations webpage by county:

(i) The pro rata share of inmate days;

(ii) The base number of pro rata days;

(iii) The reduced rate of the per day, per inmate costs;

(iv) The increased per day, per inmate; and

(v) Any other information deemed necessary by the commissioner.

(l) County commissioners may be liable in both their official and individual capacity for the payment of the fees established in this section. County commissioners pursuant to the jurisdiction, powers, and duties placed upon them pursuant to §7-1-1 *et seq.* of this code and Section 11, Article 9 of the West Virginia Constitution are responsible for the fiscal affairs of their county. This includes oversight of all financial transaction including compliance with legal requirements for the operation of a county government. The non-payment of the expenses associated with providing housing and maintaining inmates as required by this section is in direct contradiction of their established statutory and constitutional duties as the fiscal officers of a county. This violation of the clearly established statutory and constitutional duty to manage all fiscal matters of a county abrogates any qualified immunity county commissioners may have as a government official: *Provided*, That if a county commission has entered into a payment agreement to pay the amount of arrears for the housing and maintenance of inmates and continues to remain current in the payment of the arrears as set forth in the agreement, that shall stay any personal liability of a county commissioner as set forth in this subsection.

(m) In cases in which the incarcerated inmate was placed in a jail facility by the municipal police of a Class I or Class II municipal corporation as defined in §8-1-3 of this code, or of a Class III municipal corporation as defined in §8-1-3 of this code but with a population in excess of 4,000 according to the most recent census taken under the authority of the United States, and the incarceration is not a municipal violation, the county commission responsible for paying the cost per day pursuant to this subsection may seek reimbursement from the municipal corporation of

actual expenditures for one day of per diem costs borne by the county commission by memorandum of understanding.”

And,

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

**H. B. 3552** - “A Bill to amend and reenact §15A-3-16 of the Code of West Virginia, 1931, as amended, relating to per diem jail costs; providing authority for counties to seek reimbursement from certain municipalities for certain per diem costs; providing for the payment of housing and maintenance of inmates; setting a per day, per inmate base rate for payments; establishing a means of calculating fees; providing for a reduced rate in certain circumstances; providing for an enhanced rate in certain circumstances; providing for recalculation every decennial; requiring publication on the agency webpage; establishing an effective date; providing for official and personal liability for payment; and providing for an exception to personal liability.

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

On page 6, section 16, line 124 through 137, by striking subsection (I) in its entirety and renumbering the remainder of the section accordingly.

And,

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

**H. B. 3552** – “A Bill to amend and reenact §15A-3-16 of the Code of West Virginia, 1931, as amended, relating to per diem jail costs; providing authority for counties to seek reimbursement from certain municipalities for certain per diem costs; providing for the payment of housing and maintenance of inmates; setting a per day, per inmate base rate for payments; establishing a means of calculating fees; providing for a reduced rate in certain circumstances; providing for an enhanced rate in certain circumstances; providing for recalculation every decennial; requiring publication on the agency webpage; and establishing an effective date.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 769**), and there were—yeas 89, nays 4, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Gearheart, Hanna, Keaton and Tully.

Absent and Not Voting: Cooper, Hardy, Mallow, Skaff, Summers, Westfall and Williams.

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker declared the bill (H. B. 3552) passed.

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

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

**Com. Sub. for H. B. 3332**, Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected in the 2024 election.

Delegate Kelly moved the House concur in the following amendment by the Senate, with further amendment:

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

### **“CHAPTER 3. ELECTIONS.**

#### **ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.**

##### **§3-1-17. Election of circuit judges; county and district officers; magistrates.**

(a) There shall be elected, at the time of the primary election to be held in 2016, and every eighth year thereafter, one judge of the circuit court of every judicial circuit entitled to one judge, and one judge for each numbered division of the judicial circuit in those judicial circuits entitled to two or more circuit judges; and at the time of the primary election to be held in 2016, and in every fourth year thereafter, the number of magistrates prescribed by law for the county. Beginning with the election held in the year 2016, an election for the purpose of electing judges of the circuit court, or an election for the purpose of electing magistrates, shall be upon a nonpartisan ballot printed for the purpose.

(b) There shall be elected, at the general election to be held in 1992, and every fourth year thereafter, a sheriff, prosecuting attorney, surveyor of lands, and the number of assessors prescribed by law for the county; and at the general election to be held in 1990, and every second year thereafter, a commissioner of the county commission for each county; and at the general election to be held in 1992, and every sixth year thereafter, a clerk of the county commission and a clerk of the circuit court for each county.

(c) Effective with the primary election of 2016, all elections for judge of the circuit courts in the respective circuits and magistrates in each county will be elected on a nonpartisan basis and by division as set forth more fully in article five of this chapter.

(d) Beginning with the judicial election in 2024, and in every judicial election thereafter, if no candidate in a division for judge of a circuit court receives more than 30 percent of the votes cast in the election, there shall be a runoff election at the subsequent general election between the two candidates who received the highest and next-highest number of votes cast in that division.

### **CHAPTER 50. MAGISTRATE COURTS.**

#### **ARTICLE 1. COURTS AND OFFICERS.**

##### **§50-1-2. Number of magistrates.**

(a) The number of magistrates to be elected in each county of this state shall be determined in accordance with the provisions of this section.

(b) Beginning on the effective date of this subsection and until December 31, 2024, the number of magistrates in each county of the state shall be as follows:

- (1) Barbour County shall have two magistrates;
- (2) Berkeley County shall have six magistrates;
- (3) Boone County shall have two magistrates;
- (4) Braxton County shall have two magistrates;
- (5) Brooke County shall have two magistrates;
- (6) Cabell County shall have seven magistrates;
- (7) Calhoun County shall have two magistrates;
- (8) Clay County shall have two magistrates;
- (9) Doddridge County shall have two magistrates;
- (10) Fayette County shall have four magistrates;
- (11) Gilmer County shall have two magistrates;
- (12) Grant County shall have two magistrates;
- (13) Greenbrier County shall have three magistrates;
- (14) Hampshire County shall have two magistrates;
- (15) Hancock County shall have three magistrates;
- (16) Hardy County shall have two magistrates;
- (17) Harrison County shall have five magistrates;
- (18) Jackson County shall have two magistrates;
- (19) Jefferson County shall have three magistrates;
- (20) Kanawha County shall have 10 magistrates;
- (21) Lewis County shall have two magistrates;
- (22) Lincoln County shall have two magistrates;
- (23) Logan County shall have three magistrates;

(24) Marion County shall have four magistrates;

(25) Marshall County shall have three magistrates;

(26) Mason County shall have two magistrates;

(27) McDowell County shall have three magistrates;

(28) Mercer County shall have five magistrates;

(29) Mineral County shall have two magistrates;

(30) Mingo County shall have three magistrates;

(31) Monongalia County shall have four magistrates: *Provided*, That effective July 1, 2023, Monongalia County shall have five magistrates, and the initial appointment for the additional magistrate shall be made in accordance with the provisions of §50-1-6 of this code;

(32) Monroe County shall have two magistrates;

(33) Morgan County shall have two magistrates;

(34) Nicholas County shall have three magistrates;

(35) Ohio County shall have four magistrates;

(36) Pendleton County shall have two magistrates;

(37) Pleasants County shall have two magistrates;

(38) Pocahontas County shall have two magistrates;

(39) Preston County shall have three magistrates;

(40) Putnam County shall have three magistrates;

(41) Raleigh County shall have five magistrates;

(42) Randolph County shall have three magistrates;

(43) Ritchie County shall have two magistrates;

(44) Roane County shall have two magistrates;

(45) Summers County shall have two magistrates;

(46) Taylor County shall have two magistrates;

(47) Tucker County shall have two magistrates;

(48) Tyler County shall have two magistrates;

(49) Upshur County shall have two magistrates;

(50) Wayne County shall have three magistrates;

(51) Webster County shall have two magistrates;

(52) Wetzel County shall have two magistrates;

(53) Wirt County shall have two magistrates;

(54) Wood County shall have four magistrates; and

(55) Wyoming County shall have three magistrates.

(c) Beginning on January 1, 2025, the number of magistrates in each county of the state shall be as follows:

(1) Barbour County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(2) Berkeley County shall have seven magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(3) Boone County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(4) Braxton County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(5) Brooke County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(6) Cabell County shall have seven magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(7) Calhoun County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(8) Clay County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(9) Doddridge County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(10) Fayette County shall have four magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(11) Gilmer County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(12) Grant County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(13) Greenbrier County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(14) Hampshire County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(15) Hancock County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(16) Hardy County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(17) Harrison County shall have five magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(18) Jackson County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(19) Jefferson County shall have four magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(20) Kanawha County shall have 13 magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(21) Lewis County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(22) Lincoln County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(23) Logan County shall have four magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(24) Marion County shall have four magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(25) Marshall County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(26) Mason County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(27) McDowell County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(28) Mercer County shall have five magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(29) Mineral County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;



(30) Mingo County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(31) Monongalia County shall have six magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(32) Monroe County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(33) Morgan County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(34) Nicholas County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(35) Ohio County shall have four magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(36) Pendleton County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(37) Pleasants County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(38) Pocahontas County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(39) Preston County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(40) Putnam County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(41) Raleigh County shall have six magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(42) Randolph County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(43) Ritchie County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(44) Roane County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(45) Summers County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(46) Taylor County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(47) Tucker County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(48) Tyler County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(49) Upshur County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(50) Wayne County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(51) Webster County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(52) Wetzel County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(53) Wirt County shall have two magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter;

(54) Wood County shall have five magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter; and

(55) Wyoming County shall have three magistrates, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every fourth year thereafter.

~~(b) (d)~~ In the year ~~2026~~, the Supreme Court of Appeals shall conduct or otherwise arrange for a caseload study of the magistrate courts of this state for the purpose of determining how many magistrates are needed in each county. Based upon the results of this study and upon consideration of county population data from the most recent decennial census, the Supreme Court of Appeals shall enter an administrative order on or before January 5, ~~2023~~ 2027, containing the Supreme Court of Appeal's recommendations as to the number of magistrates who are needed in each of the state's 55 counties for the four-year terms of office to be filled by election in the year ~~2024~~ 2028. ~~The administrative order shall allocate no more than 170 magistrates for the entire State of West Virginia, nor shall the allocation reduce the number of magistrates in any county below that in effect on the effective date of the amendments to this section enacted during the 2022 regular session of the Legislature~~ Attested copies of the administrative order shall be provided to the President of the West Virginia Senate, the Clerk of the Senate, the Clerk and the Speaker of the West Virginia House of Delegates, and the West Virginia Secretary of State.

~~(e) (e)~~ The West Virginia Legislature may ~~in the regular session of the Legislature, 2023~~ reject the allocation of magistrates recommended by the Supreme Court of Appeals in its administrative order entered for the judicial elections to be held in ~~2028~~, and allocate magistrates for the four-year terms commencing in January of ~~2025~~ 2029, and serving through December of ~~2028~~ 2032, as the Legislature may choose by enactment of a bill containing such an allocation.

~~(d) (f)~~ If the Legislature does not enact a different allocation of the magistrates to be elected in ~~2024~~ 2028, pursuant to subsection ~~(e) (e)~~ of this section, then the administrative order of the Supreme Court of Appeals required by subsection ~~(b) (d)~~ of this section shall become the certification to the ballot commissioners of each county in this state of the number of magistrates

to be elected in each county of this state at the judicial elections to be held concurrently with the primary election in 2024.

~~(e)~~ (g) The process set forth in this section shall be repeated every four years in the first and second years immediately preceding the quadrennial election of magistrates.

**§50-1-8. Magistrate court clerks; salaries; duties; duties of circuit clerk.**

(a) In each county having three or more magistrates, the judge of the circuit court or the chief judge of the circuit court, if there is more than one judge of the circuit court, shall appoint a magistrate court clerk. In all other counties the judge may appoint a magistrate court clerk or may, by rule, require the duties of the magistrate court clerk to be performed by the clerk of the circuit court, in which event the circuit court clerk is entitled to additional compensation in the amount of \$2,500 per year. The magistrate court clerk serves at the will and pleasure of the circuit judge.

~~(b) Magistrate court clerks shall be paid at least twice per month by the state. Magistrate court clerks serving magistrates who serve less than seven thousand three hundred in population shall be paid up to \$39,552 per year and magistrate court clerks serving magistrates who serve seven thousand three hundred or more in population shall be paid up to \$44,712 per year. *Provided*, That after the effective date of this section, any general salary increase granted to all state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate court clerks. For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the population of each county. The salary of the magistrate court clerk shall be established by the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court, within the limits set forth in this section. The annual salary of all magistrate court clerks is \$52,296. Beginning July 1, 2023, the annual salary of a magistrate court clerk shall be \$54,596. Magistrate court clerks may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, implemented after July 1, 2023.~~

(c) In addition to other duties that may be imposed by the provisions of this chapter or by the rules of the Supreme Court of Appeals or the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court, it is the duty of the magistrate court clerk to establish and maintain appropriate dockets and records in a centralized system for the magistrate court, to assist in the preparation of the reports required of the court and to carry out on behalf of the magistrates or chief magistrate if a chief magistrate is appointed, the administrative duties of the court.

(d) The magistrate court clerk, or if there is no magistrate court clerk in the county, the clerk of the circuit court, may issue all manner of civil process and require the enforcement of subpoenas and subpoenas duces tecum in magistrate court.

~~(e) Notwithstanding any provision of this code to the contrary, the amendments made to this section during the 2013 first extraordinary session are effective upon passage and are retroactive to January 1, 2013.~~

~~(f) Beginning January 1, 2017, the annual salary of all magistrate court clerks is \$44,720. After the effective date of this section, a general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate court clerks~~

**§50-1-9. Magistrate assistants; salary; duties.**

(a) In each county there shall be at least one magistrate assistant for each magistrate; however, the Supreme Court of Appeals may authorize additional magistrate assistants if the workload of a county's magistrate court requires extra staff support. Each magistrate assistant shall be appointed by the magistrate under whose authority and supervision and at whose will and pleasure he or she shall serve. If more than one magistrate assistant per magistrate is approved by the Supreme Court of Appeals, then the chief magistrate, or chief circuit judge if no chief magistrate is designated, shall appoint, supervise, and assign job duties for any additional magistrate assistant as needed for that county. The assistant shall not be a member of the immediate family of any magistrate and shall not have been convicted of a felony or any misdemeanor involving moral turpitude and shall reside in the State of West Virginia. For the purpose of this section, "immediate family" means the relationships of mother, father, sister, brother, child, or spouse.

(b) A magistrate assistant shall have the duties, clerical or otherwise, assigned by the magistrate and prescribed by the rules of the Supreme Court of Appeals or the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court. In addition to these duties, magistrate assistants shall perform and are accountable to the magistrate court clerks with respect to the following duties:

- (1) The preparation of summons in civil actions;
- (2) The assignment of civil actions to the various magistrates;
- (3) The collection of all costs, fees, fines, forfeitures, and penalties which are payable to the court;
- (4) The submission of moneys, along with an accounting of the moneys, to appropriate authorities as provided by law;
- (5) The daily disposition of closed files which are to be located in the magistrate clerk's office;
- (6) All duties related to the gathering of information and documents necessary for the preparation of administrative reports and documents required by the rules of the Supreme Court of Appeals, or the judge of the circuit court or the chief judge of the circuit court if there is more than one judge of the circuit court;
- (7) All duties relating to the notification, certification, and payment of jurors serving pursuant to the terms of this chapter; and
- (8) All other duties or responsibilities whereby the magistrate assistant is accountable to the magistrate court clerk as determined by the magistrate.

(c) Magistrate assistants shall be paid at least twice per month by the state. The annual salary of all magistrate assistants is \$46,932. Beginning July 1, 2023, the annual salary of a magistrate assistant shall be \$49,232. Magistrate assistants may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase enacted after July 1, 2023. ~~Magistrate assistants serving magistrates who serve less than seven thousand three hundred in population shall be paid up to \$36,048 per year and magistrate assistants serving magistrates who serve seven thousand three~~

~~hundred or more in population shall be paid up to \$39,348 per year: *Provided*, That after the effective date of this section, any general salary increase granted to all state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate assistants. For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the population of each county. The salary of the magistrate assistant shall be established by the magistrate within the limits set forth in this section.~~

~~(d) Notwithstanding any provision of this code to the contrary, the amendments made to this section during the 2013 first extraordinary session are effective upon passage and are retroactive to January 1, 2013.~~

~~(e) Beginning January 1, 2017, the annual salary of all magistrate assistants is \$39,348. After the effective date of this section, a general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate assistants~~

#### **§50-1-9a. Magistrate court deputy clerks; duties; salary.**

(a) Whenever required by workload and upon the recommendation of the judge of the circuit court, or the chief judge of the circuit court if there is more than one judge of the circuit court, the Supreme Court of Appeals may ~~by rule~~ provide by rule for the appointment of magistrate court deputy clerks. ~~not to exceed seventy two in number~~ The magistrate court deputy clerks shall be appointed by the judge of the circuit court, or the chief judge ~~of the circuit court~~ if there is more than one judge of the circuit court, to serve at his or her will and pleasure under the immediate supervision of the magistrate court clerk.

(b) Magistrate court deputy clerks shall have the duties, clerical or otherwise, as may be assigned by the magistrate court clerk and as may be prescribed by the rules of the Supreme Court of Appeals, ~~or~~ the judge of the circuit court, or the chief judge of the circuit court, if there is more than one judge of the circuit court. Magistrate court deputy clerks may also exercise the power and perform the duties of the magistrate court clerk as may be delegated or assigned by the magistrate court clerk.

(c) A magistrate court deputy clerk may not be an immediate family member of any magistrate, magistrate court clerk, magistrate assistant, or judge of the circuit court within the same county; may not have been convicted of a felony or any misdemeanor involving moral turpitude; and must reside in this state. For purposes of this subsection, "immediate family member" means a mother, father, sister, brother, child, or spouse.

~~(d) Magistrate court deputy clerks shall be paid an annual salary by the state on the same basis and in the same amounts established for magistrate assistants in each county, as provided in section nine of this article~~ Magistrate court deputy clerks shall be paid at least twice per month by the state. The annual salary of all magistrate court deputy clerks is \$46,932. Beginning July 1, 2023, the annual salary of a magistrate court deputy clerk shall be \$49,232. Magistrate court deputy clerks may receive any general salary increase granted to state employees whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase implemented after July 1, 2023.

~~(e) Notwithstanding any provision of this code to the contrary, the amendments made to section nine of this article during the 2013 First Extraordinary Session, and the effects of those~~

~~amendments on subsection (d) of this section, are effective upon passage and are retroactive to January 1, 2013.~~

~~(f) Beginning January 1, 2017, the annual salary of all magistrate court deputy clerks is \$39,348. After the effective date of this section, a general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase, may also be granted to magistrate court deputy clerks~~

**§50-1-9c. Additional magistrate court support staff; duties; salary.**

The Supreme Court of Appeals is authorized to create additional classifications of support staff that it deems necessary to adequately and efficiently staff the magistrate courts of this state, including, but not limited to cashiers, data entry clerks, and deputy magistrate assistants. The Supreme Court of Appeals may determine the authority to hire and terminate, supervise, and assign job duties for these positions pursuant to its own employment rules, policies, and procedures. The annual salary of additional support staff authorized by this section shall not exceed the regular annual salary of a magistrate assistant and shall be paid by the state on the same basis and in the same amounts established for magistrate assistants in each county, as provided in §50-1-9 of this code.

**CHAPTER 51. COURTS AND THEIR OFFICERS.**

**ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.**

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

(a) Beginning on the effective date of this subsection and until December 31, 2024, the state shall be divided into the following judicial circuits with the following number of judges:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Effective January 1, 2025, the state shall be divided into the following judicial circuits with the following number of judges who shall be elected by the voters of the entire circuit, but in separate divisions, as required by §3-5-6b of this code.

(1) The counties of Brooke, Hancock, and Ohio shall constitute the first circuit and shall have four judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(2) The counties of Marshall, Tyler, and Wetzel shall constitute the second circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(3) The counties of Doddridge, Pleasants, Ritchie, and Wirt shall constitute the third circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter: *Provided*, That no more than one judge shall be a resident of any county comprising the third circuit; *Provided, however*, That if the highest vote recipients in both divisions are also both residents of the same county, then the candidate with the highest overall number of votes shall be declared the winner of the division in which he or she ran; *Provided, further*, That the candidate who has the highest number of votes in the other division who is not a resident of the same county as the highest overall vote recipient shall be declared the winner of the division in which he or she ran;

(4) The county of Wood shall constitute the fourth circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(5) The counties of Calhoun, Jackson, Mason, and Roane shall constitute the fifth circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter; *Provided*, That Division 1 in the fifth circuit shall be for a judge who resides in Jackson County at the time of his or her filing and for the duration of his or her service, Division 2 in the fifth circuit shall be for a judge who resides in Mason County at the time of his or her filing and for the duration of his or her service, and Division 3 in the fifth circuit shall be for a judge who resides in either Calhoun County or Roane County at the time of his or her filing and for the duration of his or her service;



(6) The county of Cabell shall constitute the sixth circuit and shall have four judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(7) The county of Putnam shall constitute the seventh circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(8) The county of Kanawha shall constitute the eighth circuit and shall have eight judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(9) The counties of Boone and Lincoln shall constitute the ninth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(10) The county of Wayne shall constitute the tenth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(11) The counties of Logan and Mingo shall constitute the eleventh circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter; *Provided*, That Division 1 in the eleventh circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Mingo County, Division 2 in the eleventh circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Logan County, and Division 3 in the eleventh circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Logan County;

(12) The counties of McDowell and Wyoming shall constitute the twelfth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter; *Provided*, That Division 1 in the twelfth circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in McDowell County, and Division 2 in the twelfth circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Wyoming County;

(13) The county of Mercer shall constitute the thirteenth circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(14) The county of Raleigh shall constitute the fourteenth circuit and shall have four judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(15) The county of Fayette shall constitute the fifteenth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(16) The county of Nicholas shall constitute the sixteenth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(17) The counties of Braxton, Clay, Gilmer, and Webster shall constitute the seventeenth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter: *Provided*, That no more than one judge shall be a resident of any county comprising the seventeenth circuit; *Provided, however*, That if the highest vote recipients in both divisions are also both residents of the same county, then the candidate with the highest overall number of votes shall be declared the winner of the division in which he or she ran; *Provided, further*, That the candidate who has the highest number of votes in the other division who is not a resident of the same county as the highest overall vote recipient shall be declared the winner of the division in which he or she ran;

(18) The counties of Lewis and Upshur shall constitute the eighteenth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter; *Provided*, That Division 1 in the eighteenth circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Upshur County, and Division 2 in the eighteenth circuit shall be for a judge who will reside at the time of his or her filing and during his or her service in Lewis County;

(19) The county of Harrison shall constitute the nineteenth circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(20) The county of Marion shall constitute the twentieth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(21) The county of Monongalia shall constitute the twenty-first circuit and shall have three judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(22) The counties of Preston and Tucker shall constitute the twenty-second circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(23) The counties of Barbour and Taylor shall constitute the twenty-third circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(24) The county of Randolph shall constitute the twenty-fourth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(25) The counties of Grant and Mineral shall constitute the twenty-fifth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(26) The counties of Hampshire, Hardy, and Pendleton shall constitute the twenty-sixth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(27) The counties of Berkley and Morgan shall constitute the twenty-seventh circuit and shall have five judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(28) The county of Jefferson shall constitute the twenty-eighth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(29) The counties of Greenbrier and Pocahontas shall constitute the twenty-ninth circuit and shall have two judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter; and

(30) The counties of Monroe and Summers shall constitute the thirtieth circuit and shall have one judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter.

~~(b)~~ (c) The Kanawha Raleigh County circuit court shall be a court of concurrent jurisdiction with each the remaining single-judge circuit where the sitting judge in the single-judge circuit is unavailable by reason of sickness, vacation, or other reason.

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

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

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

~~(f) Judges serving a judicial circuit comprised of four or more counties with two or more judges shall not be residents of the same county.~~

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

## **ARTICLE 2A. FAMILY COURTS.**

### **§51-2A-3. Number of family court judges; assignment of family court judges by family court circuits.**

~~(a) Beginning on January 1, 2009, forty-five family court judges shall serve throughout the state, allocated among a total of twenty-seven family court circuits as follows:~~

~~(1) The counties of Brooke, Hancock and Ohio shall constitute the first family court circuit and have two family court judges;~~

~~(2) The counties of Marshall, Wetzel and Tyler shall constitute the second family court circuit and have one family court judge;~~

~~(3) The counties of Pleasants and Wood shall constitute the third family court circuit and have two family court judges;~~

~~(4) The counties of Roane, Calhoun, Gilmer and Ritchie shall constitute the fourth family court circuit and have one family court judge;~~

~~(5) The counties of Mason, Jackson and Wirt shall constitute the fifth family court circuit and have two family court judges;~~

~~(6) The county of Cabell shall constitute the sixth family court circuit and have two family court judges;~~

~~(7) The county of Wayne shall constitute the seventh family court circuit and have one family court judge;~~

~~(8) The county of Mingo shall constitute the eighth family court circuit and have one family court judge;~~

~~(9) The county of Logan shall constitute the ninth family court circuit and have two family court judges;~~

~~(10) The counties of Lincoln and Boone shall constitute the tenth family court circuit and have two family court judges;~~

~~(11) The county of Kanawha shall constitute the eleventh family court circuit and have five family court judges;~~

~~(12) The counties of McDowell and Mercer shall constitute the twelfth family court circuit and have three family court judges;~~

~~(13) The counties of Raleigh, Summers and Wyoming shall constitute the thirteenth family court circuit and have three family court judges;~~

~~(14) The county of Fayette shall constitute the fourteenth family court circuit and have one family court judge;~~

~~(15) The counties of Greenbrier and Monroe shall constitute the fifteenth family court circuit and have one family court judge;~~

~~(16) The counties of Clay and Nicholas shall constitute the sixteenth family court circuit and have one family court judge;~~

~~(17) The counties of Braxton, Lewis and Upshur shall constitute the seventeenth family court circuit and have one family court judge;~~

~~(18) The counties of Harrison and Doddridge shall constitute the eighteenth family court circuit and have two family court judges;~~

~~(19) The county of Marion shall constitute the nineteenth family court circuit and have one family court judge;~~

~~(20) The counties of Monongalia and Preston shall constitute the twentieth family court circuit and have two family court judges;~~

~~(21) The counties of Barbour and Taylor shall constitute the twenty first family court circuit and have one family court judge;~~

~~(22) The counties of Tucker and Randolph shall constitute the twenty second family court circuit and have one family court judge;~~

~~(23) The counties of Mineral, Hampshire and Morgan shall constitute the twenty third family court circuit and have one family court judge;~~

~~(24) The counties of Berkeley and Jefferson shall constitute the twenty fourth family court circuit and have three family court judges;~~

~~(25) The counties of Hardy, Pendleton and Grant shall constitute the twenty fifth family court circuit and have one family court judge;~~

~~(26) The county of Putnam shall constitute the twenty sixth family court circuit and have one family court judge; and~~

~~(27) The counties of Webster and Pocahontas shall constitute the twenty seventh family court circuit and have one family court judge.~~

~~(b) (a) Beginning on January 1, 2017 Beginning on the effective date of this subsection and until December 31, 2024, 47 family court judges shall serve throughout the state, allocated among a total of 27 family court circuits as follows:~~

~~(1) The counties of Brooke, Hancock, and Ohio shall constitute the first family court circuit and have two family court judges;~~

~~(2) The counties of Marshall, Wetzel, and Tyler shall constitute the second family court circuit and have one family court judge;~~

~~(3) The counties of Pleasants and Wood shall constitute the third family court circuit and have two family court judges;~~

~~(4) The counties of Roane, Calhoun, Gilmer, and Ritchie shall constitute the fourth family court circuit and have one family court judge;~~

~~(5) The counties of Mason, Jackson, and Wirt shall constitute the fifth family court circuit and have two family court judges;~~

~~(6) The county of Cabell shall constitute the sixth family court circuit and have three family court judges;~~

(7) The county of Wayne shall constitute the seventh family court circuit and have one family court judge;

(8) The county of Mingo shall constitute the eighth family court circuit and have one family court judge;

(9) The county of Logan shall constitute the ninth family court circuit and have two family court judges;

(10) The counties of Lincoln and Boone shall constitute the tenth family court circuit and have two family court judges;

(11) The county of Kanawha shall constitute the eleventh family court circuit and have five family court judges;

(12) The counties of McDowell and Mercer shall constitute the twelfth family court circuit and have three family court judges;

(13) The counties of Raleigh, Summers, and Wyoming shall constitute the thirteenth family court circuit and have three family court judges;

(14) The county of Fayette shall constitute the fourteenth family court circuit and have one family court judge;

(15) The counties of Greenbrier and Monroe shall constitute the fifteenth family court circuit and have one family court judge;

(16) The counties of Clay and Nicholas shall constitute the sixteenth family court circuit and have one family court judge;

(17) The counties of Braxton, Lewis, and Upshur shall constitute the seventeenth family court circuit and have one family court judge;

(18) The counties of Harrison and Doddridge shall constitute the eighteenth family court circuit and have two family court judges;

(19) The county of Marion shall constitute the nineteenth family court circuit and have one family court judge;

(20) The counties of Monongalia and Preston shall constitute the twentieth family court circuit and have two family court judges;

(21) The counties of Barbour and Taylor shall constitute the twenty-first family court circuit and have one family court judge;

(22) The counties of Tucker and Randolph shall constitute the twenty-second family court circuit and have one family court judge;

(23) The counties of Mineral, Hampshire and Morgan shall constitute the twenty-third family court circuit and have two family court judges;

(24) The counties of Berkeley and Jefferson shall constitute the twenty-fourth family court circuit and have three family court judges;

(25) The counties of Hardy, Pendleton, and Grant shall constitute the twenty-fifth family court circuit and have one family court judge;

(26) The county of Putnam shall constitute the twenty-sixth family court circuit and have one family court judge; and

(27) The counties of Webster and Pocahontas shall constitute the twenty-seventh family court circuit and have one family court judge.

(b) Effective January 1, 2025, 48 family court judges shall serve throughout the state, allocated among a total of 27 family court circuits as follows:

(1) The counties of Brooke, Hancock, and Ohio shall constitute the first family court circuit and have two family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(2) The counties of Marshall, Wetzel, and Tyler shall constitute the second family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(3) The counties of Pleasants and Wood shall constitute the third family court circuit and have two family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(4) The counties of Roane, Calhoun, Gilmer, and Ritchie shall constitute the fourth family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(5) The counties of Mason, Jackson, and Wirt shall constitute the fifth family court circuit and have two family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(6) The county of Cabell shall constitute the sixth family court circuit and have three family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(7) The county of Wayne shall constitute the seventh family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(8) The county of Mingo shall constitute the eighth family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(9) The county of Logan shall constitute the ninth family court circuit and have two family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(10) The counties of Lincoln and Boone shall constitute the tenth family court circuit and have two family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(11) The county of Kanawha shall constitute the eleventh family court circuit and have five family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(12) The counties of McDowell and Mercer shall constitute the twelfth family court circuit and have three family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(13) The counties of Raleigh, Summers, and Wyoming shall constitute the thirteenth family court circuit and have three family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(14) The county of Fayette shall constitute the fourteenth family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(15) The counties of Greenbrier and Monroe shall constitute the fifteenth family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(16) The counties of Clay and Nicholas shall constitute the sixteenth family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(17) The counties of Lewis and Upshur shall constitute the seventeenth family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(18) The counties of Harrison and Doddridge shall constitute the eighteenth family court circuit and have two family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(19) The county of Marion shall constitute the nineteenth family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(20) The counties of Monongalia and Preston shall constitute the twentieth family court circuit and have two family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(21) The counties of Barbour and Taylor shall constitute the twenty-first family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(22) The counties of Tucker and Randolph shall constitute the twenty-second family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;



(23) The counties of Mineral, Hampshire, and Morgan shall constitute the twenty-third family court circuit and have two family court judges, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(24) The counties of Berkeley and Jefferson shall constitute the twenty-fourth family court circuit and have four family court judges with the additional family court judge to be elected at the regularly scheduled election held in 2024, and every eighth year thereafter;

(25) The counties of Hardy, Pendleton, and Grant shall constitute the twenty-fifth family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter;

(26) The county of Putnam shall constitute the twenty-sixth family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter; and

(27) The counties of Webster, Braxton, and Pocahontas shall constitute the twenty-seventh family court circuit and have one family court judge, who shall be elected at the regularly scheduled election(s) to be held in the year 2024, and every eighth year thereafter.

(c) Family court judges taking office January 1, ~~2017~~ 2025, shall be elected at the regularly scheduled election(s) occurring in the year ~~2016~~ 2024, and shall serve for a term of eight years.

(d) The Legislature has the authority and may determine to realign the family court circuits and has the authority and may determine to increase or decrease the number of family court judges within a family court circuit, from time to time. Any person appointed or elected to the office of family court judge acknowledges the authority of the Legislature to realign family court circuits and the authority of the Legislature to increase or decrease the number of family court judges within a family court circuit.

#### **§51-2A-6. Compensation and expenses of family court judges and their staffs.**

(a) A family court judge is entitled to receive as compensation for his or her services an annual salary of \$62,500: *Provided*, That beginning July 1, 2005, a family court judge is entitled to receive as compensation for his or her services an annual salary of \$82,500: *Provided, however*, That beginning July 1, 2011, the annual salary of a family court judge shall be \$94,500: *Provided further*, That beginning July 1, 2020, the annual salary of a family court judge shall be \$103,950.

(b) The secretary-clerk of the family court judge is appointed by the family court judge and serves at his or her will and pleasure. The secretary-clerk of the family court judge is entitled to receive an annual salary of \$27,036: *Provided*, That on and after July 1, 2006, the annual salary of the secretary-clerk shall be established by the Administrative Director of the Supreme Court of Appeals, but may not exceed \$39,000. In addition, any person employed as a secretary-clerk to a family court judge on the effective date of the enactment of this section during the sixth extraordinary session of the Legislature in the year 2001 who is receiving an additional \$500 per year up to 10 years of a certain period of prior employment under the provisions of the prior enactment of §51-2A-8 of this code during the second extraordinary session of the Legislature in the year 1999 shall continue to receive such additional amount. Further, the secretary-clerk will receive such percentage or proportional salary increases as may be provided by general law for other public employees and is entitled to receive the annual incremental salary increase as provided in §5-5-1 *et seq.* of this code The secretary-clerk of the family court shall be paid at least

twice per month by the state. The annual salary of all secretary-clerks of the family court is \$42,576. Beginning July 1, 2023, the annual salary of a family court secretary-clerk shall be \$44,876. Family court secretary-clerks may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase enacted after July 1, 2023.

(c) The family court judge may employ not more than one family case coordinator who serves at his or her will and pleasure: *Provided*, That the Supreme Court of Appeals may authorize additional family case coordinators if the workload of a circuit's family court requires extra staff support. The annual salary of the family case coordinator of the family court judge shall be established by the Administrative Director of the Supreme Court of Appeals but may not exceed \$36,000 \$54,576. *Provided*, That on and after July 1, 2006, the annual salary of the family case coordinator of the family court judge may not exceed \$51,000. The family case coordinator will receive such percentage or proportional salary increases as may be provided by general law for other public employees and is entitled to receive the annual incremental salary increase as provided in §5-5-1 *et seq.* of this code Beginning July 1, 2023, the annual salary of a family court case coordinator shall not exceed \$56,876. Family court case coordinators may receive any general salary increase granted to state employees, whose salaries are not set by statute, expressed as a percentage increase or an across-the-board increase enacted after July 1, 2023. If more than one family case coordinator is approved by the Supreme Court of Appeals, then the chief family court judge of that circuit shall appoint, supervise, and assign job duties for any additional family case coordinator as needed for that circuit.

(d) The sheriff or his or her designated deputy shall serve as a bailiff for a family court judge. The sheriff of each county shall serve or designate persons to serve so as to assure that a bailiff is available when a family court judge determines the same is necessary for the orderly and efficient conduct of the business of the family court.

(e) Disbursement of salaries for family court judges and members of their staffs are made by or pursuant to the order of the Director of the Administrative Office of the Supreme Court of Appeals.

(f) Family court judges and members of their staffs staff are allowed their actual and necessary expenses incurred in the performance of their duties. The expenses and compensation will be determined and paid by the Director of the Administrative Office of the Supreme Court of Appeals under such guidelines as he or she may prescribe, as approved by the Supreme Court of Appeals.

(g) Notwithstanding any other provision of law, family court judges are not eligible to participate in the retirement system for judges under the provisions of §51-9-1 *et seq.* of this code

(g) The Supreme Court of Appeals is authorized to create additional classifications of support staff that it deems necessary to adequately and efficiently staff the family courts of this state, including, but not limited to, receptionists, assistant case coordinators, and assistant secretary-clerks. The Supreme Court of Appeals may determine the authority to hire and terminate, supervise, and assign job duties for these positions pursuant to its own employment rules, policies, and procedures. The annual salary of additional support staff authorized by this section shall not exceed the regular annual salary of a secretary-clerk and shall be paid by the state on the same basis established for secretary-clerks as provided in this section."

And,

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

**Com. Sub. for H. B. 3332** – “A Bill to amend and reenact §3-1-16 of the Code of West Virginia, 1931, as amended; to amend and reenact §50-1-2, §50-1-8, §50-1-9, and §50-1-9a of said code; to amend said code by adding thereto a new section, designated §50-1-9c; to amend and reenact §51-2-1 of said code; and to amend and reenact §51-2A-3 and §51-2A-6 of said code; all relating generally to judicial officers and judicial staff; establishing runoff elections for circuit court judges in certain circumstances; establishing the number of magistrates per county before and after a date certain; establishing magisterial term length and election dates; setting forth process for Supreme Court of Appeals to undertake magistrate caseload study and submit administrative order regarding magistrate allocation; eliminating limit on maximum number of magistrates; eliminating restriction against reducing number of magistrates; removing payment of magistrates salaries based on population; establishing certain magistrate staff salaries and payment periods; authorizing additional magistrate assistants per magistrate based on workload, subject to certain restrictions; altering the county composition of certain circuit court circuits; establishing the number of circuit court judges per circuit before and after a date certain; providing for concurrent jurisdiction in single judge circuit; altering the county composition of certain family court circuits; establishing the number of family court judges per family court circuit before and after a date certain; establishing salaries of family court judges; establishing certain family court staff salaries and payment periods; permitting Supreme Court of Appeals to increase number of family case coordinators; authorizing the Supreme Court of Appeals to create staff classifications and to appoint additional support staff to family court judges based on workload, subject to certain restrictions; and providing internal effective dates.”

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

On page 33, section 6, line 8, by striking the sentence beginning with “The secretary-clerk” through line 19 ending with the word “code”; and, page 34, section 6, line 30, by striking the number “\$36,000”; and, page 35, section 6, line 30, by striking the sentence beginning with “Provided, That on” through line 34 ending with the word “code”; and, page 35, line 53, by striking subsection “(g)”.

### Messages from the Executive

Two Executive Messages were laid before the House of Delegates and reported by the Clerk. Corrected versions of these messages were subsequently reported and are printed later in this Journal.

On the question of concurring in the Senate amendments to Com. Sub. for H. B. 3332, with further amendment, the same was put and prevailed.

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 770**), and there were— yeas 85, nays 7, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Brooks, Burkhammer, Dean, Dillon, Foster, Ridenour and Street.

Absent and Not Voting: Chiarelli, Cooper, Ellington, Mallow, Skaff, Steele, Westfall and Willis.

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. 3332) passed.

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

At 6:37 p.m., on motion of Delegate Householder, the House of Delegates recessed until 7:30 p.m.

\* \* \* \* \*

### Evening Session

\* \* \* \* \*

The Speaker called the House to order briefly for announcements.

At approximately 7:35 p.m., the House of Delegates recessed for ten minutes.

\* \* \* \* \*

### Evening Session

\* \* \* \* \*

- continued -

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

### Conference Committee Report Availability

At 7:53 p.m., the Clerk announced that the reports of the committees of conference on **Com. Sub. for H. B. 3261**, Relating to Social Workers Qualifications, and **Com. Sub. for S. B. 617**, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study, would be available in the Clerk's Office.

### Messages from the Executive

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

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

March 11, 2023

**EXECUTIVE MESSAGE NO. 4**

**2023 REGULAR SESSION**

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

Dear Mr. Speaker:

In accordance with the provisions of section 11, article 7 of the Constitution of the State of West Virginia, and section 16, article 1, chapter 5 of the Code of West Virginia, I hereby report that I granted no pardons or reprieves, nor commuted punishment to any person, nor remitted any fines or penalties, during the period of March 7, 2022 through March 11, 2023.

Very truly yours,

Jim Justice,  
*Governor.*

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

March 11, 2023

## **Executive Message 5**

### **2023 Regular Session**

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

Dear Mr. Speaker:

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

Accountancy, West Virginia Board of; FY 2022 WV Board of Accountancy

Acupuncture, West Virginia Board; FY 2021-2022 WV Board of Acupuncture

Administration, West Virginia Department of; State Building Commission Fund May 2022

Administration, West Virginia Department of; State Building Commission Fund June 2022

Administration, West Virginia Department of; State Building Commission Fund July 2022

Administration, West Virginia Department of; State Building Commission Fund June 2022

Administration, West Virginia Department of; State Building Commission Fund August 2022

Administration, West Virginia Department of; State Building Commission Fund September 2022

Administration, West Virginia Department of; State Building Commission Fund October 2022

Administration, West Virginia Department of; State Building Commission Fund November 2022

Administration, West Virginia Department of; State Building Commission Fund December 2022

Administration, West Virginia Department of; State Building Commission Fund January 2023

Alcohol Beverage Control Administration, West Virginia; WVABCA Annual Report FY 2022

Architects, West Virginia Board of; FY2022 Annual Report Board of Architects

Insurance Commissioner, West Virginia Office of the; 2023 PTSD Annual Report

Barbers & Cosmetologists, West Virginia Board of; ANNUAL REPORT

Broadband Enhancement Council, West Virginia; West Virginia Office of Broadband and West Virginia Broadband Enhancement Council 2022 Annual Report

Catastrophic Illness Commission, James "Tiger" Morton; James "Tiger" Morton

Catastrophic Illness Commission Year 2022 Report

Commission on Special Investigations; 42nd Annual Report

Contractor Licensing Board West Virginia; Contractor Licensing Board Activity Report

Correctional Industries, West Virginia; West Virginia Correctional Industries Annual Report

Corrections, West Virginia Division of; FY 22 Annual Report WVDCR

Counseling, West Virginia Board of; 2022 Annual Report

Deaf and Hard of Hearing, West Virginia Commission for the; 2021 Annual Report

Dentists & Dental Hygienists, Board of; Report of the Biennium for Fiscal Years 2021 & 2022

Division of Justice and Community Services, West Virginia; JUSTICE REINVESTMENT INITIATIVE (S.B. 371)

Division of Justice and Community Services, West Virginia; Sexual Assault Forensic Examination SAFE Commission

Division of Justice and Community Services, West Virginia; Recommendations for Criminal Sentencing Law Reform for the State of West Virginia A Report of the Sentencing Commission Subcommittee of the Governor's Committee on Crime, Delinquency, and Correction to the West Virginia Legislature

Division of Justice and Community Services, West Virginia; Law Enforcement Professional Standards (LEPS) Subcommittee/Program

Division of Justice and Community Services, West Virginia; Juvenile Justice Subcommittee

Division of Justice and Community Services, West Virginia; WEST VIRGINIA COMMUNITY CORRECTIONS ACT

Elkins Depot Welcome Center CVB; Elkins Depot Welcome Center CVB, Inc. 2021-2022 Annual Report

Environmental Protection, West Virginia Department of; Environmental Protection

Advisory Council 2022 Annual Report

Environmental Protection, West Virginia Department of; 2022 Special Reclamation Fund

Advisory Council Annual Report

Environmental Protection, West Virginia Department of; FY 2022 Annual UST Report for Fund 3325

Environmental Protection, West Virginia Department of; Annual OOG Report for Fund 3323 FY2022

Environmental Protection, West Virginia Department of; FY 2022 Annual Report of Aboveground Storage Tanks Fund

Environmental Protection, West Virginia Department of; FY2022 Annual Report for Fund 3016 (POW)

Environmental Protection, West Virginia Department of; Stream Restoration Fund 3349 Annual Report

Environmental Protection, West Virginia Department of; 2022 Annual Water Resources Report

Fire Marshal's Office, West Virginia State; FY 2022 Annual Report

Fleet Management Division, West Virginia; Fleet Management Division 2022 Annual Fleet Report

Forestry, West Virginia Division of; Outdoor Heritage Conservation Fund Annual Report

Forestry, West Virginia Division of; WVDOF Managed Timberland

Forestry, West Virginia Division of; WVDOF Logging Sediment Control Act

Funeral Service Examiners, West Virginia Board of; FY2012-FY2022 Annual Report

Geological and Economic Survey, West Virginia; West Virginia Geological & Economic Survey Annual Report

Hatfield-McCoy Regional Recreation Authority; 2022 Financial and Compliance Report

Hatfield-McCoy Regional Recreation Authority; Hatfield McCoy Annual Audit

Health and Human Resources, West Virginia Department of; Office of Emergency Medical Services Annual Report 2022

Health and Human Resources, West Virginia Department of; West Virginia Office of Drug Control Policy 2022 Semi-Annual Report

Health and Human Resources, West Virginia Department of; Fatality and Mortality Review Team

Health and Human Resources, West Virginia Department of; Annual Child Care Report

Highways, West Virginia Division of; 2021 Complete Streets Advisory Board Annual Report

Human Rights Commission, West Virginia; Human Rights Commission Annual Report

Insurance Commissioner, West Virginia Office of the; West Virginia Office of Consumer Advocate Offices of the WV Insurance Commissioner 2022 Annual Report

Insurance Commissioner, West Virginia Office of the; 2022 State Agency Workers Compensation (SAWC) Annual Report

Insurance Commissioner, West Virginia Office of the; Occupational Pneumoconiosis Board 2021-2022 Annual Report

Insurance Commissioner, West Virginia Office of the; 2022 West Virginia Automobile Survey

Insurance Commissioner, West Virginia Office of the; 2022 PTSD Annual Report

Insurance Commissioner, West Virginia Office of the; 2022 Safety Initiatives Report

Investment Management Board, West Virginia; 2022 Annual Report

Landscape Architects, West Virginia Board of; Board of Landscape Architects FY 2022 Annual Report

Library Commission, West Virginia; 2022 Annual Report



Massage Therapy Licensure Board, West Virginia; Annual Report FY 2021-2022

Medical Imaging and Radiation Therapy Technology Board of Examiners, West Virginia; Annual Report FY-2022

Medicine, West Virginia Board of; West Virginia Board of Medicine Annual Report to the Legislature July 1, 2020, through June 30, 2022

Miners' Health, Safety and Training, West Virginia Office of; FY2022 Annual Report

Motor Vehicles, West Virginia Division of; Motor Vehicle Test and Lock Program (Interlock) 2022

Motor Vehicles, West Virginia Division of; 2022 WV Motorcycle Safety Program

Motor Vehicles, West Virginia Division of; DMV Safety and Treatment Program 2022

Municipal Bond Commission, West Virginia; Fiscal Year 2022 Annual Report

Natural Resources, West Virginia Division of; West Virginia Division of Natural Resources 2021-2022 Annual Report

Nursing Home Administrators Licensing Board, West Virginia; 2022 Annual Report

Occupational Therapy, West Virginia Board of; Annual Report 2022

Osteopathic Medicine, West Virginia Board of; West Virginia Board of Osteopathic Medicine - Annual Report 2022

Personnel, West Virginia Division of; West Virginia Division of Personnel Annual Report 2022

Pharmacy, West Virginia Board of; WV Board of Pharmacy Annual Report

Professional Engineers, West Virginia Board of; FY2022 ANNUAL REPORT - WV Board of Registration for Professional Engineers

Professional Surveyors, West Virginia Board of; WV Board of Professional Surveyors 2022 Annual Report

Public Service Commission, West Virginia; Management Summary Report and the Electric and Natural Gas Utilities Supply-Demand Forecast for 2023-2032

Purchasing Division; West Virginia; Semi-Annual Report on All Commodities Sold to Eligible Organizations

Real Estate Appraiser Licensing and Certification Board, West Virginia; WV Real Estate Appraiser Board Annual Report 2021-2022

Real Estate Commission, West Virginia; FY2022 Annual Report

Sanitarians, West Virginia State Board of; Annual Report 2022

Social Work Examiners, West Virginia Board of; Biennial Report FY 2022

State Police, West Virginia; 2021-2022 Annual Report

State Privacy Office, West Virginia; 2022 Annual Report

Tax Department, West Virginia State; West Virginia Children with Autism Trust Board Annual Report

Tax Department, West Virginia State; 2022 Annual Report of the Criminal Investigation Division and Special Audit Division

Tourism, West Virginia Department of; 2022 Annual Report

Water Development Authority; West Virginia; Water Development Authority Annual Report

Sincerely,

Jim Justice,  
*Governor.*

At 8:02 p.m., on motion of Delegate Jeffries, the House of Delegates recessed for ten minutes.

\* \* \* \* \*

**Evening Session**

\* \* \* \* \*

- continued -

**Speaker Pro Tempore Espinosa in the Chair**

The House of Delegates was called to order by the Honorable Paul Espinosa, Speaker Pro Tempore.

**Messages from the Senate**

A message from the Senate, by

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

**Com. Sub. for H. B. 3040**, Supplementing and amending appropriations to the Department of Administration, Office of the Secretary.

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:

“That the total appropriation for the fiscal year ending June 30, 2023, to fund 0186, fiscal year 2023, organization 0201, be supplemented and amended by adding a new item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

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

**DEPARTMENT OF ADMINISTRATION**

*18 – Department of Administration –*

*Office of the Secretary*

(WV Code Chapter 5F)

Fund 0186 FY 2023 Org 0201

**General**

	<b>Appro-</b>		<b>Revenue</b>
	<b>priation</b>		<b>Fund</b>
11a Consolidated Public Retirement – Surplus .....	82199	\$	26,000,000

The above appropriation for Consolidated Public Retirement – Surplus (fund 0186, appropriation 82199) shall be transferred by the Secretary of Administration to the respective retirement plans in order to provide bonus payments and raise the benefit floor.”

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. 771**), 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: Bridges, Cooper, Mallow, Pinson, C. Pritt, Riley, Skaff, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 3040) passed.

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

On this question, the yeas and nays were taken (**Roll No. 772**), and there were—yeas 92, nays none, absent and not voting 8, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Cooper, Mallow, Pinson, C. Pritt, Skaff, Westfall and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 3040) takes effect from its passage.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates, with further amendment, and the passage, as amended, to take effect January 1, 2024, of

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

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

On pages 1-5, by striking out all of section 2 and inserting in lieu thereof a new section 2, to read as follows:

**“§5-16-2. Definitions.**

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, have the following meanings:

(1) ‘Agency’ or ‘PEIA’ means the Public Employees Insurance Agency created by this article.

‘Applied behavior analysis’ means the design, implementation, and evaluation of environmental modifications using behavioral stimuli and consequences in order to produce socially significant improvement in human behavior and includes the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

‘Autism spectrum disorder’ means any pervasive developmental disorder, including autistic disorder, Asperger’s syndrome, Rett syndrome, childhood disintegrative disorder, or Pervasive Development Disorder as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association.

‘Certified behavior analyst’ means an individual who is certified by the Behavior Analyst Certification Board or certified by a similar nationally recognized organization.

‘Dependent’ includes an eligible employee’s child under the age of 26 as defined in the Patient Protection and Affordable Care Act.

‘Device’ means a blood glucose test strip, glucometer, continuous glucose monitor (CGM), lancet, lancing device, or insulin syringe used to cure, diagnose, mitigate, prevent, or treat diabetes or low blood sugar, but does not include insulin pumps.

(2) ‘Director’ means the Director of the Public Employees Insurance Agency created by this article.

'Distant site' means the telehealth site where the health care practitioner is seeing the patient at a distance or consulting with a patient's health care practitioner.

(3) 'Employee' means any person, including an elected officer, who works regularly full-time in the service of the State of West Virginia; and, for the purpose of this article only, the term 'employee' also means any person, including an elected officer, who works regularly full-time in the service of a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance program; a county, city, or town in the ~~State-state~~; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of the Department of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education, or a governing board as defined in §18B-1-2 of this code; any person who works regularly full-time in the service of a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: *Provided*, That a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and, until the end of that instructional term, is eligible for the benefits provided in this article until September 1 following that instructional term: *Provided, however*, That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an 'employee' during the term of office of the elected member. Upon election by the ~~state~~ State Board of Education to allow appointed board members to participate in the Public Employees Insurance Program pursuant to this article, any person appointed to the ~~state~~ State Board of Education is considered an 'employee' during the term of office of the appointed member: *Provided further*, That the elected member of a county board of education and the appointed member of the ~~state~~ State Board of Education shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an 'employee' if that person meets the following criteria:

- (A) Participates in a job-sharing arrangement as defined in §18A-1-1 *et seq.* of this code;
- (B) Has been designated, in writing, by all other participants in that job-sharing arrangement as the 'employee' for purposes of this section; and
- (C) Works at least one-third of the time required for a full-time employee.

(4) 'Employer' means the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units; a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance Program; a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of the Department of Health and Human Resources pursuant to §27-2A-1 *et seq.* of this code and which is supported in part by state, county, or municipal funds; a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; and a corporation meeting the description set forth in §18B-12-3 of this code that is employing a 21st Century Learner Fellow pursuant to §18A-3-11 of this code but the corporation is not considered an employer with respect to any employee other than a 21st Century Learner Fellow. Any matters of doubt as to who is an 'employer' within the meaning of this article shall be decided by the director. The term 'employer' does not include within its meaning the National Guard.

'Established patient' means a patient who has received professional services, face-to-face, from the physician, qualified health care professional, or another physician or qualified health care professional of the exact same specialty and subspecialty who belongs to the same group practice, within the past three years.

(5) 'Finance board' means the Public Employees Insurance Agency finance board created by this article.

'Health care practitioner' means a person licensed under §30-1-1 *et seq.* of this code who provides health care services.

'Originating site' means the location where the patient is located, whether or not accompanied by a health care practitioner, at the time services are provided by a health care practitioner through telehealth, including, but not limited to, a health care practitioner's office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

'Objective evidence' means standardized patient assessment instruments, outcome measurements tools, or measurable assessments of functional outcome. Use of objective measures at the beginning of treatment, during, and after treatment is recommended to quantify progress and support justifications for continued treatment. The tools are not required but their use will enhance the justification for continued treatment.

~~(6) 'Person' means any individual, company, association, organization, corporation, or other legal entity. including but not limited to, hospital, medical or dental service corporation; health maintenance organization or similar organization providing prepaid health benefits; or individuals entitled to benefits under the provisions of this article.~~

~~(7) 'Plan' unless the context indicates otherwise, means the medical indemnity plan. The managed care plan option, or the group life insurance plan offered by the agency. a group hospital~~

and surgical insurance plan or plans, a group prescription drug insurance plan or plans, a group major medical insurance plan or plans, and a group life and accidental death insurance plan or plans.

'Prescription insulin drug' means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:

(1) Rapid-acting;

(2) Short-acting;

(3) Intermediate-acting;

(4) Long-acting;

(5) Pre-mixed insulin products;

(6) Pre-mixed insulin/GLP-1 RA products; and

(7) Concentrated human regular insulin.

'Primary coverage' means individual or group hospital and surgical insurance coverage or individual or group major medical insurance coverage or group prescription drug coverage in which the spouse or dependent is the named insured or certificate holder.

'Remote patient monitoring services' means the delivery of home health services using telecommunications technology to enhance the delivery of home health care, including monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and other condition-specific data; medication adherence monitoring; and interactive video conferencing with or without digital image upload.

~~(8)~~ 'Retired employee' means an employee of the state who retired after April 29, 1971, and an employee of the Higher Education Policy Commission, the Council for Community and Technical College Education, a state institution of higher education, or a county board of education who retires on or after April 21, 1972, and all additional eligible employees who retire on or after the effective date of this article, meet the minimum eligibility requirements for their respective state retirement system, and whose last employer immediately prior to retirement under the state retirement system is a participating employer in the state retirement system and in the Public Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who are not covered by a state retirement system, but who are covered by a state-approved or state-contracted retirement program or a system approved by the director, shall, in the case of education employees, meet the minimum eligibility requirements of the State Teachers Retirement System, and in all other cases, meet the minimum eligibility requirements of the Public Employees Retirement System and may participate in the Public Employees Insurance Agency as retired employees upon terms as the director sets by rule as authorized in this article. Employers with employees who are, or who are eligible to become, retired employees under this article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant to §5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but may do so only upon the written certification, under oath, of an authorized officer of the employer

that the employer has no employees who are, or who are eligible to become, retired employees and that the employer will defend and hold harmless the Public Employees Insurance Agency from any claim by one of the employer's past, present, or future employees for eligibility to participate in the Public Employees Insurance Agency as a retired employee. As a matter of law, the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits to a retired employee of a nonstate employer which has opted out of the West Virginia other post-employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

'Telehealth services' means the use of synchronous or asynchronous telecommunications technology or audio-only telephone calls by a health care practitioner to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include e-mail messages or facsimile transmissions.

'Virtual telehealth' means a new patient or follow-up patient for acute care that does not require chronic management or scheduled medications.;

And,

On pages 5-7, by striking out all of section 7g and inserting in lieu thereof a new section 7g, to read as follows:

**“§5-16-7g. Coverage for prescription insulin drugs.**

~~(a) A policy, plan, or contract that is issued or renewed on or after July 1, 2020, shall provide coverage for prescription insulin drugs pursuant to this section. A policy, plan, or contract that is issued or renewed on or after January 1, 2024, shall provide coverage for prescription insulin drugs and equipment to this section.~~

~~(b) For the purposes of this subdivision, "prescription insulin drug" means a prescription drug that contains insulin and is used to treat diabetes, and includes at least one type of insulin in all of the following categories:~~

- ~~(1) Rapid-acting;~~
- ~~(2) Short-acting;~~
- ~~(3) Intermediate-acting;~~
- ~~(4) Long-acting;~~
- ~~(5) Pre-mixed insulin products;~~
- ~~(6) Pre-mixed insulin/GLP-1 RA products; and~~
- ~~(7) Concentrated human regular insulin~~

~~(c) (b) Cost sharing for a 30-day supply of a covered prescription insulin drug shall not exceed \$100 for a 30-day supply of a covered prescription insulin, regardless of the quantity or type of prescription insulin used to fill the covered person's prescription needs. Cost sharing for a 30-day~~



supply of a covered prescription insulin drug may not exceed \$35 in aggregate, including situations where the covered person is prescribed more than one insulin drug, per 30-day supply, regardless of the amount or type of insulin needed to fill such covered person's prescription. Cost sharing for a 30-day supply of covered device(s) may not exceed \$100 in aggregate, including situations where the covered person is prescribed more than one device, per 30-day supply. Each cost-share maximum is covered regardless of the person's deductible, copayment, coinsurance, or any other cost-sharing requirement.

~~(d)~~ (c) Nothing in this section prevents the agency from reducing a covered person's cost sharing by an amount greater than the amount specified in this subsection.

~~(e)~~ (d) No contract between the agency or its pharmacy benefits manager and a pharmacy or its contracting agent shall contain a provision: (i) Authorizing the agency's pharmacy benefits manager or the pharmacy to charge; (ii) requiring the pharmacy to collect; or (iii) requiring a covered person to make a cost-sharing payment for a covered prescription insulin drug in an amount that exceeds the amount of the cost-sharing payment for the covered prescription insulin drug established by the agency as provided in subsection (b) of this section.

~~(f)~~ (e) The agency shall provide coverage for the following equipment and supplies for the treatment or management of diabetes for both insulin-dependent and noninsulin-dependent persons with diabetes and those with gestational diabetes: Blood glucose monitors, monitor supplies, insulin, injection aids, syringes, insulin infusion devices, pharmacological agents for controlling blood sugar, and orthotics.

~~(g)~~ (f) The agency shall provide coverage for diabetes self-management education to ensure that persons with diabetes are educated as to the proper self-management and treatment of their diabetes, including information on proper diets. Coverage for self-management education and education relating to diet shall be provided by a health care practitioner who has been appropriately trained as provided in §33-53-1(k) of this code.

~~(h)~~ (g) The education may be provided by a health care practitioner as part of an office visit for diabetes diagnosis or treatment, or by a licensed pharmacist for instructing and monitoring a patient regarding the proper use of covered equipment, supplies, and medications, or by a certified diabetes educator or registered dietitian.

~~(i)~~ (h) A pharmacy benefits manager, a health plan, or any other third party that reimburses a pharmacy for drugs or services shall not reimburse a pharmacy at a lower rate and shall not assess any fee, charge-back, or adjustment upon a pharmacy on the basis that a covered person's costs sharing is being impacted."

And,

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

**Com. Sub. for S. B. 577** – "A Bill to amend and reenact §5-16-2 and §5-16-7g of the Code of West Virginia, 1931, as amended, and to amend and reenact §33-59-1 of said code; all relating to diabetes; defining terms; reducing copayments; adding coverage for devices; permitting testing equipment to be purchased without a prescription; and providing for effective date."

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 773**), and there were—yeas 85, nays 9, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Butler, Coop-Gonzalez, Dillon, Foster, A. Hall, Horst, Kimble, Kirby and Ridenour.

Absent and Not Voting: Bridges, Cooper, Mallow, C. Pritt, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for S. B. 577) passed.

Delegate Jeffries moved that the bill take effect January 1, 2024.

On this question, the yeas and nays were taken (**Roll No. 774**), and there were—yeas 87, nays 7, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Butler, Dillon, Foster, A. Hall, Horst, Kimble and Steele.

Absent and Not Voting: Bridges, Cooper, Mallow, C. Pritt, Westfall and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for S. B. 577) takes effect January 1, 2024.

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

A message from the Senate, by

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

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

On motion of Delegate Jeffries, the House receded from its position.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 775**), and there were—yeas 82, nays 13, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Garcia, Griffith, Hansen, Hornbuckle, E. Pritt, Pushkin, Rowe, Skaff, Vance, Walker, Williams and Young.

Absent and Not Voting: Bridges, Cooper, Mallow, Westfall and Hanshaw (Mr. Speaker).

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

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

A message from the Senate,

The Senate reconsidered, concurred in the amendments of the House of Delegates, with further amendment, and passed, as amended

**S. B. 559**, Relating to spousal privilege.

Delegate Ward inquired of the Chair regarding an effective date motion Delegate Jeffries had made on S. B. 625 and the Speaker Pro Tempore noted that the motion had not been in order.

Delegate Kimble moved that the House of Delegates 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:

**“ARTICLE 3. COMPETENCY OF WITNESSES.**

**§57-3-3. Testimony of husband and wife in criminal cases.**

In criminal cases husband and wife shall be allowed, and, subject to the rules of evidence governing other witnesses, may be compelled to testify ~~in~~ on behalf of each other, but neither shall be compelled, nor, without the consent of the other, allowed to be called as a witness against the other except in the case of a prosecution for an offense committed by one against the other, or against the child, father, mother, sister or brother of either of them or any minor. The failure of either husband or wife to testify, however, shall create no presumption against the accused, nor be the subject of any comment before the court or jury by anyone.”

And,

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

**Com. Sub. for 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; and expanding the exceptions to spousal privilege to exclude therefrom cases in which the offense at issue was committed against any minor.”

The motion by Delegate Kimble to concur in the Senate amendments did not prevail.

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates, with further amendment, and the passage, as amended, of

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

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

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

**“ARTICLE 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, without limitation, 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 technology threats posed by hostile actors.

(b) Notwithstanding the provision of §5A-6B-1(b) of this code, all state agencies and instrumentalities, including without limitation agencies within the executive, legislative, and judicial branches, 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 the authorized use of a high-risk platform, service, application, program, or product pursuant to the exceptions set forth in this section: *Provided, further* that the Chief Information Security Officer shall, after consultation with the affected entities, exempt law enforcement agencies and other instrumentalities from the provisions of this section to the extent that the use of high-risk technology platforms, services, applications, programs, or products is determined to be necessary to performance of their official duties.

(C) 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.

(d) 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.”

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

A message from the Senate, by

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

**Com. Sub. for S. B. 187**, Making it felony offense for school employee or volunteer to engage in sexual contact with students.

On motion of Delegate Kelly, the House receded from its amendment and title amendment.

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 776**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Ellington, Mallow, Statler, Toney, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for S. B. 187) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2900**, Relating to the Deputy Sheriff Retirement System.

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 14D. DEPUTY SHERIFF RETIREMENT SYSTEM ACT.**

**§7-14D-24a. Return to covered employment by retired member.**

(a) The annuity of any member who retires under the provisions of this article and who resumes service in covered employment shall be suspended while the member continues in covered employment. The monthly annuity payment for the month in which the service resumes shall be prorated to the date of commencement of service, and the member shall again become a contributing member during resumption of service. At the conclusion of resumed service in covered employment the member shall have his or her annuity recalculated to take into account the entirety of service in covered employment.

(b) Notwithstanding the provisions of subsection (a) of this section, the annuity of a member who retires under the provisions of this article shall not be suspended if the member resumes covered employment and the following conditions are met:

(1) The member has been retired for at least 180 days;

(2) The retired member did not retire as a result of a disability pursuant to the provisions of §7-14D-14 of this code;

(3) The retired member is a certified, or certifiable, law-enforcement officer as provided in §30-29-5 of this code;

(4) The sheriff of the county seeking to re-employ the retired member has fewer than five deputies in his or her employ and has been unable to recruit additional qualified deputy sheriffs despite the exercise of due diligence;

(5) The re-employment of the retired member is for a period not to exceed five years or until such time as the sheriff may recruit additional deputy sheriffs to provide for five full-time deputy sheriffs not hired pursuant to this subsection, whichever is sooner; and the sheriff is required to post the vacancy until it is filled by a non-retirant;

(6) The retired member may not again become a contributing member of the Deputy Sheriff Retirement System while performing services under the provisions of this subsection; and

(7) The employer of any deputy sheriff rehired pursuant to this subsection shall remit an employer contribution pursuant to §7-14D-7 of this code on the deputy sheriff's monthly salary.

(c) Any retired member who is seeking re-employment pursuant to the provisions of this section shall not be subject to the maximum age restriction set forth in §7-14-8 of this code.

(d) Unless acted upon by the Legislature, the provisions of subsections (b) and (c) of this section will sunset on July 1, 2026. On or before October 1, 2025, any employer of a member of the Deputy Sheriff Retirement System rehired pursuant to subsection (b) of this section must make a report to the Joint Standing Committee on Pensions and Retirement."

And,

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

**Com. Sub. for H. B. 2900** – "A Bill to amend and reenact §7-14D-24a of the Code of West Virginia, 1931, as amended, relating to the Deputy Sheriff Retirement System; allowing certain retired members to be re-employed without the suspension of annuity benefits; setting forth conditions for the re-employment of retired members; and providing a sunset date."

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. 777**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Ellington, Mallow, Statler, Toney, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 2900) passed.

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

On this question, the yeas and nays were taken (**Roll No. 778**), and there were—yeas 93, nays none, absent and not voting 7, with the absent and not voting being as follows:

Absent and Not Voting: Cooper, Ellington, Mallow, Statler, Toney, Westfall and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 2900) takes effect from its passage.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 3153**, Relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers.

Delegate Kelly moved that the House concur in the following amendment by the Senate, with further amendment:

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

### **“CHAPTER 33. INSURANCE.**

#### **ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURERS.**

**“§33-3-14d. Additional fire and casualty insurance premium tax; allocation of proceeds; effective date.**

(a) (1) For the purpose of providing additional revenue for municipal policemen’s and firemen’s pension and relief funds and the Teachers Retirement System Reserve Fund and for volunteer and part-volunteer fire companies and departments, there is hereby levied and imposed an additional premium tax equal to one percent of taxable premiums for fire insurance and casualty insurance policies. For purposes of this section, casualty insurance does not include insurance

on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(2) All moneys collected from this additional tax shall be received by the commissioner and paid by him or her into a special account in the State Treasury, designated the Municipal Pensions and Protection Fund, to be allocated as follows: *Provided*, That on or after January 1, 2010, the commissioner shall pay

(A) Ten percent of the amount collected to shall be deposited in the Teachers Retirement System Reserve Fund created in §18-7A-18 of this code; *Provided*, That if the Teachers Retirement System demonstrates an unfunded liability of 20% or less for two consecutive years, the ten percent of the amount collected provided for in this paragraph shall be deposited instead in the Fire Protection Fund as provided in paragraph (B) of this subdivision.

(B) Twenty-five percent of the amount collected to shall be deposited in the Fire Protection Fund created in section 33 of this article for allocation distribution by the State Treasurer to volunteer and part-volunteer fire companies and departments according to the requirements of §33-3-33 of this code; and

~~65% of the amount collected to the Municipal Pensions and Protection Fund: *Provided*, however, That upon notification by the Municipal Pensions Oversight Board pursuant to the provisions of §8-22-18b of this code, on or after January 1, 2010, or as soon thereafter as the Municipal Pensions Oversight Board is prepared to receive the funds,~~

(C) Sixty-five percent of the amount collected by the commissioner shall be deposited in the Municipal Pensions Security Fund created in §8-22-18b of this code the net proceeds of this tax after appropriation thereof by the Legislature is to be distributed in accordance with the provisions of this section, except for distribution from proceeds pursuant to §8-22-18a(d) of this code.

(b) *Municipal Pensions Security Fund allocation and distribution* —

(1) Before August 1 of each year, the treasurer of each municipality in which a municipal policemen's or firemen's pension and relief fund is established shall report to the ~~State Treasurer~~ Municipal Pensions Oversight Board the average monthly number of members who worked at least 100 hours per month and the average monthly number of retired members of municipal policemen's or firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System during the preceding fiscal year. ~~*Provided*, That beginning in the year 2010 and continuing thereafter, the report shall be made to the oversight board created in §8-22-18a of this code. These reports received by the oversight board shall be provided~~ The reports received by the Municipal Pensions Oversight Board shall be provided annually to the State Treasurer by September 1.

(2) ~~Before September 1 of each calendar year, the State Treasurer, or the Municipal Pensions Oversight Board once in operation, shall allocate and authorize for distribution the revenues in the Municipal Pensions and Protection Fund which were collected during the preceding calendar year for the purposes set forth in this section. Before September 1 of each calendar year, and after the Municipal Pensions Oversight Board has notified the Treasurer and commissioner pursuant to §8-22-18b of this code, the Municipal Pensions Oversight Board shall allocate and authorize for distribution the revenues in the Municipal Pensions Security Fund which were collected during the preceding calendar year for the purposes set forth in this section. In any year~~



the actuarial report required by §8-22-20 of this code indicates no actuarial deficiency exists in the municipal policemen's or firemen's pension and relief fund and that no pension funding revenue bonds of the building commission of such municipality remain outstanding, no revenues may be allocated from the ~~Municipal Pensions and Protection Fund~~ or the Municipal Pensions Security Fund to that fund. The revenues from the ~~Municipal Pensions and Protection Security Fund~~ shall then be allocated to all other pension and relief funds which have an actuarial deficiency. Pension funding revenue bonds include bonds of a municipality's building commission the net proceeds of which were used to fund either or both of a municipality's policemen's or firemen's pension and relief fund or bonds issued to refinance such bonds.

~~(3) The Municipal Pensions Oversight Board shall annually review the investment performance of each municipal policemen's or firemen's pension and relief fund. If the municipal pension and relief fund's board fails for three consecutive years to comply with the investment provisions established by §8-22-22a of this code, the oversight board may require the municipal policemen's or firemen's pension and relief fund to invest with the Investment Management Board to continue to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails to move its investments to the Investment Management Fund within the 18-month drawdown period, provided in §8-22-19(e) of this code, the revenues shall be reallocated to all other municipal policemen's or firemen's pension and relief funds that have drawn down one hundred percent of their allocations.~~

~~(4) The moneys, and the interest earned thereon, in the Municipal Pensions and Protection Fund allocated to volunteer and part-volunteer fire companies and departments shall be allocated and distributed quarterly to the volunteer fire companies and departments. Before each distribution date, the State Fire Marshal shall report to the State Treasurer the names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet the eligibility requirements established in §8-15-8a of this code.~~

~~(e) (1)-(3) Each municipal pension and relief fund shall have allocated and authorized for distribution a pro rata share of the revenues, the amount of which was the tax collected during the fiscal year ending June 30, 1996, allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding municipality's average monthly number of police officers and firefighters who worked at least one hundred hours per month during the preceding fiscal year. On and after July 1, 1997, from (3) The Municipal Pensions Oversight Board shall allocate and distribute the growth in any moneys collected pursuant to a pro rata share of the tax imposed by this section and earnings and interest thereon, there shall be allocated and authorized for distribution to each municipal policemen's or municipal firemen's pension and relief fund, a pro rata share of the revenues ~~allocated to municipal policemen's and firemen's pension and relief funds~~ based on the corresponding municipality's average number of police officers and firefighters who worked at least 100 hours per month during the preceding fiscal year and the average monthly number of retired police officers and firefighters during the preceding fiscal year. For the purposes of this subsection, the growth in moneys collected and earnings from the tax collected pursuant to this section is determined by subtracting the amount of the tax collected during the fiscal year ending June 30, 1996, which was \$8,709,689.42, from the tax collected during the fiscal year for which the allocation is being made and interest thereon. All moneys received by municipal pension and relief funds under this section may be expended only for those purposes described in §8-22-16 through §8-22-28a of this code. Notwithstanding the foregoing provision of this subdivision, if a municipality has outstanding pension funding revenue bonds and continues to pay the normal cost of its policemen's and firemen's pension and relief funds, then the allocable share of revenues to be allocated which would otherwise have been allocated to a~~

municipal policemen's or firemen's pension and relief fund shall instead be allocated to the trustee of any outstanding pension funding revenue bonds.

~~(2) Each volunteer fire company or department shall receive an equal share of the revenues allocated for volunteer and part-volunteer fire companies and departments.~~

~~(3) In addition to the share allocated and distributed in accordance with subdivision (1) of this subsection, each municipal fire department composed of full-time paid members and volunteers and part-volunteer fire companies and departments shall receive a share equal to the share distributed to volunteer fire companies under subdivision (2) of this subsection reduced by an amount equal to the share multiplied by the ratio of the number of full-time paid fire department members who are also members of a municipal firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System to the total number of members of the fire department. If a municipality has outstanding pension funding revenue bonds and continues to pay the normal cost of its policemen's and firemen's pension and relief funds, then the share that would otherwise be payable to the municipality's firemen's pension and relief fund pursuant to this subsection shall be paid to the trustee of such outstanding pension funding revenue bonds.~~

~~(d) (4) The allocation and distribution of revenues provided in this section are subject to the provisions of §8-22-20, §8-15-8a, and §8-15-8b of said chapter this code.~~

~~(e) Based upon the findings of an audit by the Treasurer, the Legislature hereby finds and declares that during the period of 1982 through April 27, 2012, allocations from the Municipal Pensions and Protection Fund were miscalculated and errors were made in amounts transferred, resulting in overpayments and underpayments to the relief and pension funds and to the Teachers Retirement System, and that the relief and pension funds and the Teachers Retirement System were not at fault for any of the overpayments and underpayments. The Legislature hereby further finds and declares that any attempt by the Municipal Pension Oversight Board or other entity to recover any of the overpayments would be unjust and create economic hardship for the entities that received overpayments. No entity, including, without limitation, the Municipal Pension Oversight Board, may seek to recover from a relief or pension fund, the Teachers Retirement System or the state any overpayments received from the Municipal Pensions and Protection Fund and the overpayments are not subject to recovery, offset or litigation. Pursuant to the audit by the Treasurer, the amount of \$3,631,846.55 is determined owed to specific relief and pension funds through the period of April 27, 2012. The Treasurer is hereby authorized to transfer the amount of \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection Fund, which is hereby reopened for the sole purpose of the transfer and remittances pursuant to this subsection, and to use the amount transferred to remit the amounts due to the pension and relief funds. The payment of \$3,631,846.55 to the pension and relief funds is complete satisfaction of any amounts due and no entity, including, without limitation, the Municipal Pension Oversight Board and any pension or relief fund, may seek to recover any further amounts.~~

(c) The Municipal Pensions Oversight Board shall annually review the investment performance of each municipal policemen's or firemen's pension and relief fund. If a municipal pension and relief fund's board fails for three consecutive years to comply with the investment provisions established by §8-22-22a of this code, the oversight board may require the municipal policemen's or firemen's pension and relief fund to invest with the Investment Management Board to continue to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails to move its investments to the Investment Management Fund within the 18-month drawdown period provided in §8-22-19(e) of this code, the revenues shall be reallocated to all

other municipal policemen's or firemen's pension and relief funds that have drawn down 100 percent of their allocations.

**§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments and emergency medical services providers; Public Employees Insurance Agency and municipal pension plans; special fund created; Fire Protection Fund; allocation of proceeds. effective date.**

~~(a)(1) For the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and certain retired teachers and the teachers retirement reserve fund, there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions (2) and (3) of this subsection.~~

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

(a) For the purposes of this section:

(1) 'Full-time paid members' means the members of a fire department who are compensated to provide services to the department on a full-time basis and are also members of a municipal firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System.

(2) The 'policy surcharge' refers to the surcharge on certain insurance policies imposed by subsection (b) of this section.

(3) 'Volunteer fire departments' or 'departments' includes volunteer and part-volunteer fire departments and companies, as described in §18-15-1 et seq. of this code.

~~(3) (b) After December 31, 2005, For the purpose of providing additional revenue for volunteer fire departments and part-volunteer fire departments emergency medical services providers, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to 0.055% one percent of the taxable premium for each such policy. The policy surcharge is separate from and in addition to the tax imposed by §33-3-14d of this code.~~

~~(4) (c) For purposes of this section, casualty insurance may does not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. The policy surcharge may is not be subject to premium taxes, agent commissions, or any other assessment against premiums.~~

~~(b)~~ (d) The policy surcharge imposed by this section shall be collected and remitted to the commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention group. The amount required to be collected under this section shall be remitted to the commissioner on a quarterly basis on or before the 25th day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year. All money from the policy surcharge shall be collected by the commissioner, who shall disburse 77.5 percent of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subsection (f) of this section. The commissioner shall disburse 22.5 percent of the money received from the surcharge into the Emergency Medical Services Equipment and Training Fund established in §16-4C-24 of this code for disbursement in accordance with the provisions of that section.

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

~~(d)~~ (f) Fire Protection Fund allocation and distribution. —

~~(1) All money from the policy surcharge shall be collected by the Commissioner who shall disburse the money received from the surcharge into a special account in the state Treasury, designated the Fire Protection Fund. The State Treasurer's Office shall distribute the net proceeds of this portion of the tax the portion of the policy surcharge deposited into the Fire Protection Fund pursuant to §33-3-33 of this code, the amount deposited into the Fire Protection Fund pursuant to §29-3E-7 of this code, the amount deposited into the Fire Protection Fund pursuant to §33-3-14d of this code, and the interest thereon on a quarterly basis, after appropriation by the Legislature. shall be distributed quarterly. The distributions shall occur on the first day of the months of January, April, July, and October to each eligible volunteer fire company or department, on an equal share basis by the state Treasurer. After June 30, 2005, the money received from the surcharge shall be distributed as specified in subdivisions (2) and (3) of as provided in this subsection.~~

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

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

~~(3) After December 31, 2005, all money from the policy surcharge shall be collected by the Commissioner who shall disburse all of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subdivision (1) of this subsection.~~

~~(4)~~ (2) Before each distribution date to volunteer fire companies or departments, the State Fire Marshal shall report to the State Treasurer:

(A) The names and addresses of all volunteer and part-volunteer fire companies and departments within the state which ~~meet~~ met the eligibility requirements established in §8-15-8a of this code during the preceding quarter;

(B) The number of volunteer firefighters and the number of full-time paid members providing services to each volunteer and part-volunteer department during the preceding quarter; and

(C) A full accounting of each fire department eligible to receive a distribution under this section's revenues and expenditures for the last two calendar years.

(3) Each eligible volunteer fire department shall receive an equal share of the amount of proceeds to be distributed each quarter: *Provided*, That each part-volunteer department's share will be reduced by a percentage amount equal to the percentage of the members of the fire department who are full-time paid members of the department, according to the report described in subdivision (2) of this subsection. *Provided further, however*, That the pro rata reduction to part-volunteer departments provided for in this subdivision shall not apply to county part-volunteer departments which employ full-time paid county employees.

(4) Notwithstanding any other provision of this section, a firefighter department must implement the State Auditor's West Virginia Checkbook fiscal reporting system on or before January 1, 2026, in order to remain eligible to receive any funds pursuant to this section.

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

(h) The State Treasurer may propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq.* of this code for the auditing of individual fire departments to ensure compliance with the requirements of this section.

## **ARTICLE 12C. SURPLUS LINE.**

### **§33-12C-7. Surplus lines tax.**

(a) In addition to the full amount of gross premiums charged by the insurer for the insurance, every person licensed pursuant to §33-12C-8 of this code shall collect and pay to the commissioner a sum equal to ~~4.55~~ five percent of the gross premiums and gross fees charged, less any return premiums, for surplus lines insurance provided by the licensee pursuant to the license. Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state and this state is the insured's home state, the sum payable shall be computed on that portion of the gross premiums allocated to this state, plus an amount equal to the portion of the gross premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks or exposures located or to be performed outside of this state, and less the amount of gross premiums allocated to this state and returned to the insured due to cancellation of policy: *Provided*, That the surcharge imposed by ~~section thirty-three, article three of this chapter~~ §33-3-33 of this code on surplus lines policies shall no longer be effective with respect to premium attributable to coverage under such policies for periods after June 30, 2011: *Provided, however*, That ~~42 per cent~~ 16 percent of taxes collected under this subsection with respect to premium attributable to coverage under such policies after June 30,

2011, shall be disbursed into the Fire Protection Fund and distributed in accordance with subsection (d), section thirty-three, article three of this chapter §33-3-33 of this code, four percent of taxes collected under this subsection shall be disbursed into the Emergency Medical Services Equipment and Training Fund established in §16-4C-24 of this code for disbursement in accordance with the provisions of that section, and 88 per cent the remaining 80 percent of the taxes collected under this subsection shall be disbursed in accordance with subdivision (2), subsection (f) of this section. The tax on any portion of the premium unearned at termination of insurance having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker, if any.

(b) The individual insurance producer may not:

(1) Pay directly or indirectly the tax or any portion thereof, either as an inducement to the policyholder to purchase the insurance or for any other reason; or

(2) Rebate all or part of the tax or the surplus lines licensee's commission, either as an inducement to the policyholder to purchase the insurance or for any reason.

(c) The surplus lines licensee may charge the prospective policyholder a fee for the cost of underwriting, issuing, processing, inspecting, service, or auditing the policy for placement with the surplus lines insurer if:

(1) The service is required by the surplus lines insurer;

(2) The service is actually provided by the individual insurance producer or the cost of the service is actually incurred by the surplus lines licensee; and

(3) The provision or cost of the service is reasonable, documented, and verifiable.

(d) The surplus lines licensee shall make a clear and conspicuous written disclosure to the policyholder of:

(1) The total amount of premium for the policy;

(2) Any fee charged;

(3) The total amount of any fee charged; and

(4) The total amount of tax on the premium and fee.

(e) The clear and conspicuous written disclosure required by subdivision (4) of this subsection is subject to the record maintenance requirements of §33-12C-8 of this code.

(f)(1) This tax is imposed for the purpose of providing additional revenue for municipal policemen's and firemen's pension and relief funds and additional revenue for volunteer and part-volunteer fire companies and departments. This tax is required to be paid and remitted, on a calendar year basis and in quarterly estimated installments due and payable on or before the 25th day of the month succeeding the close of the quarter in which they accrued, except for the fourth quarter, in respect of which taxes shall be due and payable and final computation of actual total liability for the prior calendar year shall be made, less credit for the three quarterly estimated payments prior made, and filed with the annual return to be made on or before March 1 of the

succeeding year. Provisions of this chapter relating to the levy, imposition, and collection of the regular premium tax are applicable to the levy, imposition, and collection of this tax to the extent that the provisions are not in conflict with this section.

(2) Except as provided in subsection (a) of this section, all taxes remitted to the commissioner pursuant to subdivision (1) of this subsection shall be paid by him or her into a special account in the State Treasury, designated Municipal Pensions and Protection Fund, or pursuant to §8-22-18b of this code, the Municipal Pensions Security Fund, and after appropriation by the Legislature, shall be distributed in accordance with ~~the provisions of subsection (c), section fourteen d, article three of this chapter~~ §33-3-14d of this code. The surplus lines licensee shall return to the policyholder the tax on any unearned portion of the premium returned to the policyholder because of cancellation of policy.

(g) In determining the amount of gross premiums taxable in this state for a placement of surplus lines insurance covering properties, risks, or exposures only partially located or to be performed in this state, the tax due shall be computed on the portions of the premiums which are attributable to properties, risks, or exposures located or to be performed in this state and which relates to the kinds of insurance being placed as determined by reference to an appropriate allocation table.

(1) If a policy covers more than one classification:

(A) For any portion of the coverage identified by a classification on the allocation schedule, the tax shall be computed by using the allocation schedule for the corresponding portion of the premium;

(B) For any portion of the coverage not identified by a classification on the allocation schedule, the tax shall be computed by using an alternative equitable method of allocation for the property or risk;

(C) For any portion of the coverage where the premium is indivisible, the tax shall be computed by using the method of allocation which pertains to the classification describing the predominant coverage.

(2) If the information provided by the surplus lines licensee is insufficient to substantiate the method of allocation used by the surplus lines licensee, or if the commissioner determines that the licensee's method is incorrect, the commissioner shall determine the equitable and appropriate amount of tax due to this state as follows:

(A) By use of the allocation schedule where the risk is appropriately identified in the schedule;

(B) Where the allocation schedule does not identify a classification appropriate to the coverage, the commissioner may give significant weight to documented evidence of the underwriting bases and other criteria used by the insurer. The commissioner may also consider other available information to the extent sufficient and relevant, including the percentage of the insured's physical assets in this state, the percentage of the insured's sales in this state, the percentage of income or resources derived from this state, and the amount of premium tax paid to another jurisdiction for the policy.

(h) The commissioner is authorized to participate in a clearinghouse established through NIMA or in a similar allocation procedure for the purpose of collecting and disbursing to signatory

states any funds collected pursuant to this section that are allocable to properties, risks, or exposures located or to be performed outside of this state: *Provided*, That ~~twelve per cent~~ 16 percent of any moneys received from a clearinghouse or through a similar allocation procedure ~~is are~~ subject to the provisions of ~~subsection (d), section thirty three, article three of this chapter §33-3-33(d)~~ of this code, four percent of such moneys are subject to the provisions of §16-4C-24 of this code, and ~~88 per cent~~ 80 percent of such moneys ~~is are~~ subject to the provisions of subdivision (2), subsection (f) of this section: *Provided, however*, That to the extent other states where portions of the properties, risks, or exposures reside have failed to enter into NIMA or a similar allocation procedure with this state, the net premium tax collected shall be retained by this state and shall be disbursed and distributed in the same manner as moneys received through a clearinghouse or similar allocation procedure.

(i) Collection of tax.

If the tax owed by a surplus lines licensee under this section has been collected and is not paid within the time prescribed, the same shall be recoverable in a suit brought by the commissioner against the surplus lines licensee. The commissioner may charge interest for any unpaid tax, fee, financial assessment or penalty, or portion thereof: *Provided*, That interest may not be charged on interest. Interest shall be calculated using the annual rates which are established by the Tax Commissioner pursuant to §11-10-17a of this code and shall accrue daily.”

And,

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

**Com. Sub. for H. B. 3153** – “A Bill to amend and reenact §29-3E-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-3-14d and §33-3-33 of said code; and to amend and reenact §33-12C-7 of said code, all relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers; defining terms; providing method of allocation and distribution for proceeds of fireworks safety fee deposited in the Fire Protection Fund; eliminating obsolete language; increasing surcharge on fire and casualty policies; providing method of allocation of policy surcharge; requiring the State Fire Marshal provide certain information to the State Treasurer; requiring fire departments eligible to receive policy surcharge funds implement the State Auditor’s West Virginia Checkbook fiscal reporting system; granting rulemaking authority to the State Treasurer; increasing tax on surplus lines policies; providing method of allocation of surplus lines policy tax; and clarifying requirements for distribution of funds in the Fire Protection Fund.”

With the further amendment, sponsored by Delegates Criss and Householder, being as follows:

On page 2, following section 7, by striking the remainder of the bill and inserting in lieu thereof the following:

**“CHAPTER 33. INSURANCE.**

**ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURERS.**

**§33-3-14d. Additional fire and casualty insurance premium tax; allocation of proceeds; effective date.**



(a) (1) For the purpose of providing additional revenue for municipal policemen's and firemen's pension and relief funds and the Teachers Retirement System Reserve Fund and for volunteer and part-volunteer fire companies and departments, there is hereby levied and imposed an additional premium tax equal to one percent of taxable premiums for fire insurance and casualty insurance policies. For purposes of this section, casualty insurance does not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(2) All moneys collected from this additional tax shall be received by the commissioner and paid by him or her into a special account in the State Treasury, designated the Municipal Pensions and Protection Fund, to be allocated as follows: *Provided*, That on or after January 1, 2010, the commissioner shall pay

(A) Ten percent of the amount collected ~~to~~ shall be deposited in the Teachers Retirement System Reserve Fund created in §18-7A-18 of this code;

(B) Twenty-five percent of the amount collected ~~to~~ shall be deposited in the Fire Protection Fund ~~created in section 33 of this article for allocation~~ distribution by the State Treasurer to volunteer and part-volunteer fire companies and departments according to the requirements of §33-3-33 of this code; and

~~65% of the amount collected to the Municipal Pensions and Protection Fund: *Provided*, however, That upon notification by the Municipal Pensions Oversight Board pursuant to the provisions of §8-22-18b of this code, on or after January 1, 2010, or as soon thereafter as the Municipal Pensions Oversight Board is prepared to receive the funds,~~

(C) Sixty-five percent of the amount collected by the commissioner shall be deposited in the Municipal Pensions Security Fund created in §8-22-18b of this code the net proceeds of this tax after appropriation thereof by the Legislature is to be distributed in accordance with the provisions of this section, except for distribution from proceeds pursuant to §8-22-18a(d) of this code.

(b) *Municipal Pensions Security Fund allocation and distribution —*

(1) Before August 1 of each year, the treasurer of each municipality in which a municipal policemen's or firemen's pension and relief fund is established shall report to the ~~State Treasurer~~ Municipal Pensions Oversight Board the average monthly number of members who worked at least 100 hours per month and the average monthly number of retired members of municipal policemen's or firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System during the preceding fiscal year. ~~*Provided*, That beginning in the year 2010 and continuing thereafter, the report shall be made to the oversight board created in §8-22-18a of this code. These reports received by the oversight board shall be provided~~ The reports received by the Municipal Pensions Oversight Board shall be provided annually to the State Treasurer by September 1.

(2) ~~Before September 1 of each calendar year, the State Treasurer, or the Municipal Pensions Oversight Board once in operation, shall allocate and authorize for distribution the revenues in the Municipal Pensions and Protection Fund which were collected during the preceding calendar year for the purposes set forth in this section. Before September 1 of each calendar year, and after the Municipal Pensions Oversight Board has notified the Treasurer and commissioner pursuant to §8-22-18b of this code, the~~ The Municipal Pensions Oversight Board shall allocate

and authorize for distribution the revenues in the Municipal Pensions Security Fund which were collected during the preceding calendar year for the purposes set forth in this section. In any year the actuarial report required by §8-22-20 of this code indicates no actuarial deficiency in the municipal policemen's or firemen's pension and relief fund and that no pensions funding revenue bonds of the building commission of such municipality remain outstanding, no revenues may be allocated from the Municipal Pensions and Protection Fund or the Municipal Pensions Security Fund to that fund. The revenues from the Municipal Pensions and Protection Security Fund shall then be allocated to all other pension and relief funds which have an actuarial deficiency. Pension funding revenue bonds include bonds of a municipality's building commission the net proceeds of which were used to fund either or both of a municipality's policemen's or firemen's pension and relief fund or bonds issued to refinance such bonds.

~~(3) The Municipal Pensions Oversight Board shall annually review the investment performance of each municipal policemen's or firemen's pension and relief fund. If the municipal pension and relief fund's board fails for three consecutive years to comply with the investment provisions established by §8-22-22a of this code, the oversight board may require the municipal policemen's or firemen's pension and relief fund to invest with the Investment Management Board to continue to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails to move its investments to the Investment Management Fund within the 18-month drawdown period, provided in §8-22-19(e) of this code, the revenues shall be reallocated to all other municipal policemen's or firemen's pension and relief funds that have drawn down one hundred percent of their allocations.~~

~~(4) The moneys, and the interest earned thereon, in the Municipal Pensions and Protection Fund allocated to volunteer and part-volunteer fire companies and departments shall be allocated and distributed quarterly to the volunteer fire companies and departments. Before each distribution date, the State Fire Marshal shall report to the State Treasurer the names and addresses of all volunteer and part-volunteer fire companies and departments within the state which meet the eligibility requirements established in §8-15-8a of this code.~~

~~(e)~~ (1) Each municipal pension and relief fund shall have allocated and authorized for distribution a pro rata share of the revenues \$8,709,689.42 allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding municipality's average monthly number of police officers and firefighters who worked at least one hundred hours per month during the preceding fiscal year. On and after July 1, 1997, from the growth in any moneys collected pursuant to the tax imposed by this section any amount of the collections of the tax imposed by this section in excess of \$8,709,689.42 and interest thereon, there shall be allocated and authorized for distribution to each municipal policemen's or firemen's pension and relief fund, a pro rata share of the revenues allocated to municipal policemen's and firemen's pension and relief funds based on the corresponding municipality's average number of police officers and firefighters who are members of a municipal policemen's or firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System and who worked at least 100 hours per month during the preceding fiscal year and average monthly number of retired police officers and firefighters during the preceding fiscal year. For the purposes of this subsection, the growth in moneys collected from the tax collected pursuant to this section is determined by subtracting the amount of the tax collected during the fiscal year ending June 30, 1996, from the tax collected during the fiscal year for which the allocation is being made and interest thereon. All moneys received by municipal pension and relief funds under this section may be expended only for those purposes described in §8-22-16 through §8-22-28a of this code. Notwithstanding the foregoing provision of this subdivision, if a municipality has outstanding pension funding revenue bonds and continues to pay the normal cost of its policemen's and firemen's pension and relief

funds, then the allocable share of revenues to be allocated which would otherwise have been allocated to a municipal policemen's or firemen's pension and relief fund shall instead be allocated to the trustee of any outstanding pension funding revenue bonds.

~~(2) Each volunteer fire company or department shall receive an equal share of the revenues allocated for volunteer and part-volunteer fire companies and departments.~~

~~(3) In addition to the share allocated and distributed in accordance with subdivision (1) of this subsection, each municipal fire department composed of full-time paid members and volunteers and part-volunteer fire companies and departments shall receive a share equal to the share distributed to volunteer fire companies under subdivision (2) of this subsection reduced by an amount equal to the share multiplied by the ratio of the number of full-time paid fire department members who are also members of a municipal firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System to the total number of members of the fire department.~~ (4) If a municipality has outstanding pension funding revenue bonds and continues to pay the normal cost of its policemen's and firemen's pension and relief funds, then the share that would otherwise be payable to the municipality's firemen's pension and relief fund pursuant to this subsection shall be paid to the trustee of such outstanding pension funding revenue bonds.

~~(d) (5) The allocation and distribution of revenues provided in this section are subject to the provisions of §8-22-20, §8-15-8a, and §8-15-8b of said chapter this code.~~

(c) Based upon the findings of an audit by the Treasurer, the Legislature hereby finds and declares that during the period of 1982 through April 27, 2012, allocations from the Municipal Pensions and Protection Fund were miscalculated and errors were made in amounts transferred, resulting in overpayments and underpayments to the relief and pension funds and to the Teachers Retirement System, and that the relief and pension funds and the Teachers Retirement System were not at fault for any of the overpayments and underpayments. The Legislature hereby further finds and declares that any attempt by the Municipal Pension Oversight Board or other entity to recover any of the overpayments would be unjust and create economic hardship for the entities that received overpayments. No entity, including, without limitation, the Municipal Pension Oversight Board, may seek to recover from a relief or pension fund, the Teachers Retirement System or the state any overpayments received from the Municipal Pensions and Protection Fund and the overpayments are not subject to recovery, offset or litigation. Pursuant to the audit by the Treasurer, the amount of \$3,631,846.55 is determined owed to specific relief and pension funds through the period of April 27, 2012. The Treasurer is hereby authorized to transfer the amount of \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection Fund, which is hereby reopened for the sole purpose of the transfer and remittances pursuant to this subsection, and to use the amount transferred to remit the amounts due to the pension and relief funds. The payment of \$3,631,846.55 to the pension and relief funds is complete satisfaction of any amounts due and no entity, including, without limitation, the Municipal Pension Oversight Board and any pension or relief fund, may seek to recover any further amounts.

(d) The Municipal Pensions Oversight Board shall annually review the investment performance of each municipal policemen's or firemen's pension and relief fund. If a municipal pension and relief fund's board fails for three consecutive years to comply with the investment provisions established by §8-22-22a of this code, the oversight board may require the municipal policemen's or firemen's pension and relief fund to invest with the Investment Management Board to continue to receive its allocation of funds from the premium tax. If the municipal pension and relief fund fails to move its investments to the Investment Management Fund within the 18-month drawdown period provided in §8-22-19(e) of this code, the revenues shall be reallocated to all

other municipal policemen's or firemen's pension and relief funds that have drawn down 100 percent of their allocations.

**§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments and emergency medical services providers; Public Employees Insurance Agency and municipal pension plans; special fund created; Fire Protection Fund; allocation of proceeds. effective date.**

(a) For the purposes of this section:

(1) 'Full-time paid members' means the members of a fire department who are compensated to provide services to the department on a full-time basis and are also members of a municipal firemen's pension and relief fund or the Municipal Police Officers and Firefighters Retirement System.

(2) The 'policy surcharge' refers to the surcharge on certain insurance policies imposed by subsection (b) of this section.

(3) 'Volunteer fire departments' or 'departments' includes volunteer and part-volunteer fire departments and companies, as described in §18-15-1 et seq. of this code.

(b) (1) For the purpose of providing additional revenue for volunteer fire departments, part-volunteer fire departments and certain retired teachers and the teachers retirement reserve fund, there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions (2), (3) and ~~(3)~~ (4) of this subsection.

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

(3) After December 31, 2005, through December 31, 2023, for the purpose of providing additional revenue for volunteer fire departments and part-volunteer fire departments, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to 0.55% of the taxable premium for each such policy.

(4) After December 31, 2023, for the purpose of providing additional revenue for volunteer fire departments and emergency medical services providers, there is hereby authorized and imposed on the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy. The policy surcharge is separate from and in addition to the tax imposed by §33-3-14d of this code.

~~(4)~~ ~~(c)~~ For purposes of this section, casualty insurance ~~may~~ does not include insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy. The policy surcharge ~~may~~ is not ~~be~~ subject to premium taxes, agent commissions, or any other assessment against premiums.

~~(b)~~ ~~(d)~~ The policy surcharge imposed by this section shall be collected and remitted to the commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention group. The amount required to be collected under this section shall be remitted to the commissioner on a quarterly basis on or before the 25th day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before March 1 of the succeeding year. All money from the policy surcharge shall be collected by the commissioner, who shall disburse 77.5 percent of the money received from the surcharge into the Fire Protection Fund for distribution as provided in subsection (f) of this section. The commissioner shall disburse 22.5 percent of the money received from the surcharge into the Emergency Medical Services Equipment and Training Fund established in §16-4C-24 of this code for disbursement in accordance with the provisions of that section.

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

~~(d)~~ (f) Fire Protection Fund allocation and distribution. —

(1) ~~All money from the policy surcharge shall be collected by the Commissioner who shall disburse the money received from the surcharge into a special account in the state Treasury, designated the Fire Protection Fund. The State Treasurer's Office shall distribute the net proceeds of this portion of the tax~~ the portion of the policy surcharge deposited into the Fire Protection Fund pursuant to §33-3-33 of this code, the amount deposited into the Fire Protection Fund pursuant to §29-3E-7 of this code, the amount deposited into the Fire Protection Fund pursuant to §33-3-14d of this code, and the amount deposited into the Fire Protection Fund pursuant to §33-12C-7 of this code, and the interest thereon on a quarterly basis, after appropriation by the Legislature. shall be distributed quarterly. The distributions shall occur on the first day of the months of January, April, July, and October to each eligible volunteer fire ~~company~~ or department, ~~on an equal share basis by the state Treasurer.~~ After June 30, 2005, the money received from the surcharge shall be distributed as specified in subdivisions (2) and (3) of this subsection.

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

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

remain portion shall be transferred to the special account in the state Treasury, known as the Municipal Pensions and Protection Fund.

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

(4) Before each distribution date to volunteer fire ~~companies or~~ departments, the State Fire Marshal shall report to the State Treasurer:

(A) The names and addresses of all volunteer and ~~part-volunteer~~ fire ~~companies and~~ departments within the state which ~~meet~~ met the eligibility requirements established in §8-15-8a of this code during the preceding quarter; and

(B) The number of volunteer firefighters and the number of full-time paid members providing services to each volunteer and part-volunteer department during the preceding quarter.

(5) Each eligible volunteer fire department shall receive an equal share of the amount of proceeds to be distributed each quarter: *Provided*, That each part-volunteer department's share will be reduced by a percentage amount equal to the percentage of the members of the fire department who are full-time paid members of the department, according to the report described in subdivision (4) of this subsection.

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

## ARTICLE 12C. SURPLUS LINE.

### §33-12C-7. Surplus lines tax.

(a) In addition to the full amount of gross premiums charged by the insurer for the insurance, every person licensed pursuant to §33-12C-8 of this code shall collect and pay to the commissioner a sum equal to 4.55 percent of the gross premiums and gross fees charged, less any return premiums, for surplus lines insurance provided by the licensee pursuant to the license; *Provided*, That after December 31, 2023, the sum collected by the licensee pursuant to this subsection shall be equal to 5 percent of the gross premiums and gross fees charged, less any return premiums. Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state and this state is the insured's home state, the sum payable shall be computed on that portion of the gross premiums allocated to this state, plus an amount equal to the portion of the gross premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks or exposures located or to be performed outside of this state, and less the amount of gross premiums allocated to this state and returned to the insured due to cancellation of policy; *Provided*, That the surcharge imposed by ~~section thirty-three, article three of this chapter~~ §33-3-33 of this code on surplus lines policies shall no longer be effective with respect to premium attributable to coverage under such policies for periods after June 30, 2011: *Provided, however*, That 12 percent of taxes collected under this subsection with respect to premium attributable to coverage under such policies after June 30, 2011, shall be disbursed and distributed in accordance with subsection ~~(d)~~ (f), section thirty-three, article three of this chapter and 88 per cent in accordance with subdivision (2), subsection (f) of this section; *Provided further*, That beginning January 1, 2024, 16 percent of taxes collected under this subsection with respect to premium attributable to coverage under such policies, shall be

disbursed and distributed in accordance with §33-3-33 of this code, 4 percent of taxes collected under this subsection shall be disbursed into the Emergency Medical Services Equipment and Training Fund established in §16-4C-24 of this code for distribution in accordance with the provisions of that section, and 80 percent of the taxes collected under this subsection shall be disbursed in accordance with subdivision (2), subsection (f) of this section. The tax on any portion of the premium unearned at termination of insurance having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker, if any.

(b) The individual insurance producer may not:

(1) Pay directly or indirectly the tax or any portion thereof, either as an inducement to the policyholder to purchase the insurance or for any other reason; or

(2) Rebate all or part of the tax or the surplus lines licensee's commission, either as an inducement to the policyholder to purchase the insurance or for any reason.

(c) The surplus lines licensee may charge the prospective policyholder a fee for the cost of underwriting, issuing, processing, inspecting, service, or auditing the policy for placement with the surplus lines insurer if:

(1) The service is required by the surplus lines insurer;

(2) The service is actually provided by the individual insurance producer or the cost of the service is actually incurred by the surplus lines licensee; and

(3) The provision or cost of the service is reasonable, documented, and verifiable.

(d) The surplus lines licensee shall make a clear and conspicuous written disclosure to the policyholder of:

(1) The total amount of premium for the policy;

(2) Any fee charged;

(3) The total amount of any fee charged; and

(4) The total amount of tax on the premium and fee.

(e) The clear and conspicuous written disclosure required by ~~subdivision (4) of this subsection~~ (d) of this section is subject to the record maintenance requirements of §33-12C-8 of this code.

(f)(1) This tax is imposed for the purpose of providing additional revenue for municipal policemen's and firemen's pension and relief funds and additional revenue for volunteer and part-volunteer fire companies and departments. This tax is required to be paid and remitted, on a calendar year basis and in quarterly estimated installments due and payable on or before the 25th day of the month succeeding the close of the quarter in which they accrued, except for the fourth quarter, in respect of which taxes shall be due and payable and final computation of actual total liability for the prior calendar year shall be made, less credit for the three quarterly estimated payments prior made, and filed with the annual return to be made on or before March 1 of the succeeding year. Provisions of this chapter relating to the levy, imposition, and collection of the

regular premium tax are applicable to the levy, imposition, and collection of this tax to the extent that the provisions are not in conflict with this section.

(2) Except as provided in subsection (a) of this section, all taxes remitted to the commissioner pursuant to subdivision (1) of this subsection shall be paid by him or her into a special account in the State Treasury, designated Municipal Pensions and Protection Fund, or pursuant to §8-22-18b of this code, the Municipal Pensions Security Fund, and after appropriation by the Legislature, shall be distributed in accordance with ~~the provisions of subsection (c), section fourteen-d, article three of this chapter~~ §33-3-14d of this code. The surplus lines licensee shall return to the policyholder the tax on any unearned portion of the premium returned to the policyholder because of cancellation of policy.

(g) In determining the amount of gross premiums taxable in this state for a placement of surplus lines insurance covering properties, risks, or exposures only partially located or to be performed in this state, the tax due shall be computed on the portions of the premiums which are attributable to properties, risks, or exposures located or to be performed in this state and which relates to the kinds of insurance being placed as determined by reference to an appropriate allocation table.

(1) If a policy covers more than one classification:

(A) For any portion of the coverage identified by a classification on the allocation schedule, the tax shall be computed by using the allocation schedule for the corresponding portion of the premium;

(B) For any portion of the coverage not identified by a classification on the allocation schedule, the tax shall be computed by using an alternative equitable method of allocation for the property or risk;

(C) For any portion of the coverage where the premium is indivisible, the tax shall be computed by using the method of allocation which pertains to the classification describing the predominant coverage.

(2) If the information provided by the surplus lines licensee is insufficient to substantiate the method of allocation used by the surplus lines licensee, or if the commissioner determines that the licensee's method is incorrect, the commissioner shall determine the equitable and appropriate amount of tax due to this state as follows:

(A) By use of the allocation schedule where the risk is appropriately identified in the schedule;

(B) Where the allocation schedule does not identify a classification appropriate to the coverage, the commissioner may give significant weight to documented evidence of the underwriting bases and other criteria used by the insurer. The commissioner may also consider other available information to the extent sufficient and relevant, including the percentage of the insured's physical assets in this state, the percentage of the insured's sales in this state, the percentage of income or resources derived from this state, and the amount of premium tax paid to another jurisdiction for the policy.

(h) The commissioner is authorized to participate in a clearinghouse established through NIMA or in a similar allocation procedure for the purpose of collecting and disbursing to signatory states any funds collected pursuant to this section that are allocable to properties, risks, or



exposures located or to be performed outside of this state: *Provided*, That twelve per cent of any moneys received from a clearinghouse or through a similar allocation procedure is are subject to the provisions of subsection ~~(d)~~ (f), section thirty-three, article three of this chapter and 88 percent of such moneys is are subject to the provisions of subdivision (2), subsection (f) of this section: *Provided, however*, That beginning January 1, 2024, 16 percent of any moneys received from a clearinghouse or through a similar allocation procedure is are subject to the provisions of §33-3-33 of this code, four percent of such moneys are subject to the provisions of §16-4C-24 of this code, and 80 percent of such moneys is are subject to the provisions of subdivision (2), subsection (f) of this section: *Provided, further*, That to the extent other states where portions of the properties, risks, or exposures reside have failed to enter into NIMA or a similar allocation procedure with this state, the net premium tax collected shall be retained by this state and shall be disbursed and distributed in the same manner as moneys received through a clearinghouse or similar allocation procedure.

(i) Collection of tax.

If the tax owed by a surplus lines licensee under this section has been collected and is not paid within the time prescribed, the same shall be recoverable in a suit brought by the commissioner against the surplus lines licensee. The commissioner may charge interest for any unpaid tax, fee, financial assessment or penalty, or portion thereof: *Provided*, That interest may not be charged on interest. Interest shall be calculated using the annual rates which are established by the Tax Commissioner pursuant to §11-10-17a of this code and shall accrue daily.”

And,

With the further title amendment, sponsored by Delegates Criss and Householder, amending the title of the bill to read as follows:

**Com. Sub. for H. B. 3153** - “A Bill to amend and reenact §29-3E-7 of the Code of West Virginia, 1931, as amended; to amend and reenact §33-3-14d and §33-3-33 of said code; and to amend and reenact §33-12C-7 of said code, all relating to distribution of certain taxes and surcharges to benefit volunteer and part-volunteer fire departments and emergency medical services providers; defining terms; providing method of allocation and distribution for proceeds of fireworks safety fee deposited in Fire Protection Fund; eliminating obsolete language; increasing surcharge on fire and casualty policies; providing method of allocation of policy surcharge; requiring the State Fire Marshal provide certain information to the State Treasurer; increasing tax on surplus lines policies; providing method of allocation of surplus lines policy tax; and clarifying requirements for distribution of funds in Fire Protection Fund.”

On the motion to concur, with further amendment, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 779**), 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: Cannon, Dillon, Foster, Gearheart, A. Hall, Horst, Householder, Kimble, Linville, McGeehan and C. Pritt.

Absent and Not Voting: Cooper, Foggin, Kump, Mallow, Toney, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members present having voted in the affirmative, the motion to concur, with further amendment, prevailed.

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

The question being on the passage of the bill, the yeas and nays were taken (**Roll No. 780**), 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: Cannon, Foster, Gearheart, Hardy, Horst, Householder, Kimble, Linville, Martin, McGeehan and C. Pritt.

Absent and Not Voting: Capito, Cooper, Foggin, Kump, Mallow, Westfall and Hanshaw (Mr. Speaker).

So, a majority of the members elected to the House having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 3153) passed.

Delegate Kelly moved that the bill take effect January 1, 2024.

On this question, the yeas and nays were taken (**Roll No. 781**), and there were—yeas 86, nays 6, absent and not voting 8, with the nays and the absent and not voting being as follows:

Nays: Horst, Kimble, Martin, McGeehan, C. Pritt and Pushkin.

Absent and Not Voting: Capito, Cooper, Foggin, Forsht, Kump, Mallow, Westfall and Hanshaw (Mr. Speaker).

So, two thirds of the members elected to the House of Delegates having voted in the affirmative, the Speaker Pro Tempore declared the bill (Com. Sub. for H. B. 3153) takes effect January 1, 2024.

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

At 9:43 p.m., on motion of Delegate Householder, the House of Delegates recessed until 10:30 p.m.

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### **Evening Session**

\* \* \* \* \*

-continued-

### **Speaker Hanshaw in the Chair**

The House of Delegates came to order with the Honorable Roger Hanshaw, Speaker, presiding.

There being no objections, the House returned to further consideration of **Com. Sub. for H. B. 3035**, Relating generally to high-quality education programs and school operations.

On motion of Delegate Kimble, the House reconsidered the action on the vote on passage of the bill.

On motion of Delegate Kimble, the House reconsidered the action on the vote to concur with the Senate amendment and title amendment with further amendment and title amendment.

There being no objection, the motion to concur in the Senate amendment and title amendment with further amendment and title amendment was withdrawn.

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

By striking out everything after the enacting clause and inserting in lieu thereof the following:

**§18-2E-10. Third Grade Success Act; transformative multi-tiered system of support for early literacy and numeracy in kindergarten through grade three; pre-service and in-service teacher training; notice to parent or guardian; third grade retention policy with exceptions; interventions continuing in fourth grade for students below proficient.**

(a) This section shall be known and may be cited as the Third Grade Success Act.

~~(a)~~ (b) The Legislature finds that:

(1) In the early learning years, ensuring that each student masters the content and skills needed for mastery at the next grade level is critically important for student success;

(2) Students who do not demonstrate grade-level proficiency in reading by the end of third grade become increasingly less likely to succeed at each successive grade level and often drop out of school prior to graduation;

(3) State board policy requires every school to establish a process for ensuring the developmental and academic progress of all students. This process is to be coordinated by a school student assistance team that reviews student developmental and academic needs that have persisted despite being addressed through instruction, multi-tiered system of support for intervention, and as applicable, supports for personalized learning. Ensuring the developmental and academic success of all students requires every school to implement, in an equitable manner, programs during and after the instructional day at the appropriate instructional levels that contribute to the success of students; and

(4) To ensure that all students read and perform mathematics proficiently by the end of third grade, a statewide comprehensive approach to early literacy and numeracy is required. This approach shall focus on intensive supports during the early learning years which include schools and engaged communities mobilized to remove barriers, expand opportunities, and assist parents in fulfilling their roles and responsibilities to serve as full partners in the success of their children.

(c) 'Science of reading' means evidence-based reading instruction practices that address the acquisition of language, phonological and phonemic awareness, phonics and spelling, fluency,

vocabulary, oral language, comprehension, and writing that can be differentiated to meet the needs of individual students.

~~(b)~~ (d) The state board shall, in accordance with ~~the provisions of article three b, chapter twenty nine a~~ §29A-3B-1 et seq. of this code, promulgate legislative rules as necessary to effectuate the provisions of this section. The rules shall provide for at least the following:

(1) Development of a statewide comprehensive, systemic approach to close the reading and mathematics achievement gap gaps by third grade, which targets school readiness, the attendance gap, science of reading instruction (phonics, phonemic awareness, vocabulary, fluency, comprehension, and writing), summer learning loss, the use of screeners and/or benchmark assessments in English language arts and mathematics for students in grades kindergarten through three, and a multi-tiered system of support for students exhibiting a substantial reading or mathematics deficiency; ~~transformative intervention framework for student and learning supports;~~

(2) Ensuring all West Virginia children have access to high-quality early learning experiences that focus on healthy learners as part of the school readiness model, resulting in increased populations of children on target for healthy development prior to entering first grade;

(3) Closing the attendance gap to certify West Virginia children attend school regularly and limit chronic absenteeism in the early grades;

(4) Providing assistance to county boards with the training and implementation of the science of reading training for all kindergarten through grade three educators, early childhood classroom assistant teachers, aides, and any interventionists that a county board may choose to employ instead of an early childhood classroom assistant teacher or aide pursuant to §18-5-18a(b) of this code;

~~(5)~~ (4) Assisting county boards in establishing and operating targeted, sustained extended day and extended year reading and mathematics programs to ensure grade level proficiency and battle summer learning loss;

(6) Establishing an approved list of screeners and/or benchmark assessments in English language arts and mathematics for students in grades kindergarten through three for the purpose of identifying students with a significant reading and/or mathematics deficiency. The screener and/or benchmark assessments shall be given in the first 30 days of the school year and repeated at mid-year and at the end of the school year to determine student progression in reading and mathematics in kindergarten through third grade;

(7) Establishing an approved list of dyslexia screeners to be administered to students no less than twice per year in kindergarten through third grade and any time students with identified deficiencies are not responding to interventions;

(8) Any student in kindergarten or grades one through three who exhibits a deficiency in reading at any time, based upon the screeners and/or benchmark assessments, and/or the comprehensive statewide student assessment, and any fourth-grade student promoted for good cause shall receive an individual reading improvement plan no later than 30 days after the identification of the reading deficiency. The reading improvement plan shall be created by the teacher, principal, other pertinent school personnel, and the parent(s), and shall describe the research-based reading intervention services the student will receive to remedy the reading

deficit. Each student shall receive intensive reading intervention until the student no longer has a deficiency in reading. Reading interventions may include evidence-based strategies frequently used to remediate reading deficiencies and includes, but is not limited to, individual instruction, small-group instruction, tutoring, mentoring, or the use of technology that targets specific reading skills and abilities;

(5) (9) Maximizing family engagement to result in the development of a culture of literacy and numeracy, from birth through third grade which shall at least include:

(A) Providing parents or guardians with regular updates to inform them of their child's progress toward proficiency in reading and mathematics;

(B) Ensuring parents or guardians are informed of and have access to resources which they may utilize to improve their child's literacy and numeracy skills;

(C) Ensuring the parent or guardian is informed of the importance of their child being able to demonstrate grade level reading and mathematics skills by the end of the third grade and the measures that will be employed pursuant to this section to improve the reading and mathematics skills of children who are not meeting the standards; and

(D) The parent or guardian of any student in kindergarten through grade three who exhibits a deficiency in reading or mathematics at any time during the school year must be notified in writing no later than 15 days after the identification of the deficiency, and the written notification must include the following:

(i) That the student has been identified as having a deficiency in reading and/or mathematics;

(ii) A description of the proposed research-based reading and/or mathematics interventions and/or supplemental instructional services and supports that will be provided to the child to address the identified area(s) of deficiency;

(iii) Strategies for the parent or guardian to use at home to help their child succeed in reading and/or mathematics; and

(iv) That if the child's reading deficiency is not corrected by the end of grade three, the child may not be promoted to grade four unless an exemption is met;

(6) (10) Supporting high-quality schools and a workforce prepared to address early literacy and numeracy by the provision of professional development for administrators, kindergarten, first, second, and third grade teachers including, but not limited to, the following: ~~identification of interventions, and implementation of a system of intervention for children not reaching grade level proficiency~~

(A) The approved benchmark assessment and/or screener tools to ensure teachers have the knowledge and skill to administer the assessment and/or screener, analyze the data to inform instruction, and identify students exhibiting substantial deficiencies in reading or mathematics;

(B) Comprehensive training on the science of reading and numeracy instruction to ensure all kindergarten through grade three teachers, early childhood classroom assistant teachers, and aides, have the knowledge and skill to teach and/or support all students to read and perform mathematics at grade level. The rules also shall provide that any interventionist a county chooses

to employ instead of an early childhood classroom assistant teacher or aid pursuant to §18-5-18a(b) receives this comprehensive training;

(C) Training and materials to inform classroom teachers of the characteristics of dyslexia and dyscalculia in students, components of benchmarks and screeners that may indicate dyslexia or dyscalculia, and strategies for instruction; and

(D) Job-embedded, on-site teacher training on evidence-based reading and mathematics instruction and data-driven decision-making that provides kindergarten through grade three teachers with immediate feedback for improving instruction;

~~(7) (11)~~ Ensuring the employment of qualified teachers and service personnel in accordance with the provisions of section thirty nine, article five of this chapter and section seven c, article four, chapter eighteen a §18-5-39 and §18A-4-7c of this code to provide instruction to students enrolled in early literacy and numeracy support programs including, but not limited to, ensuring that educator preparation programs prepare candidates seeking licensure for elementary education with training and instruction to:

(A) Include instruction in state-adopted grade-level content standards, foundational reading and mathematics skills, and how to implement reading instruction using high-quality instructional materials;

(B) Provide effective instruction and intervention for students with reading and math deficiencies, including students with characteristics of dyslexia or dyscalculia; and

(C) Understand and use student data to make instructional decisions;

~~(8) (12)~~ Creating a formula or grant-based program for the distribution of funds appropriated specifically for the purposes of this section or otherwise available for the support of a targeted, multi-tiered system of support intervention ~~comprehensive system of support~~ for early literacy and numeracy;

~~(9) (13)~~ Providing support for transportation and healthy foods for students required to attend after-school and extended year early literacy and numeracy instructional support programs and supervision at the school that accommodates the typical work schedules of parents; and

~~(10) (14)~~ Receiving from county boards any applications and annual reports required by rule of the state board.

~~(e) (e)~~ A student in grades kindergarten through grade three ~~who is recommended by the student assistance team or the student's classroom teacher for additional assistance in one or more of the key standards of English Language Arts including reading, speaking and listening, writing or language may~~ shall be required to attend an extended year early literacy and numeracy instructional support program as a condition for promotion if:

(1) The student has been provided additional academic assistance help through interventions offered during the school day in-school or after-school in early literacy and numeracy instructional support program and, prior to the end of the school year, the student assistance team or the student's classroom teacher recommends that further additional academic help is needed for the student to be successful at the next grade level; and

(2) The county board has established an ~~early~~ a literacy and numeracy instructional support program during the extended year for the student's grade level.

~~(d)~~ (f) County boards shall provide high-quality educational facilities, equipment, and services to support ~~early~~ literacy and numeracy instructional support programs established pursuant to this section. Extended year programs may be provided at a central location for kindergarten through third graders who qualify for the program.

(g) Each county board shall adopt high-quality instructional materials grounded in scientifically-based reading research and aligned to state standards to be used as the core curriculum. The instructional materials shall not include practices that are aligned with the Three-Cueing Systems Model of teaching reading.

~~(e)~~ (h) This section may not be construed to prohibit a classroom teacher from recommending the grade level retention of a student in any of the grades kindergarten through grade three based upon the student's lack of mastery of the subject matter and preparation for the subject matter at the next grade level. Benchmark and/or screener data shall be used to inform the classroom teacher's recommendation.

~~(f)~~ (i) This section may not be construed to affect the individualized education plans of exceptional students.

~~(g)~~ (j) This section may not be construed to limit the authority of the county board to establish an extended year program in accordance with ~~section thirty-nine, article five of this chapter §18-5-39 of this code.~~ County boards may not charge tuition for enrollment in early literacy and numeracy instructional support programs established pursuant to this section.

~~(h)~~ (k) Each county board shall ~~prepare to~~ implement the provisions of this section and the provisions of the state board rule required by subsection (b) of this section. ~~The preparations shall at least include planning, ensuring~~ The county board shall establish a process for ensuring the developmental and academic progress of all students through the auspices of student assistance teams as currently required by state board policy and ~~performing~~ perform a needs assessment to determine the potential capacity requirements for the multi-tiered system of support for early learners. Each county board also shall provide in-service training:

(1) For kindergarten through grade three early childhood classroom assistant teachers, and aides, specifically related to literacy, numeracy, and their responsibilities and appropriate measures for exercising authority and control over students. The county board shall also provide this training to any interventionists it chooses to employ instead of an early childhood classroom assistant teacher or aide pursuant to §18-5-18a(b) of this code; and

(2) For classroom teachers in grades kindergarten through three to help the classroom teachers gain a strong understanding of how to best utilize the early childhood classroom assistant teachers, aides, or interventionists during classroom instruction and during other periods of the day.

~~(i)~~ (l) The state board shall provide a report describing the proposed implementation of the ~~transformative~~ multi-tiered system of support for early literacy and numeracy to the Legislative Oversight Commission on Education Accountability on or before ~~July 1, 2014~~ July 1, 2023.

~~(j) (m)~~ The state board shall provide a comprehensive report regarding the status of the ~~transformative multi-tiered~~ system of support for literacy and numeracy to the Legislative Oversight Commission on Education Accountability, the Joint Committee on Government and Finance, and the Governor on or before November 1, 2014 November 1, 2023, and annually on or before November 1 ~~on~~ of each year thereafter. The report shall address, at a minimum, the progress of the program throughout the state, its effect on student achievement, and the sources of the funding both available to and used by the program.

~~(k) (n)~~ The provisions of this section are subject to the availability of funds from legislative appropriation or other sources specifically designated for the purposes of this section. If a county board determines that adequate funds are not available for full implementation of a transformative system of support for early literacy in the county, the county board may implement its program in phases by first establishing early literacy instructional support programs in the early readiness grades (Kindergarten), then the primary grades (Grades 1-2), and then establishing an early literacy instructional support program for the third grade once Legislative appropriations to the State Board of Education – State Department of Education Elementary Literacy and Numeracy Program shall be used for the implementation of the provisions of this section along with other funds available for providing a high-quality education.

~~(l) (o)~~ Effective for the school year beginning July 1, 2026, and thereafter, a public school student who generally demonstrates a minimal understanding of, and ability to apply, grade level English language arts knowledge, skills, and abilities, or both, as indicated on the West Virginia General Summative Assessment relative to the West Virginia College and Career Readiness Standards at the end of third grade, shall upon the recommendation of the teacher and the student assistance team, be retained in the third grade for the ensuing school year subject to the following exceptions:

(1) A student with disabilities whose Individual Education Plan indicates participation in the statewide alternate summative assessment;

(2) A student identified as an English language learner who has had less than three years instruction in English as a second language;

(3) A student with disabilities who participates in the statewide summative assessment, has an Individual Education Plan or Section 504 plan that reflects that the student has received intensive intervention for more than two years and still demonstrates a deficiency or who was previously retained in any of the grades kindergarten through grade three;

(4) A student who is in the process of a special education referral or evaluation for placement in special education, has been diagnosed as having a significant impairment, including dyslexia or dyscalculia, or is a child with a disability if the student's individualized education program team and the student's parent or guardian agree that promotion is appropriate based on the student's Individualized Education Plan;

(5) A student who has received intensive intervention for two or more years, still demonstrates a deficiency, and who was previously retained in any of the grades kindergarten through grade three for a total of two years: *Provided*, That the student shall continue to receive intensive intervention in grade four;

(6) A student who demonstrates an acceptable level of performance on an alternative standardized assessment approved by the state board;



(7) A student who attends an extended year learning program following the third grade and has attained proficiency; and

(8) A student whose parent or guardian has requested a good cause exemption within the time period established by the county board and the superintendent, or his or her designee, determines that the good cause exemption is in the best interests of the child: *Provided*, That a good cause exemption may not prohibit the grade level retention of a student by a classroom teacher based upon the student's lack of mastery of the subject matter and preparation for the subject matter at the next grade level.

## **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

### **§18-5-18a. Maximum teacher-pupil ratio.**

(a) County boards of education shall provide sufficient personnel, equipment, and facilities as will ensure that each ~~first through sixth grade~~ classroom, or classrooms having two or more grades that include one or more of the ~~first~~ kindergarten through sixth grades shall not have more than 25 pupils for each teacher ~~of the grade or grades and shall not have more than 20 pupils for each kindergarten teacher per session~~ as follows, unless the state superintendent has excepted a specific classroom upon application therefor by a county board as provided in this section:

(1) For kindergarten, not more than 20 pupils for each teacher and one early childhood classroom assistant teacher or aide in classrooms with more than 10 pupils;

(2) For first, second, and third grades, not more than 25 pupils for each teacher and one early childhood classroom assistant teacher or aide in classrooms with more than 12 pupils: *Provided*, That the early childhood classroom assistant teacher/aide requirement for classrooms with more than 12 pupils shall not be effective until July 1, 2023, for first grade classrooms; July 1, 2024, for second grade classrooms; and July 1, 2025, for third grade classrooms; and

(3) For grades four, five, and six, not more than 25 pupils for each teacher.

(b) County boards may satisfy the requirements of subsection (a) of this section by employing a full-time interventionist instead of an early childhood assistant teacher or aide, subject to the following:

(1) If no full-time interventionist is available, a county board may satisfy the requirements of subsection (a) of this section by employing a part-time interventionist; and

(2) County boards are not required to employ an interventionist even if there are an insufficient number of early childhood assistant teachers and aides available to fill all the positions required by subsection (a) of this section.

~~(b)~~ (c) County school boards may not maintain a greater number of classrooms having two or more grades that include one or more of the grade levels referred to in this section than were in existence in said county as of January 1, 1983.

~~(e)~~ (d) The state superintendent is authorized, consistent with sound educational policy, to:

(1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher in a classroom for the purposes of instruction in physical education; and

(2) Permit more than 20 pupils per teacher in a specific kindergarten classroom and 25 pupils per teacher in a specific classroom in grades four through six during a school year in the event of extraordinary circumstances as determined by the state superintendent after application by a county board of education.

~~(d)~~ (e) The state board shall establish guidelines for the exceptions authorized in this section, but in no event shall the superintendent except classrooms having more than three pupils above the pupil-teacher ratio as set forth in this section.

~~(e)~~ (f) The requirement for approval of an exception to exceed the 20 pupils per kindergarten teacher per session limit or the 25 pupils per teacher limit in grades ~~one~~ four through six is waived in schools where the schoolwide pupil-teacher ratio is 25 or less in grades ~~one~~ four through six: *Provided*, That a teacher shall not have more than three pupils above the teacher/pupil ratio as set forth in this section. Any kindergarten teacher who has more than 20 pupils per session and any classroom teacher of grades ~~one~~ four through six who has more than 25 pupils, shall be paid additional compensation based on the affected classroom teacher's average daily salary divided by 20 for kindergarten teachers, or 25 for teachers of grades ~~one~~ four through six, for every day times the number of additional pupils enrolled up to the maximum pupils permitted in the teacher's classroom. All such additional compensation shall be paid from county funds exclusively.

Notwithstanding any other provision of this section to the contrary, commencing with the school year beginning on ~~July 1, 1994~~ July 1, 1996, a teacher in grades one, two, or three, or classrooms having two or more such grade levels, ~~shall not have more than two pupils above the teacher/pupil ratio as set forth in this section: *Provided*, That commencing with the school year beginning on July 1, 1995, such teacher shall not have more than one pupil above the teacher/pupil ratio as set forth in this section: *Provided, however*, That commencing with the school year beginning on July 1, 1996, such teacher shall not have any pupils above the teacher/pupil ratio as set forth in this section.~~

~~(f)~~ (g) No provision of this section is intended to limit the number of pupils per teacher in a classroom for the purpose of instruction in choral, band, or orchestra music.

~~(g)~~ (h) Each school principal shall assign students equitably among the classroom teachers, taking into consideration reasonable differences due to subject areas and/or grade levels.

~~(h)~~ (i) The state board shall collect from each county board of education information on class size and the number of pupils per teacher for all classes in grades seven through 12. The state board shall report such information to the Legislative Oversight Commission on Education Accountability before January 1, of each year.

~~(i) The West Virginia Department of Education shall survey districts to determine those grade levels, content areas, and geographic locations where class overcrowding is impeding student achievement and report to the Legislature by July 1, 2020 a tailored plan for reducing class overcrowding in such areas.~~

~~The study shall include, but is not limited to, an examination of the following issues:~~

~~(1) The effect on student learning of limits on the number of pupils per teacher in a classroom in elementary classes and in a middle and high school format in which students have different teachers for different subject matter instruction;~~

~~(2) The effect on the equity among teachers in a middle school in which the number of pupils per teacher in a classroom is limited for some teachers and not for others, including the additional pay for certain teachers in whose classrooms the limits are exceeded; and~~

~~(3) The effect limits on the number of pupils per teacher in a classroom have on the ability of school systems to offer elective courses in secondary school~~

## ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

### §18-9A-5. Foundation allowance for service personnel.

(a) The basic foundation allowance to the county for service personnel shall be the amount of money required to pay the annual state minimum salaries in accordance with the provisions of ~~article four, chapter eighteen – a §18A-4-1 et seq.~~ of this code to such service personnel employed, subject to the following:

(1) A county shall receive an allowance for state aid eligible service personnel positions per 1,000 students in net enrollment, as follows:

(A) For each high-density county, ~~forty three and ninety seven one hundredths 43.97~~ service personnel per 1,000 students in net enrollment: Provided, That this ratio of service personnel per 1,000 students in net enrollment shall increase to 47.39 beginning July 1, 2023; 50.65 beginning July 1, 2024; and 53.79 beginning July 1, 2025;

(B) For each medium-density county, ~~forty four and fifty three one hundredths 44.53~~ service personnel per 1,000 students in net enrollment: Provided, That this ratio of service personnel per 1,000 students in net enrollment shall increase to 47.95 beginning July 1, 2023; 51.21 beginning July 1, 2024; and 54.35 beginning July 1, 2025;

(C) For each low-density county, ~~forty five and one tenth 45.10~~ service personnel per 1,000 students in net enrollment: Provided, That this ratio of service personnel per 1,000 students in net enrollment shall increase to 48.52 beginning July 1, 2023; 51.78 beginning July 1, 2024; and 54.92 beginning July 1, 2025;

(D) For each sparse-density county, ~~forty five and sixty eight one hundredths 45.68~~ service personnel per 1,000 students in net enrollment: Provided, That this ratio of service personnel per 1,000 students in net enrollment shall increase to 49.10 beginning July 1, 2023; 52.36 beginning July 1, 2024; and 55.50 beginning July 1, 2025; and

(E) For any service personnel positions, or fraction thereof, determined for a county pursuant to subdivision (1) of this subsection that exceed the number employed, the county's allowance for these positions shall be determined using the average state funded minimum salary of service personnel for the county;

(2) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

(3) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the service personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that the personnel shall be considered within the above-stated limit.

**ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.****§18-20-10. Dyslexia and dyscalculia defined.**

(a) The Legislature finds as follows:

(1) Reading difficulties are the most common cause of academic failure and underachievement;

(2) There are many students who demonstrate significant weaknesses with reading, writing and mathematics that are ~~the root causes of~~ influenced by specific learning disabilities, including dyslexia, dyscalculia, and related learning difficulties. Of those who are referred to special education services in public schools, the majority are referred because of problems with language, reading, writing, or a combination of each;

(3) Teaching reading effectively, especially to students experiencing difficulty, requires considerable knowledge and skill. Informed and effective classroom instruction, especially in the early grades, can prevent and relieve the severity of language difficulties, and significantly improve literacy development;

(4) For those students with specific learning disabilities, including dyslexia and dyscalculia, who need specialized instruction, competent intervention can lessen the impact of the disorder and help the student overcome the most debilitating symptoms;

(5) While programs for specific learning disabilities, including dyslexia and dyscalculia, that certify or support teachers, clinicians or specialists differ in their preparation methodologies, teaching approaches and organizational purposes, they should ascribe to a common set of professional standards for the benefit of the students they serve. Compliance with such standards can assure the public that individuals who serve students with specific learning disabilities in public schools are prepared to implement scientifically based and clinically proven practices;

(6) ~~The American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), and the federal Individuals with Disabilities Education and Improvement Act of 2004 (IDEA) offer~~ The International Dyslexia Association (IDA) offers widely-adopted and consistent standards to guide the preparation, certification, and professional development for teachers of reading and related literacy skills in classroom, remedial and clinical settings; and

(7) The basis of ascribing to common standards to benefit students with specific learning disabilities, including dyslexia and dyscalculia, requires recognizing common characteristics of the disabilities. The Legislature finds that the definitions of dyslexia and dyscalculia prescribed by ~~IDEA and DSM-5~~ the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) are the appropriate ~~measure~~ measures for recognizing characteristics of dyslexia and dyscalculia in students.

(b) The Legislature recognizes the following regarding dyslexia and dyscalculia:

(1) Dyslexia and dyscalculia are conditions that may be considered under the specific learning disability category, and their definitions are consistent with IDEA and state board policy. State board policy provides that 'specific learning disability' means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written,

that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia and developmental aphasia;

(2) Dyslexia is an alternative term used to refer to a pattern of learning difficulties characterized by problems with accurate or fluent word recognition, poor decoding, and poor spelling abilities. If dyslexia is used to specify this particular pattern of difficulties, it is important also to specify any additional difficulties that are present, such as difficulties with reading comprehension or math reasoning; and

(3) Dyscalculia is an alternative term used to refer to a pattern of learning difficulties characterized by problems processing numerical information, learning arithmetic facts, and performing accurate or fluent calculations. If dyscalculia is used to specify this particular pattern of mathematic difficulties, it is important also to specify any additional difficulties that are present, such as difficulties with math reasoning or word reasoning accuracy.

~~(c) the state board is responsible for the following:~~

~~(1) Ensuring that all students receive the necessary and appropriate screenings, evaluations and early assessments for specific learning disabilities, including dyslexia and dyscalculia;~~

~~(2) Ensuring that any Individualized Education Program regarding specific learning disabilities, including dyslexia or dyscalculia, which is developed or implemented, is consistent with the provisions of this section; and~~

~~(3) Providing ongoing information and education to parents regarding specific learning disabilities, including dyslexia and dyscalculia, and the services available to students with such disabilities.~~

(c) The state board shall:

(1) Develop a list of appropriate screeners, early assessments, and professional development that address and ensure that all students receive the necessary and appropriate screenings, evaluations, and early assessments for specific learning disabilities, including dyslexia and dyscalculia which contain information related to the following:

(A) Appropriate literacy and numeracy screening tools for identifying students who are at risk for academic difficulty in reading and/or math, including dyslexia and dyscalculia, and who require tiered intervention;

(B) Appropriate diagnostic assessment components that can be used to help identify and diagnose;

(C) Appropriate evidence-based instruction and intervention strategies for students who are at risk for academic difficulty in reading and/or mathematics, including students who exhibit possible indicators of risk for dyslexia and/or dyscalculia;

(D) Appropriate accommodations for students who exhibit possible indicators of risk for, or who have been diagnosed with, dyslexia, dyscalculia, and/or other specific learning disabilities;

(E) Connecting a multi-tiered system of support framework to specific learning disability identification; and

(F) The use of the terms “dyslexia” and “dyscalculia” in Individualized Education Programs, and in evaluation reports by professionals qualified to render these diagnoses; and

(2) Explore options to assist any LEA with acquiring approved literacy and/or numeracy screening tools: *Provided*, That the local educational agency is unable to acquire its own literacy and/or numeracy screening tools that are consistent with state educational agency recommendations;

(3) Adopt and make publicly available guidelines for including dyslexia diagnostic evaluation components in comprehensive assessments for special education and related services. These guidelines shall:

(A) Recommend at least one person on each multidisciplinary evaluation team be knowledgeable about dyslexia and be able to recognize when a dyslexia diagnostic component should be requested in the evaluation process;

(B) Recommend that a diagnosis of dyslexia be given when the data from the comprehensive evaluation components indicate such a diagnosis is appropriate;

(C) Include recommendations for how to document a dyslexia diagnosis in an IEP; and

(D) Include that a Section 504 Plan be considered if a student has a dyslexia diagnosis but does not qualify for special education services;

(4) Adopt and make publicly available a list of approved diagnostic assessment components that can be used to help identify and diagnose dyslexia during comprehensive multidisciplinary evaluations;

(5) Adopt and make publicly available guidelines and a list of resources for dyslexia intervention practices that are evidence-based, including practices consistent with the Science of Reading and Structured Literacy, that are explicit, direct, sequential, systematic, and multisensory;

(6) Adopt and make publicly available a list of recommended accommodations and instructional practices to be used with students who exhibit signs of dyslexia or have been diagnosed with dyslexia. These shall reflect contemporary research and guidelines of the Science of Reading related to dyslexia. These recommendations shall include, but are not limited to, structured literacy approaches that are explicit, direct, sequential, systematic, and multisensory;

(7) Adopt and make publicly available a list of available professional development resources that support evidence-based intervention for struggling readers, including the Science of Reading and Structured Literacy. This list shall be made publicly available and include resources endorsed or espoused by technical assistance centers, research organizations, and professional associations that support the Science of Reading and Structured Literacy regarding dyslexia, including the International Dyslexia Association; and

(8) Develop and make publicly available informational materials related to dyslexia for parents and guardians that include information about the multidisciplinary evaluation process, updated regularly.

(d) The local education agency shall:

(1) Develop a system for parents and guardians to annually receive digital and print informational materials related to dyslexia;

(2) Ensure at least one educator at each school is trained to administer, score, and interpret the data from the literacy screening instrument or instruments, and to recognize signs of dyslexia;

(3) Notify parents of the results of these literacy screeners while emphasizing that not all students who perform poorly on these screening instruments have dyslexia. Also, not all students with dyslexia will perform poorly on the screeners;

(4) Provide evidence-based reading intervention to students who exhibit academic risk in future reading performance, including indicators of dyslexia;

(5) Conduct comprehensive assessments to determine eligibility for special education services when a child does not respond or only minimally responds to intervention strategies and/or when there is a suspected disability of dyslexia. If a determination is made through the evaluation process that a student needs assessed for dyslexia, provide assessment and diagnosis as necessary per West Virginia Department of Education guidelines;

(6) Employ appropriate accommodations and instructional practices recommended by the West Virginia Department of Education based upon the students' needs. When those needs are related to dyslexia, these accommodations and instructional techniques or strategies shall also meet the West Virginia Department of Education-approved guidelines for dyslexia accommodations and instructional practices;

(7) Require all elementary educators, special educators, reading interventionists or specialists, and other personnel determined appropriate by the local education agency to receive professional development on the possible signs of dyslexia and the related classroom accommodations and instructional practices approved by the West Virginia Department of Education;

(8) Administer a literacy screening instrument or instruments to students in grades 3-5 who transfer from a local education agency where literacy screening instruments were not administered. If the literacy screening instrument indicates a deficit in reading, the school will provide intervention according to current policy. If a student does not respond or only minimally responds to intervention, a referral for multidisciplinary evaluation shall be made; and

(9) Require all appropriate personnel, as determined by the local education agency, to annually receive professional development relating to the possible indicators for dyslexia and dyscalculia, accommodations and modifications in the classroom environment, proper instructional practices for educating students who exhibit possible indicators of risk for, or who have been, diagnosed with dyslexia, dyscalculia, and/or other specific learning disabilities. Local education agencies may create more than one module to satisfy the requirements of this subdivision.

(e) The state board shall promulgate a rule pursuant to §29A-3B-1 et seq. of this code to implement this section. In addition to other provisions to implement this section, the rule shall at least include the following:

(1) If a student is reading substantially below grade level according to formal and/or informal assessments, including benchmark assessments, and has never been evaluated for special education, a request may be made by a school, parent, or teacher for the administration of an age- or grade-appropriate West Virginia Department of Education-approved literacy screening instrument or instruments. These points of data may be used to either start intervention and progress monitoring per West Virginia Department of Education guidance, or make a referral for a special education evaluation;

(2) Acknowledgement that each local education agency may have one certified Literacy and Numeracy Specialist in each local education agency, or another appropriate professional designated by relevant local education agency leadership, to be appropriately trained, or be seeking appropriate training, in intervention, accommodations, and instructional strategies for students with dyslexia or a related disorder. The trained individual(s) shall serve as an advisor and trainer for dyslexia and related disorders for the local education agency. The reading specialist(s) or other designated professional(s) shall have an understanding of the definition of dyslexia and a working knowledge of:

(A) Techniques to help a student on the continuum of skills with dyslexia;

(B) Dyslexia characteristics that may manifest at different ages and levels;

(C) The basic foundation of the keys to reading, including multisensory, explicit, systematic, and structured literacy instruction; and

(D) Appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.

(f) *Legislative Oversight Commission on Education Accountability (LOCEA):*

(1) The final draft of the state board's literacy and numeracy rule shall be submitted to the Legislative Oversight Commission on Education Accountability (LOCEA) by August 1, 2023.

(2) The following shall be submitted to the Legislative Oversight Commission on Education Accountability (LOCEA) annually:

(A) Disaggregated data concerning literacy and numeracy patterns statewide;

(B) Statewide interventions implemented; and

(C) The statewide professional development plan.

(3) Progress monitoring regarding K-2 screening and 3-8 formative assessments shall be presented to the Legislative Oversight Commission on Education Accountability (LOCEA) after data is collected for the beginning, middle, and end of the school year."

And,



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

**Com. Sub. for H. B. 3035** - “A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code; and to amend and reenact §18-20-10 of said code, all relating to enhancing academic achievement of students including those with learning disabilities; establishing the Third Grade Success Act; replacing transformative system of support for early literacy with multi-tiered system of support for early literacy and numeracy in kindergarten through grade three; revising findings; defining ‘science of reading’; revising inclusions in West Virginia Board of Education rules required to effectuate Third Grade Success Act section; requiring each county board to adopt high-quality instructional materials; specifying data to be used to inform the classroom teacher’s recommendation on grade level retention; requiring county boards of education to provide in-service training for early childhood classroom assistant teachers, aides, classroom teachers, and in certain instances, interventionists in grades kindergarten through three; updating deadlines for West Virginia Board of Education multi-tiered system of support for early literacy and numeracy reports; modifying provisions pertaining to funding for Third Grade Success Act section; requiring retention in the third grade in certain circumstances; specifying exceptions to third grade retention requirement; adding maximum teacher-pupil ratio for pre-kindergarten; adding maximum early childhood classroom assistant teacher or aide-pupil ratio for kindergarten through grade three; phasing in early childhood classroom assistant teacher/aide requirement for grades one through three; allowing county boards to employ an interventionist instead of an early childhood assistant teacher or aide; removing requirement for survey of districts on class overcrowding and report to the Legislative Oversight Commission on Education Accountability a tailored plan for reducing class overcrowding; phasing in increased ratios of service personnel per 1,000 students for the purpose of determining the basic foundation allowance for service personnel; revising findings pertaining to standards to guide the preparation, certification, and professional development for teachers of reading and related literacy skills and appropriate measures for recognizing characteristics of dyslexia and dyscalculia; replacing responsibilities of the West Virginia Board of Education pertaining to specific learning disabilities, including dyslexia and dyscalculia, with duties of the state board and the local education agencies; requiring state board rule to implement section pertaining to dyslexia and dyscalculia; stating minimum inclusions for rule; and requiring report of certain information to the Legislative Oversight Commission on Education Accountability.”

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

On page 1, section 10, line 5, after the word “reading” by inserting the word “and mathematics”;

On page 2, section 10, line 43, after the word, “aides”, by inserting the word “paraprofessionals”;

On page 2, section 10, line 44, after the word, “teacher”, by striking out the words “or aides” and inserting a comma and the words “aides, or paraprofessionals”;

On page 2, section 10, line 63, after the word “parent(s)” by inserting the word “or guardians”;

On page 3, section 10, line 91, after the word “reading” by inserting the word “or mathematics”;

On page 4, section, 10, lines 102-103, after the words “assistant teachers” by striking out the words “and aides” and inserting a comma and the words “aides and paraprofessionals”;

On page 4, section 10, line 105, after the word “teacher” by striking out the words “or aid” and inserting a comma and the words “aides or paraprofessionals”;

On page 7, section 10, line 173, by striking out the words “and aides” and inserting in lieu thereof “aides and paraprofessionals”;

On page 7, section 10, line 176, after the word “teacher”, by striking out the words “or aide” and inserting a comma and the words “aide or professional”;

On page 7, section 10, line 179, after the word “aides” by inserting the word “paraprofessionals”;

On page 8, section 10, line 203, after the word “arts” by inserting the word “or mathematics”;

On pages 10-11, section 18a, lines 9-13, by striking out subdivision (2) in its entirety, and inserting in lieu thereof the following:

(2) For first, second, and third grades, not more than 25 pupils for each teacher and one early childhood classroom assistant teacher, aide or paraprofessional in classrooms with more than 12 pupils: *Provided*, That the early childhood classroom assistant teacher/aide/paraprofessional requirement for classrooms with more than 12 pupils shall be effective beginning the 2023-2024 school year, for first grade classrooms; shall be effective beginning the 2024-2025 school year, for second grade classrooms; and shall be effective beginning the 2025-2026 school year, for third grade classrooms; *Provided however*: That if all grade level classrooms are already being served by an early childhood classroom assistant teacher/aide/paraprofessional by the school year required, the county board has the discretion to add the assistant teachers/aides/paraprofessionals in first, second and third grade classrooms of the greatest need beginning July 1, 2023 and completing full implementation by July 1, 2026 ; and

On page 10, section 18a, line 16, after the word “teacher” by striking out the words “or aide” and inserting a comma and the words “aide or paraprofessional”;

And,

On page 10, section 18a, line 21, after the word “teachers” by striking out the words “and aides” and inserting a comma and the words “aides and paraprofessionals”.

And,

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

**Com. Sub. for H. B. 3035** – “A Bill to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code; and to amend and reenact §18-20-10 of said code, all relating to enhancing academic achievement of students including those with learning disabilities; establishing the Third Grade Success Act; replacing transformative system of support for early literacy with multi-tiered system of support for early literacy and numeracy in kindergarten through grade three; revising findings; defining ‘science of reading’; revising inclusions in West Virginia Board of Education rules required to effectuate Third Grade Success Act section; requiring each county board to adopt high-quality instructional materials; specifying data to be used to inform the classroom

teacher's recommendation on grade level retention; requiring county boards of education to provide in-service training for early childhood classroom assistant teachers, aides, paraprofessionals, classroom teachers, and in certain instances, interventionists in grades kindergarten through three; updating deadlines for West Virginia Board of Education multi-tiered system of support for early literacy and numeracy reports; modifying provisions pertaining to funding for Third Grade Success Act section; requiring retention in the third grade in certain circumstances; specifying exceptions to third grade retention requirement; adding maximum early childhood classroom assistant teacher or aide-pupil ratio for kindergarten; adding maximum early childhood classroom assistant teacher, paraprofessional, or aide-pupil ratio for grades one through three; requiring ratios to be by grade level with flexibility once grade level requirement is met for full implementation by 2026; allowing county boards to employ an interventionist instead of an early childhood assistant teacher, paraprofessional or aide; removing requirement for survey of districts on class overcrowding and report to the Legislative Oversight Commission on Education Accountability a tailored plan for reducing class overcrowding; phasing in increased ratios of service personnel per 1,000 students for the purpose of determining the basic foundation allowance for service personnel; revising findings pertaining to standards to guide the preparation, certification, and professional development for teachers of reading and related literacy skills and appropriate measures for recognizing characteristics of dyslexia and dyscalculia; replacing responsibilities of the West Virginia Board of Education pertaining to specific learning disabilities, including dyslexia and dyscalculia, with duties of the state board and the local education agencies; requiring state board rule to implement section pertaining to dyslexia and dyscalculia; stating minimum inclusions for rule; requiring report of certain information to the Legislative Oversight Commission on Education Accountability."

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 782**), 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 Vance.

Absent and Not Voting: Cooper, Garcia, Kump, Mallow and Westfall.

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. 3035) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 3135**, To modify the salaries of the Governor and Constitutional officers beginning January 1, 2025.

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

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

**“§6-7-2. Salaries of certain state officers.**

(a) Beginning in the calendar year 2005, and for each calendar year after that, salaries for each of the state Constitutional officers are as follows:

- (1) The salary of the Governor is \$95,000 per year;
- (2) The salary of the Attorney General is \$80,000 per year;
- (3) The salary of the Auditor is \$75,000 per year;
- (4) The salary of the Secretary of State is \$70,000 per year;
- (5) The salary of the Commissioner of Agriculture is \$75,000 per year; and
- (6) The salary of the state Treasurer is \$75,000 per year.

(b) Notwithstanding the provisions of subsection (a) of this section, beginning in the calendar year 2009, and for each calendar year thereafter, salaries for each of the state Constitutional officers shall be as follows:

- (1) The salary of the Governor shall be \$150,000 per year;
- (2) The salary of the Attorney General shall be \$95,000 per year;
- (3) The salary of the Auditor shall be \$95,000 per year;
- (4) The salary of the Secretary of State shall be \$95,000 per year;
- (5) The salary of the Commissioner of Agriculture shall be \$95,000 per year; and
- (6) The salary of the state Treasurer shall be \$95,000 per year.

(c) Notwithstanding the provisions of subsection (a) or subsection (b) of this section, beginning calendar year 2025, and for each calendar year thereafter, the salary for the Governor shall be set by the Salary Table For Locality Pay Area of Rest of U.S. as published by the United States Office of Personnel Management. The salary of the Governor shall be equal to the amount set as Grade 15, Step 10 on the Salary Table For Locality Pay Area of Rest of U.S. The salary of the Governor shall be adjusted at the beginning of any calendar year when any modifications become effective to the Salary Table For Locality Pay Area of Rest of U.S table by the United State Office of Personnel Management.

(d) (c) Notwithstanding the provisions of subsection (a) or subsection (b) of this section, beginning calendar year 2025, and for each calendar year thereafter, the salary for the Attorney General, Auditor, Secretary of State, Commissioner of Agriculture, and the Treasurer shall be set by the Salary Table General Schedule Increase as published by the United States Office of Personnel Management. The salary of the Attorney General, Auditor, Secretary of State, Commissioner of Agriculture, and the Treasurer shall be equal to the amount set as Grade 15, Step 4 on the Salary Table General Schedule Increase. The salary of the General Schedule

Increase shall each be adjusted at the beginning of any calendar year when any modifications become effective to the Salary Table General Schedule Increase table by the United State Office of Personnel Management.”

And,

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

**Com. Sub. for H. B. 3135** – “A Bill to amend and reenact §6-7-2 of the Code of West Virginia, 1931, as amended, relating to compensation of designated constitutional officers, including for the Governor, Attorney General, Auditor, Secretary of State, Commissioner of Agriculture, and State Treasurer, beginning in the calendar year 2025, and for each calendar year after that; providing for a means to calculate salaries of constitutional officers based upon federal salary tables; and providing for a salary increase when modifications are made to salary tables.”

With the further amendment, sponsored by Delegates Householder and Criss, being as follows:

On page one, following line seventeen, by striking out subsections (c) and (d) in their entirety and inserting in lieu thereof new subsections (c) and (d) to read as follows:

“(c) Notwithstanding the provisions of subsection (a) or subsection (b) of this section, beginning calendar year 2025, and beginning in the calendar year of each fourth year thereafter, the salary of the Governor shall be set by the Salary Table For Locality Pay Area of Rest of U.S. as published by the United States Office of Personnel Management. The salary of the Governor shall be equal to the amount set as Grade 15, Step 10 on the Salary Table For Locality Pay Area of Rest of U.S. at the beginning of that calendar year and shall not be increased or diminished for the duration of the four year term of office beginning in that calendar year.

(d) Notwithstanding the provisions of subsection (a) or subsection (b) of this section, beginning calendar year 2025, and beginning in the calendar year of each fourth year thereafter, the salary of the Attorney General, Auditor, Secretary of State, Commissioner of Agriculture, and the Treasurer shall be set by the Salary Table General Schedule Increase as published by the United States Office of Personnel Management. The salary of the Attorney General, Auditor, Secretary of State, Commissioner of Agriculture, and the Treasurer shall be equal to the amount set as Grade 15, Step 4 on the Salary Table General Schedule Increase at the beginning of that calendar year and shall not be increased or diminished for the duration of the four year terms of each of those offices beginning in that calendar year.”

And,

With the further title amendment sponsored by Delegates Householder and Criss, amending the title of the bill to read as follows:

**Com. Sub. for H. B. 3135** – “A Bill to amend and reenact §6-7-2 of the Code of West Virginia, 1931, as amended, relating to compensation of designated constitutional officers, including for the Governor, Attorney General, Auditor, Secretary of State, Commissioner of Agriculture, and State Treasurer, beginning in the calendar year 2025, and beginning in the calendar year of each fourth year thereafter; providing for a means to calculate salaries of constitutional officers based upon certain federal salary tables; and providing for a salary modification when modifications are

made to those salary tables at the beginning of each calendar year in which those officers' terms begin.”

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

On the passage of the bill, the yeas and nays were taken (**Roll No. 783**), and there were— yeas 53, nays 40, absent and not voting 7, with the nays and the absent and not voting being as follows:

Nays: Bridges, Brooks, Butler, Cannon, Capito, Chiarelli, Coop-Gonzalez, Dean, Dillon, Ferrell, Fluharty, Foster, Gearheart, Griffith, A. Hall, W. Hall, Hansen, Hillenbrand, Holstein, Hornbuckle, Horst, Householder, Kirby, Linville, Longanacre, C. Pritt, E. Pritt, Pushkin, Rohrbach, Ross, Rowe, Shamblin, Skaff, Street, Toney, Vance, Walker, Williams, Worrell and Young.

Absent and Not Voting: Cooper, Garcia, Hanna, Kump, Mallow, Ridenour and Westfall.

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. 3135) passed.

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

A message from the Senate, by

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

**Com. Sub. for H. B. 3354**, To authorize municipalities to combine operations with other municipalities and counties to provide governmental services.

Delegate Jeffries moved that the House of Delegates 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:

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

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

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

(1) To lay off, establish, construct, open, alter, curb, recurb, pave or repave and keep in good repair, or vacate, discontinue and close, streets, avenues, roads, alleys, ways, sidewalks, drains and gutters, for the use of the public, and to improve and light the same, and have them kept free

from obstructions on or over them which have not been authorized pursuant to the succeeding provisions of this subdivision; and, subject to such terms and conditions as the governing body shall prescribe, to permit, without in any way limiting the power and authority granted by the provisions of ~~article sixteen of this chapter~~ §12-16-1 et seq. of this code, any person to construct and maintain a passageway, building, or other structure overhanging or crossing the airspace above a public street, avenue, road, alley, way, sidewalk, or crosswalk, but before any permission for any person to construct and maintain a passageway, building, or other structure overhanging or crossing any airspace is granted, a public hearing thereon shall be held by the governing body after publication of a notice of the date, time, place and purpose of the public hearing has been published as a Class I legal advertisement in compliance with the provisions of ~~article three, chapter fifty-nine~~ §59-3-1 et seq. of this code and the publication area for the publication shall be the municipality: *Provided*, That any permit so granted shall automatically cease and terminate in the event of abandonment and nonuse thereof for the purposes intended for a period of ~~ninety~~ 90 days, and all rights therein or thereto shall revert to the municipality for its use and benefit;

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

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

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

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

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

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

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

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

(10) To prohibit the accumulation and require the disposal of garbage, refuse, debris, wastes, ashes, trash, and other similar accumulations whether on private or public property: *Provided*, That, in the event the municipality annexes an area which has been receiving solid waste

collection services from a certificated solid waste motor carrier, the municipality and the solid waste motor carrier may negotiate an agreement for continuation of the private solid waste motor carrier services for a period of time, not to exceed three years, during which time the certificated solid waste motor carrier may continue to provide exclusive solid waste collection services in the annexed territory;

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

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

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

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

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

(16) To arrest, convict, and punish any individual for carrying about his or her person any revolver or other pistol, dirk, bowie knife, razor, slingshot, billy, metallic or other false knuckles, or any other dangerous or other deadly weapon of like kind or character: *Provided*, That with respect to any firearm a municipality may only arrest, convict, and punish someone if they are in violation of an ordinance authorized by ~~subsection five-a of this article~~ §8-12-5(a) of this code, a state law proscribing certain conduct with a firearm or applicable federal law;

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

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

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

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

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

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



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

(24) To license, or for good cause to refuse to license in a particular case, or in its discretion to prohibit in all cases, the operation of pool and billiard rooms and the maintaining for hire of pool and billiard tables notwithstanding the general law as to state licenses for any such business and the provisions of ~~section four, article thirteen of this chapter~~ §8-13-4 of this code; and when the municipality, in the exercise of its discretion, refuses to grant a license to operate a pool or billiard room, mandamus may not lie to compel the municipality to grant the license unless it shall clearly appear that the refusal of the municipality to grant a license is discriminatory or arbitrary; and in the event that the municipality determines to license any business, the municipality has plenary power and authority and it shall be the duty of its governing body to make and enforce reasonable ordinances regulating the licensing and operation of the businesses;

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

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

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

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

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

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

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

(32) To erect, establish, construct, acquire, improve, maintain, and operate a gas system, a waterworks system, an electric system, or sewer system and sewage treatment and disposal system, or any combination of the foregoing (subject to all of the pertinent provisions of ~~articles nineteen and twenty of this chapter~~ §8-19-1 et seq. and §8-20- et seq. of this code and particularly to the limitations or qualifications on the right of eminent domain set forth in ~~articles nineteen and twenty~~ §8-19-1 et seq. and §8-20- et seq. of this code), within or without the corporate limits of the municipality, except that the municipality may not erect any system partly without the corporate limits of the municipality to serve persons already obtaining service from an existing system of the character proposed and where the system is by the municipality erected, or has heretofore been so erected, partly within and partly without the corporate limits of the municipality, the municipality has the right to lay and collect charges for service rendered to those served within and those served without the corporate limits of the municipality and to prevent injury to the system or the pollution of the water thereof and its maintenance in a healthful condition for public use within the corporate limits of the municipality;

(33) To acquire watersheds, water and riparian rights, plant sites, rights-of-way, and any and all other property and appurtenances necessary, appropriate, useful, convenient, or incidental to any system, waterworks or sewage treatment and disposal works, as aforesaid, subject to all of the pertinent provisions of ~~articles nineteen and twenty of this chapter~~ §8-19-1 et seq. and §8-20-et seq. of this code;

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

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

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

(37) To establish, construct, acquire, provide, equip, maintain, and operate recreational parks, playgrounds, and other recreational facilities for public use and in this connection also to proceed in accordance with the provisions of ~~article two, chapter ten~~ §10-2-1 et seq. of this code;

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

(39) To provide for the appointment and financial support of a library board in accordance with the provisions of ~~article one, chapter ten~~ §10-1-1 et seq. of this code;

(40) To establish and maintain a public health unit in accordance with the provisions of ~~section two, article two, chapter sixteen~~ §16-2-2 of this code, which unit shall exercise its powers and perform its duties subject to the supervision and control of the West Virginia Board of Health and State Bureau for Public Health;

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

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

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

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

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

(46) Except as otherwise provided, to require and take bonds from any officers, when considered necessary, payable to the municipality, in its corporate name, with such sureties and

in a penalty as the governing body may see fit, conditioned upon the faithful discharge of their duties;

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

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

(49) To establish, construct, require, maintain, and operate such instrumentalities, other than free public schools, for the instruction, enlightenment, improvement, entertainment, recreation, and welfare of the municipality's inhabitants as the governing body may consider necessary or appropriate for the public interest;

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

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

(52) To appropriate and expend not exceeding ~~twenty-five~~ 25 cents per capita per annum for advertising the municipality and the entertainment of visitors;

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

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

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

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

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

(58) To provide penalties for the offenses and violations of law mentioned in this section, subject to the provisions of ~~section one, article eleven of this chapter~~ §8-11-1 of this code, and

such penalties may not exceed any penalties provided in this chapter and ~~chapter sixty-one~~ §61-1-1 et seq. of this code for like offenses and violations; ~~and~~

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

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

And,

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

**Com. Sub. for H. B. 3354** – “A Bill to amend and reenact §8-12-5 of the Code of West Virginia, 1931, as amended, relating to allowing municipalities to combine operations with other municipalities and counties to provide governmental services.”

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

On this question, the yeas and nays were demanded, which demand was sustained.

The yeas and nays having been ordered, they were taken (**Roll No. 784**), and there were—yeas 81, nays 14, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Anderson, Dean, DeVault, Dillon, Fast, Griffith, Hansen, Honaker, Hornbuckle, Kirby, Pushkin, Statler, Walker and Worrell.

Absent and Not Voting: Cooper, Jennings, Kump, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the previous question was ordered.

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

The yeas and nays have been ordered, they were taken (**Roll No. 785**), and there were—yeas 41, nays 54, absent and not voting 5, with the yeas and the absent and not voting being as follows:

Yeas: Anderson, Capito, Clark, Dittman, Ellington, Fehrenbacher, Ferrell, Fluharty, Garcia, Gearheart, W. Hall, Hansen, Hardy, Hornbuckle, Kelly, Kirby, Marple, Maynor, McGeehan, Miller, Petitto, Phillips, Pinson, E. Pritt, Pushkin, Riley, Rowe, Shamblin, Sheedy, Skaff, Smith, Statler, Storch, Summers, Thorne, Walker, Warner, Williams, Young, Zatezalo and Hanshaw (Mr. Speaker).

Absent and Not Voting: Cooper, Jennings, Kump, Mallow and Westfall.

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.

### Conference Committee Reports

Delegate Kelly, from the committee of conference on matters of disagreement between the two houses, as to

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

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to Committee Substitute for House Bill 3302 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses as follows:

That the Senate recede from its amendment striking everything after the enacting clause;

And,

That both houses recede from their respective positions as to the title of the bill and agree to a new title to read as follows:

**Eng. Com. Sub. for House Bill 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 certain driving under the influence of alcohol or drugs offenses; including an embryo or fetus as a distinct unborn victim for the offenses of driving under the influence of alcohol or drugs causing death and driving under the influence of alcohol or drugs causing serious bodily injury; 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 driving under the influence of alcohol or drugs causing death and driving under the influence of alcohol or drugs causing serious bodily injury; and establishing criminal penalties.  
*PREAMBLE: THIS LAW SHALL BE KNOWN AS LIAM'S LAW*

Respectfully submitted,

Vince Deeds  
*Chair.*

David Kelly,  
*Chair.*

Bill Hamilton,  
Mike Woeful

Bryan Ward,  
Joey Garcia.

*Conferees on the part of the Senate.*      *Conferees on the part of the House of Delegates.*

On the question of adoption of the report of the committee of conference, the same was put and the Speaker declared the motion adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 786**), and there were—yeas 94, nays none, absent and not voting 6, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Cooper, Jennings, Kump, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3302) passed.

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

Delegate Phillips from the committee of conference on matters of disagreement between the two houses, as to

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

Submitted the following report, which was received:

Your committee of conference on the disagreeing votes of the two houses as to the amendment of the Senate to the Committee Substitute for House Bill 3261 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses as follows:

That both houses recede from their respective positions as to the amendment of the Senate on pages 3 through 4, by striking out all of section 110a, and that the Senate and House agree to an amendment as follows:

## **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 establish a pilot program to 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 pilot program and this section, "geographical areas of critical shortage" means the counties comprising the 14th judicial circuit and the 23rd judicial circuit as of the effective date of the amendments to the section enacted during the 2023 regular session of the Legislature.

(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. Wherever possible, workers hired pursuant to this section shall be supervised by a licensed social worker.

(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 or higher in social work, human services, sociology, psychology, or social services 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, §16-49-1 *et seq.* of this code; and

(6) Satisfy the requirements provided in §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 31<sup>st</sup> day of December 2026, but shall not serve to require the termination of persons hired pursuant to this section.

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Com. Sub. for House Bill 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; establishing a three year pilot program in two judicial circuits; designating the 14th and 23rd judicial circuits as the pilot program judicial circuits; authorizing the hiring of persons not on the

Respectfully submitted,

Charles S. Trump,  
*Chair.*

Chris Phillips,  
*Chair.*

Tom Takubo,  
Robert Plymale,

Pat McGeehan,  
Kayla Young,

*Conferees on the part of the Senate.*      *Conferees on the part of the House of Delegates.*

On the question of adoption of the report of the Committee of Conference, the same was put and the Speaker declared the motion adopted.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 787**), and there were—yeas 90, nays 5, absent and not voting 5, with the nays and the absent and not voting being as follows:

Nays: Garcia, Gearheart, Rowe, Walker and Young.

Absent and Not Voting: Bridges, Cooper, Kump, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for H. B. 3261) passed.

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

A message from the Senate, by

The Clerk of the Senate, announced the adoption of the report of the committee of conference on, and the passage, as amended by said report, of

**Com. Sub. for S. B. 617**, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

Delegate Summers, from the committee of conference on matters of disagreement between the two houses, as to

**Eng. Senate Bill No. 617**, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

Submitted the following report, which was received:



Your committee of conference on the disagreeing votes of the two houses as to the amendments of the House to Engrossed Committee Substitute for Senate Bill 617 having met, after full and free conference, have agreed to recommend and do recommend to their respective houses, as follows:

## **ARTICLE 5W. REGULATION OF BEHAVIORAL HEALTH.**

### **§16-5W-1. 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-2. 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-3. 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-4. 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 16. STERILIZATION OF MENTAL DEFECTIVES.**

And,

That both houses recede from their respective positions as to the title of the bill and agree to the same as follows:

**Eng. Senate Bill 617** — A Bill to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article designated, §16-5W-1, §16-5W-2, §16-5W-3, §16-5W-4; and to repeal §27-8-2b and §27-8-3 of said code; all relating to behavioral health services; establishing a mental health ombudsman; providing authority to the ombudsman; providing an exemption of consumer information from the Freedom of Information Act; requiring reporting; requiring a workforce study; outlining program data required to be included in the study; requiring recommendations for hourly pay; creating an annual capitation review; repealing antiquated code; and repealing antiquated terminology.

Respectfully submitted,

Mike Maroney,  
Chair,

Amy Summers,  
Chair,

Jason Barrett  
Mike Woelfel

John Hardy  
John Williams

*Conferees on the part of the Senate*

*Conferees on the part of the House of Delegates.*

On the question of adoption of the report of the committee of conference, the same was put and prevailed.

The bill, as amended by said report, was then put upon its passage.

On the passage of the bill, the yeas and nays were taken (**Roll No. 788**), and there were—yeas 95, nays none, absent and not voting 5, with the absent and not voting being as follows:

Absent and Not Voting: Bridges, Cooper, Kump, Mallow and Westfall.

So, a majority of the members present having voted in the affirmative, the Speaker declared the bill (Com. Sub. for S. B. 617) passed.

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

\* \* \* \* \*

#### **Speaker Pro Tempore Espinosa in the Chair**

\* \* \* \* \*

Delegate Rowe arose to inquire of the Chair regarding the House asking the Senate to recede from its position on Com. Sub. for H. B. 3354.

#### **Speaker Hanshaw in the Chair**

There being no objection, the House agreed to communicate to the Senate the action of the House on **Com. Sub. for H. B. 3354** with the request that the Senate recede from its position.

#### **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. 3303**, Clarifying and expanding the powers and duties of the director of the Coalfield Community Development Office.

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

On page 1, section 4, line 2, by striking out the word “Commerce” and inserting in lieu thereof “Economic Development”;

On page 1, section 4, line 7, by striking out “2023” and inserting in lieu thereof “2026”;

And,

On page 3, after line 38, by adding thereto a new section, designated section 14, to read as follows:

**§5B-2A-14. Sunset.**

Unless acted upon by the Legislature, this article will sunset on June 30, 2032, at which time the Office of Coalfield Community Development shall terminate.”

And,

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

**Com. Sub. for H. B. 3303** – “A Bill to amend and reenact §5B-2A-4 and §5B-2A-5 of the Code of West Virginia, 1931, as amended, and by adding thereto a new section, §5B-2A-14, all relating to the Office of Coalfield Community Development; continuing the Office of Coalfield Community Development under the Department of Economic Development; providing that the Governor appoint and set the salary of the director of the office by July 1, 2026; providing that funding for position to carry out the duties of the office shall be as provided by appropriation of the Legislature; clarifying and providing additional duties, powers, and responsibilities for the Office of Coalfield Community Development; and providing a sunset date.”

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. 789**), and there were—yeas 84, nays 10, absent and not voting 6, with the nays and the absent and not voting being as follows:

Nays: Fluharty, Griffith, Hansen, Hornbuckle, E. Pritt, Pushkin, Rowe, Street, Walker and Young.

Absent and Not Voting: Bridges, Cooper, Garcia, Kump, Mallow and Westfall.

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. 3303) passed.

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

### Miscellaneous Business

On motion of Delegate Householder, the Speaker was authorized to appoint a committee of three to notify the Senate that the House of Delegates had completed the business of this First Regular Session of the 86<sup>th</sup> Legislature and was ready to adjourn *sine die*.

Whereupon,

The Speaker appointed as members of said committee the following:

Delegates Smith, Thorne and Rowe.

On motion of Delegate Householder, the Speaker was authorized to appoint a committee of three on the part of the House of Delegates, to join with a similar committee of the Senate, to inform His Excellency, the Governor, that the Legislature had completed the business of the session and was ready to adjourn *sine die*.

The Speaker appointed as members of said committee the following:

Delegates Criss, Hardy and Griffith.

### Messages from the Senate

A message from the Senate, received by the House following *sine die* adjournment of the House of Delegates, by

The Clerk of the Senate, announced that the Senate has completed its labors for the first regular session of the 86<sup>th</sup> Legislature and adjourned *sine die*.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 451**, Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 558**, Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media.

A message from the Senate, by

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

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

A message from the Senate, by

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

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

A message from the Senate, by

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

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

A message from the Senate, by

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

**H. B. 3526**, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission.

A message from the Senate, by

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

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

A message from the Senate, by

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

**H. B. 3553**, Supplementing and amending appropriations to Department of Health and Human Resources.

A message from the Senate, by

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

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

A message from the Senate, by

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

**H. B. 3563**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services.

A message from the Senate, by

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

**H. B. 3039**, Making a supplementary appropriation to Adjutant General - State Militia.

A message from the Senate, by

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

**H. B. 3065**, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - Aeronautics Commission.

A message from the Senate, by

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

**H. B. 3067**, Supplementing and amending appropriations to Department of Transportation, Division of Multimodal Transportation Facilities - Public Transit.

A message from the Senate, by

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

**H. B. 3073**, Supplementing and amending appropriations to Adjutant General - State Militia.

A message from the Senate, by

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

**Com. Sub. for H. B. 3074**, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities.

A message from the Senate, by

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

**H. B. 3108**, Supplementing and amending appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - State Rail Authority.

A message from the Senate, by

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

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2883**, Making a supplemental appropriation from the Coronavirus State Fiscal Recovery Fund.



A message from the Senate, by

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

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

A message from the Senate, by

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

**H. B. 2907**, Supplementing and amending appropriations to the Department of Administration, Division of General Services.

A message from the Senate, by

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

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

A message from the Senate, by

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

**Com. Sub. for H. B. 2911**, Supplementing and amending appropriations to the Department of Homeland Security, Division of Administrative Services.

A message from the Senate, by

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

**H. B. 2913**, Supplementing and amending appropriations to the DHHR, Consolidated Medical Services Fund.

A message from the Senate, by

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

**Com. Sub. for H. B. 2914**, Supplementing and amending appropriations to the Governor's Office - Civil Contingent Fund.

A message from the Senate, by

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

**Com. Sub. for H. B. 2928**, Supplementing and amending appropriations to DHHR, Division of Health.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, to take effect from passage, of

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

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

**Com. Sub. for H. B. 3036**, Increasing the number of districts and the limit on approved costs under the BUILD WV Act.

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

**Com. Sub. for H. B. 3077**, Relating to making the use of the multi-state real time tracking system permanent.

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

**Com. Sub. for H. B. 3224**, Adding West Virginia Junior College to the list of eligible institutions that accept PROMISE scholarship recipients.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 121**, Creating Student Journalist Press Freedom Protection Act.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 220**, Industrial Hemp Development Act.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**S. B. 533**, Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 548**, Clarifying what parties can redeem delinquent property and limiting those entitled to bid.

A message from the Senate, by

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

**Com. Sub. for H. B. 3271**, Relating to increasing monitoring of special education classrooms.

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**Com. Sub. for H. B. 3190**, Amending the definition of "minor".

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 561**, Relating to administration of WV Drinking Water Treatment Revolving Fund Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**S. B. 737**, Emergency Medical Services Act.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**S. B. 740**, Relating to compensation and expense reimbursement for members of Legislature.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 633**, Requiring prompt appearances for persons detained on capiases.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 647**, Relating to substantiation of abuse and neglect allegations.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 677**, Clarifying role and responsibilities of State Resiliency Officer.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

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

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

**Com. Sub. for H. B. 2821**, Relating to taxation of gambling and lottery winnings.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**Com. Sub. for H. B. 2917**, Relating to allowing retired state employees who meet the minimum qualifications necessary, to render post-retirement employment with the Department of Health and Human Resources.

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

**Com. Sub. for H. B. 3092**, Relating to in-state food service permit reciprocity.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**H. B. 2967**, Expediting License Applications for active military members and veterans, and their spouses.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**Com. Sub. for H. B. 3135**, To modify the salaries of the Governor and Constitutional officers beginning January 1, 2025.

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

**H. B. 3199**, Relating to removing the requirement that an ectopic pregnancy be reported.

A message from the Senate, by  
The Clerk of the Senate, announced that the Senate had receded from its amendments, and again passed, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 3315**, Relating generally to readiness enhancement and commission bonuses.

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

**H. B. 3371**, Relating to federal funds for land-grant institutions.

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

**H. B. 3441**, Revising the training requirements for members of the Higher Education Policy Commission, Council for Community and Technical College Education and the institutional governing boards.

A message from the Senate, by  
The Clerk of the Senate, announced that the Senate had receded from its amendments, and again passed, a bill of the House of Delegates as follows:

**H. B. 3443**, Relating to a development or improvement on land subject to review by the State Historic Preservation Office.

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

**H. B. 3560**, Relating to expanding the definitions of land and recreational purposes.

A message from the Senate, by  
The Clerk of the Senate, announced the adoption of the report of the committee of conference on, and the passage, as amended by said report, of

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

A message from the Senate, by  
The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**Com. Sub. for H. B. 3306**, Relating to the organizational structure of the Office of Drug Control Policy.

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

**Com. Sub. for H. B. 3344**, To pay certain moral obligations of the state.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**H. B. 3552**, Relating to per diem jail costs.

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

**Com. Sub. for H. B. 2005**, Establishing the dual enrollment pilot program to be administered by the Higher Education Policy Commission and the Council for Community and Technical College Education in conjunction with the State Board of Education,

**Com. Sub. for H. B. 2862**, Relating generally to requirements for shareholder voting by the West Virginia Investment Management Board and the Board of Treasury Investments,

**Com. Sub. for H. B. 3168**, Ensuring investment in WV Tourism is competitive with other states and accessible long term,

**Com. Sub. for H. B. 3311**, Relating to wine alcohol by volume as compared to beer,

**Com. Sub. for H. B. 3369**, Creating a School Safety Unit within the Division of Protective Services,

**H. B. 3509**, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission – Consumer Advocate Fund,

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

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

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

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

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

And,

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

A message from the Senate, by

The Clerk of the Senate, announced concurrence by the Senate in the amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**Com. Sub. for H. B. 2007**, Prohibiting certain medical practices,

**Com. Sub. for H. B. 2008**, Requiring local entities to enforce immigration laws,

**Com. Sub. for H. B. 2026**, Authorizing municipalities with police or firefighter employees in PERS to elect to become participating employer in Municipal Police Officer and Firefighter Retirement System for a limited time,

**Com. Sub. for H. B. 2540**, Travel Insurance Model Act,

**Com. Sub. for H. B. 3036**, Increasing the number of districts and the limit on approved costs under the BUILD WV Act,

**Com. Sub. for H. B. 3084**, Relating to revising provisions related to public charter schools,

**Com. Sub. for H. B. 3332**, Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected in the 2024 election.

A message from the Senate, by

The Clerk of the Senate, announced concurrence in the amendment of the House of Delegates and the passage, as amended, of

**Com. Sub. for S. B. 232**, Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system,

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

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

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

**S. B. 457**, Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises,

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

**Com. Sub. for S. B. 468**, Continuing Cabwaylingo State Forest Trail System,

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

**Com. Sub. for S. B. 522**, Allocating percentage of county excise taxes for funding improvements to election administration,

**Com. Sub. for S. B. 534**, Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements,

**S. B. 543**, Establishment of Neighborhood Rehabilitation Funds,

**Com. Sub. for S. B. 552**, Relating to abortion,

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

**S. B. 608**, Correcting list of items which are considered deadly weapons,

And,

**Com. Sub. for S. B. 617**, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study.

A message from the Senate, by  
The Clerk of the Senate, announced concurrence in the title amendment of the House of Delegates and the passage, as amended, of

**S. B. 446**, Removing methanol and methanol fuel from definition of special fuel,

And,

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

A message from the Senate, by  
The Clerk of the Senate, announced that the Senate had receded from its amendments, and again passed, a bill of the House of Delegates as follows:

**Com. Sub. for H. B. 3311**, Relating to wine alcohol by volume as compared to beer,

**Com. Sub. for H. B. 3354**, To authorize municipalities to combine operations with other municipalities and counties to provide governmental services.



A message from the Senate, by  
The Clerk of the Senate, announced concurrence by the Senate in the title amendment of the House of Delegates to the amendment of the Senate, and the passage, as amended, of

**Com. Sub. for H. B. 2917**, Relating to allowing retired state employees who meet the minimum qualifications necessary, to render post-retirement employment with the Department of Health and Human Resources.

### **Messages from the Executive and Other Communications**

Communications from the Clerks' offices of each house to His Excellency, the Governor, advised that the following enrolled bills were presented to him on the dates listed below:

#### **March 10, 2023**

**Com. Sub. for S. B. 51**, Requiring impact statement in certain instances of school closing or consolidation,

**Com. Sub. for S. B. 463**, Increasing validity of CDL instruction permit,

And,

**Com. Sub. for S. B. 476**, Exempting managed care contracts from purchasing requirements.

#### **March 13, 2023**

**Com. Sub. for H. B. 3113**, Requiring high school students to complete course of study in personal finance,

**H. B. 3428**, Relating to the West Virginia Business Ready Sites Program,

**S. B. 99**, Relating to meetings among county boards of education,

**Com. Sub. for S. B. 356**, Authorizing DOT to promulgate legislative rules,

**Com. Sub. for S. B. 451**, Relating to Teachers Retirement System and Teachers' Defined Contribution Retirement System,

**S. B. 452**, Relating to Emergency Medical Services Retirement System,

**S. B. 457**, Removing certain activities Alcohol Beverage Control Commission licensee is prohibited to permit on private club premises,

**S. B. 487**, Extending additional modification reducing federal adjusted gross income,

**Com. Sub. for S. B. 558**, Prohibiting law-enforcement agencies from posting booking photographs of certain criminal defendants on social media,

**S. B. 597**, Allowing Workforce WV to hire classified service exempt employees,

**Com. Sub. for S. B. 688**, Allowing BOE to hire retired teachers to assist with tutoring,

And,

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

**March 15, 2023**

**Com. Sub. for H. B. 2024**, Budget Bill, making appropriations of public money out of the treasury in accordance with section fifty-one, article six of the Constitution,

**Com. Sub. for H. B. 2883**, Making a supplemental appropriation from the Coronavirus State Fiscal Recovery Fund,

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

**H. B. 2906**, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in Lottery Net Profits,

**H. B. 2907**, Supplementing and amending appropriations to the Department of Administration, Division of General Services,

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

**Com. Sub. for H. B. 2910**, Making a supplementary appropriation to the Department of Administration, Public Defender Services,

**Com. Sub. for H. B. 2911**, Supplementing and amending appropriations to the Department of Homeland Security, Division of Administrative Services,

**H. B. 2913**, Supplementing and amending appropriations to the DHHR, Consolidated Medical Services Fund,

**Com. Sub. for H. B. 2914**, Supplementing and amending appropriations to the Governor's Office - Civil Contingent Fund,

**H. B. 2915**, Expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, from the balance of moneys remaining as an unappropriated balance in the State Excess Lottery Revenue Fund.

**Com. Sub. for H. B. 2928**, Supplementing and amending appropriations to DHHR, Division of Health,

**H. B. 3039**, Making a supplementary appropriation to Adjutant General - State Militia,

**Com. Sub. for H. B. 3040**, Supplementing and amending appropriations to the Department of Administration, Office of the Secretary,

**H. B. 3065**, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - Aeronautics Commission,

**H. B. 3066**, Supplementing and amending appropriations to the Department of Education, State Board of Education - State Aid to Schools,

**H. B. 3067**, Supplementing and amending appropriations to Department of Transportation, Division of Multimodal Transportation Facilities - Public Transit,

**H. B. 3073**, Supplementing and amending appropriations to Adjutant General - State Militia,

**Com. Sub. for H. B. 3074**, Supplementing appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities,

**H. B. 3108**, Supplementing and amending appropriations to the Department of Transportation, Division of Multimodal Transportation Facilities - State Rail Authority,

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

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

**H. B. 3307**, Establishing the West Virginia-Ireland Trade Commission,

**Com. Sub. for H. B. 3317**, Relating to removing specific continuing education requirements,

**Com. Sub. for H. B. 3337**, Prohibiting additional drug and alcohol treatment facilities and services in a certain county,

**H. B. 3396**, Supplementing, amending, and increasing existing items of appropriation from the State Road Fund to the Department of Transportation, Division of Highways,

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

**H. B. 3509**, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission – Consumer Advocate Fund,

**H. B. 3510**, Making a supplementary appropriation to the Department of Administration, Office of Technology – Chief Technology Officer Administration Fund,

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

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

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

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

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

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

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

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

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

**H. B. 3526**, Making a supplementary appropriation to Miscellaneous Boards and Commissions, Public Service Commission,

**H. B. 3529**, Making a supplementary appropriation to the Department of Commerce, State Board of Rehabilitation – Division of Rehabilitation Services,

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

**H. B. 3553**, Supplementing and amending appropriations to Department of Health and Human Resources,

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

**H. B. 3563**, Making a supplementary appropriation to the Department of Health and Human Resources, Division of Human Services,

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

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

And,

**S. B. 678**, Adding appropriations to DHHR, Division of Human Services.

#### **March 16, 2022**

**Com. Sub. for H. B. 2754**, Relating to immunizations performed in a pharmacy,

**Com. Sub. for H. B. 2759**, Relating to updating the health care provider tax,

**Com. Sub. for H. B. 2817**, Relating to Public Service Commission jurisdiction over alternative fuel for motor vehicles,

**H. B. 2827**, Make public charter schools eligible for Safe Schools Funds,

**Com. Sub. for H. B. 2848**, Water and Sewer Operator licensing reciprocity,

**Com. Sub. for H. B. 2860**, To dispose of old AFFF foam accumulated by fire departments,

**Com. Sub. for H. B. 2870**, Correcting a reference relating to siting certificates for certain electric generating facilities,

**Com. Sub. for H. B. 3012**, To encourage economic development regarding rare earth elements and critical minerals, as defined, by providing temporary severance tax relief,

**Com. Sub. for H. B. 3044**, Relating to the annual fee for limited video lottery terminal permits,

**Com. Sub. for H. B. 3148**, Relating to financing municipal policemen's and firemen's pension and relief funds,

**H. B. 3244**, Relating to Municipal Pensions Oversight Board proposing legislative rules,

**H. B. 3299**, Relating to Natural Resource Police Officer Retirement,

**H. B. 3328**, Authorizing the Hatfield-McCoy Regional Recreation Authority to contract to build and maintain trails on privately owned property,

**H. B. 3387**, Extending the moratorium on the authorization of new convention and visitors bureaus for an additional two years,

**Com. Sub. for S. B. 47**, Creating Charter Schools Stimulus Fund,

**Com. Sub. for S. B. 121**, Creating Student Journalist Press Freedom Protection Act,

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

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

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

**Com. Sub. for S. B. 187**, Making it felony offense for school employee or volunteer to engage in sexual contact with students,

**Com. Sub. for S. B. 191**, Relating to liability for payment of court costs as condition of pretrial diversion agreement,

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

**Com. Sub. for S. B. 220**, Industrial Hemp Development Act,

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

**Com. Sub. for S. B. 247**, Making administrative appeals and judicial review of board action subject to provisions of Administrative Procedures Act,

**Com. Sub. for S. B. 258**, Eliminating ceiling on fair market value of consumer goods and permitting dealer to require security deposit,

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

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

**Com. Sub. for S. B. 302**, Relating to Law Enforcement Safety Act,

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

**Com. Sub. for S. B. 409**, Authorizing Department of Commerce to promulgate legislative rules,

**S. B. 443**, Directing payment of estate administration fee to State Auditor,

**S. B. 444**, Transferring moneys in WV Future Fund to General Revenue Fund,

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

**Com. Sub. for S. B. 469**, Providing funding for CPR instruction to high school students,

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

**S. B. 508**, Clarifying reporting and disclosure requirements for grassroots lobbying expenditures,

**Com. Sub. for S. B. 516**, Relating to requirements for disclosure of donor contributions,

**Com. Sub. for S. B. 523**, Clarifying purpose and use of Economic Development Project Fund,

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

**S. B. 533**, Relating to limitations on motor vehicle used by nonprofit cooperative recycling associations,

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

**Com. Sub. for S. B. 546**, Adding and removing certain compounds from controlled substance list,

**Com. Sub. for S. B. 548**, Clarifying what parties can redeem delinquent property and limiting those entitled to bid,

**Com. Sub. for S. B. 561**, Relating to administration of WV Drinking Water Treatment Revolving Fund Act,

**Com. Sub. for S. B. 568**, Relating to Dangerousness Assessment Advisory Board,

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

**Com. Sub. for S. B. 579**, Providing payment to vendors who provided services to state,

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

**Com. Sub. for S. B. 617**, Relating to Intellectual and Development Disabilities Waiver Program Workforce Study,

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

**Com. Sub. for S. B. 631**, Updating administration, funding, and requirements for federal elections held in WV,

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

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

**S. B. 674**, Providing statutory recognition and appointment of board members for WV First Foundation,

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

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

**S. B. 737**, Emergency Medical Services Act,

And,

**S. B. 740**, Relating to compensation and expense reimbursement for members of Legislature.

### **March 17, 2023**

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

**Com. Sub. for S. B. 268**, Relating to PEIA,

**Com. Sub. for S. B. 273**, Relating to allocation of child protective workers in counties based upon population of county,

**Com. Sub. for S. B. 361**, Authorizing miscellaneous boards and agencies to promulgate legislative rules,

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

**S. B. 446**, Removing methanol and methanol fuel from definition of special fuel,

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

**Com. Sub. for S. B. 468**, Continuing Cabwaylingo State Forest Trail System,

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

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

**Com. Sub. for S. B. 232**, Creating study group to make recommendations regarding diversion of persons with disabilities from criminal justice system,

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

**Com. Sub. for S. B. 522**, Allocating percentage of county excise taxes for funding improvements to election administration,

**Com. Sub. for S. B. 534**, Relating to nonintoxicating beer, nonintoxicating craft beer, cider, wine, and liquor license requirements,

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

**Com. Sub. for S. B. 552**, Relating to abortion,

**S. B. 608**, Correcting list of items which are considered deadly weapons,

**Com. Sub. for S. B. 633**, Requiring prompt appearances for persons detained on capiases,

**Com. Sub. for S. B. 647**, Relating to substantiation of abuse and neglect allegations,

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

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

**Com. Sub. for S. B. 677**, Clarifying role and responsibilities of State Resiliency Officer,

And,

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

### **March 20, 2023**

**Com. Sub. for H. B. 2005**, Establishing the dual enrollment pilot program to be administered by the Higher Education Policy Commission and the Council for Community and Technical College Education in conjunction with the State Board of Education,

**Com. Sub. for H. B. 2218**, Distracted Driving Act,

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



**Com. Sub. for H. B. 2026**, Authorizing municipalities with police or firefighter employees in PERS to elect to become participating employer in Municipal Police Officer and Firefighter Retirement System for a limited time,

**H. B. 2283**, Relating to authorized expenditures of revenues from certain state funds for fire departments,

**H. B. 2310**, Provide the Division of Motor Vehicles authority to develop an "Antique Fleet" program so that multiple antique motor vehicles may utilize a single registration plate,

**Com. Sub. for H. B. 2346**, Declaring a shortage of qualified bus operators and allowing retired bus operators to accept employment,

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

**Com. Sub. for H. B. 2540**, Travel Insurance Model Act,

**Com. Sub. for H. B. 2569**, Establishing the Motorsport Responsibility Act,

**Com. Sub. for H. B. 2605**, Relating to Good Samaritan law,

**H. B. 2607**, Clarify that vehicles with a capacity larger than 10 passengers may be used to transport students provided that no more than 10 passengers may be transported at one time,

**Com. Sub. for H. B. 2757**, Relating to expanding institutional eligibility for the WV Invests Grant Program,

**Com. Sub. for H. B. 2760**, To allow CPR fire fighters to drive ambulances when both attendants are needed to administer patient care,

**Com. Sub. for H. B. 2862**, Relating generally to requirements for shareholder voting by the West Virginia Investment Management Board and the Board of Treasury Investments,

**Com. Sub. for H. B. 2900**, Relating to the Deputy Sheriff Retirement System,

**Com. Sub. for H. B. 2917**, Relating to allowing retired state employees who meet the minimum qualifications necessary, to render post-retirement employment with the Department of Health and Human Resources,

**Com. Sub. for H. B. 2993**, Relating to rural emergency hospital licensure,

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

**Com. Sub. for H. B. 3035**, Relating generally to high-quality education programs and school operations,

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

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

**Com. Sub. for H. B. 3211**, Relating to authorizing service credit for unused accrued annual or sick leave days for use in determining retirement benefits in the Municipal Police Officer and Firefighter Retirement System,

**Com. Sub. for H. B. 3233**, Relating generally to uniform and equipment allowances for the National Guard,

**Com. Sub. for H. B. 3270**, To amend the deliberate intent statute to limit noneconomic damages to \$500,000,

**Com. Sub. for H. B. 3271**, Relating to increasing monitoring of special education classrooms,

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

**Com. Sub. for H. B. 3303**, Clarifying and expanding the powers and duties of the director of the Coalfield Community Development Office,

**Com. Sub. for H. B. 3369**, Creating a School Safety Unit within the Division of Protective Services,

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

**H. B. 3451**, Updating the veteran preference ratings in state code for state employment,

**Com. Sub. for H. B. 3479**, Creating requirements for use of unmanned aerial vehicles,

**Com. Sub. for H. B. 3482**, To create the Coal Fired Grid Stabilization and Security Act of 2023,

**H. B. 3500**, Allowing consumer lenders to permit employees to conduct certain business at locations other than the licensee's designated office,

And,

**H. B. 3547**, Increasing the number of personal leave days that county board of education employees may use.

### **March 21, 2023**

**Com. Sub. for H. B. 2380**, Relating to School Building Authority,

**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,

**Com. Sub. for H. B. 2640**, Authorizing certain agencies of the Department of Environmental Protection to promulgate legislative rules,

**Com. Sub. for H. B. 3092**, Relating to in-state food service permit reciprocity,

And,

**H. B. 3499**, To permit joint tenancy with rights of survivorship when transfer on death deeds specify a joint tenancy with right of survivorship.

**March 22, 2023**

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

**Com. Sub. for H. B. 2004**, Prevent the use of payment card processing systems for surveillance of Second Amendment activity and discriminatory conduct,

**Com. Sub. for H. B. 2007**, Prohibiting certain medical practices,

**Com. Sub. for H. B. 2008**, Requiring local entities to enforce immigration laws,

**Com. Sub. for H. B. 2648**, Authorizing certain agencies and boards of the DHHR to promulgate a legislative rule,

**Com. Sub. for H. B. 2820**, To provide HOPE Scholarship recipients with the ability to play sports,

**Com. Sub. for H. B. 2821**, Relating to taxation of gambling and lottery winnings,

**Com. Sub. for H. B. 3084**, Relating to revising provisions related to public charter schools,

**Com. Sub. for H. B. 3168**, Ensuring investment in WV Tourism is competitive with other states and accessible long term,

**Com. Sub. for H. B. 3190**, Amending the definition of "minor",

**Com. Sub. for H. B. 3224**, Adding West Virginia Junior College to the list of eligible institutions that accept PROMISE scholarship recipients,

**Com. Sub. for H. B. 3311**, Relating to wine alcohol by volume as compared to beer,

**Com. Sub. for H. B. 3332**, Creating judicial circuits and assigning the number of circuit judges in each circuit to be elected in the 2024 election,

And,

**Com. Sub. for H. B. 3450**, Relating generally to racetrack video lottery and the Licensed Racetrack Modernization Fund.

**March 27, 2023**

**Com. Sub. for H. B. 2016**, Relating to confidential childcare records,

**Com. Sub. for H. B. 2436**, Relating to the implementation of an acuity-based patient classification system,

**Com. Sub. for H. B. 2621**, Relating generally to bail bondsman,

**Com. Sub. for H. B. 2814**, To create a Hydrogen power task force,

**Com. Sub. for H. B. 2865**, To clarify that the PSC may enter an order requiring corrective measures up to and including an acquisition of a distressed or failing utility,

**H. B. 2875**, Clarifying that Circuit Court Judges have the ability/authority to waive the requirement that a party pass a home study performed by the DHHR,

**Com. Sub. for H. B. 2890**, Modifying student discipline,

**H. B. 2955**, Relating to the establishment and operation of regional water, wastewater and stormwater authorities,

**H. B. 2967**, Expediting License Applications for active military members and veterans, and their spouses,

**Com. Sub. for H. B. 3018**, Establishing that 18 is the age of consent and removing the ability of an underage person to obtaining a consent to marry through their parents, legal guardians, or by petition to the circuit court,

**Com. Sub. for H. B. 3036**, Increasing the number of districts and the limit on approved costs under the BUILD WV Act,

**Com. Sub. for H. B. 3077**, Relating to making the use of the multi-state real time tracking system permanent,

**Rev. Com. Sub. for H. B. 3110**, Relating to funding the Office of Oil and Gas in the Department of Environmental Protection,

**Com. Sub. for H. B. 3135**, To modify the salaries of the Governor and Constitutional officers beginning January 1, 2025,

**H. B. 3141**, Relating to the practice of dentistry,

**Com. Sub. for H. B. 3147**, To create the Upper Ohio Valley Trail Network,

**H. B. 3156**, Raising the compensation rates of panel attorneys,

**H. B. 3166**, To permit a hospital to hold a patient experiencing a psychiatric emergency for up to 72 hours,

**Com. Sub. for H. B. 3189**, The PFAS Protection Act,

**Com. Sub. for H. B. 3191**, Relating to certain facilities operated by the state government to obtain a license,

**H. B. 3199**, Relating to removing the requirement that an ectopic pregnancy be reported,

**H. B. 3203**, Relating generally to West Virginia Real Estate License Act,

**Com. Sub. for H. B. 3214**, To create the Road Optimization & Assessment Data (ROAD) Pilot Project,

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

**Com. Sub. for H. B. 3265**, Remove statutory mandates that the sheriff of a county shall serve process or is responsible for cost of service or arrest by another law enforcement agency,

**Com. Sub. for H. B. 3306**, Relating to the organizational structure of the Office of Drug Control Policy,

**Com. Sub. for H. B. 3315**, Relating generally to readiness enhancement and commission bonuses,

**Com. Sub. for H. B. 3344**, To pay certain moral obligations of the state,

**Com. Sub. for H. B. 3354**, To authorize municipalities to combine operations with other municipalities and counties to provide governmental services,

**H. B. 3360**, Creating an office of the Inspector General within the Department of Homeland Security,

**Com. Sub. for H. B. 3370**, Creating loan program for certain properties and developments on U. S. Army Corps of Engineers land, state parks and resorts,

**H. B. 3371**, Relating to federal funds for land-grant institutions,

**Com. Sub. for H. B. 3398**, Relating to the establishment of the West Virginia Memorial to Fallen Heroes of the Global War on Terrorism,

**H. B. 3432**, Relating to statutory construction,

**H. B. 3439**, To limit the civil liability of child placing agencies that obtain an insurance policy in an amount not less than \$1 million per incident,

**H. B. 3441**, Revising the training requirements for members of the Higher Education Policy Commission, Council for Community and Technical College Education and the institutional governing boards,

**H. B. 3443**, Relating to a development or improvement on land subject to review by the State Historic Preservation Office,

**H. B. 3473**, Creating a workgroup relating to Dig Once Policy,

**H. B. 3552**, Relating to per diem jail costs,

**H. B. 3555**, Relating to student purchase and refunds of course material,

**H. B. 3559**, Relating to defining a newborn safety device,

And,

**H. B. 3560**, Relating to expanding the definitions of land and recreational purposes.

### **Messages from the Executive**

Actions of His Excellency, the Governor, on other bills following adjournment of the session as indicated in communications addressed to the Secretary of State, as follows:

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

March 29, 2023

**Veto Message**

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
State Capitol Complex  
Building 1, Suite 157-K  
Charleston, West Virginia 25305

Re: Enrolled Committee Substitute for Senate Bill 667

Secretary Warner:

Pursuant to Section Fourteen, Article VI.I of the Constitution of the State of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill 667. This bill requires the Legislative Auditor to conduct periodic audits of the West Virginia Secondary Schools Activities Commission ("WVSSAC").

While I most certainly believe fiscal responsibility is of the utmost importance, so is preventing government overreach. WVSSAC is a private, non-profit organization comprised of dedicated West Virginians who volunteer their time and resources to ensuring our interscholastic athletics and other extracurricular activities are accessible to all our students. To require WVSSAC to undergo audits by the Legislative Auditor would be to treat this private, non-profit corporation as if it were a state agency. To prevent such government overreach, I disapprove and return Enrolled Committee Substitute for Senate Bill 667.

Sincerely,

Jim Justice,  
*Governor.*

Communications from His Excellency, the Governor, advised that on March 11, 2023, he approved **S. B. 136, Com. Sub. for S. B. 208, Com. Sub. for S. B. 270, S. B. 276, Com. Sub. for S. B. 300, S. B. 481, S. B. 553 and Com. Sub. for H. B. 3308**; and on March 13, 2023, he approved **S. B. 237 and Com. Sub. for S. B. 490**; and on March 15, 2023, he approved **Com. Sub. for S. B. 294, H. B. 3218 and Com. Sub. for H. B. 3302**; and on March 16, 2023, he approved **S. B. 510, S. B. 678, Com. Sub. for H. B. 2024, Com. Sub. for H. B. 2883, H. B. 2904, H. B. 2906, H. B. 2907, Com. Sub. for H. B. 2908, Com. Sub. for H. B. 2910, Com. Sub. for H. B. 2911, H. B. 2913, Com. Sub. for H. B. 2914, H. B. 2915, Com. Sub. for H. B. 2928, H. B.**

3039, Com. Sub. for H. B. 3040, H. B. 3065, H. B. 3066, H. B. 3067, H. B. 3073, Com. Sub. for H. B. 3074, H. B. 3108, H. B. 3109, H. B. 3396, H. B. 3509, H. B. 3510, H. B. 3511, H. B. 3512, H. B. 3513, H. B. 3514, H. B. 3515, H. B. 3516, H. B. 3517, H. B. 3518, H. B. 3519, H. B. 3520, H. B. 3521, H. B. 3522, H. B. 3523, H. B. 3524, H. B. 3526, H. B. 3527, H. B. 3528, H. B. 3529, H. B. 3542, H. B. 3553, H. B. 3557, H. B. 3563 and H. B. 3564; and on March 17, 2023, he approved Com. Sub. for S. B. 268, Com. Sub. for S. B. 423 and H. B. 3307; and on March 21, 2023, he approved Com. Sub. for S. B. 422, Com. Sub. for H. B. 2005, Com. Sub. for H. B. 3035 and Com. Sub. for H. B. 3369; and on March 22, 2023, he approved Com. Sub. for S. B. 526, S. B. 674, Com. Sub. for H. B. 3303 and Com. Sub. for H. B. 3482; and on March 23, 2023, he approved Com. Sub. for S. B. 51, Com. Sub. for S. B. 121, S. B. 142, Com. Sub. for S. B. 205, Com. Sub. for S. B. 220, S. B. 244, Com. Sub. for S. B. 247, Com. Sub. for S. B. 258, Com. Sub. for S. B. 267, Com. Sub. for S. B. 271, Com. Sub. for S. B. 298, Com. Sub. for S. B. 302, Com. Sub. for S. B. 335, Com. Sub. for S. B. 345, Com. Sub. for S. B. 356, Com. Sub. for S. B. 409, Com. Sub. for S. B. 439, S. B. 443, S. B. 444, S. B. 449, Com. Sub. for S. B. 450, Com. Sub. for S. B. 451, S. B. 452, Com. Sub. for S. B. 453, Com. Sub. for S. B. 455, S. B. 457, S. B. 458, Com. Sub. for S. B. 463, S. B. 465, Com. Sub. for S. B. 469, Com. Sub. for S. B. 561, Com. Sub. for S. B. 577, Com. Sub. for S. B. 617, S. B. 625, S. B. 733, S. B. 737, S. B. 740, Com. Sub. for H. B. 2754, Com. Sub. for H. B. 2759, H. B. 2839, Com. Sub. for H. B. 2848, Com. Sub. for H. B. 2860, Com. Sub. for H. B. 2870, Com. Sub. for H. B. 3044, Com. Sub. for H. B. 3113, Com. Sub. for H. B. 3148, H. B. 3215, H. B. 3244, H. B. 3299, Com. Sub. for H. B. 3317, H. B. 3328, Com. Sub. for H. B. 3337, Com. Sub. for H. B. 3364, H. B. 3387, H. B. 3391, H. B. 3428 and H. B. 3444; and on March 28, 2023, he approved S. B. 146, S. B. 149, Com. Sub. for S. B. 151, Com. Sub. for S. B. 187, Com. Sub. for S. B. 188, Com. Sub. for S. B. 191, Com. Sub. for S. B. 200, Com. Sub. for S. B. 430, Com. Sub. for S. B. 579, Com. Sub. for S. B. 613, Com. Sub. for H. B. 2002, Com. Sub. for H. B. 2218, Com. Sub. for H. B. 2436, Com. Sub. for H. B. 2621, Com. Sub. for H. B. 2814, Com. Sub. for H. B. 2817, Com. Sub. for H. B. 2862, H. B. 2875, Com. Sub. for H. B. 2890, H. B. 2955, H. B. 2967, Com. Sub. for H. B. 3018, Com. Sub. for H. B. 3077, Com. Sub. for H. B. 3135, H. B. 3141, Com. Sub. for H. B. 3147, H. B. 3156, H. B. 3166, Com. Sub. for H. B. 3189, Com. Sub. for H. B. 3191, H. B. 3203, Com. Sub. for H. B. 3214, Com. Sub. for H. B. 3261, Com. Sub. for H. B. 3265, Com. Sub. for H. B. 3306, Com. Sub. for H. B. 3315, Com. Sub. for H. B. 3344, Com. Sub. for H. B. 3398, H. B. 3439, H. B. 3441, H. B. 3443, H. B. 3473, H. B. 3559 and H. B. 3560; and on March 29, 2023, he approved Com. Sub. for S. B. 47, S. B. 99, S. B. 131, Com. Sub. for S. B. 232, S. B. 240, S. B. 246, Com. Sub. for S. B. 273, Com. Sub. for S. B. 361, S. B. 446, Com. Sub. for S. B. 461, Com. Sub. for S. B. 468, Com. Sub. for S. B. 475, Com. Sub. for S. B. 476, Com. Sub. for S. B. 478, S. B. 487, S. B. 488, Com. Sub. for S. B. 495, S. B. 508, Com. Sub. for S. B. 516, Com. Sub. for S. B. 522, Com. Sub. for S. B. 523, Com. Sub. for S. B. 527, S. B. 529, S. B. 533, Com. Sub. for S. B. 534, Com. Sub. for S. B. 543, S. B. 544, Com. Sub. for S. B. 546, Com. Sub. for S. B. 548, Com. Sub. for S. B. 552, Com. Sub. for S. B. 558, Com. Sub. for S. B. 568, Com. Sub. for S. B. 573, Com. Sub. for S. B. 594, S. B. 597, S. B. 605, S. B. 608, Com. Sub. for S. B. 631, Com. Sub. for S. B. 633, Com. Sub. for S. B. 647, Com. Sub. for S. B. 649, Com. Sub. for S. B. 661, Com. Sub. for S. B. 665, Com. Sub. for S. B. 677, Com. Sub. for S. B. 688, Com. Sub. for S. B. 730, S. B. 734, S. B. 735, Com. Sub. for H. B. 2004, Com. Sub. for H. B. 2007, Com. Sub. for H. B. 2008, Com. Sub. for H. B. 2016, Com. Sub. for H. B. 2026, Com. Sub. for H. B. 2221, H. B. 2283, H. B. 2309, H. B. 2310, Com. Sub. for H. B. 2346, Com. Sub. for H. B. 2380, Com. Sub. for H. B. 2509, Com. Sub. for H. B. 2515, Com. Sub. for H. B. 2540, Com. Sub. for H. B. 2569, Com. Sub. for H. B. 2587, H. B. 2597, Com. Sub. for H. B. 2605, H. B. 2607, H. B. 2611, Com. Sub. for H. B. 2638, Com. Sub. for H. B. 2640, Com. Sub. for H. B. 2648, Com. Sub. for H. B. 2757, Com. Sub. for H. B. 2760, Com. Sub. for H. B. 2762, Com. Sub. for H. B. 2821, H. B. 2827, Com. Sub. for H. B. 2865, H. B. 2899, Com. Sub. for H. B. 2900, Com. Sub. for H. B. 2917, Com. Sub. for H. B.

2993, Com. Sub. for H. B. 3013, Com. Sub. for H. B. 3036, Com. Sub. for H. B. 3084, Com. Sub. for H. B. 3092, Com. Sub. for H. B. 3110, Com. Sub. for H. B. 3114, H. B. 3146, Com. Sub. for H. B. 3168, Com. Sub. for H. B. 3190, Com. Sub. for H. B. 3210, Com. Sub. for H. B. 3211, Com. Sub. for H. B. 3224, Com. Sub. for H. B. 3233, Com. Sub. for H. B. 3271, H. B. 3286, Com. Sub. for H. B. 3311, Com. Sub. for H. B. 3332, Com. Sub. for H. B. 3354, H. B. 3360, Com. Sub. for H. B. 3370, H. B. 3371, H. B. 3432, H. B. 3448, Com. Sub. for H. B. 3450, H. B. 3451, Com. Sub. for H. B. 3479, H. B. 3499, H. B. 3500, H. B. 3547, H. B. 3552, H. B. 3555.

The following bills became law without the signature of the Governor:

**Com. Sub. for H. B. 2820**, To provide HOPE Scholarship recipients with the ability to play sports,

**Com. Sub. for H. B. 3012**, To encourage economic development regarding rare earth elements and critical minerals, as defined, by providing temporary severance tax relief,

**H. B. 3199**, Relating to removing the requirement that an ectopic pregnancy be reported,

**Com. Sub. for H. B. 3270**, To amend the deliberate intent statute to limit noneconomic damages to \$500,000,

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

And,

**S. B. 128**, Clarifying authority of Governor and Legislature to proclaim and declare state of emergency and preparedness.

On motion of Delegate Householder, the House of Delegates adjourned *sine die* at 11:52 p.m.

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*We hereby certify that the forgoing record of the proceedings of the House of Delegates, First Regular Session, 2023, is the Official Journal of the House of Delegates for said session.*

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Roger Hanshaw  
*Speaker of the House of Delegates*

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Stephen J. Harrison  
*Clerk of the House of Delegates*



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

HOUSE OF DELEGATES  
STEPHEN J. HARRISON, Clerk  
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1900 Kanawha Blvd., East  
Charleston, WV 25305-0470